Governor Bourke to Viscount Goderich. (Despatch No. 113, per ship Florentia.)

My Lord,

Government House, 2d November, 1832.

Many circumstances, public and private, which I will not take up Your Lordship's time in enumerating, have prevented until now the fulfilment of Your Lordship's to transmit a Report upon the State of the Government House in Sydney. I now proceed to obey those commands by reporting on the condition of the building as it now stands. Upon the expediency of erecting a New House on a different site, and of giving up to the Public, for the purposes of Quays, Wharfs, and Store Houses, a portion of the ground on the Eastern Side of Sydney Cove, now enclosed within the Government Gardens.

In the first place, I have to observe that the present Government House* in Sydney is a collection of Rooms built at different times by Successive Governors, and is in consequence not only extremely inconvenient and unsightly, but in such a bad state of repair, as to demand the immediate expenditure of a large sum of Money to render it habitable and decent. The roof and flooring are in many parts decayed and the bad smells, which prevail in the principal sitting room, are not only unpleasant but unwholesome. So bad indeed was the condition of this house considered to be upon the close of Sir Thomas Brisbane's Government, that Lord Bathurst authorized General Darling to commence building a New one immediately upon his arrival here in 1826. This permission, as Your Lordship is aware, was not acted upon; and, since that period, nothing has been done for the improvement, and but little towards the repair of the old House, and it has now reached that state of deterioration, in which it would be a waste of Money to expend any large sum for its preservation.

Having then ascertained the inexpediency of attempting to make the present Government House a suitable habitation for a Governor, who is to have but one official residence,† I considered in what way a New House might be built with least expense to the public. I directed the Surveyor General, on returning from his expedition to the North West, to consider and report upon the Subject, and after several conferences and frequent examination of the ground, he has prepared the accompanying Report, in the main points of which I entirely concur. I approve of the site‡ he has chosen for the New House, and of the surrender of the ground required for the New Quay and Buildings; perhaps that part of his plan§ which contemplates the improvement of the Town, by the sacrifice of such good houses as those of the Chief Justice and Colonial Secretary, may be for the present abandoned.

* Note 151. † Note 220. § Note 198.
The Sum, which the Surveyor General calculates the Sale of the Water Side allotments in the Government Gardens would produce, is not taken too high at £15,400, if the allotments be sold at such intervals of time as the apparent demand for such Situations shall seem to require. For this Sum, it is presumed the construction of a Moderate House and the enclosure by a brick Wall of the Garden and Grounds (an indispensable protection to a residence situated almost in the heart of such a Town as Sydney) may be accomplished. Rooms in the present Stables* (which Your Lordship may be aware were built by Governor Macquarie on a handsome Scale) will accommodate Several Servants; and the principal building, though it must necessarily contain some large Rooms for Company, need not have many Sleeping apartments. I could have wished to have transmitted a plan and Estimate of such a Building as appeared to me suitable, but I am obliged to confess that there is no person here, in whose professional experience as an Architect I can place any reliance with reference to a Work of the Kind. I have therefore stated the number of Rooms of which I think the House should consist, and transmit a drawing of the Stables near which it is proposed to place the new House, in order that the professional Person in London, from whom I would propose to obtain a Plan and Elevation, may judge of the Style of building, which will harmonize with that of the Stables, and with the Scenery of the Site upon which the House is to be Situated.

If Your Lordship shall approve of a New House being built in the manner now proposed, I have to request that You will instruct the Agent to procure, without delay from some Eminent Architect in London, Plans and Elevations of the principal Building and Entrance Lodges, with Specifications, Working Plans and drawings, and an Estimate of the expense of each Building at London Prices. The probable Cost of the building at Sydney may afterwards be worked out by means of a Schedule of Sydney Prices, which I transmit herewith. I forward also an Estimate of the expense of the enclosing Wall. Your Lordship may thus form an opinion of the whole expense of the Governor's Residence upon the proposed Plan. The Council are fully aware of the propriety of providing a suitable one, and will I have no doubt readily Vote Such a sum as Shall appear necessary for its completion on a moderate Scale. Notwithstanding the extravagant Estimate of the enclosing wall, I should hope the whole might be completed for the sum at which the Water Side allotments are valued, namely about £15,000.

Your Lordship should be informed that, exclusive of a small Kitchen Garden, the Land about 47 Acres to be enclosed as the

* Note 151.
Government Grounds contains nothing that can be turned to any profitable use, being almost wholly rock and scrubby under-wood. It scarcely affords the Maintenance of three Cows. It will therefore be indispensable to allot Grose Farm,* containing 200 Acres, for the use of The Governor. This Farm is just without Sydney, the Soil of but Moderate fertility and badly watered. The whole farm will do little more than keep the Number of Cows required for the House, and provide Hay for Horses. The expense of Labor and Implements for the Management of this Farm should be borne by The Governor; that of supporting the few Farm buildings now upon it Should be Charged to the Public.

I have made this proposal Under the Supposition that Your Lordship may not Choose to depart from an intention† lately expressed of depriving the Governor of the Country House at Parramatta. Were Your Lordship fully acquainted with the endless labor and detail, and the personal importunity attending the administration of this Government, and with the expense consequent upon a constant residence in Sydney, I am convinced You would not hesitate to allow the Governor the partial rest from fatigue and Needful economy of Money, which an occasional retirement to the Country affords him. I believe I am correct in stating that neither the Council nor the Public Seem to call for the Surrender of the Parramatta House.

I have, &c.

RICH. BOURKE.

[Enclosures.]

[ Copies of these papers are not available. ]

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 114, per ship Florentia; acknowledged by right hon. E. G. Stanley, 23rd May, 1833.)

My Lord, Government House, 3d November, 1832.

I beg leave to acknowledge the receipt of Your Lordship's despatch of the 25th January last, No. 62, in the last paragraph of which You have been pleased to sanction the addition of two Stipendiary Magistrates to the Number of those employed in the Colony at that time amounting to Nine, exclusive of two Police Magistrates in Sydney. I have not hitherto found it necessary to avail myself of Your Lordship's permission, having on the contrary thought it possible to reduce three of the Nine, who, being Military Officers and belonging to the 39th Regiment, were necessarily to be displaced on the embarkation of their Corps for India. In the vicinity of two of the Stations where

* Note 215. † Note 220.
those officers were placed, Campbelltown and Emu Plains, I found so many Resident Proprietors of reputation and intelligence, most of them holding Commissions of the Peace, that I thought it right to call upon them to exercise the functions, for which they are so well qualified, and at once to augment the respectability of their Character, and render a valuable Service to the Colony. They have answered to this call and Benches are established at both the places I have mentioned, where the duties of the Magistracy are very satisfactorily performed. At Bong Bong, where the third Military Officer was Stationed, the duty of Magistrate is as yet discharged by one Person only, but he is active and intelligent, and I hope to procure him a colleague shortly. It is possible, however, I may be obliged to renew the appointment of a Stipendiary at that place.

On the other hand, I have had pressing applications for Magistrates at other Places, to which it will be necessary to send Stipendiaries, if the applications are to be acceded to. I have not yet decided on the point, having it in contemplation to appoint an Itinerant Justice, to hear periodically at certain places the complaints of Masters against their assigned Servants, and Vice versa. Complaints of this nature being the Subject Matter of nine tenths of the Magisterial business of the Colony, and any difficulty or delay in hearing Such Complaints, more especially those of the Master, furnish the Motive for the pressing applications I have received for the appointment of New Magistrates.

Having endeavoured as much as possible to diminish expense in the appointment of magistrates, I have however found it unavoidable to add to the charge for Convicts in another way. It has been necessary to place Ironed Gangs under a Stricter control than they have hitherto experienced. It was a general and a well founded complaint that little labor was performed by these Convicts, and that the frequent escapes from the Gangs filled the roads with Robbers. This imperfect Management, I attributed in a great degree to the Gangs having been placed under overseers of the Convict Class, appointed by the Surveyors of Roads. I have thought it right therefore to remodel the Gangs entirely, and to place the whole under the charge of the Principal Superintendent of Convicts. Under him are Superintendents and Constables at each of the Stockades, who have the legal custody of the prisoners, and discharge, in Conformity to a code of Regulations, duties Similar to those of Gaolers and Turnkeys in permanent Prisons. To aid these Persons in providing for the Safe Custody of the Convicts, a Military Guard is Stationed at each Stockade. The direction of the work to be performed by the Convicts remains as before with the assistant Surveyor, who
BOURKE TO GODERICH.

is moreover empowered by the late Act of Council, 3d Wm. 4, No. 3, to punish by whipping, not exceeding 50 Lashes, any disobedience, neglect of Work, or other Misconduct of the Convicts.

The Short time that this system has been in operation will not allow me to say more of its efficacy than that as yet there has certainly been more work done, with fewer escapes than formerly.

The Superintendents are paid at 4s. per day each, the Constables at the usual rate for free Men of 2s. 3d. One of the former is placed at each Stockade, and one Constable to every 75 Convicts. Not more than two Superintendents and Seven Constables are as Yet appointed, but it will be necessary to augment the Numbers, if the Convicts encrease, as will probably be the fact, the late Act of Council* having in many cases Substituted a Sentence to labor in Irons on the Roads for transportation to a Penal Settlement; A measure, which I am in hopes may enable me at no distant period to propose to Your Lordship to do away with the expensive establishment at Moreton Bay. These appointments being all under £100 per Annum, and being in my opinion absolutely necessary for the better ordering of the Convicts and the Security of the Settlers, I hope Your Lordship will approve of my having availed myself of the Authority given by the Secretary of State's Despatch of to carry it into immediate effect. I should indeed observe that, with respect to expense, the System which I have now adopted will effect a saving, as I have been enabled to reduce the Number of Road Parties and Convict overseers, appointed by the Surveyors of Roads, to an extent that will produce a saving fully counter-vailing the charge for Superintendents and Constables. But the Saving being effected in that part of the Establishment which is paid by the Coldny, whilst the additional charge for Superintendents (being to provide for the Safe Custody of the Convicts) is properly defrayed by the Military Chest, without this explanation, the arrangement I have detailed might appear to create an expense without any compensating reduction.

With respect to the reductions in the Constabulary Force made by my Predecessor a Short time before his departure, to which Your Lordship alludes, I am sorry I cannot recommend to Your Lordship to place much reliance upon it as a measure of economy. There has been a constant inconvenient and discreditable change of Peace Officers to be Noticed in almost every Gazette that has been published since I came into the Colony. The low paid Convicts are not to be trusted. They are gradually displaced by the Justices, and free Men at 2s. 3d. a day are

* Note 221.
1832. 3 Nov.

Difficulties in providing police force.

It is indeed difficult under any arrangement to procure good Constables in the Colony; and, though I have lately addressed a Circular to the Magistrates on the Subject, I have little hopes of seeing for many years a decent Constabulary Force in New South Wales. Again, as to the Number, I have been compelled by the reiterated clamour of the Magistrates to appoint additional Constables in many of the Districts. When Your Lordship considers the constant accession of Convicts from Europe, You can neither wonder that this demand should be made, nor that I should be obliged to comply with it.

I have, &c.,

RICH. BOURKE.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 115, per ship Florentia; acknowledged by right hon. E. G. Stanley, 30th April, 1833.)

My Lord, Government House, 3d November, 1832.

I have the honor to transmit a letter to Your Lordship from the Revd. J. McEncroe, one of the Roman Catholic Chaplains in this Colony. The sums, voted by the Legislative Council for the Roman Catholic Clergy and Schools for the year 1833, are £450 for Chaplains, and £350 for School expenses. I certainly concur in opinion with Mr. McEncroe that a larger Sum Should be appropriated for the instruction of His Majesty's Roman Catholic Subjects in this Colony. At least four Chaplains are required, and an Annual Sum of £800 for Schools.

I have, &c.,

RICH. BOURKE.

[Enclosure.]

[A copy of this letter is not available.]

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 116, per ship Florentia; acknowledged by right hon. E. G. Stanley, 24th June, 1833.)

My Lord, Government House, 3d November, 1832.

The accompanying application from the Archdeacon of New South Wales has been put into my hands for transmission to Your Lordship. Mr. Broughton requests permission to proceed to England to lay before Your Lordship his views of the present State of the Church and of general Education in this Colony. I am disposed to think that much benefit may result from the Archdeacon's explanations upon Several important points.
connected with those Subjects; and, as I do not apprehend any
great inconvenience from his absence for a limited time during
the period he mentions, I beg leave to recommend a compliance
with his request. I enclose by the Archdeacon's desire a letter
he addressed to me some short time ago upon the Same Subject.
I did not think I could with propriety accede to his application to
leave the Colony at the time he proposed, as the proper instru­
ment for dissolving the Corporation may be immediately ex­
pected to arrive, and the presence of the Archdeacon will be
necessary in making the arrangements consequent upon so ma­
terial a change in the constitution of Church affairs. At a future
opportunity, I shall have the honor of Submitting to Your Lord­
skip's Consideration Some observations upon the State of this
Church, more especially upon the necessity of building Glebe
Houses for the Chaplains and placing them permanently in Con­
venient Situations as required by the growing population of the
Colony.

I have, &c,
RICH. BOURKE.

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

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 117, per ship Florentia; acknowledged by
right hon. E. G. Stanley, 2nd September, 1833.)
My Lord, Government House, 3d November, 1832.
At the repeated request of Mr. Assistant Surveyor Kentish,
I transmit a letter addressed to Your Lordship complaining of
the Conduct of the Surveyor General towards him. I regret to
say that the letter is not couched in those terms which Should
alone be used in communications of this nature, and that Mr.
Kentish has adopted a very dangerous and indecorous measure
in prefixing an affidavit of the truth of the assertions and State­
ments Contained in his long and desultory letter. I represented
in vain to Mr. Kentish the imprudence of his proceeding; and,
though I required him to make some change in the language he
employed, when Speaking of the Surveyor General, he has still
left too much evidence of the angry feelings under which he has
written and sworn to his declarations. With regard to the Com­
plaints of Mr. Kentish, I had previously examined them, and
found nothing to justify the step he has taken. He had acted
very hastily and imprudently, and laid himself open to the cen­
sure of the Head of his Department; and his general conduct
since has been so eccentric, irregular and insubordinate, as to render it impossible for the Surveyor General to Sign the Certificate required for the Annual Augmentation of Salary to officers of his Department.

Mr. Kentish is now holding an appointment of very little labor, as compared with that which others in his line are called on to exert; and, by patience and good Conduct in this Situation for a year, he might have entitled himself to the Augmented Salary. I fear however that he is quite impracticable, and it is my intention, when an opportunity occurs of reducing the Surveyor General's Department to displace Mr. Kentish, allowing him the gratuity authorized by Your Lordship's despatch of the 29 September, 1831, No. 27. I have announced this intention to Mr. Kentish.

I have, &c,

RICHD. BOURKE.

[Enclosure.]

[A copy of this letter is not available.]

VISCOUNT GODERICH TO GOVERNOR BOURKE.
(Despatch No. 137, per ship Andromeda.)

5 Nov.
Downing Street, 5 November, 1832.

Sir,

I have received your despatch No. 36 of the 16 March last, relative to the Revd. Frederick Wilkinson. I have the honor to acquaint you, in reply, that I have called the attention of the Bishop of Calcutta to the proceedings forwarded to his predecessor, connected with this case, and I trust that an early communication will reach the Colony upon the subject of it, in order that the Services of Mr. Wilkinson may be restored to the Colony, should his Lordship be of opinion that this Clergyman's Offences are not of that serious nature as to render it expedient to deprive him of his situation, or that the Salary of which he is at present in the receipt may be withdrawn in the event of his Lordship's decision being unfavorable to him.

I am, &c,

GODERICH.

VISCOUNT GODERICH TO GOVERNOR BOURKE.
(Despatch No. 138, per ship Andromeda.)

6 Nov.

Sir,

I have the honor to acknowledge the receipt of your despatch No. 35 of the 15th of March last, submitting for my consideration the application of the Revd. J. Cross for leave to select four sections of land, as portions for his two Daughters, in
conformity with the Instructions of Secretary Sir George Murray, dated the 25th of May, 1829; and I have to acquaint you, in reply, that, as the Regulations lately established for the disposal of Crown Lands have abrogated all others even those upon which the present application is founded, I have only to express my regret that I do not feel at liberty to grant the permission solicited by Mr. Cross to select four sections of land for the object in question. General Darling, on the abolition of the former system, very properly discontinued the practice of granting land as marriage portions to the children of the Colonists generally, and the same course should be immediately adopted in respect to the children of the Clergy to whom Grants of land upon the same principle were allowed, on their arriving at the age specified. It is not, however, my intention to withdraw from the families of deceased Clergymen the provision set apart for them according to the principle notified in my despatch No. 26 of the 22d of March, 1831.

I am, &c.,
GODERICH.

Viscount Goderich to Governor Bourke.
(A circular despatch per ship Andromeda.)

Sir,
Downing Street, 7th Novr., 1832.

I have the honor to enclose to you a copy of certain Instructions, which, by His Majesty’s Commands, have been addressed to the Lords Commissioners of the Admiralty for the purpose of being conveyed to the Officers Commanding His Majesty’s Naval Forces in the East and West Indian Stations; and I am to signify to you His Majesty’s Commands that, as far as depends upon yourself, you are to conform to those Instructions, and to act in concert with His Majesty’s Naval Forces.

I am, &c.,
GODERICH.

[Enclosure.]

Viscount Palmerston to Lords Commissioners of Admiralty.

My Lords,
Foreign Office, 6 Nov., 1832.

With reference to my letter of this day signifying to your Lordships the pleasure of His Majesty with respect to the Instructions to be given to the Commanders of His Majesty’s Ships of War in pursuance of the order in Council for imposing a general Embargo on all Ships and vessels whatsoever belonging to the King of the Netherlands,

I am commanded by His Majesty to inform you that it is His Majesty’s pleasure that the above mentioned Instructions shall not.
1832.
7 Nov.
Instructions re embargo on ships of the Netherlands.

for the present, be given to the Naval Officers in the East and West India Stations. Considering the remoteness of those stations, and the possibility at least of a change of circumstances in Europe at no distant period, it is His Majesty's Pleasure that the Naval Officers, commanding His Majesty's Ships on the East and West India Stations, should be instructed not to commence operations in execution of the Embargo till they receive further orders from your Lordships.

In the meantime, they should narrowly watch Java on the one Station and Surinam on the other, and if any Privateers should be fitted out in those settlements, or if any Captures of British Vessels should be made or attempted by Armed Ships under Dutch Colors, then, but not till then, those Naval Officers should proceed to give effect to the Embargo, and they should detain all vessels they may meet with bearing the flag of the King of the Netherlands.

I have, &c.,

PALMERSTON.

[The London Gazette extraordinary, dated 7th November, 1832, was also enclosed.]

Viscount Goderich to Governor Bourke.
(Despatch No. 139, per ship Andromeda.)

Sir, Downing Street, 7 November, 1832.

I have the honor to acknowledge the receipt of your despatch No. 56 of the 3d May last, enclosing a letter from Lt. Colonel Parker of the East India Company's Service, complaining of the Exclusion of the Company's Officers from a participation in the benefits enjoyed by His Majesty's Officers in regard to land in the Australian Colonies.

Since the adoption of the system of selling the Crown Lands, it has been thought expedient strictly to confine the participation in the benefits, enjoyed by Officers of the Regular Army, to those Classes who had previously been allowed to benefit by them, and in consequence, several applications from Commissariat and other Officers have been rejected. Independently, therefore, of the objections entertained by the Court of Directors to the extension of the privileges in question to the Officers in their service, I do not feel myself at liberty to sanction the measure for the reason I have stated, especially as I do not imagine that many officers would be induced, by a remission of the purchase money, to select a retreat in New South Wales in preference to their Native Country. It should be borne in mind, also, that these advantages were intended as an Encouragement to Officers to undertake the risk and expense of a long Voyage from this Country,
HAY TO BOURKE.

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considerations which do not operate in the case of the Indian Army because the Voyage must be encountered, should they propose to return to England; and, if they decide upon spending their days in Australia, they have a less distant and consequently less expensive voyage before them.

I am, &c.,

GODERICH.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Andromeda ; acknowledged by Governor Bourke.

20th March, 1833.)

Sir,

Downing Street, 8 Nov., 1832.

I am directed by Viscount Goderich to transmit to you a copy of a letter from Joanna Bate, enclosing an account (extracted from a Sydney paper) of a person, who has been forcibly detained in one of the South Sea Islands, and whom she imagines to be her Brother. I am to request that you will send home, for her information, any particulars you can collect respecting John Matthews, and, if you should have an opportunity of procuring his escape by means of Vessels trading to those Islands, Lord Goderich would not be unwilling to sanction a small outlay for this humane object.

I am, &c.,

R. W. HAY.

[Enclosure.]

JOANNA BATE TO VISCOUNT GODERICH.

My Lord, Upper Batter Street, Plymouth. 18th Octr., 1832.

Herewith I humbly beg leave to enclose a part of the Sydney Herald of January last, as from many circumstances I have reason to suppose the therein mentioned John Mathews is my Brother.

He left Plymouth about 5 years ago in a very mysterious manner, and all our exertions to trace him further than London were unavailing. As the time of his reported Capture agrees with that of his disappearance, I am induced most respectfully to beg your Lordship will be pleased to inform me if any account of this, my supposed Brother, has been received at your office and whether any means have been used to obtain his release.

I, as also his unhappy wife, will ever be most grateful for any information your Lordship may be enabled to afford us.

I have, &c,

JOANNA BATE.

[Sub-enclosure.]

EXTRACT FROM SYDNEY HERALD,* DATED JANUARY, 1832.

Curious Discovery.—From the Sydney Herald.—Information has reached Sydney of Reported the existence of a young man named Mathews, who was captured about three years ago by the natives of an island called Malanta, near the New Hebrides in the South Seas. It may be recollected that, about the time mentioned, the Alfred whaler was fishing; and, in a dispute between the Natives and the crew, the Captain and several hands were murdered, and a mate (the person now discovered) was.

* Note 222.
was carried off a prisoner and never since heard of. The manner, in which the unfortunate young man has at last made himself known, was by cutting his name, the particulars of his capture, and his present situation (which he represents as miserable) on a piece of bamboo, and then giving it to the natives to trade with. Not understanding the characters, and supposing the bamboo to be an original piece of tattoo work, they bartered it away amongst other things to one of our Colonial whaling Captains (Captain Harwood of the Hashmy) who retains it in his possession. We are informed that a humane attempt will be made to purchase this unhappy fellow from the savages.

Since the above was written, the schooner New Zealand has arrived in Sydney from Malanta and other places, and brings up more particulars of the fate of Mathews. Captain Hedges has in his possession a letter, and a carved cocoanut which were brought on board by a native from the prisoner, the subject of this narrative. The following is a literal copy of the letter. Sir, Be kind to the natives, as my life is in their hands. I am alive, after a long illness from the wounds I received. Write me the particulars if a ship killed any of the natives on the other side of the Island. They say our ship killed 3 men. They keep me close, and will not let me come near the ship. Make him a present of something shewy; his name is Bolowwa. If you will send me a shirt and a pair of trowsers, I will be much obliged to you. I am in state of nature. A ship may get a good supply on this Island by making friends with them. Give the men something to eat, as it is a great friendship with them. Write to me the particulars what ships are cruising off this Island. I live on the north side of this Island. Be careful of the natives. They are forming a plan to take a ship. Do not come without fire arms. They are cannibals. If I can once get a note from you, I can form a plan to get away.

I am, &c.

JOHN MATTHEWS.

VISCOUNT GOLERICH TO GOVERNOR BOURKE.

(Despatch No. 140, per ship Andromeda.)

Sir,

Downing Street, 9th November, 1832.

My attention has lately been called to certain Charges and Fees levied on Merchandise imported into Sydney, which, while they produce an insignificant Revenue, are represented to operate very vexatiously to the Merchants and injuriously to the Trade of the Colony.

The Imposts,* I allude to, are the following:—

1st. The Wharfage Dues levied on Goods, landed at the "King's Wharf" under a Regulation issued by Governor Bligh in 1807.

2d. The Entrance and Clearance Fees on Vessels arriving at, or departing from the Port, established at the same time.

3d. The Fee on Registering Vessels levied under the Order issued by Governor Macquarrie in 1811.

From these sources, it appears that, in 1831, a Revenue of £1,795 only was derived.

The objections entertained to these Charges arise not from their amount but from the delay they occasion, and the imperfect Scale on which some of them are levied. For instance, the charge of 9d. per Package on all Articles imported, with a few exceptions, is stated to be made without reference to the size or the value of the Package, and the consequence has been, lately, that

* Note 223.
as many Articles as practicable have been put into one Package and the duty thereby evaded. Another grievance complained is that, while the Merchants have incurred the inconvenience of expense of landing their goods at the “King’s Wharf,” they have received no assistance in doing so, neither have they been secured from loss in case of Robbery or Damage while in the Custody of the Government.

It has been suggested that, by letting or farming to some respectable person on proper security the “King's Wharf,” the Merchants would be greatly benefitted at but a trifling loss to the Revenue; the abolition or revision of the other Charges would also be attended with much advantage to the Trade, which has of late years extended itself to an important amount.

I have, therefore, to desire that you, in conjunction with your Council, will devote your attention without delay to this subject, and adopt such measures as may appear to you advisable for promoting the Commercial interests of the Colony, reporting to me any course which you may pursue in the matter.

I take this opportunity to remark that any sums levied from this source should not be appropriated to the General Service of the Colony, but should rather be considered as Municipal Revenue, and devoted to developing the particular resources of the Colony from which they are raised.

GODERICH.

Viscount Goderich to Governor Bourke.

(Despatch No. 141, per ship Andromeda.)

Sir,

Downing Street, 14th November, 1832.

With reference to the correspondence*, which has passed between this Department and your Predecessor upon the subject of a Grant of Land to the late Mr. Thomas and other Gentlemen, who associated themselves with him in 1825 for the purpose of forming an extensive Agricultural Establishment both in New South Wales and Van Diemen’s Land, I have the honor to transmit to you copies of a letter from the Gentlemen, named in the margin,† upon whom the surviving interest of this Association has devolved, and of the answer which by my direction has been returned thereto.

You will perceive, by these papers, that this Association have already obtained an extensive Grant of Land in Van Diemen’s Land, and that they now apply, upon the faith of a promise made to them by Lord Bathurst in 1825 (by which they conceive the Government to be bound, notwithstanding the recent alteration,

* Note 223.  † Marginal note.—Colonel Gibbs; Colonel Elphinstone; Robert Keate, Esq.; and S. Marjoribanks, Esq.
which has been made in the system of disposing of Crown Lands in Australia) for a corresponding Grant of Land for the like purpose in New South Wales. You will also perceive, by Mr. Hay's letter to these Gentlemen, the reasons upon which I have deemed myself called upon to refuse their application, and which decision you will consider as your guide in replying to the application, which they have thought proper to address to you, and which forms the enclosure in their letter to Mr. Hay.

I am, &c.,

GODERICH.

[Enclosure No. 1.]

COLONEL GIBBS AND OTHERS TO UNDER SECRETARY HAY.

Sir, 18 King's Arms Yard, 30 Augt., 1832.

We have the honor to request that you will be pleased to lay before His Majesty's Secretary of State for the Colonial Department the enclosed Copy of a Letter addressed to the Governor of New South Wales, praying him to put us in possession of the Grant of Land, which was directed by His Lordship's Predecessors to be assigned to us in addition to the Grant in Van Diemen's Land.

We are aware that Land is hereafter to be granted only on purchases; but, as there is an exception in favor of those to whom Grants had been promised previously to the last Orders for the sale of Lands, and as we consider ourselves to come within that exception, We respectfully entreat that his Lordship will be pleased to authorize the assignment to Us of the Land in question in confirmation of the promise formerly made to Us as referred to in the enclosure; and we may perhaps venture to assure His Lordship in proof of our having performed the stipulations originally entered into on our parts, that, in the Fencings, the Buildings, the Stockings and the cultivation of Our Grant in Van Diemen's Land, We have expended nearly 40,000, which expenditure now enables us to claim and to commence our operations on the promised Grant in New South Wales.

We have, &c.,

E. GIBBS.

JAS. BUTLER ELPHINSTONE.

ROBERT KEATE.

S. MABORIBANKS.

[Sub-enclosure.]

COLONEL GIBBS AND OTHERS TO GOVERNOR BOURKE.

Sir, 18 King's Arms Yard, London, 12 April. 1832.

We have the honor to address ourselves to your Excellency on a subject, in which Your Excellency's Predecessor was pleased to take considerable Interest. On the eve of his departure for New South Wales in the latter end of the Year 1825, when, in consequence of the very great outlay made by us for the purposes originally suggested by His Excellency of importing some of the most valuable breeds of Horses, Cattle and Sheep into The Colonies of New South Wales and Van Diemen's Land, The Secretary of State for the Colonies, Earl Bathurst, directed that 20,000 Acres of Land or more in each Colony should be assigned to us according to the extent of our operations.

Land grant authorised by Earl Bathurst.
Although we were informed by our then Manager Mr. Thomas, soon after his arrival in Van Diemen's Land, that he had reported to General Darling the circumstances, which had induced him to land his stock and to remain in that Colony, yet we think it our duty to restate to Your Excellency that, on account of the severe loss of stock sustained by us during a lengthened and tempestuous Voyage, and the consequent debility and exhaustion of the valuable animals which survived, he had found it necessary to restrict his operations in the first instance to Van Diemen's Land, where a Grant has been selected, and which is now secured to us by orders from His Majesty's Secretary of State for the Colonies; and we have at length the pleasure of being able to announce to your Excellency that, having surmounted the numerous difficulties and obstacles which have been opposed to the success of our undertaking, we are now in a condition respectfully to solicit your Excellency's favourable aid and authority in enabling us to assume the Grant directed by His Majesty's Colonial Department to be assigned to us in New South Wales.

We take leave also to state to your Excellency that, since the first arrangement of our Establishment, as registered in the proper Office at Sydney, certain changes have taken place by retirements and the deaths of Individuals originally or subsequently associated with us.

Mr. B. B. Thomas our first Manager has retired, under a Dissolution of the Partnership, and his share merged among the five surviving Partners.

On the death of Mr. William Kershaw, an original Partner, his share became the property of Mr. Archibald Marjoribanks, and by the death of this Gentleman, it has devolved to Stewart Marjoribanks, Esq., M.P., and, by the unfortunate Bankruptcy of Colonel Lautour, he has ceased to be a Member of our Association. The Property therefore is now divided among the Four undersigned Members, and we have directed our accredited Agent and Attorney Mr. Louis Beauvais to seek Your Excellency's Commands on the subject of our promised Grant of 20,000 Acres in New South Wales, of which he is prepared to take possession.

Presuming that, as in other cases Mr. Beauvais will be allowed by your Excellency to select a Location, it may be unnecessary for us to add anything on this subject, but we respectfully desire to impress upon Your Excellency that it would be attended with great convenience to us if he were allowed to make his selection of 20,000 acres in the vicinity of Western Port from its comparative contiguity to our Property near Launceston on the other side of Bass's Strait.

We persuade ourselves that your Excellency will take into your favorable consideration the circumstances, under which we have embarked so large an outlay, and that any reference by us to Official Documents may be unnecessary if not improper; but we have furnished Mr. Beauvais with copies of some Letters, which may bring the subject more immediately before Your Excellency, and we particularly have directed his attention to Mr. Hay's letter to Mr. Thomas of 22 Oct., 1825, in which he states that a Letter official letters. will be addressed to General Darling, directing that he and his Associates in the undertaking may be put on the most favorable footing both in New South Wales and Van Diemen's Land.
We forbear to trespass further on your Excellency's valuable time, and with many apologies for this long intrusion respectfully soliciting at the same time an early and favourable attention to our request.

I am, &c.,

E. Gibbs.  R. Keate.
J. B. Elphinstone.  S. Marjoribanks.

[Enclosure No. 2.]

UNDER SECRETARY HAY TO COLONEL GIBBS AND OTHERS.

Gentlemen,

Downing Street, 7th November, 1832.

Having submitted to Viscount Goderich your letter of the 30th of August last, in which you prefer a claim to a Grant of Land in New South Wales of corresponding extent to that which you now hold in Van Diemen's Land, I am directed by his Lordship to acquaint you that the promise, which was made upon this subject in 1825, cannot be now fulfilled, in consequence of the total changes which have taken place in the disposal of Crown Lands in the Australian Colonies. In conformity with these Regulations, His Majesty's Government have deemed it expedient to adhere to the Principle that all Crown Lands should in future be disposed of by Public Sale, and any deviation that may have been made from this Rule has been the result of circumstances which do not appear in your case.

If you had made any preparations in the Colony for availing yourself of the Grant of Land in New South Wales at the time, when the instructions to the Governor were issued upon the subject, or even at any period prior to the change of system above referred to, you would have been considered as coming under that class of Persons, in whose favor alone any exemption from the recent Regulations is made. But Lord Goderich desires me to state that it was never in the contemplation of Government to admit any claims, but those of Persons who had made arrangements for quitting this Country previous to the promulgation of the new system, or to those, who might have arrived in the Colony prior to the publication of it, or who might not have had sufficient time for accomplishing their views. His Lordship therefore, regrets that he can only regard your application in the light of a Settler, who had neglected to shew any disposition to obtain a location until after the Regulations, which are now in force, had been made known to the Public and whose claim would consequently not be admitted.

I have, &c.

R. W. Hay.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Andromeda.)

Sir,

Downing Street, 14th November, 1832.

I am directed by Viscount Goderich to transmit to you the accompanying extract of a letter from the Treasury, in which the Lords Commissioners suggest that the Stores, required for the Public Service in New South Wales, should be purchased on the spot by Contract; and I am to desire that you will, as far as practicable, give effect to their Lordships' recommendations upon the subject.

I am, &c.,

R. W. Hay.
SHORT TO BOURKE.

[Enclosure.] 1832.

EXTRACT of a letter from the Treasury to R. W. Hay, Esq., dated the 13th June, 1832.

I AM at the same time to request that you will again call Lord Goderich's attention to the suggestions of the Commissioners of Colonial Enquiry in regard to the mode of obtaining Supplies of Stores for the use of the Colonies, and that you will state to his Lordship that it appears to this Board, that it would conduce materially to the advancement of the Trading Interests of the Colonies, and would at the same time prevent any unnecessary accumulation of Stores, many of which unavoidably become unserviceable, and be in other respects beneficial to the Public Service, if Stores of the ordinary descriptions, required for the purposes of the Civil Government, were purchased or contracted for on the spot and as they may be immediately wanted for Services properly chargeable to the Public; and that this course might be safely adopted in such cases as that of Van Diemen's Land, where the knowledge that most of the Articles are in the Convict and Military Stores, and could if necessary be obtained from those Stores by the Colonial Government, would check any undue exaction or combination on the part of the Merchants, while the Government could always have recourse to those Stores in the event of a failure of a Supply on reasonable Terms by other means. I am further to observe to you that this mode of providing Stores for the Colonial Departments at Van Diemen's Land is in conformity with the Regulations for that Branch of the general Store Department, which were submitted to the Secretary of State in Lt. Govr. Arthur's despatch of 2d May, 1832; and were communicated to this Board by Lord Howick's letter of 31st August last; and I am to request, unless Lord Goderich should see reason for recommending a contrary course, that he will instruct the Lieutenant Governor to abstain in future from forming any distinct Depot of Stores for the Civil Government, and, unless on very special occasions, to continue to procure the Articles required for the Colonial Service by contract, a Purchase on the Spot, or to cause such as cannot be obtained at reasonable prices, to be supplied from the convict and Military Stores.

MR. HENRY SHORT TO GOVERNOR BOURKE.

(Despatch marked “Private,” per ship Andromeda; acknowledged by Governor Bourke, 18th March, 1833.)

My dear Sir,

Downing Street, 14th November, 1832.

You will have received by the “Mary” Convict Ship a despatch from Lord Goderich, dated the 18th of August, 1832, No. 122.

You will at once perceive that the subject of this despatch, respecting property left in Ceylon by Frans. Philip Fretz, a Native of Bavaria, does not relate to your Government, but, from an oversight in my Department and in the hurry of making
Despatch to be forwarded to Ceylon.

Governor Bourke to Viscount Goderich.

My Lord,

Government House, 20th November, 1832.

With my Despatch of the 30th October last, No. 110, I had the honor to transmit for His Majesty's gracious allowance an Act of the Governor and Council 3d Wm. 4, No. 3, "for Consolidating and Amending the Laws for the Transportation and punishment of Offenders in New South Wales," and for other purposes chiefly affecting the Convict population of this Colony. Since I wrote that Despatch, I have received through the Agent the Act of the Imperial Parliament, 2d and 3d Wm. 4, Cap. 62, "for abolishing the punishment of death in certain cases, and Substituting a lesser punishment in lieu thereof." The Second Section of this act being at variance with the last (36) Section of the act of the Governor and Council, and being calculated to produce a considerable change in the treatment hitherto experienced by the transported Felons in the Colony, it becomes my duty to offer to Your Lordship some observations on the Subject.

The Second Section of the Act of the Imperial Parliament embraces two points; first, it restrains the power of the Governors of Colonies to grant Tickets of Leave or Exemption to Convicts, until after certain Specified periods of Servitude; Secondly, it disables Convicts from acquiring property or Maintaining Suits in Courts of Justice, previously to pardon.

With regard to the first point, from the periods of servitude named in the act being those which are Specified in the Regulations* now in force in the Colony, it might seem that the latter were within the purview of the Imperial Legislature in passing the act now under consideration. But the provision in the act forms but one part of the Regulations, and the exceptions to the Rule, which are allowed in the Regulations, are wholly omitted in the Act. By the 9th Geo. 4, Cap. 83, Sec. 9, the Governor of New South Wales is empowered to grant such temporary or partial remission of sentence as to him may seem best adapted for the reformation of Offenders, and Such temporary or partial remissions from time to time to revoke or renew as occasion may

* Note 225.
require. Previously to the passing of this Law, the Governor’s power appears strictly to have been limited to granting Absolute or Conditional Pardons under the 31 Geo. 3d; but it had been the early practice of the Colonial Governments to grant Tickets of Leave and Exemptions from forced labor to well conducted Convicts.

Rules for the general use of these remissions were published by Sir Thomas Brisbane in 1822, and republished by General Darling in 1827. By the last named Regulations, certain services rendered to the Government, such as the apprehension of Runaways and Bush rangers, and the bringing to Justice Receivers of Stolen Property, entitled the meritorious individual to a Ticket of Leave upon a shorter period of Service than that set forth in the act; and, by an order of General Darling issued in 1831, Convicts employed as Constables were entitled at the end of three years' service to a Ticket of Leave. Again as a Reward for good Conduct, and with the view of augmenting the population of the Colony and relieving the Mother Country, well behaved Convicts were authorized after two Years' Service to apply to the Home Government for the removal of their Wives and families to New South Wales, and upon their arrival to receive Tickets of Leave or Exemption to enable them to labor for the support of the families thus placed in dependance upon their exertions. In other cases when the Wives and families of Convicts have come out at their own expense, the Husband or Father, if a well behaved person, has usually been permitted, even on a shorter period of Servitude than two Years, to labor for the Maintenance of himself and his relatives. This last indulgence and some others of the Same kind were exercised more at the discretion of the Governor than by any fixed Rule; but, being made in the Colony, they have no doubt had the Salutary effect contemplated by the provision of the 9th Geo. 4, Cap. 83, a provision which is now in a great measure repealed by the late Act.

The prudent use of the indulgence authorized by the former Statute has operated very favorably upon the Conduct of the Convict population, and has been generally and as it would seem justly considered one of the Most powerful and efficient means of preserving the peace and good order of the Colony. It was also a safe measure of indulgence, being immediately revocable in case of Misconduct, and not exempting the possessor from the Summary Jurisdiction of Magistrates created by the Same act.

I should in this place further observe that the present Regulations allow Tickets of Leave to Female Convicts under sentence for Seven Years, after two years' service in a family or the
1832.
20 Nov.
Tickets of leave for female convicts.

Section of act disabling convicts from holding property or sustaining lawsuits.

Necessity for local modification of law.

Factory, or after two years' good conduct in the Married State; for fourteen years, after three, and for Life, after four. A remission from forced labor has almost always been allowed to Women on their Marriage. I need hardly represent to Your Lordship the impediment to Marriage, which is imposed by the present Act, requiring from Females four years as the Shortest period of Servitude.

The latter part of the Second section may be regarded as declaratory only, as it has I believe always been considered that Persons, sentenced to Transportation and Servitude either by immediate judgment of a Court or by the Commutation of the Crown, were incapable of holding property, or of sustaining a right to it in a Court of Justice, previously to a pardon, absolute or Conditional; the latter class by the effect of attaint, and both classes by the condition of the Law, namely assignment to servitude and labor. But the experience to be derived from having to deal with these classes in the Colony has proved the necessity for a Colonial Enactment, without which the laws of England as respects those disabilities would be wholly inoperative. It had been found impossible under a plea of Convict attaint to produce in the Colony the Record of Conviction or proof of the identity of the Person, which I understand would be required in such cases in English Courts. It has therefore been found necessary to relax the law of evidence, as Your Lordship will perceive by the 35th Section of the Colonial act, 3d Wm. 4, No. 3, and to make the fact of coming to the Colony as a Transport Sufficient prima facie proof of being a convicted Felon sentenced to Transportation. But, while the Colonial Legislature thought it proper to introduce an easy mode of enforcing the disabilities of the Law of England against Convicts in the first stage of their Punishment, it was deemed just to extend protection to those whose good conduct in the Colony had procured for them a partial remission of their sentence by a grant of a Ticket of Leave or Exemption. Accordingly by the 36 Section Convicts So qualified are allowed to maintain actions for the recovery of any property acquired during the remission and for any damage or injury sustained since that period. It is in this particular that the Colonial Law is at variance with the 2d and 3d Wm. 4, Cap. 62. If on this account the 36 Section must necessarily be disallowed, I submit to Your Lordship whether the 35th Should not be rejected also, and the Person pleading Convict attaint to elude a demand be put to his proof as required in an English Court.
But, omitting altogether the Law of the question, I would observe that it is difficult to conceive the object of remitting the Servitude of an Offender and throwing him upon his own resources, if at the same time he is kept subject to a disability which deprives him of any certainty of obtaining the fruits of his labor.

The condition of the holder of a Ticket of Leave or Exemption is usually this: He is first of all taken off the Stores, as it is technically called, or relieved from the power of a Master by whom he was clothed and fed, and is authorized within a certain specified district to pursue any honest avocation for his livelihood. He becomes either a Tenant to a small Farm, or a little shop keeper, or a Menial Servant, or he works as a Laborer or Mechanic, if he possesses a trade. In the first of these situations, he covenants to clear the Land or to pay Rent, and must in consequence possess property, and according to the extent of his Land be engaged in buying and selling. In any of the other situations, he becomes the Creditor of his Employer or Customer. If he is to have no means of calling in his debts or recovering his Wages, it is difficult to say what will become of him. Assuredly he can hardly escape connexion in this Colony with persons, who will readily avail themselves of his disability to get rid of his demands. He will be exposed to rapine, Violence and fraud, and, if a reformed character and a well disposed person, will probably resume his state of servitude in order to live. If of a depraved disposition, he will have recourse to swindling or take to the Bush and become a robber. If the Man has a family, his case will be one of more aggravated distress.

In this way, I fear the operation of the late act will go to break up a very numerous class of Persons, amongst whom there are many reformed characters, Sober, honest and industrious Persons to be found.

I may further observe that any longer to employ these Persons as Constables with Salaries will, I apprehend, be to violate the Spirit of the enactment, and the idea of taxing holders of Tickets of leave must surely be abandoned as long as they are pronounced incapable of acquiring or obtaining Property.

I have thought it right to submit these observations upon an Enactment which, I am much afraid, will operate very injuriously in the Colony, and which it would therefore give me great pleasure to find repealed. I transmit a printed Copy of the Regulations* of this Colony relating to Tickets of Leave.

I have, &c,

RICH. BOURKE.
1832.
22 Nov.

Return of fees charged on instruments.

My Lord,

Government House, 22nd November, 1832.

In obedience to the commands contained in Your Lordship's circular Despatch of the 15th March last, I have now the honor to enclose a Return of all Fees chargeable on the different Instruments described in an address of the House of Commons enclosed to me in Your Lordship's Despatch.

I have, &c,

RICHD. BOURKE.

[Enclosure.

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

Governor Bourke to Viscount Goderich.

(Despatch No. 120, per ship Florentia; acknowledged by right hon. E. G. Stanley, 25th June, 1833.)

23 Nov.

Death of Revd. G. Innes.

Failure of King's school at Sydney.

Progress of Australian college;

and of Sydney college.

Success of King's school at Parramatta.

My Lord,

Government House, 23rd Novr., 1832.

It is with regret that I inform Your Lordship of the death of the Revd. George Innes, Master of the King's School at Sydney. Mr. Innes died on the 5th of September last.

The School, of which Mr. Innes was Master, had been open from the beginning of the Year, but had not been well attended. I believe the number of Scholars never exceeded eight. Some doubt may be entertained of the Success of the King's School in Sydney. There are several Institutions in the Town; this, being directed by the Church and School Corporation and reputed to be exclusively intended for Members of the Established Church, is certainly not popular. The Australian College,* in the promotion of which Dr. Lang the Presbyterian Minister has taken so active a part, promises more favorably; it is in fact a combination of schools under Separate Masters for English, Classics and Mathematics. It has been some time open and has a considerable number of Day Scholars. There is also a private School in Sydney for Pupils of the better Classes, which is respectably attended. The Sydney College,+ which is meant to be a Grammar and Classical School, tho' like the Australian designated College, is in progress; but, from failure of funds, some time may elapse before the building can be completed and the School opened. When established, I think it will receive a considerable number of Day Scholars.

Under the Revd. R. Forest at Parramatta, the King's School has taken extremely well. It was opened in this year, and there

* Note 182.  † Note 226.
are now about 41 Boarders including the Children of Military Officers and Civil Servants and twelve day Scholars on the Books. The number of Boarders has been limited by the accommodation the present house affords; and several applications for admission have been necessarily refused. It is therefore proposed to build a School House as sanctioned by Your Lordship for which the Council have voted £1,200. Notwithstanding the apparent want of success attending the introduction of the King’s School at Sydney, The Archdeacon of N. S. Wales is desirous of persevering in the plan of Education recommended to be followed in those Semenaries. He is of opinion that, if a gentleman of good talents and judgment and not deficient in activity and resolution were placed at the head of the Sydney Establishment, it might still prosper. I am rather inclined to recommend that no further attempt should be made in Sydney until the system of Education has had a longer trial at Parramatta. If it succeeds there, as well as there seems reason to expect, the prejudice now operating against it in Sydney will probably be removed in a great degree, and the Institution have a fairer prospect of success.

I have, &c.,

RICH. BOURKE.

Viscount Goderich to Governor Bourke.

(Despatch No. 142, per ship Diana; acknowledged by Governor Bourke, 1st August, 1833.)

Sir,

Downing Street, 30 November, 1832.

I have received your despatch, dated 2d June last, No. 64, enclosing a letter addressed to yourself by Mr. Justice Dowling, in vindication of himself from certain charges preferred against him in a public Newspaper, called “The Sydney Monitor,” dated 30th May last, for his conduct on the trial of three Soldiers for Rape on the 7th of the same month. It is impossible to read the Trial of the Trial, transmitted by Mr. Dowling, and published under his authority in another journal called “The Sydney Gazette” of the 2d June, without the fullest persuasion that the Judge was bound to direct the acquittal of the Prisoners. The unhappy Sufferer, after stating that she was knocked down, distinctly added “what occurred afterwards I don’t know.” “I became insensible, I don’t know what happened after”; and again, “as long as I had my senses, they did not injure me, and, after that, I don’t know what happened.” Now it is incontestible (assuming the accuracy of this report) that the Woman herself did not prove the Commission of the Capital Offence; and the defect of her evidence is not supplied by the only other Witnesses
adduced in support of the Prosecution. The Public Prosecutor, as it further appears, distinctly and repeatedly abandoned the case, and declined to call any more Witnesses. I therefore cannot perceive any plausible objection to the course adopted by the Judge in directing an acquittal of the Prisoners.

The indictment is not before me; but I presume that it did not charge the Prisoners with the Minor Offence of an Assault with intent to commit a Rape. I apprehend, however, that the two offences, being of the same nature, might after the general principle of Law have been joined in the same Indictment by the Introduction of separate Counts; and I confess myself at a loss distinctly to understand why that course was not taken. The Evidence it must be confessed raises a very unfavorable impression of the conduct of the Prosecutrix. Yet it is impossible to doubt that she was the subject of a disgusting and brutal Outrage, and I must desire you to call upon the Attorney General to explain why he did not take the ordinary Precaution of securing a conviction for the minor Offence, in the event of the failure of the Capital Charge. Important as the punishment of such crimes is in every part of the World, the circumstances of Society in New South Wales create a peculiar necessity for vindicating, with the most studious care, in that Colony the Laws for the protection of females against conduct so infamous as that of which the Prosecutrix in this case appears to have been the unwilling victim.

Mr. Dowling may be assured that I have too much respect for the character of the King's Judges in every part of His Majesty's Dominions to permit myself to entertain even a momentary impression to his Prejudice, without some better foundation than the Censures of an anonymous Writer, actuated by such a spirit as it exhibited in the paragraphs which he has brought under my Notice.

I have no doubt that the prudence of protecting the Character of the Judge by the prosecution of the Journalist for defamation is a question, which has already engaged your own Notice; and I am perfectly prepared to believe that you had sufficient grounds for not adopting that measure, being aware that the expediency of embarking in such Prosecution is, at all times, a matter of great doubt; and that to form a correct judgement on any such occasion, it is necessary to be in possession of that full and minute knowledge of local circumstances to which, at this distance from the Colony, I can of course lay no claim.

I am, &c.,

GODERICH.
GODERICH TO BOURKE.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Mangles; acknowledged by Governor Bourke. 18th August, 1833.)

7 Dec

Dear Sir,

Downing Street, 7th Decr., 1832.

Lord Goderich has received a long letter from Mr. E. S. Hall, the Editor of the "Sydney Monitor," a copy of which I was instructed by His Lordship to forward to you; but, as I perceive that this letter is published by Mr. Hall in his Journal of the 2d of May, 1832, it is only necessary that I should refer you to the printed copy of it. There is only one point, to which this letter of Mr. Hall relates, which is of sufficient importance to require observation, viz., the treatment of the Convicts who may be assigned as Servants to the Settlers, and this is of so much consequence, as regards the general wellbeing and the peace of the Colony, that Lord Goderich deems it right to call your attention to the subject.

In the case of Messrs. Berry and Woolstonecraft, Lord Goderich is sorry to perceive that there are grounds for the complaints urged against them by their assigned Servants for neglect, which his Lordship is now the more anxious to notice on account of the station which these Gentlemen hold in the Community; and, as a single act of this description gives a formidable advantage to those persons who are always ready to animadvert upon the proceedings of the Local Authorities, Lord Goderich deems it right to call upon you for a report upon the circumstances of the particular cases, referred to in Mr. Hall's letter to Lord Goderich, of which you will find a copy in the "Sydney Monitor" of the date before mentioned.

I remain, &c.,

R. W. HAY.

Viscount Goderich to Governor Bourke.

(Despatch No. 143, per ship Asia.)

Sir,

Downing Street, 10 December, 1832.

I have to acknowledge the receipt of your despatch No. 50 of the 10 April last, in which you have brought under my consideration the claims of Mr. Hannibal Macarthur to certain lands promised to him by Earl Bathurst.

On referring to the correspondence in this Office, I find the following to be the principal facts of the case:

In the month of May, 1835, Messrs. Charles and Hannibal Macarthur applied to Earl Bathurst for a large allotment of

* Note 227.
Land, in addition to the Tract which they already possessed, but which was too limited to admit of their numerous Flocks being depastured upon it. Messrs. Macarthur stated in their application (at least so the Secretary of State interpreted the terms of their letter) that, with the concurrence of the Colonial Government, they already occupied a Grant of 15,000 acres, and that the only remaining form required was the Secretary of State's confirmation of it. Upon this understanding of the case, Lord Bathurst consented to their application, with this Proviso, however, that no objection of a local nature should exist, and that the Governor should see no reasons for with holding the land in question.

Nothing further occurred in reference to this subject, so far as came under the cognisance of this Department, until May, 1828, when Messrs. Donaldson and Wilkinson, the Agents of Messrs. Macarthur, preferred a complaint against the local authorities for not bestowing upon their clients the land authorized in their favor by Lord Bathurst. They were informed in a letter, of which the enclosed is a Copy, that, as it appeared from the papers, which they had themselves produced, that Messrs. Macarthur had not correctly represented the terms upon which they held temporary possession of the land in Eden Forest, of which they desired the confirmation (their Cattle having been merely permitted to graze upon it, instead of its having been virtually given to them), Mr. Secretary Huskisson did not feel himself warranted in fulfilling any promise made to the parties under such circumstances.

I further gather from the papers you have sent home that General Darling, when called upon to give effect to Lord Bathurst's Instructions (as they were to be inferred from his Lordship's despatch of the 11th October, 1825, and from the original application, enclosed therein of Messrs. Macarthur) contended that it was not meant by Lord Bathurst nor asked by Messrs. Macarthur that a free Grant should be made to them of the 15,000 acres in question, but simply to allow them to benefit, to the full extent, by the Regulation of November, 1824, which Regulations limited the largest quantity of Land, which any person could obtain from the Crown, to 12,160 Acres, viz.:

By Grant, 2,560; By Purchase, 9,600; Total, 12,160 acres.

In addition to the lands previously assigned to these gentlemen, other allotments were accordingly made over to them for
the purpose of augmenting their respective properties to the
above extent of 12,160 acres consisting as follows:

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<th>Acres</th>
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<tr>
<td>Mr. Hannibal Macarthur— Former Grants</td>
<td>4,020</td>
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<tr>
<td>Purchases authorized by Sir Thos. Brisbane</td>
<td>5,000</td>
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<td>Do. by Genl. Darling</td>
<td>3,140</td>
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<td>12,160</td>
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Mr. Charles Macarthur (since dead)—

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<th>Acres</th>
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<tr>
<td>Former Grants</td>
<td>2,800</td>
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<td>Purchases authorized by General Darling</td>
<td>9,360</td>
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<td>12,160</td>
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With this arrangement, Mr. Hannibal Macarthur expressed
himself entirely satisfied in a letter* to the Colonial Secretary,
dated the 3d March, 1829, and added that the kind condescension,
with which "he (the Governor) was pleased to take the whole
of his case into consideration, would ever be gratefully remem-
bered by himself and family."

I have already shewn that Messrs. Macarthurs' claim to the
15,000 acres, for which they had applied as a Grant without
purchase, was considered, under the circumstances in which their
application was made, by Mr. Huskisson to be inadmissible; it
therefore only remains for me to consider the terms on which
the lands, allotted to them for purchase by Sir Thomas Brisbane
and General Darling, are to be paid for. The claim of the Gov-
ernment is for the following number of acres:

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<th>Acres</th>
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<tr>
<td>Land sold to Mr. H. Macarthur by Sir T. Brisbane</td>
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<td>Do. do. by Genl. Darling</td>
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</tr>
<tr>
<td>Land sold to Mr. C. Macarthur by Genl. Darling</td>
<td>8,140</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>17,500</td>
</tr>
</tbody>
</table>

With respect to the 5,000 acres, there cannot be a question.
It was purchased under the authority of Sir Thomas Brisbane,
and, as the value of all land so purchased was fixed at 5s. per
acre, Mr. Macarthur must be called upon to pay that amount
by Instalments as provided for by the Regulations contained in
the Government Notice of the 25th August, 1831, subject to
the modifications submitted in your despatch of the 9th of
August, 1832.

In regard to the remaining 12,500 acres, the Council appear
to have taken a very proper view of the case, for, having accepted

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* Note 228.
the land upon the Regulations of the 23d of October, 1828, the parties were bound to abide by them. But, in holding Mr. Macarthur responsible for the fulfillment of his engagements, the Government cannot avoid the execution of theirs. And I am therefore disposed to allow Mr. Macarthur one of the following alternatives, viz.:

To complete his purchase of the above number of acres to be valued at 3s. 4d. per acre, by Instalments, according to the modified principle recommended in your before cited despatch, or

To continue the payment of the Quit Rent of 2d. per acre, as agreed to by him when he accepted the land, paying into the Colonial Treasury the difference between the two rates of 3s. 4d. and 5s. per acre.

In carrying this decision into effect, care must be taken that it be not made a ground for applications from other parties, who may have accepted lands upon the terms of the Government order of the 31st August, 1828, and whose cases were provided for, after the promulgation of the new Regulations, by General Darling's notice of the 25th of August, 1831, as it is in consideration alone of the peculiar circumstances of this case, and the misapprehension which has arisen on all sides with respect to the intentions of Lord Bathurst in favor of Messrs. Macarthur, that I am induced now to deviate so far from the principle, which has been laid down for the completion of similar purchases, as to remit the difference between the two prices of 3s. 4d. and 5s. the acre in the Land purchased by them under the authority of General Darling, and for which they continued to be indebted to the Colonial Government.

The mistake, which is pointed out by Mr. Hannibal Macarthur to have occurred in the Copy of the Postscript of the letter of the 27th Sepr., 1825, which accompanied Lord Bathurst's despatch of the 11th Octr., 1825, is truly represented by him; but, for the reasons stated in Lord Francis Gower's letter of the 20th May, 1828, to Messrs. Donaldson and Wilkinson, the omission of the particular passage in question of that Postscript will make no difference in the view which I have taken of Mr. Macarthur's case.

I am, &c.,

GODERICH.

LORD FRANCIS LEVESON GOWER TO MESSRS. DONALDSON, WILKINSON AND CO.

Gentlemen,

Downing Street, 20 May, 1828.

I have laid before Mr. Secretary Huskisson your letter of the 6th Instant, relative to two Grants of Land, one of 15,000 Acres, the other of 5,000 Acres, claimed by Mr. Hannibal Macarthur upon the faith of an arrangement made with him on the part of
Viscount Goderich to Governor Bourke.

(Despatch No. 144, per ship Asia; acknowledged by Governor Bourke, 16th February, 1834.)

Sir, Downing Street, 11 December, 1832.

Since I addressed to you my despatch of the 6th of July last on the subject of the Mastership of the Female Orphan School at Paramatta, I have been so fortunate as to obtain the services of a Gentleman, who, from his experience in the education of youth and his literary acquirements, will prove, I trust, well fitted for the charge of that Institution. The Reverend Henry Stiles, the Person in question, has long been preparing for Holy Orders, in the hope of obtaining employment as a Missionary under the Church Missionary Society; but, as his constitution is not considered calculated to withstand the effects of a Tropical Climate, he has been compelled to turn his views to some other employment. The Archdeacon, having proposed in his last Report an arrangement for discontinuing the situation of Master of the Orphan Schools, I am induced to hope that my despatch, above referred to, has not been acted upon, and that the appointment is still open for Mr. Stiles, who has lately been ordained for this office by the Bishop of London.

Mr. Stiles will receive the same salary and advantages as were enjoyed by his Predecessor.
As an additional inducement to Mr. Stiles to undertake this duty, I have promised to appoint him either an additional Chaplain, if the Council will sanction the expense, or else to the first Chaplaincy which may become vacant; I have therefore to desire that you will submit to the Council the question of the appointment of an additional Chaplain; and, if they should not admit its necessity, you will consider yourself authorized without further instructions from Home to appoint Mr. Stiles to the next vacancy. You will take care to apprise me, when this appointment takes place, in order that I may transmit to you the Warrant under the sign Manual usually issued on occasions of this nature.

The Colonial Agent has been directed to issue to Mr. Stiles the customary allowance of one hundred and fifty Pounds in aid of the outfit and Passage of a Chaplain.

P.S.—Mr. Stiles has been informed, in the event of the Archdeacon considering it advisable to continue him in the charge of the Orphan School after he shall have been appointed to a Chaplaincy, that he will not be entitled to receive any Salary or emolument on account of his services in the School, beyond the stipend of two Hundred and fifty Pounds per annum attached to a Chaplaincy.

Viscount Goderich to Governor Bourke.
(Despatch No. 145, per ship Asia; acknowledged by Governor Bourke, 29th June, 1833.)

Sir,
Downing Street, 12 December, 1832.

I have had the honor to receive your despatch No. 45 of the 2d of April last.

The manner, in which the Legislative Council have appropriated the Revenue of this year, seems to require no particular observation, as they appear to have been guided by the Establishments, which had already received His Majesty’s approval. I cannot, however, omit to express my satisfaction at the manner, in which you have brought the subject under their consideration, and in which this first approach to a regular and formal application of the Resources of the Colony to the necessary expences of its Government has been accomplished.

It is very gratifying to His Majesty to receive the account, which your despatch affords, of the flourishing state of the Colonial Finances, more especially as it has enabled you to relieve the Commissariat from many charges, hitherto defrayed from the
Military Chest, which more properly ought to have been provided for out of the Colonial Revenue, and which, consequently, has been thrown upon the Colonial Treasury, now that it has the means of bearing them.

With reference to your observations on the reductions, contemplated by my Despatch No. 27 of the 29th of September, 1831, I have to acquaint you that, without wishing to interfere unnecessarily with your discretion in carrying those Reductions into effect, you must understand that His Majesty's Government expected that the amount of saving, proposed by the Commissioners of Enquiry, will be effected, although you may find it expedient to deviate in many respects from the course which they have pointed out.

As you state that the several items of fixed Establishment and contingent charges, enumerated in the Tables you have sent Home, cannot for the present be cancelled without prejudice to the Public Service, it is not my intention to disallow them; but I confidently hope that the result of the examination, which you were about to make into the state of the Public Departments, will have enabled you to dispense with the whole or part of these supernumerary appointments.

There are one or two Offices which call for special observation.

By the substitution of the sale of Lands for the former system of granting them, a very important part of the duties of the Land Board was suppressed, and in consequence the Commissioners of Enquiry, as well as His Majesty's Government, were of opinion that its reduction was immediately practicable. I regret now to find that it still exists, although under a different name, with no diminution of its expense. I am ready to admit that the duty of assigning convict Servants is of a very arduous and invidious nature, and that it may not from that circumstance be desirable to entrust the performance and responsibility of it to one Individual. You are the best qualified to decide, whether the Colonial Treasurer and the Superintendent of Convicts are, from the nature of their other employments, the fittest Persons to have this further duty imposed upon them. But, with the exception of the Clerk, I see no reason for granting any separate remuneration on that account; and you will, therefore, discontinue, from the date at which you may receive this despatch, the payment of any separate allowance to the Officers, who are at present charged with it.

Adverting to the sum of £1,415, charged for the rations and clothing of 100 Convicts employed on the Aqueduct,* and for the

* Note 229.
Tools and other stores required for their use, I have to desire that I may be furnished with a Report as to the progress which has been made in this work, and as to the period when it will probably be completed. I am not at present prepared to give you any Instructions on the Office of the Mineral Surveyor; but I should wish to know whether the services of this Officer are of such indispensible necessity as to render it inexpedient or impracticable to reduce this appointment. Mr. Bushy's services were originally engaged for a period only of three years, and, at the expiration of that term, it became necessary either to remunerate him separately for such work, which he superintended, or to enter into a fresh engagement with him. The latter alternative was adopted as the most economical of the two; but at that particular moment there were many works of a public nature to be undertaken, and his services, therefore, either as a contractor or as a Government Officer, could not conveniently be dispensed with. As the Colony however must now be better provided in this respect than at the time to which I allude, the same necessity does not appear to exist for his constant employment in the Public Service, or, at all events, the system of contract generally, to which you have been instructed to resort, must materially alter the position in which the Government stands in reference to the services of that Gentleman.

Observing by the printed Estimate for 1832, which you have sent home, that, in addition to the services of a Crown Solicitor to whom £500 a year is allowed, there is a charge for a second Crown Solicitor at £300, I deem it proper to call your attention to a correspondence* between my Predecessor and General Darling on the subject of this appointment, presuming it to be the one held by Mr. Garling, which was at that time objected to. I am aware that this person claimed the continuance of this allowance on the ground that it was granted to him originally as an inducement to proceed to the Colony, when, at that time, a scarcity of respectable Persons of the Legal Profession existed. It does not, however, appear that this claim was admitted, and it becomes necessary that I should call upon you for an explanation of the circumstances, which have led to his being continued upon the Establishment as Crown Solicitor.

It appears from the same Estimate that the Establishment of the Collector of Internal Revenue is fixed at three Clerks, with other minor charges, and that the aggregate expense of this Department amounts to £1,056 12s. per annum. I am sensible of the judicious manner in which Mr. McPherson has performed the

* Note 230.
very irksome and important duty of his Office, and of the difficulties which he must have experienced in collecting the Quit-Rents; but, as those difficulties must have been much diminished by the very exertions, which he has made, I should have been glad to have received a report of the necessity of exceeding the scale of assistance to the Collector authorized by my direction in Lord Howick's letter of 24 Augt., 1831; and, without wishing to disapprove of the Establishment allowed to Mr. McPherson, I now request that you will furnish me with a report upon the subject. In the meantime, I must remind you that this Department was to be continued so long only as the arrears of Quit-Rent remained outstanding; and, as the Regulations framed by General Darling for expediting their settlement will simplify very considerably the duty of the Collector, I hope that it will be in your power, without unduly throwing any additional labour upon Mr. McPherson, to reduce the number of his Clerks.

I have already apprized you that a third of Mr. Barnard's Salary, as Agent for New South Wales and Van Diemen's Land, has been charged to the Revenues of the latter Colony.

I am happy to have already anticipated the recommendation of the Council that two Roman Catholic Clergymen should be sent out to the Colony, by the appointment of the Revd. Messrs. Ullathorne and McEncroe. It only remains for me to repeat my willingness to second any proposal, which the Council may originate for extending the means of Education to the Roman Catholic Population.

I am, &c,

GODERICH.

UNDER SECRETARY HAY TO GOVERNOR BOURKE,

(Despatch per ship Asia.)

Sir,

Downing Street, 13th December, 1832.

I am directed by Viscount Goderich to transmit to you the accompanying copy of a letter from the Secretary to the Master General and Board of Ordnance, respecting certain arms and accoutrements which they propose, for the reasons stated in Mr. Byham's letter, to dispose of to the Colonial Authorities. Lord Goderich requests to be favoured with your opinion upon this subject, and desires me to add that, if the arms and accoutrements in question are required for Local services, it will be proper that you should remit to the Colonial Agent the sum, at which they have been valued, in order that the amount may be paid to the Treasurer of the Ordnance.

I am, &c,

R. W. HAY.
M. R. Byham to Viscount Goderich.

[Enclosure.]

My Lord, Office of Ordnance, 30 Novr., 1832.

The undermentioned arms and accoutrements having been delivered into the Colonial Stores at New South Wales by Detachments, which had proceeded from this Country as Guards on board Convict Ships, viz.:

New South Wales—Received into Store at Dawes' Battery, 29 Musquets and sets of accoutrements and 1 Serjt.'s Halbert, 14 July, 1829. £60 8 7

New South Wales—received into the Colonial Stores, 58 Musquets and Sets of Accoutrements, 28 July, 1831, and 1 Augt., 1831. £119 7 8

I have the honor, by desire of the Board, to communicate the same to your Lordship for Viscount Goderich's information, and, the Board not having an Officer at New South Wales authorised to take charge of Stores on behalf of this Department, the Board consider that it would be advisable to dispose of the whole of the arms and accoutrements above mentioned to the Colonial Authority for local Services. The Board therefore beg to submit this proposition for his Lordship's consideration and approval, and, in the latter event, they request that they may be favored with His Lordship's opinion as to the mode it might be most advisable to adopt for effecting the object proposed.

I have, &c.,

R. Byham.

Governor Bourke to Viscount Goderich.

(Despatch No. 121, per ship Arundel.)

My Lord, Government House, 20th December, 1832.

At the desire of Mr. William Jacques, an assistant Surveyor, I have the honor to transmit a Memorial addressed to Your Lordship, in which he complains that the Surveyor General refused to sign the Certificate of Meritorious Service, under which Mr. Jacques would have been entitled to receive an augmentation to his Salary of £20 per annum from the 1st July, 1831. The matter being referred to the Surveyor General, he has written a memorandum accounting (as I think sufficiently) for his having refused to sign the certificate in question.

It has been asserted by some of the officers in the Surveyor General's Department that the annual augmentation of Salary, Sanctioned by the Secretary of State, is matter of strict right, and not depending on the favorable report of their conduct in the past year. This claim I have combated, holding it absolutely necessary that the Head of the Department should certify the general good Conduct of the Officer during the Year preceding that for which the augmentation is Solicited. I have not
required the Certificate to be drawn up in any certain form of Words, leaving it to the Head of the Department to make Such report as he shall think just in every case; but, unless it is asserted in the Certificate that the Officer is thought to be deserving of the augmentation, I do not feel authorized to grant it.

I have, &c.,

RICH. BOURKE.

[Enclosure.]

[Copies of the memorial and memorandum, dated 3rd and 22nd November, 1832, are not available.]

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Asia.)

Sir, Downing Street, 22d Decemr., 1832.

I am directed by Viscount Goderich to transmit to you copies of two Letters, which have been received at this Department from Mr. James Atkinson respecting a Grant of Land claimed by him in New South Wales, upon the terms in operation prior to the adoption of the new Regulations. By the replies which have been returned to these Letters, and which are also enclosed, you will perceive that Lord Goderich is of opinion that Mr. Atkinson has forfeited all claim to a Grant, founded upon the order of selection which he possessed, by his not having fixed upon an unobjectionable Location previously to the substitution of the new system, but that, under the circumstances of the case, his Lordship has allowed Mr. Atkinson the chance of his application being more favorably viewed in the Colony; and you will therefore have the goodness to enter upon the consideration of the subject in the manner and with the qualifications prescribed by the Secretary of State in the Letter addressed by me to Mr. Atkinson of the .... Instant.

I have, &c.,

R. W. HAY.

[Enclosure No. 1.]

MR. J. ATKINSON TO VISCOUNT HOWICK.

Armagh, 2 Octr., 1832.

I respectfully beg leave to lay before your Lordship copies of my several applications for a grant of land in the Colony of New South Wales together with copies of the communications received from the Colonial Secretary's Office in answer. If your Lordship will be pleased to peruse them, and His Excellency Lieut. Genl. Darling's order of 22d December, 1830, which accompanies them, your Lordship will be informed that the land mentioned in it was unlocated, and open to my selection, and that the gentleman, Major Stuart, to whom it was intended to be given, by means of his Agent, was not a resident in it, or at the time in any way...
Expenses incurred.

1832. 22 Dec.

My Lord, I left this Country for New South Wales in September, 1829, and I have been necessarily obliged to incur the expenses attendant on the removal of a family to so great a distance, and their maintenance there, whilst I remained unemployed. I have left my family in the Colony with the intention of returning to it, and I respectfully hope that your Lordship will give my Case your favourable consideration.

Allow me to express to your Lordship my most grateful sense of your Lordship's introduction of me, at the request of the Marquis of Clanricarde, to the protection and good offices of His Excellency Major General Bourke, contained in your Lordship's communication to His Excellency of 31st Decr. ultimo, and which, I regret, I have not been able to avail myself of, as I left New South Wales for this Country the 12th April ultimo, being previous to its arrival to His Excellency.

I have, &c.

JAMES ATKINSON.

[The enclosures are not available.]

[Enclosure No. 2.]

MR. J. ATKINSON TO VISCOUNT GODERICH.

My Lord,

Crow Hill, Armagh, 26th Novr., 1832.

I beg leave to acknowledge your Lordship's reply of the 10th instant to my letter of the 2d ultimo, relative to my application for a portion of land at Warragamba in New South Wales, under the sanction of an Order for the Selection of land held by me since 2d July, 1830. As your Lordship is pleased to say that it is to be regretted that I did not make my application for land open to selection, as the land in question was erroneously stated to be so. I would respectfully beg leave to observe that this land, when applied for by me in Conformity with the Government Order of 22d Decr., 1830, was refused, as stated in the Surveyor Genl.'s Communication of 4th January, 1831, already laid before your Lordship, on account of its being rented for purchase to a gentleman, not residing in the Colony; And this I was again informed in the Colonial Secretary's communication of 19th January, 1831, also before your Lordship, to be the reason of this refusal. On my explaining to His Excellency General Darling, thro' the Colonial Secretary, that to rent this land for purchase would be contrary to certain orders of His Excellency respecting the granting of land then in force, and that I had made the first selection of this land, I was informed, in answer, by a letter from the Colonial Secretary of 14th June, 1831, also before your Lordship, that the gentleman to whom it had been given had been ordered to abandon it, and that it was denied to me because of its being a Government Reserve. Being made aware, afterwards, that this land was not reserved for Government purposes, I stated this fact to His Excellency General Darling through the Colonial Secretary, and it was admitted by the Colonial Secretary's communication of 8th August, 1831, that this land was not a Government reserve but it was stated to be reserved for the purposes of the Church.

I would beg leave of your Lordship to observe the lapse of time between these several communications, and that the two first, of
HAY TO BOURKE. 821

the 4th and 13 January, 1831, make no mention of this land being reserved for either Government or Church purposes; merely stating that it was not open to my selection on account of its being rented for purchase. Afterwards I am informed, by the Communications of 14th June and 8th August, 1831, that the only cause of the objection of my selection was that the land was discovered to be reserved for Government, and Church purposes, and that the gentleman, whose Agent was in possession of it, was ordered to abandon it; yet, my Lord, that gentleman continued in possession of it, and was in possession of it so late as 8th March, 1832, as your Lordship will observe by the Colonial Secretary's letter to me of that date before your Lordship; and, as I left the Colony immediately after this period, I cannot say if any thing has yet been done with this land.

I respectfully trust that your Lordship will be aware by these communications before your Lordship that, if there has been error, it did not originate with me; although I have been visited with its consequences in the lapse of much time, it being two years since I made my first application, and the incurring very considerable expense by taking my family to New South Wales, their maintenance there, and my return to this Country; and this expense will be added to, whether I return to join my family or they come to this Country.

I beg to express my grateful sense of His Excellency Major General Bourke's kindness, expressed in his opinion on this subject to me; and I would respectfully beg your Lordship to observe that His Excellency directs the Colonial Secretary to state that the existing Regulations respecting land (long previous to the promulgation of which I had arrived in that Colony, and obtained an order for land) prevented him giving me this land.

My Lord, I left this Country in September, 1829, for New South Wales. I have since that period incurred much expense, and, previous to my obtaining the Order authorising my selection of land I had forwarded home, in conformity with the then existing Regulations, my papers for the disposal of my Commission in His Majesty's Service, and had executed a bond for £500, binding myself to reside in that Colony for three years. Respectfully trusting that your Lordship will give these facts your consideration,

I have, &c,

JAMES ATKINSON.

[Enclosure No. 3.] UNDER SECRETARY HAY TO MR. J. ATKINSON.

Sir,

Downing Street, 10th Nov., 1832.

I have laid before Viscount Goderich your letter of the 2nd ultimo addressed to Lord Howick, upon the subject of an allotment of Land, which you were desirous of having granted to you in the District of Warragamba, but which it appears you were prevented from obtaining for the reasons stated in certain communications which you had received from the Colonial Secretary.

As it appears from these letters, which were written to you, not only by the direction of General Darling but by his Successor General Bourke, that the particular land for which you had applied could not be alienated (although erroneously included amongst other lands which by a Government Advertisement were declared
open to selection), it is to be regretted that you did not adopt means for fixing upon a location, which there was not the same objection to your obtaining, as the Secretary of State does not consider your case to be one in which under the circumstances it would be proper for him to interfere. 

I am, &c.,

R. W. HAY.

[Enclosure No. 4.]

UNDER SECRETARY HAY TO MR. J. ATKINSON.

Sir,
Downing Street, 12 Decr., 1832.

I am directed by Viscount Goderich to acknowledge the receipt of your Letter of the 29th of November, in reply to one addressed to you by his Lordship's direction on the 10th of that month, relative to a grant of Land to which you consider yourself entitled in New South Wales under the old Regulations. Lord Goderich did not, as you imagine, misapprehend the facts upon which you rest your claim, those facts being first, you having from the Colonial Government an order for selecting Land, and secondly, your having applied for a particular Location prior to the promulgation of the new terms; His Lordship considered then, as he does now, that having been informed by the Colonial Government that the land which you had applied for could not be granted, you should have lost no time in making another selection, instead of persisting in obtaining that which had been more than once refused, by which proceeding you lost the opportunity altogether of benefitting by your order of selection. Under these circumstances, Lord Goderich is sorry that he does not feel at liberty to convey to the Governor any specific Instruction by which you were led may be remedied; but, as there appear to be points in your case different from any other which has been as yet brought under the notice of his Lordship, he will forward the original Application addressed by you to this Department to General Bourke, desiring him to bring the subject under the consideration of his Council, with an intimation that, if it should be their opinion that your being permitted to make another selection of Land to be assigned to you without purchase will lead to no inconvenient precedent, nor interfere with the principle which has been applied to other cases, there will be no objection, on his part, to your obtaining such a favour; but his Lordship must be distinctly understood as not holding out to you any expectation in this matter, which may not be realized by the decision of the Local Authorities, guided by the consideration above stated.

I am, &c.,

R. W. HAY.

VISCOUNT GODERICH TO GOVERNOR BOURKE.

(Despatch No. 146, per ship Asia.)

Sir,
Downing Street, 23d December, 1832.

In my despatch of the 30th March, 1832, I communicated to you the arrangements, which I had in contemplation for supplying the place of Mr. Justice Stephen on the Bench at New South Wales. From a communication which was shortly afterwards received from Mr. Justice Burton, I had every reason to suppose that he intended to proceed to England before he finally embarked for New South Wales; but, in a letter dated
the 28 September last, he has announced to me his intention of at once embarking for that Colony in a Ship, which was appointed to sail from the Cape on the 11th October, and consequently he will have arrived at Sydney long before this despatch can reach you.

Upon considering more fully the provisions of the New South Wales Act of 1828, it has appeared to me necessary to issue a new Charter of Justice* for that Colony, the one at present in operation there having contemplated the appointment of two Judges only. Circumstances, which it is unnecessary for me to detail, have hitherto prevented the issuing of the amended Charter, and I fear a further short delay will occur before it will be ready to be forwarded to the Colony, although it is now in course of preparation. As, however, no question has been raised as to the validity of the Appointment of a third Judge in consequence of the informality to which I have alluded, I trust no difficulty may have been felt on the arrival of Mr. Burton at Sydney in placing him in the situation, to which you were informed His Majesty had been graciously pleased to appoint him, and that, when you may receive this despatch, he will be in the full exercise of his functions. As it appears that the arrangement, by which Mr. Burton’s services as a Judge have been transferred from the Cape to New South Wales, has been attended with considerable inconvenience, as well as with pecuniary losses to him, and, as I have been influenced in recommending to His Majesty the removal of Mr. Burton to Sydney, as much by a consideration for the interests of the Public at New South Wales as by the desire of meeting the wishes which you had expressed for his appointment prior to your leaving this country, I think it but just and reasonable towards Mr. Burton that he should be relieved from all unnecessary expense arising from his change of Station; and you will therefore bring under the consideration of the Council the propriety of defraying the sum, which Mr. Burton may have expended in the conveyance of himself and family from the Cape to Sydney. Looking, also, to his interests in regard to Salary, you will also propose to the Council that half salary, as a Puisne Judge at New South Wales, should be issued to him from the date of his embarkation at the Cape, it being my intention to charge the Revenues of the latter place with the other half of the salary until his arrival in New South Wales; so that he may receive a sum equal to his full Salary from the date at which he ceased to discharge his functions at the Cape, until that at which he may have entered upon his duties at New S. Wales.

I am, &c.,

GODERICH.

* Note 231.
VISCOUNT GODERICH TO GOVERNOR BOURKE.

(Despatch No. 147, per ship Asia.)

Sir,

Downing Street, 24th Decr., 1832.

I have the honor to enclose to you the copy of a letter from Mr. John Stephen, dated 14th instant, and of the answer which I directed to be returned to him dated the 17th instant, from which you will perceive that I have acquaiited him that I have no objection to his being allowed the same opportunity of vindicating himself, as was offered to him before he quitted the Colony. I am sensible of the improbability that Mr. John Stephen should be able at this distance of time to collect evidence bearing on the point of identity, between the Woman named Frances Dixon and the Woman named Jane New; but, unwilling to deny to any Person, who thinks he can exculpate himself from a very grave charge, the means of attempting to do so, I have informed him that the same mode of investigation will be open to him in the Colony, as open when he left it to return to this Country. You will therefore have the goodness, should Mr. John Stephen offer to bring forward evidence in disproof of the alleged identity of “Jane New” and “Frances Dixon,” to convene the Council and request them to receive the Evidence he shall produce, taking such steps, as may seem to them proper, for bringing the matter to a definite issue before the Council.

For your more complete information, in case such an investigation should take place, I enclose copies of the correspondence which has passed with Mr. Stephen since the date of the despatch from General Darling dated 27th April, 1831, No. 41.

I am, &c,

GODERICH.

[Enclosures.]

[Copies of these letters are not available.]

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 122, per ship Arundel; acknowledged by right hon. E. G. Stanley, 20th September, 1833.)

My Lord,

Government House, 24th December, 1832.

At the request of Mr. William Dumaresq, a retired Captain of the Royal Staff Corps, now settled in this Colony, I have the honor to transmit a statement of his claim to an allotment of Land in Hyde Park, Sydney, which he prays Your Lordship to direct the Governor of the Colony to put him in possession of, or to remunerate him by a Grant elsewhere of a value to be fixed by arbitration.
Upon the Subject of this Claim, it is my duty to Submit to Your Lordship a few remarks, premising that I have already offered to Mr. Dumaresq that Compensation which other Persons, having more Solid Claims, have been contented to receive.

Mr. Dumaresq States that, having been in expectation of an appointment to a permanent Employment in the Colony, he was also in expectation of receiving a Town allotment on which to erect a dwelling. And, Under these joint expectations, he Seems to have cast his eyes on a spot of Land at Wooloomooloo, and to have had an intention of asking for it; but, as he informed Dr. Douglas, he subsequently abandoned that idea in consequence as it appears of his having seen and given the preference to Land on Hyde Park, as the Situation best adapted to his views on receiving the expected appointment. Mr. Dumaresq therefore states that “he waived his claim to the Land at Wooloomooloo in favor of Dr. Douglas, then Clerk of the Councils,” who, being in actual possession of Office, had whatever title to consideration that circumstances could give him, and received the Land accordingly. But Mr. Dumaresq did not obtain the appointment he expected, and, failing in the expectation of Office, the expectation of the Grant, which he States was dependent on the Appointment to Office, must have been a failure also, and “the Claim which he waived in favor of Dr. Douglas,” was a mere nullity.

I have been the more particular in stating this Claim to Land at Wooloomooloo, as Mr. Dumaresq insists upon it with some pertinacity, calling it in one place, “an implied promise,” in another, “a tacit understanding,” and again that the Claim was admitted by this Government, of which however I find no trace in the Papers laid before me, or in those now forwarded by Captain Dumaresq to Your Lordship. Further, he actually places a Money value upon this idea, or claim in expectancy, rating it in one place at £800, and in another upon better information at £350 only.

Having thus shewn that Mr. Dumaresq has not a shadow of claim to Land at Wooloomooloo or elsewhere in virtue of office, I proceed to consider his pretensions founded on the gratuitous favor of my Predecessor.

In reply to Mr. Dumaresq's application, dated 2d June, 1830, for a Grant at Hyde Park, the late Governor wrote this Minute on the back of the letter. “Inform him that his application shall be noted, in order to its being considered with those of other applicants, whenever arrangements may be making for the location of Hyde Park.” This clear and unequivocal reply, Mr. Dumaresq,
in his letter to the Colonial Secretary of the 13 April, 1831, describes as announcing to him, "that his selection of that portion of Hyde Park Garden nearest the Roman Catholic Chapel would be noted." Upon this curious construction of an official letter, he sets up a claim to that particular Allotment, and perseveres in demanding it from Your Lordship. General Darling however thought proper at once to reject the assumption by instructing the Colonial Secretary to write the letter of the 18th May following.

In a Minute written upon a letter of the Surveyor General, dated the 23d March, 1831, General Darling further observes that, "He is not aware of any one having obtained permission to select allotments in Hyde Park." I may add that I am not aware of any appropriation of Hyde Park to building allotments having been approved by any of my Predecessors in this Government. The project has been spoken of, Reports written, and Plans drawn and Submitted, but nothing fixed or approved has come to my knowledge. From what I observed upon riding through the Town shortly after my arrival, I determined to give no Countenance to the project. The appropriation of the Park to private Houses would have deprived the Inhabitants of Sydney of the benefit of fresh air, and of a space for needful exercise and recreation. I therefore decided at once against the proposed division of the Park into Building allotments. Mr. Dumaresq’s application might therefore appear to be negatived, as the consideration of that application was declared by General Darling to be contingent upon the location of the Park.

I have however the honor to transmit the Copy of a document, upon which I have Considered an equitable claim to allotments on the part of Mr. Dumaresq and others to be founded. It is a Minute by General Darling, dated the 15th October, 1831 (appendix No. 3), A Week before he embarked for England. It records the Names of some of those Persons for whom Sir Thomas Brisbane had destined allotments in the Park, as well as of those for whom General Darling proposed a similar gratification. In referring to this Minute, Mr. Dumaresq is pleased to state it was issued conjointly with the Colonial Secretary’s letter to him of the 21st October, which he Copies; Whereas I presume the letter was written upon the Authority of the Minute, being dated Six days later. The letter however goes far beyond the Minute, as it calls upon Mr. Dumaresq to select an allotment and to report it to the Surveyor General, which would imply that a division of the Park had been actually approved by the Governor, an inference which the Minute contradicts and the subsequent
correspondence shews to have had no foundation. Mr. Dumaresq
further states that he stands second in the order of applicants
upon the Minute, which Your Lordship on inspection will per­
cieve is not the case. Considering, however, that the Persons
named in the Minute as well as others not named therein, who
had received promises of allotments contingent on the breaking
up of the Park, had some equitable claim for Land elsewhere,
if the Park continued to be reserved, I sought to make some
arrangement for satisfying their expectations. Upon enquiry, I
found that the Surveyor General had a short time before divided
into allotments of from 3 to 4 Acres each the vacant Land in
Rush Cutters Bay, distant about one Mile from Hyde Park, and
half a Mile from Wooloomooloo. Of this Land as being inferior
in Situation to either of the last mentioned Places, I agreed
to give a double allotment, or from 6 to 8 acres, in lieu of the
expected allotments at Hyde Park. Here also I placed all those
Civil Servants, who, coming out with late orders from the Secre­
tary of State, could not obtain allotments in Sydney, imposing
the same conditions upon these Grantees as General Darling
had done on dividing Wooloomooloo Hill, conditions which have
had the effect of erecting a beautiful suburb at that Place. No
opposition was made to this arrangement by any Person but
Mr. Dumaresq, whose claim, notwithstanding his attempt to
support it by implied promises, "tacit understandings" and
forced constructions, I consider amongst the lowest on the List.

I had indeed some doubts whether, with reference to the pre­
sent regulations for the disposal of the Crown Lands, I was fairly
authorized to make Grants to these Expectants. But, finding
that some old Servants of Government had refused Land in
Sydney, when it could have been had, in the hope of getting
more agreeable allotments in Hyde Park, and that all the Claim­
ants had received a contingent promise from former Governors,
I trusted Your Lordship would not disapprove of the arrange­
ment I have effected. It has preserved Hyde Park for the People
of Sydney, and will procure the erection of Villas in a beautiful
Situation near the Bay. I annex a List of all Persons to whom
allotments have been granted at Rush Cutters Bay, in virtue of
an ancient promise or order of the Secretary of State.

I should add that Mr. Dumaresq has received 2,560 Acres of
Land free of Quit Rent as a retired Officer, Nine Months having
been specially allowed him in his period of service to make up
twenty years; and, having married Miss McLeay, Daughter of
the Colonial Secretary, he has received additionally 1,280 Acres
as her Marriage portion, all on Hunter's River.
On the last paragraph but one of Mr. Dumaresq’s letter to Your Lordship, I abstain from making any other observation than that I agree with him in considering it unflitting; and, on that account, I could have wished he had been able to see the propriety of omitting it.

I have, &c.,
RICH. BOURKE.

[Enclosure No. 1.]
[A copy of the memorial is not available.]

[Enclosure No. 2.]
MINUTE NO. 99.

Government House, 15th October, 1831.

As the arrangements have not yet permitted of the persons, who were promised Building Allotments in Hyde Park by Sir Thomas Brisbane, taking possession of those set apart for them and of others, who have been since authorised to receive Allotments at that place, to make the necessary Selection; it appears necessary, in order to prevent any misunderstanding with respect to their claims, to place them on record, so that the former may be able to take possession of the ground intended for them, and the latter to select their Allotments as soon as the Arrangements shall be completed, viz.:

The First Class consists as follows:

The Reverend Richard Hill. See accompanying Letter of Private Secretary, dated 6th July, 1824.

Willm. Lithgow, Esq., Auditor General. See his Letter to the Colonial Secretary, dated the 11th October, 1831.


James Bowman, Esqr., Inspector of Hospitals. The Allotment which has been pointed out by him.

The Second Class consists of—

William Dumaresq, Esq., Promised by me some considerable time back that he should receive an Allotment as soon as the ground was measured and he should have retired from the Service.

Lieut. Colonel Dumaresq. See Minute referring to the Secretary of State’s Order.

Roger Therry, Esqr., Commissioner of the Court of Requests. See Minute referring to the Secty. of State’s Order.

M. C. Cotton, Esqr., Collector of Customs. To select as a reserve until the Secretary of State’s decision shall be received on his appeal lately sent home.

Australian Subscription Library and Museum.—As this is a Public Institution of great importance to the Colony, and, as a site for the necessary Buildings is of consequence, it appears to me, though the Grant was only lately ordered, that the selection should take precedence of all private claimants.

RA. DARLING.
STATEMENT of the Grants made of the Land at Rushcutter's Bay, Divided into Allotments of about Four Acres Each.

<table>
<thead>
<tr>
<th>No.</th>
<th>Name of Grantee</th>
<th>Number of Allotments Granted</th>
<th>The Surveyor General's Abstract containing the Selection.</th>
<th>Particulars.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Cape, W. T. ..</td>
<td>1 16/31 August ...}</td>
<td>Granted by General Darling, in lieu of an allotment promised in Parramatta.</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Kinchela, John ..</td>
<td>2 1/15 October ...}</td>
<td>Given in pursuance of an order from the Secretary of State, that Mr. Kinchela should receive a Building Allotment, near Sydney.</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Manning, J. E. ..</td>
<td>2 1/15 November ...}</td>
<td>Given in lieu of an Allotment on Woolloomooloo Hill, authorised for Mr. Manning, in pursuance of the Secretary of State's Instructions that he should have a Building Allotment.</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Dumaresq, Colon...</td>
<td>2 15/31 August ...}</td>
<td>Granted in lieu of an Allotment on Hyde Park, authorised for Colonel Dumaresq, in pursuance of the Secretary of State's order for his obtaining a Building Allotment.</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Gurner, John ...</td>
<td>2 1/15 September ...}</td>
<td>In lieu of an Allotment on Hyde Park authorised for Mr. Gurner, in consequence of the Secretary of State's Instructions that he should have a Building Allotment.</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Therry, Roger ...</td>
<td>2 15/30 September ...}</td>
<td>In lieu of an Allotment on Hyde Park, authorised for Mr. Therry, in consequence of the Secretary of State's Instructions that he should have a Building Allotment.</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Rossi, F. N. ..</td>
<td>2 15/30 September ...}</td>
<td>Granted in lieu of an Allotment on Hyde Park, originally promised by Sir Thomas Brisbane and confirmed by General Darling.</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Hill, Rev. R. ..</td>
<td>2 1/15 October ...}</td>
<td>The same as the foregoing.</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Lithgow, Wm ...</td>
<td>2 1/15 October ...}</td>
<td>The same as the foregoing.</td>
<td></td>
</tr>
</tbody>
</table>

Viscount Goderich to Governor Bourke. (Despatch No. 148, per ship Asia.)

Sir,

Downing Street, 25th Decr., 1832.

I have lately had under my consideration the Report of Archdeacon Broughton on the state of the Church and School Establishments in New South Wales, which accompanied your despatch No. 30 of the 28 February last.

You will communicate to the Archdeacon my perfect concurrence in the observations, which he has made, as to the advantage and necessity of procuring Ministers of Education and character for the service of the Colony, and you will assure him that it has been my endeavour in concert with the Bishop of London to select, from amongst the Candidates for Colonial Chaplaincies, those only whose learning and morals appeared calculated to produce a beneficial effect upon the parties, whose spiritual welfare would be committed to them.
The Archdeacon's suggestion of resorting to the Colleges of St. Rees and Lampeter for persons properly qualified for the spiritual office will not be lost sight of. My acquiescence in the Archdeacon's remarks upon the subject must not, however, render him too sanguine as to the practicability of selecting in every case, in which the appointment of a Colonial Chaplain may become necessary, persons who may be calculated for the arduous duties of that office, or who may possess minds and tempers adapted to contend successfully with the vitiated feelings and unruly passions of a community like that existing in New South Wales. With a view to convey to them an adequate idea of the state of Society there, and of the privations which they will have to undergo in the course of their Ministry, care will be taken to impart to each Chaplain, desirous of undertaking this office, the information communicated by the Archdeacon relative to their prospects in the above respects.

The next point, to which the Archdeacon adverts, is the mode in which the Clergy and Schools are supported.

In my despatch of the 3d April last, I have already conveyed to you my full satisfaction at the manner in which the Trustees of the Corporation had discharged the important duties committed to them, although it appears to have been the opinion of my Predecessor that the attention, which such of the Clergy as were Members of it were obliged to give to this service, interfered unnecessarily with other duties to which it was more important that they should devote themselves.

The resumption of the Church Reserves was, as I stated in my Despatch No. 21 of the 14th February, 1831, the result of the observations in the Report of the Commissioners of Colonial Enquiry, appointed by His Majesty's late Government, and one of the main considerations, which influenced their decision, was the conviction that the objects, for which the Clergy Corporation was formed, would be more effectually and satisfactorily attained by throwing open to the Public the Lands set apart for the maintenance of the Church and School Establishments, and transferring the expense of supporting them to the Colonial Revenue, which already and for a long time to come would have to provide the Funds for the purpose.

An Order of the King in Council will be immediately passed for abolishing, in the manner prescribed by the Charter, the above Corporation, and for obviating any inconvenience or difficulty which may have been occasioned by the irregular mode in which, though an oversight, this measure was intended in the first instance to be accomplished.
With respect to the distribution of the Clergy, as contemplated by the Archdeacon, I beg to observe that this is a point which can only be satisfactorily arranged in the Colony; and it is, therefore, my wish to leave it to the discretion of the Archdeacon, in conjunction with the Governor, who are alone possessed of the information necessary for disposing of the Services of the Clergy with benefit to, and in proportion to the wants of the respective Parishes. At the same time, I should desire any alteration of this nature to be noticed in the periodical Reports of the Archdeacon, in order that I may be at all times aware of the manner in which the services of the Chaplains are appropriated.

I informed you, in my despatch of 5th Novr. last, that I had again brought under the notice of the Bishop of Calcutta the misconduct of the Revd. F. Wilkinson, and I trust that, long before this despatch can reach you, his Lordship’s decision will have arrived in the Colony. Until, however, that decision is communicated to me, I am of course unable to take any steps for supplying a successor to Mr. Wilkinson.

The Archdeacon next recommends that the two Lay Catechists, at present employed, and who receive a stipend of £182 10s. each, with an allowance for House Rent and Forage, should be replaced by Clergymen of the Established Church.

To this proposal, I cannot have the slightest objection, nor to holding out to the Clergymen, as an additional inducement to them to accept the situation, the prospect of promotion to Chaplaincies whenever they may become vacant. The difficulty, however, which is found in obtaining Clergymen of character and ability to accept Chaplaincies upon the higher scale of salaries, will I apprehend be still greater in endeavouring to supply the more subordinate situations of Catechists upon the lower rate of remuneration assigned to them; and I do not, therefore, expect that it will be in my power, at once, and fully, to realise the Archdeacon’s views in this particular, although I shall not lose sight of any means which may be likely to accomplish them.

I fully concur in opinion with the Archdeacon that Chaplains ought to be stationed at Norfolk Island and Moreton Bay, so long as a large Convict Population may be collected there destitute of Religious Instruction; and I trust that the arrival of the two Masters, who were appointed to the King’s Schools at Sydney and Paramatta, and who were selected from persons in Holy Orders expressly for the purpose of officiating as Chaplains, will have enabled the Archdeacon, long ere this, to withdraw one of the Chaplains at present employed at each of these
1832.
25 Dec.

Proposed abolition of establishment at Moreton Bay.

1. While on this subject, I beg to recommend to your serious consideration the practicability of breaking up the expensive Establishment at Moreton Bay, where it appears, from the Archdeacon's Report, a considerable number of Convicts are employed in a manner comparatively unproductive. In the despatches from General Darling received in 1827, he represented this Settlement not to be dreaded by the Convicts as a place of punishment, and, in consequence, he recommended that they should be worked in Irons. By assigning to the Settlers such of these Prisoners as may be more tractable, and by employing upon the Roads, or in any equally severe labour, those desperate and incorrigible characters, the Colony would receive much benefit from their Labour, and the Mother Country would be relieved from the heavy expense entailed by the Settlement in question.

2. In regard to the arrangement proposed for the future superintendence of the Female Orphan School at Paramatta, I have only to refer you to my despatch of the 11th Instant, in which I announced to you the appointment of the Revd. H. Stiles to the charge of that Institution. In determining to continue this situation for the present, I was influenced by the very high testimony borne to the peculiar fitness of this Gentleman for the education and superintendance of Youth, and also by the advantage of having a person to manage this Establishment, in whom confidence could be placed in respect to its pecuniary concerns, which I have always understood as forming a very important part of his duties. Whenever Mr. Stiles shall be promoted to a Chaplaincy, the Archdeacon's arrangement can be adopted, if he should still think it more advantageous than to continue Mr. Stiles in that employment.

3. The remainder of the Archdeacon's report principally relates to the present state of education in the Colony, and to the want of School-masters and Mistresses Competent to their duty. I cannot but admit the weight of the arguments, adduced by Mr. Broughton, to shew the importance of extending the means of Instruction and improvement to the rising generation; and I shall be ready to give my sanction to any proposal for this object, whenever the Council will originate, and the Finances of the Colony will admit of, a larger sum being devoted towards it. In future, I have to desire that any additional expence, which may be deemed necessary for the improvement of the existing Colonial Institutions connected with Religion or Education, may be submitted to the consideration of the Council before it is
brought under my notice, so that, by being informed of the sentiments of the Council upon the proposal as well as your own, I shall be better able to arrive at a satisfactory decision.

The Evils, which the Archdeacon attributes to the uncertainty prevailing as to the Law respecting the Celebration of Marriages, are of a very serious nature, and appear to demand your careful attention. Since the Enactment of the 9 Stat. Geo. 4, ch. 83, Sec. 24, ample provision has been made for setting at rest, within the Colony itself, every question of this Nature. I will not undertake to determine whether the Marriage act of George 3d does or does not extend to New South Wales, for it is unnecessary for me to express or to form an opinion on the subject. If that question has never been judicially decided by the Supreme Court, or if any doubt has arisen respecting it, the Section of the Statute to which I have referred authorizes you, with the advice of the Legislative Council, to pass a declaratory law for setting any such doubts at rest. It is far more convenient that measures of this nature, involving so many Local considerations, should originate in the Colony than in this kingdom; and, to yourself and the Legislative Council, I must therefore, in the first instance, refer the Enquiry whether the English Marriage Act is adapted to the circumstances of New South Wales, or admits or requires any modification in that Settlement.

I am, &c,

GODERICH.

Viscount Goderich to Governor Bourke.

(Despach No. 149, per ship Asia.)

Sir,

Downing Street, 26 Decr., 1832.

I have delayed answering till now the various despatches from General Darling mentioned in the margin,* and approving the manner in which he proposed to carry into effect my Instructions respecting the payment of Quit-Rents, and the alteration of the Land Regulations, as I was desirous of giving you an opportunity of ascertaining whether the several Regulations framed by that Officer were in their practical operation in any degree defective, before I proceed to confirm them. But, as you have not recommended any alteration of those Regulations with the exception of the modification of the one mentioned in your despatch No. 49 of the 9th of April last, and particularly as you have stated your opinion that the principle of the present mode of disposing of the Crown Lands should be maintained, I see no longer any occasion to withhold my sanction of the Regulations in question, and they are accordingly approved. I take

* Marginal note.—No. 70, 1 Sep., 1831; No. 78, 19 Sep., 1831; No. 81, 28 Sep., 1831.
this opportunity of acknowledging the very able manner, in which the numerous and complicated cases affected by the new system, have been provided for by General Darling with the assistance of his Council, and of expressing my sense of the care and attention which has been shewn to the interests of the Parties concerned, as well as to those of the Public.

With reference to the Petitions of the Landholders, who are indebted to the Government for Lands, purchased during the administration of Sir Thomas Brisbane and of General Darling, transmitted in the despatch No. 81, I have only to express my hope that the further time, which you have granted and which I have sanctioned for completing their payments, will enable them to fulfil their engagements without the sacrifice of any portion of their property. Considering the time, which has elapsed since those engagements were entered into by the Parties, and the delays which have from time to time been granted upon their urgent remonstrances, I think it right that they should most fully understand that the Government will not consent, under any circumstances, to extend the periods at which the respective Instalments, fixed by you, will become due; and you will, therefore, take care that the payment of each Instalment be enforced, or that a surrender of land, proportioned to the amount, be obtained in default thereof.

The question respecting the proper mode of abolishing the Church Corporation has been set at rest by the order in Council, which has been passed for that purpose, and which accompanied my despatch No. 148 of the 25th Instant.*

The Petition, enclosed in No. 70, from the Landholders on the subject of the arrears of Quit Rent appears to me to require but little notice, after the ample manner in which this question has already been discussed; the causes, assigned by the Parties of the distress under which they labour, afford the best proof of the wisdom of the system against which they have appealed. They allege that, from the disproportion of the demand for Agricultural Produce to the supply, a remunerating price is not obtained for such produce. The Memorialists overlook the fact that the direct tendency of the new Regulations is to remove in a great measure the evils of which they complain. From the facility with which Land could, hitherto, be obtained, the majority of the Settlers have been induced to embark in Agriculture. The natural consequence has been that the markets have been glutted, and the price has been excessively depreciated. The obvious remedy for this state of things is to endeavour to diminish the number of Growers of the same articles, and to divert their attention to other productions and sources of wealth and property to

* Note 232.
the Colony. The new system will have that effect. Those Persons, who are unable to pay off the sums due to the Government for Lands purchased by them and for arrears of Quit-Rent, will be compelled to abandon their land and to seek out a more profitable mode of investing their Capital; while those, who are able to fulfil their obligations, and consequently to retain their Estates, will ultimately remunerate themselves by selling or leasing a part to those Settlers whom its localities might better suit than the Lands at the disposal of the Government. I do not agree with the Memorialists that the sale of lands will deter Capitalists from settling in the Colony; indeed the very fact of their not being liable to the competition of Persons of nominal Capital only will be an additional incentive to the emigration of Capitalists.

The Colony will be further benefitted by the longer period, which must elapse under the new system, before the Labourer can become a Proprietor, an advantage which, combined with the emigration of Labouring Persons from this Country, will effect a material reduction to the Settler in the charge for Labour.

The case of Major Lockyer, whose Memorial is enclosed in Claims of No. 78, I must leave to be dealt with in the same manner as those of other Persons similarly situated, as I see no good reason for making an exception from the Regulations in his favour.

I am, &c,

GODERICH.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 123, per ship Arundel; acknowledged by right hon. E. G. Stanley, 6th September, 1833.)

My Lord, Government House, 31 December, 1832.

I have the honor to inform Your Lordship that Mr. Burton arrived here on the 5th instant from the Cape of Good Hope, and immediately after his landing informed me that he had left the Cape in consequence of its having been intimated to him by the Governor that His Majesty had been pleased to appoint him to be a Puisne Judge in this Colony. Having no doubt of the fact (although without any official information of Mr. Burton's nomination), and with reference to Your Lordship's Despatch of the 30th March last, Marked Confidential, I thought it right to Communicate immediately with Mr. Justice Stephen upon the Subject of his retirement from the Bench. Mr. Stephen in consequence sent me his written resignation on the 15th instant, and on the 22d Mr. Burton received my Commission to succeed and was sworn into office. This appointment on my part was made

1832.

26 Dec.

Effects of new system.

31 Dec.

Arrival of W. W. Burton.

Resignation of J. Stephen.
under the Provisions of the 9th Geo. 4, Cap. 89, Sect. . . ., and rendered necessary in consequence of Mr. Burton not having received a Commission from the King.

Mr. Stephen has been paid his Salary as Judge to the 31 December, 1832, and has been informed that an allowance of Five hundred Pounds per annum has been granted to him for Life, to commence from the 1st January, 1833. He has objected to the amount, as being less than that upon which he proposed to retire, and has intimated his intention of addressing Your Lordship on the Subject.

I find that, by the Charter under which the Supreme Court of this Colony is established, the Chief Justice was allowed Salary from the day of his embarking in England to proceed to his destination. A similar allowance was made to Mr. Justice Dowling. I presume that Mr. Burton will not be denied an advantage granted to his colleagues, and that Your Lordship will be pleased to direct his full Salary to be paid to the 31 December, 1832, from the Revenues of the Cape, in consideration of that Colony having been relieved from the charge of part of its Judicial Establishment, without the burden of Allowance or Pension to the retiring Judge. But, however Your Lordship may please to decide this part of the arrangement, I trust you will acquiesce in the propriety of allowing Mr. Burton his full Salary, to which he has a Substantial claim, founded as well on the precedents I have referred to, as upon a due Consideration of the heavy pecuniary loss to which he has been exposed by his removal from the Cape to this Colony.

I think it right to add, at the request of Mr. Burton, that, when he left the Cape on the 14th October last, he obtained two Months' Leave of absence from the Governor, not thinking it right to surrender his Seat on the Bench before the publication of the new Charter for that Colony, and being at the same time unwilling to lose an opportunity which then offered of proceeding here. If, in consequence of his leave, the Governor shall have thought proper to issue half Salary to his agent at the Cape, Mr. Burton is ready to refund the Amount on being allowed the full Salary, to which I conceive him to be entitled.

I have, &c.,

RICH. BOURKE.
APPENDIX.

COMMISSION* of Governor Bourke.

William the Fourth, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith.
To Our Trusty and well beloved Richard Bourke, Esquire, Major General of Our Forces, Greeting.

Whereas We did, by our Letters Patent† under Our Great Seal of Our United Kingdom of Great Britain and Ireland, bearing date at Westminster the thirteenth day of December in the first year of Our Reign, constitute and appoint Our Trusty and well beloved Ralph Darling, Esquire, Lieutenant General of Our Forces, to be Captain General and Governor in Chief in and over the Territory called New South Wales, and all Islands and Territories within the Limits therein mentioned during Our will and pleasure, as by the said recited Letters Patent, relation being thereunto had, may more fully and at large appear. Now Know You that we have revoked and determined, and by these presents do revoke and determine the said Letters Patent, and every Clause, Article and Thing therein contained. And further know You that we, reposing especial trust and confidence in the prudence, courage and loyalty of You, the said Richard Bourke, of Our especial Grace, certain Knowledge and mere motion, have thought fit to constitute and appoint, and by these presents do constitute and appoint you, the said Richard Bourke, to be Our Captain General and Governor in Chief in and over Our Territory called New South Wales, extending from the Northern Cape or extremity of the Coast called Cape York, in the Latitude of ten degrees, thirty seven Minutes South, to the southern extremity of the said territory of New South Wales, Wilson Promontory, in the Latitude of Thirty nine degrees, twelve Minutes south, and of all the Country inland to the Westward as far as the Hundred and twenty ninth degree of East Longitude, reckoning from the Meridian of Greenwich, including all the Islands adjacent in the Pacific Ocean within the Latitude aforesaid of ten Degrees thirty seven Minutes South and thirty nine Degrees twelve Minutes South, and also including Norfolk Island, lying in or about Latitude twenty nine degrees three Minutes South and One hundred and sixty eight Degrees of East Longitude from the said Meridian of Greenwich, and of all Forts and Garrisons, erected and established or which shall be erected and established within the said Territory or any of the said Islands. And We do hereby require and command you to do and execute all things

* Note 233. † Note 234.
in the manner that shall belong to your said Command and the
Trust we have reposed in you, according to the several powers
and directions, granted or appointed you by the present Commis-
sion and the Instructions herewith given to you, or according
to such further powers or Instructions and Authorities as shall
at any time hereafter be granted or appointed you under Our
Signet and Sign Manual, or by Our Order in Our Privy Council,
or by Us through one of Our Principal Secretaries of State, and
according to such Laws and Ordinances as are now in force, or
as hereafter shall be made under and by virtue of a certain Act
of Parliament, made in the ninth year of the Reign of His late
Majesty King George the Fourth, intituled, "An Act to provide
for the Administration of Justice in New South Wales and
Van Diemen's Land, and for the more effectual Government
thereof, and for other purposes relating thereto." And Our Will
and pleasure is that you, the said Richard Bourke, as soon as
may be after the Publication of these Our Letters Patent, do
take the Oaths appointed to be taken by an Act, passed in the
first year of the Reign of King George the First, intituled "An
Act for the further Security of His Majesty's Person and Govern-
ment and the Succession of the Crown in the Heirs of the late
Princess Sophia being Protestants and for extinguishing the
Hopes of the pretended Prince of Wales and his open and secret
Abettors as altered and explained by an Act passed in the sixth
year of the Reign of Our late Royal Father intituled 'An Act
for altering the Oath of Abjuration and the Assurance and for
amending so much of an Act of the seventh year of Her late
Majesty Queen Anne, intituled 'An Act for the improvement of
the Union of the two Kingdoms,' as after the time therein limited
required the delivery of certain Lists and Copies therein men-
tioned to persons indicted of High Treason or Mispriison of
Treason,' or in lieu thereof, the Oath required to be taken by an
Act passed in the tenth year of the Reign of his late Majesty
intituled "An Act for the Relief of His Majesty's Roman
Catholic Subjects," according as the said former Acts or as the
said last mentioned Act shall be applicable to your Case. And
likewise that you take the usual Oath for the due execution of
the Office and Trust of Our Captain General in the Plantations
to do their utmost that the several Laws relating to Trade and
the Plantations be duly observed, which said Oaths the Senior
or any other Member of the Executive Council is hereby autho-
rized and required to Tender and Administer unto you (and in
your Absence to Our Lieutenant Governor if there be any pre-
sent), which being duly performed you shall administer to oath
of the Members of Our said Council such of the said Oaths,
COMMISSION OF GOVERNOR BOURKE.

mentioned in the said several Acts, as shall be applicable to the Case of the Individual Member of Our said Council, taking the same, and also the usual Oath for the due execution of their Places and Trusts respectively; all which Oaths shall also be Administered by the Governor or Person administering the Government of Our said Territory and its Dependencies for the time being to all such persons as shall hereafter be appointed to be Members of Our said Executive Council, before they respectively enter upon the Execution of the Duties of such their Office. AND We do hereby authorize and empower you to keep and use the Public Seal, appointed for the Sealing of all things whatsoever that shall pass the Seal of Our said Territory. AND WHEREAS it has been deemed expedient that a Council should be appointed to consist of the persons, nominated in your Instructions, or who shall be hereafter nominated and appointed by Us, any two of whom (together with yourself or in your Absence together with the Member presiding) shall constitute a Quorum, to advise and assist in the Administration of the Government in our said Territory; We do hereby give and grant unto you full power and authority to suspend any of the Members of Our said Council from sitting, voting or assisting therein, if you shall find cause for so doing. AND if it shall at any time happen that, by the Death, Resignation or Departure from Our said Territory and its Dependencies of any of Our said Councillors, there shall be a Vacancy or Vacancies in Our said Council, You are hereby Authorized and Required by Warrant or Commission under the Seal of Our said Territory and its Dependencies, to appoint to be Members of Our said Council so many fit and proper persons as shall make up the number present to be Four and no more. IT BEING NEVERTHELESS Our Will and Pleasure that You do signify to us by the first opportunity every such Vacancy with the occasion thereof, as also the Names and Qualifications of the Persons appointed by you, to the intent that such appointments may be either disallowed or confirmed by Us; and, until such disallowance or confirmation by Us shall be signified and made known to you, the persons so appointed by You shall be to all intents and purposes Executive Councillors within Our said Territory and its Dependencies. And if, in consequence of the suspension of any of the Members of Our said Council or their inability to attend from any temporary Cause, there should not be a sufficient number of Councillors to form a Quorum, you are hereby authorized, provided the nature of the case shall in your Judgment render it necessary, to nominate from time to time, under the Seal of Our said Territory and its dependencies as aforesaid, such Persons as you shall deem best qualified to act
during the temporary incapacity of said Councillors, so that the number present may be two and no more. And the persons so nominated by you shall be deemed Executive Councillors, until the Members originally appointed are enabled to resume their Seats, or until others are appointed in their stead. And whereas it has been deemed expedient, in pursuance of the provisions of the before mentioned Act of Parliament, made in the ninth year of the Reign of His said late Majesty King George the Fourth, to constitute and appoint a Legislative Council, consisting of the Persons mentioned in a warrant* under the Royal Sign Manual and Signet, bearing date the thirtieth day of January, One thousand eight hundred and twenty nine, with whose advice you are empowered and authorized to make Laws and Ordinances for the Peace, Welfare and good Government of Our said Territory and its Dependencies. We do hereby require and Command that you do take especial Care that, in making and passing such Laws and Ordinances, the Provisions, Regulations, Instructions and Directions contained in the said last mentioned Act of Parliament and the Instructions, which have been given to you in that behalf, be strictly complied with. We do further give and grant unto you, the said Richard Bourke, full power and authority from time to time and at any time hereafter by yourself, or by any other to be authorized by You in that behalf, to administer and give such of the said Oaths in the several Acts before mentioned contained, as shall be applicable to the Case of the Individual, to whom the same shall be Administered, to all and every such person or persons as You shall think fit, who shall hold any Office or Place of Trust or Profit, or who shall at any time or times pass into Our said Territory and its Dependencies or shall be resident and abiding therein. And We do hereby authorize and empower you to constitute and appoint Justices of the Peace, Coroners, Constables and other necessary Officers and Ministers in Our said Territory and its Dependencies for the better Administration of Justice and putting the Law in Execution, and to administer or cause to be administered unto them such Oath or Oaths as are usually given for the due performance and execution of their Offices and Places. And We do hereby give and grant unto you full power and authority, where you shall see cause, or shall judge any Offender or Offenders in any Criminal Matters, or for any Fines or Forfeitures due unto Us, fit Objects of Our Mercy, to pardon all such Offenders, and to remit all such Offences, Fines and Forfeitures, Treason and Wilful Murder only excepted, in which cases you shall likewise have power, upon extraordinary occasions, to grant Reprieves to the Offenders until and to the Intent Our Royal Pleasure may be known therein.

* Note 235.
AND WE DO hereby give and grant unto You, the said Richard Bourke, by yourself or by your Captains or Commanders by You to be authorized, full power and authority to levy, arm, muster, command and employ all Persons whatsoever, residing within Our said Territory and its Dependencies under your Government, and, as occasion shall serve, to march them from one Place to another, or to embark them for the resisting or withstanding all Enemies, Pirates and Rebels, both at Sea and Land, and such Enemies, Pirates and Rebels, if there shall be occasion, to pursue and prosecute in or out of the Limits of Our said Territory and its Dependencies, and, if it shall so please God, them to vanquish, apprehend and take, and to execute Martial Law in time of Invasion or at other times when by Law it may be executed, and to do and execute all and every other thing or things, which to Our Captain General and Governor in Chief doth or ought of Right to belong. AND WE DO hereby give and grant unto You, the said Richard Bourke, full power and authority, with the advice and consent of Our said Executive Council, to divide Our said Territory of New South Wales and its Dependencies into Districts, Counties, Hundreds, Towns, Townships and Parishes, and to appoint the Limits thereof respectively. AND WE DO hereby give and grant unto you full power and authority, with the advice and consent of Our said Executive Council, to erect, raise and build in Our said Territory and its Dependencies such and so many Forts, Platforms, Castles, Cities, Boroughs, Towns and Fortifications, as you, by the Advice aforesaid, shall judge necessary, and the same or any of them to fortify and furnish with Ordnance and Ammunition and all Sorts of Arms, fit and necessary for the Security and Defence of the same, and the same again or any of them to demolish or dismantle as may be most convenient. AND forasmuch as divers Mutinies and Disorders may happen by persons, Shipped and Employed at Sea during the time of War. And to the end that such Persons, as shall be shipped and employed at Sea during the time of War, may be better governed and ordered, WE DO hereby give and grant unto you, the said Richard Bourke, full power and authority to constitute and appoint Captains, Lieutenants, Masters of Ships and other Commanders and Officers, and to grant to such Captains, Lieutenants, Masters of Ships and other Commanders and Officers, Commissions to execute the Law Martial during the time of War according to the directions of an Act passed in the twenty second year of the Reign of King George the Second, intituled "An Act for amending, explaining and reducing into one Act of Parliament the Laws relating to the Government of His Majesty's Ships, Vessels
and Forces by Sea," as the same is altered by an Act, passed in the nineteenth year of the Reign of Our late Royal Father, intituled, "An Act to explain and amend an Act passed in the twenty second year of the Reign of His late Majesty King George the Second, intituled, 'An Act for amending, explaining and reducing into one Act of Parliament the Laws relating to the Government of His Majesty's Ships, Vessels and Forces by Sea,'" and to use such Proceedings, Authorities, Punishments, Corrections and Executions upon any Offender or Offenders, who shall be Mutinous, Seditious, Disorderly or any way unruly, either at Sea or during the time of their Abode or Residence in any of the Ports, Harbours or Bays of Our said Territory and its Dependencies, as the Case shall be found to require according to Martial Law and the said Directions during the time of War as aforesaid. PROVIDED that nothing herein contained shall be construed to the enabling You or any by your Authority to hold plea or have any Jurisdiction of any Offence, Cause, Matter or Thing, committed or done upon the High Seas or within any of the Harbours, Rivers or Creeks of Our said Territory and its Dependencies under your Government, by any Captain, Commander, Lieutenant, Master, Officer, Seaman, Soldier or other Person whatsoever, who shall be in actual Service and Pay in or on Board any of Our Ships of War or other Vessels, acting by immediate Commission or Warrant from our Commissioners for executing the Office of Our High Admiral of Our United Kingdom of Great Britain and Ireland, or from Our High Admiral of Our said United Kingdom of Great Britain and Ireland for the time being, under the Seal of Our Admiralty; but that such Captain, Commander, Lieutenant, Master, Officer, Seaman, Soldier or other Person, so offending, shall be left to be proceeded against and tried, as their Offences shall require, either by Our Supreme Court of New South Wales in pursuance of the provisions in that behalf contained in the said Act of Parliament, made and passed in the ninth year of Reign of His said late Majesty, or by Commission under Our Great Seal of this Kingdom, as the Statute of the twenty eighth of King Henry the Eighth directs, or by Commission from Our Commissioners for executing the Office of Our High Admiral of Our United Kingdom of Great Britain and Ireland, or from Our High Admiral of Our United Kingdom of Great Britain and Ireland for the time being, according to the aforesaid Act passed in the twenty second year of the Reign of King George the Second, as altered by the said Act passed in the nineteenth year of the Reign of Our late Royal Father. PROVIDED NEVERTHELESS that all Disorders and Misdemeanors committed on Shore by any Captain,
Commander, Lieutenant, Master, Officer, Seaman, Soldier or any other Person whatsoever belonging to any of Our Ships of War or other Vessels, acting by immediate Commission or Warrant from Our Commissioners for executing the Office of Our High Admiral of Our United Kingdom of Great Britain and Ireland or from Our High Admiral of Our United Kingdom of Great Britain and Ireland for the time being, under the Seal of Our Admiralty, may be Tried and Punished according to the Laws of the Place, where any such Disorders, Offences and Misdemeanors shall be Committed on Shore, notwithstanding such Offender be in Our actual Service and borne in Our pay on Board any such Our Ships of War or other Vessels, acting by immediate Commission or Warrant from Our Commissioners for Executing the Office of Our High Admiral of Our United Kingdom of Great Britain and Ireland, or from Our High Admiral of Our United Kingdom of Great Britain and Ireland for the time being as aforesaid. So as he shall not receive any protection for the avoiding of Justice for such Offences committed on Shore from any pretence of his being employed in Our Service at Sea.

The trial of offences committed by officers and seamen on shore.

Our Will and Pleasure is that all Public Monies, which shall be raised, be issued out by Warrant from you for the support of the Government, or for such other purposes as shall be particularly directed and not otherwise. And We do hereby give and grant unto you full power and authority, with the Advice of Our Executive Council of Our said Territory and its Dependencies, to agree for such Lands, Tenements and Hereditaments as shall be in Our Power to dispose of, and them to grant to any Person or Persons upon such Terms and under such Services and acknowledgments to be thereupon reserved unto Us, according to such Instructions as shall be given to you under Our Sign Manual, which said Grants are to pass and be Sealed with the Seal of Our said Territory and its Dependencies, and, being entered upon Record by such Officer or Officers as shall be appointed thereunto, shall be good and effectual in Law against Us, Our Heirs and Successors. And We do hereby give you, the said Richard Bourke, full power to appoint Fairs, Marts and Markets, and also such and so many Ports, Harbours, Bays, Havens and other Places for the convenience and Security of Shipping and for the better loading and unloading of Goods and Merchandize within Our said Territory and its Dependencies, as by you, with the Advice of Our Executive Council, shall be thought fit and necessary. And We do hereby require and command all Officers, Civil and Military, and all other Inhabitants of Our said Territory and its Dependencies to be obedient, aiding and assisting to you, the said Richard Bourke, in the execution...
of this Our Commission, and of the Powers and Authorities therein contained; And, in case of your death or absence out of Our said Territory and its Dependencies, or in case from any especial Circumstances We shall judge it expedient by Warrant under the Royal Sign Manual or otherwise to provide for the Civil Administration of the Government, notwithstanding your actual presence in Our said Territory and its Dependencies, to be obedient, aiding and assisting unto such Person as shall be appointed by Us to be Our Lieutenant Governor or Commander in Chief or to Administer the Government of Our said Territory and its Dependencies; to whom We do therefore, by these Presents in either of such Cases, give and grant all and singular the Powers and Authorities herein granted, to be by him executed and enjoyed during Our pleasure. And if, upon your death or absence out of Our said Territory and its Dependencies, there be no Person upon the Place Commissioned or appointed by Us to be Our Lieutenant Governor of Our said Territory and its Dependencies or especially appointed by Us to administer the Government, Our WILL AND PLEASUR is that the Senior Military Officer in Command of Our Forces within Our said Territory and its Dependencies shall take upon him the Administration of the Government, And that he or such other Military Officer as may from time to time succeed to the Command of Our said Forces shall also execute this Our Commission and the aforesaid Instructions, and the several Powers and Authorities herein contained, in the same manner and to all intents and purposes as other our Governor or Commander in Chief should or ought to do in case of your Absence or until your return, or in all Cases until Our further Pleasure be known therein. And We do hereby declare, ordain and appoint that you, the said Richard Bourke, shall and may hold, execute and enjoy the Office and Place of Our Captain General and Governor in Chief in and over Our said Territory and its Dependencies, together with all and singular the powers and authorities hereby granted unto you, for and during Our Will and Pleasure.

IN WITNESS whereof we have caused these Our Letters to be made Patent.

WITNESS Ourself at Westminster, the twenty fifth day of June in the first year of Our Reign.
By Writ of Privy Seal.

BATHURST.

[A copy of the instructions to Governor Bourke will be found in an appendix to a later volume.]
COMMENTARY.
COMMENTARY
ON
DESPATCHES
TO AND FROM GOVERNORS DARLING AND BOURKE,
JANUARY, 1831—DECEMBER, 1832.

Note 1, pages 1, 2, 497, 498 and 499.
The following despatches.
These despatches were principally covering letters to the enclosures. Those enclosures, which are available, will be found in volumes of the series to which they belong.

Note 2, page 2.
The order for his removal.
This order was given by colonial secretary Macleay and dated 9th January, 1829 (see page 847, volume XV).

Note 3, page 5.
The "Insolvent Act."
This was the act of council, 11 Geo. IV, No. 7, entitled "An Act for the relief of Debtors and for an equal distribution of their Estates and Effects amongst Creditors," passed on the 2nd of April, 1830.

Note 4, page 6.
The 9th Section.
The ninth section of the charter of justice will be found on page 511, volume 1, series IV. By this section, authority was given for the appointment of such officers of the supreme court as the chief justice might consider necessary, provided that no new office should be created without the consent of the governor or acting governor for the time being.

Note 5, page 10.
The Establishment.
The government establishment at Wellington valley was formed by orders of Sir Thomas Brisbane in the year 1822, in consequence of the recommendation for the development of agricultural establishments made by J. T. Bigge on page 39 et seq. of the first report on his commission of inquiry. The settlement at Bathurst had been used as a depot for educated convicts, but, as settlement advanced, they were removed to the more isolated establishment at Wellington valley.
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Note 6, page 10.
The proceedings in the House of Commons.
Governor Darling commented on these proceedings in a despatch, dated 17th December, 1830 (see page 892, volume XV).

Note 7, page 13.
A prosecution for libel.
In the year 1830, the Reverend Ralph Mansfield was prosecuted for libel by W. C. Wentworth. The libel was based on the publication in the Sydney Gazette of Governor Darling’s reply to an address presented to him on his impeachment by W. C. Wentworth (see pages 653 et seq. and 659 et seq., volume XV).

Note 8, page 31.
Also pages 48 and 259.
The People from Pitcairn’s Island.
These people were the descendants of the mutineers from H.M. ship Bounty (see note 210, volume XIV).

Note 9, page 34.
Also pages 119, 246, 273, 300, 382 and 385.
The Report.
On the 21st of June, 1830, a commission was issued to James, earl of Rosslyn, Henry Goulburn, Maurice FitzGerald, Edward Granville Eliot known as lord Eliot, and Sir James Willoughby Gordon, to inquire into the revenue and expenditure of the colonies and foreign possessions. Their third report, dated 1st November, 1830, was on the Australian colonies. It was submitted to, and ordered to be printed by the house of commons on the 8th of December, 1830.

Note 10, page 37.
Also page 349.
An arrangement.
In a letter dated 23rd May, 1827, under secretary Hay informed the directors of the Van Diemen’s Land company that the sum of £16 for each male immigrant and £20 for each female, introduced by the company to the colony, would be allowed in deduction of the quit rent hereafter payable by the company (see page 94, volume VI, series III).

Note 11, pages 41, 43 and 46.
Printed Treatise.—Manual of Plain Directions.—Appendix.
These works were:
A Treatise on the Culture of the Vine and the Art of Making Wine compiled from the works of Chaptal and other French Writers and from the notes of the Compiler during a residence in some of the Wine Provinces of France, 12 mo. Australia, printed by R. Howe, 1825.
A Manual of Plain Directions for Planting and Cultivating Vineyards and for Making Wine in New South Wales, 12 mo. Sydney, 1830.
The “Appendix” was on pages 254 to 271 of the almanac and was entitled “Advice to Emigrants newly arrived in New South Wales.”
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Note 12, page 42.

Commissioner of Enquiry.

The report on this inquiry will be found on page 482 et seq., volume XV.

Note 13, page 48.

The statement.

This statement was in reply to charges made by archdeacon Scott in a letter dated 1st September, 1829 (see page 216, volume XV).

Note 14, page 53.

Also page 68.

Government Notice.

By this notice, the reward of an absolute pardon and a passage to England, or, if the individual was free, of a grant of land was promised to “the Person, who shall first apprehend, or give information leading to the Apprehension and Delivery into safe Custody,” of John Donahoe, William Underwood or John Macnamara. A personal description of each bushranger was included in the notice.

A note on John Donahoe will be found numbered 183 in volume XV.

Note 15, page 55.

Four or five Vessels.

In May, 1829, the cutter Mermaid was sent from Sydney on a voyage to King George’s sound via Torres strait with provisions. In the following month, she was wrecked in Torres strait at the same time as the ships Governor Ready and Swiftsure and the brig Comet, which had sailed in company.

Note 16, page 56.

The Detachment of the 63rd Regiment employed in Western Australia.

The detachment of the 63rd regiment was quartered at Swan river, and had been detailed as the guard for the settlement formed by lieut.-governor Stirling in 1829 (see pages 597 and 615 et seq., volume VI, series III).

Note 17, page 56.

The communication.

In a despatch dated 24th February, 1830, Sir George Murray enunciated a rule prohibiting the granting of pensions to the families of deceased civil servants (see page 381, volume XV).

Note 18, page 59.

Also page 629.

Five Commissioners.

The five commissioners were William Grant Broughton, archdeacon; Alexander Macleay, colonial secretary; William Lithgow, auditor-general; Michael Cullen Cotton, collector of customs; and Thomas Macquoid, sheriff.

Note 19, page 61.

This Government has just now been cast in Damages.

Governor Darling submitted reports on these actions in despatches to under secretary Hay, dated 28th March, 1831 (see page 221), and to viscount Goderich, dated 10th October, 1831 (see pages 403, 404 and 405).
Note 20, page 73.
My Despatch No. 7.
This despatch was dated 29th January, 1831 (see page 39 et seq.).

Note 21, page 75.
A Report of the Trial.
This action was brought in connection with the lengthy dispute, which arose from the ejectment of E. S. Hall from a pew in St. James church, Sydney. A summary of the details of the lawsuits will be found in note 118, volume XIV.

Note 22, page 78.
A letter.
This letter was by G. R. Nichols. It had been submitted to the Sydney Gazette and refused publication. It referred to the proceedings at a dinner on the 26th of January of the Australian society for the promotion of Australian commerce and agriculture, and it indicated that Nichols had strong sympathy with the emancipist party.

Note 23, page 78.
Despatch No. 25.—The Archdeacon’s report.
The despatch No. 25 will be found on page 91 et seq. The archdeacon’s report was enclosed in despatch No. 21 (see page 79) and will be found in a volume in series VII.

Note 24, page 81.
Your former instructions.—The report.
The instructions were contained in the royal instructions to Governor Darling, dated 17th July, 1825 (see page 118, volume XII).

On page 74 of their report (see note 9), in commenting on the grant of one-seventh part in extent and value of all the lands in every county and hundred to the clergy and school estates, the commissioners of inquiry stated that this plan for providing for the clergy and schools had failed, and the estates were neglected and uncultivated, whereby settlement was extended over larger areas at an increased cost in the general administration of the colony.

Note 25, page 84.
These instructions.
The instructions were “terms upon which the Crown Lands will be disposed of in New South Wales and Van Diemen’s Land,” and were published in a government notice, dated 1st July, 1831, as follows:—

“It has been determined by His Majesty’s Government that no land shall, in future, be disposed of in New South Wales or Van Diemen’s Land, otherwise than by public sale; and it has therefore been deemed expedient to prepare, for the information of settlers, the following summary of the Rules which it has been thought fit to lay down for regulating the sale of land in those Colonies:—

“(1) A division of the whole Territory into Counties, Hundreds and Parishes, is in progress. When that Division shall be completed, each parish will comprise an area of about twenty-five square miles.
"(2) All the lands in the Colony, not hitherto granted and not appropriated for public purposes, will be put up for sale. The price will, of course, depend upon the quality of the land, and its local situation; but no land will be sold below the rate of five shillings per acre.

"(3) All persons proposing to purchase lands, not advertised for sale, must transmit a written application to the Governor, in a certain prescribed form, which will be delivered at the Surveyor-General's Office to all persons applying, on payment of the requisite fee of 2s. 6d.

"(4) Those persons, who are desirous of purchasing, will be allowed to select, within certain defined limits, such portions of land as they may wish to acquire in that manner. These portions of land will be advertised for sale for three calendar months, and will then be sold to the highest bidder, provided that such bidding shall at least amount to the price fixed by Article (2).

"(5) A deposit of 10 per cent, upon the whole of the purchase must be paid down at the time of sale, and the remainder must be paid within one calendar month from the day of sale, previous to which the purchaser will not be put in possession of the land; and in case of payment not being made within the prescribed period, the sale will be considered void and the deposit forfeited.

"(6) On payment of the money, a grant will be made in fee-simple to the purchaser, at the nominal quit-rent of a pepper-corn. Previous to the delivery of such grant, a fee of forty shillings will be payable to the Colonial Secretary for preparing the Grant, and another fee of five shillings to the Registrar of the Supreme Court for enrolling it.

"(7) The land will generally be put up to sale in lots of one square mile, or 640 acres; but smaller lots than 640 acres may, under particular circumstances, be purchased, on making application to the Governor in writing, with full explanations of the reasons for which the parties wish to purchase a smaller quantity.

"(8) The Crown reserves to itself all Lands within one hundred feet of high water mark on the Sea Coast, Creeks, Harbours, and Inlets, all Mines of Gold, Silver and Coals, the right of constructing all Roads and Bridges which may be necessary for public purposes, and the right of taking and removing such Stone, Indigenous Timber, and other Materials, the produce of the Land, as may be required at any time for the Construction and Repair of Roads and Bridges, for Naval purposes and for other Public Works."

The enclosure No. 2 on page 84 was added to this notice.

Note 26, page 84.

The General Orders.

These orders will be found on pages 595 and 596, volume XII, and on pages 485, 486 and 596, volume XIII.

Note 27, page 86.

This despatch will be found on page 284 et seq., volume XIV.

Note 28, page 87.

The Banishment of the Parties on a second conviction.

By the ninth section of the act of council, 11 Geo. IV, No. 1, it was enacted, "That, if any person shall be legally convicted of having, after the passing of this Act, printed or published any blasphemous or seditious Libel, or any Libel tending to bring into hatred or contempt the Government
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of the said Colony as by law established, or the Governor or Acting Governor of the Colony for the time being, or to excite any of His Majesty's subjects to attempt the alteration of any matter in Church or State, as by law established, otherwise than by lawful means, or to adopt any illegal proceedings, and shall, after being so convicted offend a second time and be legally convicted of such second offence before the Supreme Court, such person shall on such second conviction be adjudged to be banished from New South Wales and its Dependencies for such term of years, not being less than two years nor more than seven, as the said Court shall order."

Note 29, page 88.
Also pages 305 and 306.

This was the statute, 11 Geo. IV and 1 Wm. IV, No. lxxiii, passed on the 23rd of July, 1830, by which the clauses relating to banishment in the statute, 60 Geo. III, c. viii, were repealed.

Note 30, page 88.
Also page 307.

To release Mr. Hall from Jail.—He has avowed.

On the 10th of April, 1829, E. S. Hall was found guilty of a seditious libel on Governor Darling, and, five days later, of a criminal libel on F. C. Crotty, the commandant at Port Macquarie. For these two libels, he was sentenced to imprisonment for twelve and three months, the sentences to be cumulative. In December, 1829, Hall was again found guilty of criminal libels on Governor Darling, J. Laidley, A. Macleay and F. A. Hely, and was sentenced to terms of imprisonment of nine, six, six and one month respectively, the sentences also to be cumulative. When released, he was serving these sentences.

In a letter dated 17th October, 1829 (see page 442, volume XV), E. S. Hall requested Sir George Murray to direct that the printing of the government notices, orders, acts of council, commissariat advertisements, and those of the church and school corporation should be given to the printing office of the Monitor newspaper equally with that of the Sydney Gazette.

Note 31, pages 89 and 242.

A Govt. Order.

In this order, the receipt of despatches from Charles Sturt detailing his second expedition was announced (see note 67, volume XV).

Note 32, page 92.

The newly-appointed Attorney and Solicitor General.

The reference was to John Kinchela and Edward McDowell (see pages 600 and 601, volume XV).

Note 33, page 92.

The 9th Section.

This section was as follows:—

"And Whereas by a certain Act passed in the Fifth Year of the Reign of His present Majesty intituled An Act for the Transportation of Offenders from Great Britain, Provision is made for vesting in the Governor of the Colony to which Offenders may be transported, or to such other Person as therein mentioned, the Property in the Service of such Offenders, and it is
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expedient to make further Provision in that Behalf, so far as respects the
said Colonies of New South Wales and Van Diemen's Land; Be it further
enacted, That any Offender, who hath heretofore been or shall hereafter be
assigned to any Person or Persons within the said Colonies respectively,
under and in pursuance of the said Act, shall not, by any such Assignee or
Assignees, be assigned over to any other Person or Persons, except with the
written Consent and Licence of the Governors of such Colonies respectively;
and that it shall and may be lawful for the Governors of the said Colonies
respectively from time to time, as to them shall seem meet, to revoke any
such Assignments of Offenders as may have been or shall hereafter be made
in pursuance of the said Act, and to grant to any Offender or Offenders
transported to the said Colonies such temporary or partial Remissions of
their Sentences as to such Governors may seem best adapted for the Reforma-
tion of such Offenders, and such temporary or partial Remissions from time
to time to revoke or renew, as Occasion may require; any thing in the said
Act, or in any other Act of Parliament, to the contrary in anywise not-
withstanding."

Note 34, page 92.

The Case.

The details of the costs in these cases will be found on page 418, volume
XV.

Note 35, page 104.

The Salary of the Attorney-General.

The salary of Saxe Bannister as attorney-general was £1,200 per annum.
When A. M. Baxter was appointed to succeed Bannister in 1826, the salary
was increased to £1,400 per annum; but when John Kineela was appointed
to succeed Baxter in 1830, the salary was reduced again to £1,200.

Note 36, page 114.

As you have already been informed.

The instructions for the construction of all public works by contract were
contained in a despatch from under secretary Hay, dated 14th December,
1830 (see page 829, volume XV).

Note 37, page 114.

A Letter.

A copy of this letter will be found in a volume in series IV. It dealt with
the trial of the Reverend Ralph Mansfield for libel on the prosecution of
W. C. Wentworth, at which trial Mr. Justice Stephen had made indiscreet
remarks. Governor Darling submitted a report on these remarks in a
despatch, dated 7th August, 1830 (see page 654 et seq., volume XV).
Stephen was strongly censured by Viscount Goderich (see page 287).

Note 38, page 116.

The last Report of its President.

Sir John Jamison was the president of the agricultural society.

Note 39, page 120.

Page 16.—Page 17.—Pages 35, 6 and 7.

Pages 16 and 17 contained the minutes dated 8th and 9th March (see
page 196); “par. 3, pages 35, 6 and 7” will be found on page 198.
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Note 40, page 121.

Page 40.—Page 58.—Pages 42 and 43.

Pages 40, 42 and 43 will be found on page 199, and page 58 of the appendix on page 203.

Note 41, page 122.

Pages 46, 47 and 48.—Page 49.

Pages 46–49 will be found on pages 200 and 201.

Note 42, page 123.

Page 132.—Page 89.

The letter on page 132 was dated 12th March, 1831 (see page 216); the letter on page 89 will be found on page 208.

Note 43, page 124.

20th and 22nd Paragraphs of the King's Instructions.—The Notes.—Page 11.

The instructions will be found on page 117, volume XII; the notes and page 11 on pages 150 and 154 respectively in this volume.

Note 44, page 125.

Page 4.—Page 6.

Pages 4 and 6 will be found on pages 187 and 188.

Note 45, pages 126 and 127.

Pages 42 and 43.—One of his Letters.

Pages 42 and 43 will be found on page 199, and the letter on page 148 et seq.

Note 46, pages 128 and 129.

Their first Expedition.—The Despatch.—A second expedition.—The last discovery.

Notes on the expedition of Allan Cunningham and the first and second expeditions of Charles Sturt will be found numbered 132 and 172 in volume XIV, and 67 in volume XV. The despatch was dated 16th October, 1829 (see page 211, volume XV). The “last discovery” was that of the outlet of the Murray river at Lake Alexandrina.

Note 47, page 128.

A proposition of a Mr. Ballantyne.

This proposition was contained in a letter dated 20th October, 1827 (see page 555 et seq., volume XIII).

Note 48, page 129.

The 32nd and 33rd Pages.

The reference will be found on page 198.

Note 49, pages 131 and 142.

It was notified.—A Notice.

Governor Darling's minute ordering the abolition of the department of roads and bridges will be found on pages 329 and 330, volume XV. A printed notice repeating the substance of this minute was attached to T. L. Mitchell's letter.
The first road descending Mount York was constructed by William Cox, and was opened for traffic in the year 1815. This road was excessively steep. Pierce Collitt marked a new line, which, by deviating to the north-east and descending a valley, improved the gradient, though in places it was still one in four. This new line joined the first road at the foot of Mount York. Near the junction of the roads Collitt erected an inn. As the ascent of either road to the top of Mount York usually occupied a bullock team a whole day, the inn became a great resting-place, and was the best known locality in the early history of the western road.

Note 51, page 138.
Also page 137.

I defy any man to point out any material improvement.

The subsequent history of the western road proved the accuracy of T. L. Mitchell’s survey. The descent via Mount Victoria was opened by Governor Bourke on his way to Bathurst in October, 1832, and this line of road remained the main artery of access to the western districts of New South Wales until the construction of the railway in the sixties, and it remained the main road until the construction of the Berghofer pass about twelve years ago.

Note 52, page 139.

Two roads.

The road via Mount Blaxland was constructed by William Cox and opened in the year 1815. After descending Mount Blaxland, it crossed Jock’s bridge. After crossing two steep hills each about 500 feet high, it then crossed Antonio’s creek, ascended another steep hill, crossed the Fish river at a difficult ford, and continued by Emu valley, Lowe’s swamp, Sidmouth valley and Rainville. The Fish river was recrossed at O’Connell plains, and the road continued to the Bathurst bridge on the river Lett.

The second road lay a few miles to the north of this road, and thereby avoided some steep hills and difficult fords.

Note 53, page 139.

The rough sketch.

A copy of this sketch will be found in the volume of charts and plans.

Note 54, page 140.

A half-removed rock.

Mount Victoria, in its natural state, consisted of two twin rocks at its summit. One of these rocks was removed to provide space for the road.

Note 55, page 142.

Notes.

The letters in these notes refer to the following paragraphs:—A to the second paragraph and B to the fourth on page 131; C to the last paragraph on page 132; and D to the first paragraph on page 133.
Besides duly executed grants of land, Governor Macquarie gave a large number of permissive occupancies and promises of land grants. In consequence of these, many persons occupied and improved lands to which they had no legal title, and in some cases the lands were sold and transferred. These lands subsequently became the subject of suits in the court of claims. When this court admitted the rights of the applicant, a special form of grant was issued, which recited in the preamble that the lands were granted in consequence of a promise by major-general Lachlan Macquarie on some particular date. A striking case is the grant of seventy-one acres to Thomas West at Barcom-glen, Bushcutters' bay, Sydney. This grant was dated 30th May, 1844, and was given by Sir George Gipps in consequence of a promise made by Governor Macquarie on the 1st of December, 1811.

Note 58, page 153.

A copy.

This letter will be found on page 177.

Note 59, page 154.

A copy.—Their report.

The copy referred to the letter dated 23rd August, 1830 (see page 140) from A. Macleay; the report will be found on page 172 et seq.

Note 60, page 156.

The foundation has been laid many Years.

Governor Macquarie laid the foundation-stone of an intended church at the corner of George and Bathurst streets. After his arrival in September, 1819, J. T. Bigge, the commissioner of inquiry, advised that building operations should be discontinued. The foundation-stone was within the alignment of the modern George-street, and was removed at a later date. On the allotment proposed for the church by Governor Macquarie, the cathedral of St. Andrews was erected subsequently.

Note 61, page 157.

The Government Order.

By this order, a system was established for the despatch of public business. All persons desirous of making application upon subjects relating to any particular department, were ordered to address themselves to the head of the department. If the application concerned regulations only, the head of the department would make a prompt decision; in other cases, the application would be referred to the governor. Applications were henceforth to be directed as follows:—Respecting land, "to the colonial secretary, where the object is to obtain a grant or permission to purchase or rent, and to the surveyor-general in all other cases"; respecting roads, to the surveyor of roads
and bridges; respecting provisions, to the deputy commissary-general; respecting the revenue, to the collector of customs or to the collector of internal revenue; respecting the marine, to the superintendent of government vessels; respecting the police, to the police magistrates or benches; respecting convicts, to the principal superintendent of convicts; on legal matters, to the crown lawyers; and relative to accounts, to the auditor-general.

Note 62, page 164.

His Majesty's instructions.

The clauses, to which reference was made, will be found on page 119 et seq., volume XII.

Note 63, page 168.

An act of Council.

This was the act of council, 10 Geo. IV, No. 6, entitled, "An Act for the more effectual resumption of Lands permitted to be occupied under the Crown as well as under the Corporation for Church and School Lands." It was passed on the 29th of September, 1829.

Note 64, page 173.

The only persons.—The cross road.

J. B. L. D'Arrietta had a grant of three thousand acres known as Moreton park on the banks of the Nepean river; Arthur Douglass had a grant of eight hundred acres known as Douglass park; P. Cavenagh had a grant of one thousand acres on the eastern boundary of H. C. Antill's Jervisfield grant near Picton; and William Cowper had a grant of six hundred acres adjoining Cavenagh's eastern boundary. Access to these four grants was by a line of road from the ford at Menangle to Stonequarry creek (at the site of the modern Picton).

Between the ford at Camden and the boundary of Moreton park, all the land was held by members of the Macarthur family; and, through these lands, the cross road passed.

Note 65, page 173.

Lupton's.

This inn was situated in Bargo brush, five and a half miles south of the ford on the Bargo river. The road proposed by the commissioners follows the line of the modern road from Appin via Wilton.

Note 66, page 175.

A new line.

The new line was proposed to the south of the Parramatta-road. Instead of the Liverpool-road commencing at Ashfield, five and a quarter miles from Sydney on the Parramatta-road, it was proposed to run one road as far as Haslem's bridge or Hacking's creek (i.e., Homebush) at eleven and a quarter miles on the existing Parramatta-road and there to commence the Liverpool-road.

Note 67, page 180.

The lower part of the Government Domain.

In the year 1831, the government domain included the areas now known as the domain, the botanic gardens, the palace gardens and the gardens of government house, and in addition all the land, lying to the west of the
modern Macquarie-street and to the north of the modern Bent-street, and extending to the waters of Sydney cove on its eastern side. Macquarie fort was a square structure, separated from Bennelong point by a moat, over which a bridge was erected.

Note 68, page 182.

The bathing-house.

The bathing-house was erected on the water frontage of Farm cove, close to the north-western point, and about two hundred and fifty yards from Port Lachlan, now known as Man-of-war steps. The building is still extant, but is now situated some yards from the water frontage owing to reclamation of the foreshore. A report on its erection will be found on page 47, volume XIV.

Note 69, page 183.

A Council House.

The site for this proposed building is now partly occupied by the Mitchell wing of the proposed public library. It is an historical coincidence that, fifty-seven years later, Sir Henry Parkes proposed to erect houses of parliament on this site, and the foundation-stone was laid during the centenary celebrations in the year 1888.

Note 70, page 183.

The house occupied by the Chief Justice.—The Government House.

The official residence of the chief justice was built on the south side of Bridge-street on the site now occupied by the Lands department. The government house was erected on the modern south-western corner of Bridge and Phillip streets.

Note 71, page 183.

The road.

T. L. Mitchell, in the year 1831, proposed to continue Macquarie-street due south through Hyde park. The proposed alignment coincided with that of the north and south avenue through the modern park.

Note 72, pages 185 and 190.

A Government Order.

This order, dated 19th January, 1831, was as follows:—

His Excellency the Governor directs it to be notified that, Assistant Surveyor Nicholson having been appointed to conduct the duties of the Road Department, all reports and communications connected with that branch of the service are to be addressed to him at Parramatta, and that he is to be styled "Surveyor of Roads."

The services of the Surveyor-General, in this branch, will be confined to laying down the lines of Road. The making and repairing of the Roads and the details connected therewith will be carried on by Mr. Nicholson.

The Assistant Surveyors attached to the Road Department are as follows, viz.:—

Mr. John Lipscomb Kentish at Parramatta, Mr. Francis Townsend Rusden at Bong Bong, Mr. Percy Simpson at Wiseman’s, Mr. John Lambie at Mount Victoria, and Mr. Lawrence Vosounr Dulhunty on the Wollombi.
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Note 73, page 197.
The 20th and 22nd Paragraphs of the King's Instructions.
These paragraphs will be found on page 114 et seq., volume XII.

Note 74, page 220.
An Address.
The address was as follows:
Sir,
Sydney, New South Wales, 7th February, 1831.
We, the undersigned, learn with extreme regret that you are about to leave this Country, tho' not unmixed with pleasure at the cause of your departure to fill the office of Puisne Judge of the sister Colony, an elevation in rank as flattering to your own feelings as to those of those of your professional friends, who alone can duly appreciate the irksome and multifarious duties of your late office, that of Attorney General of New South Wales, and which we have the greatest pleasure in attesting you have filled during an arduous period of three years and a half with credit to yourself.
Allow us to express our best wishes for your future welfare and prosperity, together with the hope that you will continue to adhere in your new appointment to the same line of scrupulous integrity in furtherance of the ends of justice as a British Judge, which you have hitherto undeviatingly observed in your late very difficult and delicate situation, combining with itself the complicated and frequently conflicting office of Public Prosecutor, Representative of a Grand Jury of the Colony, a Legislative Functionary, and Legal Adviser to the Colonial Government.
We have, &c.,
R. WARDELL, LL.D.  E. J. KEITH.
W. C. WENTWORTH.  JOHN PLAINSTOWE.
F. W. UNWIN.  FRANCIS STEPHEN.
D. POOLE.  T. D. ROWE.
W. H. MOORE, Crown Solicitor.  W. WILLIAMS.
SYDNEY STEPHEN.  NICOI ALLAN.
GEO. LOUIS POIGNARD.  W. H. KERR.
The reply by A. M. Baxter was also published; it contained no remarks worthy of note.

Note 75, page 221.
Girard's Representation.
The memorial of complaint from F. Girard will be found on page 606 et seq., volume XV.

Note 76, page 222.
A common Map.
This was probably "a chart of part of the interior of New South Wales by John Oxley, surveyor-general," published by A. Arrowsmith, 30th January, 1822. On it were marked the routes taken by Oxley in his explorations and the counties of Cumberland, Camden and Argyle.

Note 77, page 240.
An unfortunate occurrence.
The reference was to an encounter between the military and natives near Fort Wellington, Raffles bay, in December, 1827. Full accounts of the episode were transmitted by the commandant, H. Smyth (see pages 781 et seq. and 808 et seq., volume VI, series III).
The preservation of the heads of deceased relatives by a process of drying was a common practice amongst the Maoris. As many of the faces had been elaborately tattooed during lifetime, there arose a large demand for these heads as curios. The demand soon exceeded the supply, and it was reported that the captains of trading vessels actually selected the heads of living Maoris, who were submitted for inspection by the chiefs, and on a subsequent voyage these heads, prepared and dried, were exchanged for trade.

This river had been discovered in its upper reaches by Hamilton Hume and W. H. Hovell on the 16th of November, 1824, close to the modern city of Albury. It was then named the Hume river.

This was the expedition which was undertaken to trace the course of the Macquarie river, and to test the theory of an inland sea (see note 172, volume XIV).

The reference will be found in the last paragraph on page 250.

The report was contained in a despatch dated 29th June, 1829, and numbered 81 (see page 28 et seq., volume XV).

This report will be found on page 119 et seq.

The answer will be found on page 679 et seq., volume XV.

These despatches were probably as follows:—No. 185, 28th December, 1829; No. 5, 20th January, 1830; No. 44, 7th June, 1830; and No. 49, 19th June, 1830 (see pages 307, 338, 540 and 560, volume XV).
This was a lengthy order, in which great praise was given to the services of C. Barker as commandant at Fort Wellington (Raffles bay) and King George’s sound. On his return from King George’s sound, Barker was instructed to ascertain whether there was any communication between lake Alexandrina and gulf St. Vincent. Having ascertained that there was no passage from the lake to the gulf, Barker was “anxious to discover whether there was not a more practicable communication with the sea on the southern coast than the outlet to Encounter Bay, found by Captain Sturt; and, being desirous of examining the shore to the Eastward of the outlet for this purpose, he proposed to some of the party, being himself unwell at the time, to swim to the opposite side, which being declined, as they could not take any arms with them, he secured his compass on his head and swam across. He was observed after this until he gained the summit of a sand hill, which he descended and was not afterwards seen. The party then returned to the rendezvous, which had been fixed at a short distance, to wait his return. Having remained twenty-five hours in anxious expectation, and being unable to obtain materials to form a raft, they were prevented from crossing the outlet and proceeded to their vessel, which had continued in the Gulf.”

The body of C. Barker was never discovered, but a friendly native reported that Barker was speared by three natives and his body thrown into the sea.

The details of the death of Patrick Logan will be found on page 56 et seq.

This was the act of council, 11 Geo. IV. No. 11, entitled, “An Act to amend and consolidate the Laws now in force, relative to the licensing and regulating public-houses, and for the better regulating the granting of licenses for the sale of ale, beer, wine, spirits and other liquors in New South Wales.” It was passed on the 12th of May, 1830. Section 50 provided for the appropriation of all sums received under the act.

A copy of the despatch to the lords commissioners of the treasury is not available.

These despatches were dated 24th April, 1829, and 14th April, 1830 (see page 721 et seq., volume XIV, and page 242 et seq. in this volume).

This letter will be found on page 768, volume XV.
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Note 93, page 274.
The King's Instructions of the Year 1825.

These instructions were contained in a despatch, dated 1st January, 1825 (see page 434 et seq., volume XI).

Note 94, pages 277 and 280.
The Governor's reply.

The reply by Governor Darling and accounts of the trial of the Reverend Ralph Mansfield will be found on pages 73, 652 et seq. and 659 et seq., volume XV.

Note 95, page 281.
Head Master of the Grammar School.

By the appointment of the Reverend Robert Forrest, the first definite action was taken towards the foundation of the modern King's school at Parramatta. Concrete proposals for its foundation had been enunciated by the Reverend W. G. Broughton in January and February, 1830 (see page 356 et seq., volume XV).

Note 96, pages 283 and 285.
The "reprimand."—The Despatch.

The references were to the despatch, dated 30th September, 1830 (see pages 741 and 742, volume XV).

Note 97, page 287.
Certain observations.

The observations will be found on page 654, volume XV.

Note 98, page 288.
A Dispatch.

This despatch was dated 6th December, 1830 (see page 825, volume XV).

Note 99, page 290.
Mr. Moore's Statement.

This statement will be found on page 454 et seq., volume XV.

Note 100, page 292.
An action of trespass.

This action originated in the removal of Peter Tyler from the assigned service of E. S. Hall (see pages 59 et seq., 811, 812, 822 and 823, volume XV).

Note 101, page 294.
The original . . . appears to have been transmitted.

The letter from T. L. Mitchell was transmitted by Governor Darling with his separate despatch dated 28th March, 1831 (see page 119 et seq.).

Note 102, page 296.
The object.

The commissioners of emigration were appointed to facilitate emigration to the British possessions abroad. No funds were placed at their disposal for the conveyance of emigrants; but, if an adequate sum was raised by individuals or collected by parochial or other bodies to defray the expense
of voluntary emigration, the commissioners would undertake the management of such funds. The commissioners appointed agents at ports of embarkation in Great Britain, and also at ports of entry in the colonies, to give advice to and assist emigrants.

Note 103, page 299.

An order.—A Conditional Order.

The instructions for land grants to T. Kent and G. Blaxland were contained in despatches, dated 24th May, 1828, and 13th February, 1829 (see pages 196 and 643, volume XIV).

Note 104, page 304.

Your sanction.

The act of council, 11 Geo. IV, No. 1, was the first to be formally disallowed by the secretary of state. The act, 8 Geo. IV, No. 3, for imposing a duty on newspapers, was disallowed, but had already been suspended by government notice and never enforced (see page 391 et seq., volume XIII). Governor Darling did not publish the disallowance of the act 11 Geo. IV, No. 1; but it was repealed so far as related to banishment for a second offence by the act, 2 Wm. IV, No. 1, passed on the 27th of September, 1831.

Note 105, pages 304 and 305.

The Bill—The Act.

The draft of the bill for licensing the press will be found on page 285 et seq., volume XIII. The act for imposing a stamp duty was 8 Geo. IV, No. 3, and was passed on the 3rd of May, 1827, but was suspended by government notice dated 31st May, 1827, before it became operative (see page 391 et seq., volume XIII).

Note 106, page 306.

A Bill.

This was the act of council, 2 Wm. IV, No. 1, which was passed on the 27th of September, 1831.

Note 107, page 307.

By subscription.—The person.

A letter announcing the payment of the fine for A. E. Hayes was published in the Australian newspaper on the 9th of January, 1830 (see page 340, volume XV). The person was Francis Stephen.

Note 108, page 314.

Your Lordship’s Letter.

The original of this letter is not preserved at government house, Sydney. It is probable that Governor Darling removed it together with all his correspondence with lieut.-governor Arthur (see page 674).

Note 109, pages 315 and 402.

The Rule.

The reference was probably to the rule enunciated by Sir George Murray in a despatch dated 31st May, 1828, whereby the term of office for the governor of a colony was limited to six years (see page 218, volume XIV).
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Note 110, page 317.

Those of Mr. Hall . . . and of Girard.

The first charge made by E. S. Hall against Governor Darling was one of maladministration of land grants (see page 579 et seq., volume XIV). In May, 1830, Hall submitted fourteen charges on various subjects. F. Girard’s charges were contained in a memorial to Sir George Murray (see pages 629 et seq. and 606 et seq., volume XV).

Note 111, page 317.

The Symbols of Mourning.

After the passing in January, 1830, of the act of council, 11 Geo. IV, No. 1, for suppressing libel, the Sydney Monitor was published with a heavy mourning border, and, in the issue dated 20th February, 1830, and subsequent issues, the device of the coffin was printed on the leader page (see note 130, volume XV).

Note 112, page 318.

Mr. Hall’s Conditions.

The “conditions” were the insertion in the Sydney Monitor of all public notices, proclamations, etc., in the same way as they were inserted in the Sydney Gazette (see page 443, volume XV).

Note 113, page 325.

A Grant of Land.

The area (350 acres) claimed by James Milson extended from the modern Milson’s point, and included the most valuable portion at present of the north shore of Port Jackson.

Note 114, page 376.

The Bishop of Calcutta.

At this period, the archdeaconry of New South Wales was under the jurisdiction of the bishop of Calcutta.

Note 115, page 379.

The appointment of the Commission.

The names of the commissioners will be found on page 414.

Note 116, page 380.

The “Government Order.”

This order was as follows (the notice of the 1st of July will be found in note 25):—

“His Excellency the Governor directs it be to notified that all Crown Lands will in future be disposed of only according to the Regulations published in the Government Notice of the 1st of last month; and that the following course of proceeding will be observed in carrying the same into effect.

“SALE.

“1. As soon as the necessary arrangements have been completed, with respect to the survey of a parish, notice will be published in the Gazette that a chart thereof will be exhibited in the Surveyor General’s Office for public information, shewing its boundaries, the public reserves, the lands already appropriated, and those remaining for sale; the latter being divided by
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Lines into sections of one square mile, or six hundred and forty acres, as nearly as practicable, and such section distinguished by a numerical mark; together with a schedule pointing out and describing the natural and artificial marks corresponding with the division lines of every such section.

"2. Notice will at the same time be given in the Gazette, that such lands, after the expiration of three months, will become disposable.

"3. All offers and transactions of every kind, relative to such disposable lands, must be effected with reference to the before-mentioned public charts and schedules.

"4. If any person shall be desirous of purchasing lands, so notified as disposable, it will be necessary to make application through the Surveyor General, in a printed form, copies of which may be obtained on application at his Office, on payment of a fee of 2s. 6d. for each.

"5. If the spot applied for should contain less than six hundred and forty acres, the reasons for the applicant's wishing to obtain it must be fully explained; as it is not intended to dispose of land in smaller quantities, unless upon special grounds.

"6. All lands, for the purchase of which application shall be made, will be advertised for one month, and will then be sold by public auction to the highest bidder, in lots of one section, or six hundred and forty acres, as nearly as practicable, provided that the price offered shall at least amount to the sum of five shillings per acre.

"7. But before the bidding is accepted, the party will be required to pay down a deposit of 10 per cent. on the amount of the purchase money, and to sign an engagement to pay the balance within one calendar month, under penalty of forfeiting the deposit.

"8. If payment be not made within the prescribed period, the deposit will be forfeited accordingly, and the land will again be open to the selection of the public.

"9. But if the purchase be completed within the period stipulated, the purchaser will be put in immediate possession of the land, and no time will be lost in preparing the title deeds; previous to the delivery of which, a fee of forty shillings will be payable to the Colonial Secretary for preparing the same, and another fee of five shillings to the Registrar of the Supreme Court for enrolling them.

"10. In ordinary cases, the land must be surveyed and notified as above-mentioned. But if any person shall be desirous of purchasing Crown Lands, situated within the limits prescribed for selection, and not before notified as disposable, he will make application in the same manner as directed in paragraph 4, taking care to describe the situations and boundaries accurately, so as to prevent mistake.

"11. If unobjectionable, the land thus applied for will be immediately advertised for sale, and after three months will be sold, subject to all risks arising from any inaccuracy in the description. In all other respects the mode of proceeding will be exactly the same as is detailed above regarding lands previously advertised as disposable.

"12. All lands disposed of under these Regulations will be held in free and common socage, subject to the nominal quit rent of a peppercorn.

"13. The Crown will reserve to itself the right of making and constructing such roads and bridges as may be necessary for public purposes in all lands purchased as above; and also to such indigenous timber, stone, or other materials, the produce of the land, as may be required for making and
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keeping the said roads and bridges in repair, and for any other public purposes. The Crown will further reserve to itself all mines of coal and of precious metals.

"14. No land within one hundred feet of high water mark on the sea-coast, harbours, bays or inlets, is to be considered open to purchase, unless for the purposes of commerce or navigation.

"15. All free persons will be eligible as purchasers of land without any limitation as to quantity.

"RETIRED OFFICERS.

"16. The same advantages will be extended to Officers of His Majesty's Navy and Marines retiring from the service, or going on half pay, as are held out to Military Officers by the regulations for the disposal of land, published in the Government Notice of the 1st July last, viz.:—

"17. All Officers desirous of becoming settlers shall, like other individuals, procure land only by purchase at the public sales; but they will be entitled to a remission of the purchase money according to the respective periods of their service, as follows:—Those who have served Twenty years and upwards, £300; Fifteen years and upwards, £250; Ten years and upwards, £200; Seven years and upwards, £150.

"18. Officers who have not served seven years will have no claim to any advantages under this Regulation; nor will any Officer be entitled thereto, unless, if Military, he shall produce the written permission of the General Commanding-in-Chief, or the Commander of the Forces in India, to go on half pay, or to retire from the service, for the purpose of settling in the Colony; or if of the Navy or Marines, a similar permission from the Lords Commissioners of the Admiralty.

"19. All Officers desirous of availing themselves of these Regulations must enter into a bond for £500, that either they, or their families, will reside in this Colony for seven years.

"20. They will be required to apply for the land they wish to purchase in the form prescribed by the fourth paragraph of this Order.

"21. To prevent the inconvenience, at the time of sale, of advancing the prescribed deposit of 10 per cent., a certificate must be produced, signed by the Colonial Secretary, stating the sum they will be allowed in remission of the purchase money.

"22. The other modes of procedure will be the same in all respects as those detailed above in the case of ordinary purchasers.

"DISCHARGED SOLDIERS.

"23. Non-commissioned Officers and Privates, discharged from the service for the purpose of settling in the Colony, will be allowed Free Grants to the following extent, viz.:—Serjeants, 200 Acres; Corporals and Private Soldiers, 100 ditto.

"LEASES.

"24. All Crown Lands within the prescribed limits will, if applied for, be let by Auction, in lots of one square mile, or six hundred and forty acres each, as nearly as practicable.

"25. Persons desirous of renting such lands will address themselves to the Surveyor General, taking care to describe accurately the situation of each section applied for.

"26. The lands so applied for will be advertised for one month, and the lease of each lot for one year will then be put up to Public Auction.
27. No lot consisting of less than one square mile, or six hundred and forty acres, will be let, except in special cases, which may render expedient a departure from this rule.

28. Each lot will be put up at a rent of twenty shillings a year, and the highest bidding (not less than that sum) will be accepted.

29. It is to be distinctly understood that the lands so let will be open for purchase; and, in the event of their being sold, must be surrendered by the lessee upon one month's notice.

30. At the expiration of the year, the lease of each lot will be again put to Auction for the year ensuing.

By Command of His Excellency the Governor,

A. Macleay.
Governor Darling embarked on the ship *Hoogly* on the 22nd of October, 1831. Subsequent to the departure of Governor Macquarie, it has been the invariable practice with one exception for a governor to leave the colony prior to the arrival of his successor. The exception was in the case of Sir Charles Fitzroy in 1855, who was succeeded by Sir William Denison, transferred from the government of Tasmania.

Note 122, pages 425 and 577.

*A Memorial.—Compensation.*

A copy of this memorial is not available. The details of the compensation to John Blaxland are recorded in note 18, volume XII.

Note 123, page 427.

*I have already written.*

The reference was to despatches dated 18th April, 1829, and 11th April, 1830 (see page 709 et seq., volume XIV, and page 411, volume XV).

Note 124, page 433.

*His late Majesty's Instructions.*

These instructions will be found on pages 520 and 521, volume XIV.

Note 125, page 442.

*A report.—The Minutes of the Council.*

The report was brought by the cutter *Fairy*, which arrived at Port Jackson on the 26th of October, 1831.

The executive council expressed some doubt as to the accuracy of the report, but, at the request of De Saumarez, it issued him instructions. By these, he was directed to proceed to the Bay of Islands and investigate. If La Place was there, De Saumarez was given a paper for delivery, requesting details of the French intentions and by whose authority action was being taken. If La Place had already taken possession, De Saumarez was given a formal protest for presentation against such action, which stated that the British government had taken the islands of New Zealand under its protection at the request of the Maoris, and could not tolerate the intrusion of any foreign nation.

Note 126, page 451.

Also pages 453, 492 and 627.

*A pamphlet.*

This pamphlet was printed at Sydney in 1831 by Stephens and Stokes the proprietors of the *Sydney Herald*. It contained twenty-seven pages, five of which formed an appendix in which was printed the letter from the Revd. J. D. Lang to Viscount Goderich.

Note 127, pages 455 and 494.

*The first grant of land.*

The lands granted to the corporation for the clergy and school estates are detailed in note 37, volume XII.
COMMENTARY.

Note 128, page 456.

Two acres.

This land was situated at the north-eastern corner of George and Bridge streets, and was granted by Governor King to trustees for the orphan institution on the 1st of May, 1804 (see note 206, volume II).

Note 129, page 464.

Certain reports.

The reports were made by George Clarke, an escaped convict, who avoided the vigilance of the police for some time by disguising himself as an aboriginal native. T. L. Mitchell summarised his statements as follows:

"After this man was taken into custody, he gave a circumstantial detail of his travels to the north-west, along the bank of a large river named, as he said, the 'Kindur'; by following which in a S.W. direction, he had twice reached the sea shore. He described the tribes inhabiting the banks of the 'Kindur,' and gave the names of their chiefs. He had first crossed vast plains named 'Balyran,' and on approaching the sea he had seen a burning mountain named 'Courada.' He described with great apparent accuracy the courses of the known streams of the northern interior, which united, as he stated, in the 'Nammoy,' a river first mentioned by him, and, according to his testimony, Peel's river entered 'the Nammoy' by flowing westward from where Mr. Oxley crossed it."

Note 130, page 465.

Oxley explored.—Cunningham's observations.—Sturt's discovery.

Notes on the expeditions by J. Oxley, A. Cunningham and C. Sturt will be found numbered 168, volume IX, 140, volume XIII, and 172, volume XIV.

Note 131, page 467.

Cape L'Eveque.

Cape Leveque is the western promontory at the entrance to King sound on the north-west coast of West Australia.

Note 132, page 473.

Captain-General and Governor-in-Chief.

The commission of Governor Bourke will be found on page 837 et seq.

Note 133, page 477.

The various Grants of Land.

In 1825, Sir Thomas Brisbane granted ten thousand acres at Lake Macquarie to the London missionary society (see page 512 et seq., volume XI). In 1826, Governor Darling granted ten thousand acres to the Church missionary society (see page 364, volume XII). In 1827, Earl Bathurst authorised the grant of a similar area to the Wesleyan missionary society (see page 15, volume XIII).

Note 134, page 482.

A Resident at the Bay of Islands.

Governor Macquarie had realised the necessity for a British representative in New Zealand, and, in 1814, had appointed Thomas Kendall to be a
“Justice of the Peace at the Bay of Islands and throughout the Island of New Zealand” (see page 112, volume I, series IV). Although this appointment was ultra vires, Macquarie was thereby the first to extend the sphere of British influence to the dominion of New Zealand.

Note 135, pages 491 and 646.

An address.

To His Excellency Major-General Richard Bourke, Captain-General, Governor, and Commander-in-Chief in and over His Majesty's Colony of New South Wales and its Dependencies, etc., etc., etc.

The Address of the free Inhabitants of the said Colony in Public Meeting, by the Sheriff duly assembled.

May it please Your Excellency,

We, His Majesty's loyal and dutiful subjects, the free inhabitants of New South Wales, beg leave to approach Your Excellency with our cordial congratulations on your appointment to the Government of the Colony.

After nearly six years of public endurance, arising partly from the visitations of Providence, but more from an inveterate system of mis-government, we hail Your Excellency's arrival among us as the dawn of a happier era, affording the promise of long years of public prosperity and individual happiness. We at length indulge a well-founded hope that, with the termination of unfavourable seasons, the reign of discord and terror has also passed away; and that, with the return of plenty, a wise and fostering government on the part of Your Excellency may restore concord and good fellowship among us, and re-produce in our society that confidence which has been so long and so wantonly suppressed.

As the sure means of effecting so desirable a change, we would most earnestly and respectfully impress upon Your Excellency the necessity of judging for yourself of the character and wants of the people over whom you preside, collectively and individually, and, on a point of such vital importance, to place no reliance upon the reports of others, until you have time and opportunity to ascertain the correctness of their opinions.

We are the more earnest in this our respectful suggestion, because it is but reasonable to suppose that, on your arrival in a strange country, Your Excellency feels disposed to place the greatest confidence in those individuals whom His Majesty has appointed to fill the principal offices of the government. We are anxious to avoid any allusion to persons, but it would be an idle delicacy, it would indeed be a betrayal of our duty on this occasion, if we failed to point out that the chief executive officer in the late government, the abettor of measures which called down upon their author the general disapprobation of the community, is the last individual by whose opinion the Colonists would like to be judged, and that to be guided by the political feelings of an officer, who, during six years, has been unable to command any position of the public confidence, would be doing the Colonists a serious injustice.

Sir, whatsoever may be insinuated to the contrary, and by whomsoever, we assure Your Excellency, and, through your Excellency, humbly beg leave to assure His Majesty, that a more loyal, peaceable and obedient people, a people more firmly attached to His Majesty's Person and Government, and to the Constitution of the Parent State, as established by law, does not exist, than the Colonists of New South Wales; and that, in the wide scope of His Majesty's Colonial possessions, there is not a people more easily governed, notwithstanding our continued, and, as we conceive, impolitic deprivation of those institutions which are our birth-right as Englishmen. All, Sir, that
the Colonists require from the Mother Country are those institutions; and all they require from you, as their Governor, is common attention to their interests, and common justice and impartiality in the distribution of that public patronage, which is placed at your disposal. Sir, in correcting the various abuses which have crept into the Local Government during the last six years; in introducing measures of reform and retrenchment in union with the measures now in progress at home; in abolishing useless forms which have been connected with the transaction of official business in every department, and which have served only to disgust the people and to burden the files of each office with cumbrous records; in retrenching the enormous increase in the Colonial expenditure which has resulted from the multiplication of appointments necessary for the carrying on of this system; in seeing that the Colonial funds are applied wisely and economically only to Colonial purposes; that all sinecures (properly so termed) are abolished; and the useful officers of the Government paid only according to the value of their services; in reforming the Colonial code by abrogating or amending those laws which are bad, such as the impounding law, the press law, the insolvent debtors' law, and the like; and by enacting those new laws which may be required either in the way of substitution, or for other purposes of public utility; in adopting due means to attract to our shores that tide of emigration, which has been so long diverted from them by harsh and impolitic measures to new-comers; in combining some system with the Home Government for the introduction of a sufficient annual supply of free male servants, and of female, as well as to counteract the obvious evils arising from the increase of prison population, as to diminish the alarming disproportion between the sexes; in encouraging free discussion, and the establishment among us of the free institutions of Britain; and in fostering our agriculture, manufactures, fisheries, and commerce; applying to them, however, neither injudicious excitement on the one hand, nor checking them by impolitic restrictions on the other. In these and the like pursuits, Sir, a wide, untried, and a philanthropic field is opened for the exercise of that vigour, discrimination, and judgment, which the statesmanlike views, Your Excellency has already displayed in explaining the condition and wants of society in your own country, have inspired us with the most sanguine expectations you will studiously devote to the furtherance of the real interests and happiness of this Colony.

Having thus briefly enumerated some of the more prominent of the public objects, which, in our opinion, claim your chief care and solicitude,

It only remains, Sir, for us to express our hope, that Your Excellency's Administration may be long, prosperous, and happy; that it may in every respect realise those sanguine anticipations which all classes have found of the benefits likely to result from it; and, at its close, Your Excellency's departure may be as sincerely deplored by a Colony then unanimous in its appreciation of your deserts, as Your Excellency's arrival is sincerely greeted by a Colony now unanimous in the cordiality of its welcome.

Reply by Governor Bourke.

I receive with the greatest satisfaction the expression of dutiful and loyal attachment to His Majesty's Person and Government, contained in the Address of the Free Inhabitants of New South Wales. I will take the earliest opportunity of making known their sentiments to the King.

I feel pleasure in being assured that the Colonists are firm in their attachment to the Constitution of the Parent State. The free Institutions of the Mother Country have created and preserved its happiness and glory. There can be no doubt that the Legislature of the United Kingdom will introduce
into this Colony Institutions of a similar character in proportion as their adoption shall seem calculated to promote the general benefit of the community.

I accept gratefully the congratulations of the Inhabitants upon my appointment to this Government, and the cordial welcome with which they greeted my arrival amongst them. I am much flattered by the confidence they express, that the measures of my administration will be directed to the furtherance of the real interests and happiness of the Colony. Assuredly every exertion will be made by the local Government to realise those anticipations, and to restore concord and goodwill amongst the Inhabitants. This internal union, one of the first of national blessings, it should be their care to promote by the total oblivion of past dissensions, and by the sacrifice of resentments, public and private, upon the altar of their adopted country.

Note 136, page 492.

The Charter of Incorporation.

A copy of this charter will be found on page 444 et seq., volume XI.

Note 137, pages 501 and 644.

Mr. Charles Fraser.—Mr. Brown.

Charles Fraser had been appointed colonial botanist by Governor Macquarie. Robert Brown had been naturalist on the staff of Matthew Flinders in the Investigator, and had subsequently travelled extensively in the colonies with the object of botanical research.

Note 138, pages 504 and 641.

Treasury Bills.

In the early days of the colony, bills on the English treasury had been the only means of making remittances and of purchasing goods from visiting trading vessels. As the export trade of the colony developed, and when the bank of Australia opened an agency in London, the demand for these bills gradually declined.

Note 139, page 505.

The Settlement at Western Port.

In a despatch dated 19th July, 1827 (see page 450, volume XIII), Viscount Goderich authorised the withdrawal of the settlers from Western port if Governor Darling considered such action advisable. In a despatch dated 20th January, 1828 (see page 734, volume XIII), the right hon. W. Huskisson countermanded these instructions and ordered the maintenance of the settlement. But before the last despatch reached Sydney Governor Darling had exercised his discretionary powers and Western port was abandoned.

Note 140, page 513.

The Bill.

This was the act of council, 2 Wm. IV, No. 4, passed on the 3rd of February, 1832, which enacted the payment of salaries of £5,000 to the governor, £2,000 to the chief justice, and £1,500 to each of the puisne judges.

Note 141, page 514.

A Dispatch.

This despatch was dated 21st December, 1824 (see page 419 et seq., volume XI).
Under the provisions of section IV of the statute 4 Geo. IV, c. xcvii, the criminal court was constituted by a judge and a jury of seven commissioned officers of His Majesty’s sea or land forces. Prior to the passage of this statute, the court was constituted by the judge-advocate and six officers of the sea and land forces, the latter possessing equal powers in deciding the verdict and sentence with the judge-advocate. The statute thus introduced the modern system of trial by jury in principle only, and restricted the selection of jurors to a very limited class.

Note 143, page 516.

The Jury Bill.

This was the act of council, 2 Wm. IV, No. 3, entitled, “An Act for regulating the constitution of Juries and for the Trial of Issues in certain cases in the Supreme Court of New South Wales.” The paper laid before the council by Governor Bourke will be found in the proceedings of the legislative council.

Note 144, page 516.

The Charter . . . granted in 1823.

A copy of this charter will be found on page 509 et seq., volume I, series IV.

Note 145, page 517.

Remove the Gaol and Court-house from Bong Bong.

When the deviation of the main southern road was formed via Mittagong and Berrima to avoid the crossing of the Mittagong range and to secure a rocky ford across the Wingecarribee river, the gaol and court-house were removed to Berrima.

Note 146, page 518.

A Table of Fees.

These fees were printed annually in the New South Wales Calendar.

Note 147, page 522.

The government order.

This order was as follows:—

“His Excellency the Governor has directed the following Regulations for the Selection and Measurement of Land to be published for general Information, viz.:—

1. No Grant is to include both sides of a Water-course sufficiently important to be made a Boundary, except where the Proximity of two such Water-courses may render a rigid Adherence to this Rule impracticable. In such Cases the Land is to be measured in a way to ensure the most equitable Division of the Advantages of Water and fertile Soil.

2. The general Proportion of Water Frontage to the Side Lines is to be as One to Four.

3. The Side Lines, when not determined by Natural Features, must be either North and South, or East and West, according to the Direction of the Frontage, being made as nearly Rectangular thereto as Circumstances will admit.”
"4. When there are no Natural Boundaries whatever, those of Selections must be regulated by the Section Lines extending generally across the Country.

"5. If the Selection do not adjoin Land already granted, it will be necessary for the Applicant to state the exact Bearing and Distance from some surveyed Boundaries or known remarkable Object, such as a Hill, Station, Road, River, or Junction of two Rivulets.

"Persons failing in this will of course subject themselves to the Delay, Uncertainty and Risk of Dispute, which are always occasioned by inaccurate or imperfect descriptions of the Land applied for.

"6. It must be distinctly specified in every case what River, Lake, or other Water is proposed to be included in the Grant applied for, and in what Manner the Land is bounded or intersected thereby.

"7. The Boundaries of any Selection, not clearly described according to these Regulations, must be ultimately measured as the Survey General may find convenient in the general Arrangement of granted Lands.

"8. Additional Grants must be selected adjoining the original Grant, when Land contiguous is vacant.

"9. Grants of Half a Section (320 acres) and under can only be selected in the Neighbourhood of Townships or Village reserves, or on such Tracts of Land as may have appeared to the Government eligible for the Purposes of Cultivation, and are therefore reserved for small Grants; an exception, however, will be made in Cases where the Situations can be described and Objects stated, which may meet the Views of Government.

"10. It is to be distinctly understood that the mere act of measuring Boundary Lines by a Surveyor gives to the Party selecting no Right to hold such Land according to those Boundaries, until the same shall have been approved by His Excellency the Governor and noted in the Name of the Party on the Map in the Surveyor General's Office."

Note 148, page 525.

Mr. Therry.

The Reverend J. J. Therry arrived at Sydney on the 3rd of May, 1820, holding the appointment of Roman Catholic chaplain at £100 per annum. He caused considerable dissension in the colony, and, in February, 1826, Earl Bathurst ordered that his salary should be discontinued, and offered him £300 for his return passage to England. But Therry refused to leave the Colony. Governor Darling reported most adversely on his conduct in despatches, dated 6th September, 1826 (see page 543 et seq., volume XII), and 16th March, 1830 (see page 382, volume XV).

Note 149, page 527.

The Letter.

The reference was probably to the thirteen letters transmitted by Governor Darling with his despatch dated 7th October, 1830 (see page 773 et seq., volume XV).

Note 150, pages 538 and 539.

Governor Macquarie's Despatch.—Sir Thos. Brisbane's Despatch.

Governor Macquarie's despatch was numbered 13 and dated 7th October, 1814 (see page 338 et seq., volume VIII). There is no record of any despatch from Sir Thomas Brisbane in reference to this claim for compensation.
The position of the Government House.—The Celebrated Stables.

The government house occupied the site at the modern south-western corner of Bridge and Phillip streets. The stables, erected by Governor Macquarie, now form a part of the conservatorium of music. The mill was erected a little north of the present site of Governor Phillip's statue.

The Water frontage.

This was the frontage on the eastern side of the modern Circular quay. It was originally proposed to divide it into thirty-seven allotments.

A Proclamation.

This was the proclamation, dated 8th June, 1829 (see pages 19 and 20, volume XV).

The notice.

The "notice" will be found in the proceedings of the legislative council. When the council met on the 19th of January, 1832, Governor Bourke, in his opening address, stated that several bills would be submitted which required immediate attention. Amongst these, there was an act for the regulation of the constitution of juries, which had been considered by the council in the previous year. The previous jury act, 10 Geo. IV, No. 8, had expired at the end of the year 1831, and therefore it was necessary to pass an act immediately to enable juries to be empanelled. Governor Bourke also expressed his hopes that, during the next year, he would be able to introduce a bill for the extension of the jury system, and to announce the institution of circuit courts.

The Solicitor-General.

The appointment of E. McDowell as solicitor-general had been cancelled owing to his delay in sailing for the colony to take up office (see pages 373 and 374).

The Act, 1 and 2 Geo. 4, C. 121, 8, 20.

This act was entitled, "An Act to alter and abolish certain Forms of Proceedings in the Exchequer and Audit Office, relative to Public Accountants, and for making further Provisions for the Purpose of facilitating and expediting the passing of Public Accounts in Great Britain; and to render perpetual and amend an Act passed in the Fifty fourth Year of His late Majesty, for the effectual Examination of the Accounts of certain Colonial Revenues."

Section 20 provided that "Public Officers abroad, authorising or directing any improper or irregular Expenditure may, by Order of the Treasury, be called upon to account before Commissioners" with the proviso that an appeal might be made to the court of exchequer.
Note 158, page 549.

*Lord Bathurst's despatch.*

This despatch will be found on pages 295 and 296, volume XII.

Note 159, page 552.

*The date.*

The separation of the colony of Tasmania (Van Diemen's land) from the government of New South Wales was proclaimed by Governor Darling on the 3rd of December, 1825 (see page 11, volume V, series III).

Note 160, page 559.

12th Article of *Instructions.*

This article will be found on page 421, volume XI.

Note 161, page 560.

The Surveyor-General had obtained leave.

The reasons for granting leave to T. L. Mitchell were reported by acting-governor Lindesay in his despatch, dated 23rd November, 1831 (see page 464 et seq.).

Note 162, page 562.

The discoveries of Mr. Cunningham.

The Darling downs were discovered by Allan Cunningham in June, 1827, (see note 140, volume XIII).

Note 163, page 563.

A Committee of the House of Commons.

On the 27th of July and 5th of August, 1831, J. Busby gave evidence before the select committee of the house of commons on secondary punishments.

Note 164, page 564.

His Despatch.

This despatch will be found on page 587, volume XV.

Note 165, page 565.

One.—*An Act.*

The expiring acts were 11 Geo. IV, Nos. 8 and 10.

Note 166, page 566.

*An Act.*

This was the act of council, 11 Geo. IV, No. 7.

Note 167, page 567.

*An Act.*

This was the act of council, 11 Geo. IV, No. 4.
Note 168, page 572.

*Land granted to A. McLeay*. . . and . . . to J. Piper.

The land granted to A. McLeay was fifty-six acres and thirty-seven perches at Elizabeth Bay (see note 21, volume XIV). John Piper was granted one hundred and ninety acres on the 10th of February, 1820, at Point Piper and Bellevue hill near Sydney.

Note 169, page 573.

*The Sulphur Bomb.*

The bomb vessel *Sulphur* had been detailed for the conveyance of settlers to the new colony in West Australia (see pages 588 and 638, volume VI, series III).

Note 170, page 574.

*A Despatch.*

This despatch was dated 13th April, 1831 (see page 237).

Note 171, page 575.

*Two Journeys.*

Notes on these two journeys will be found numbered 172 in volume XIV and 67 in volume XV.

Note 172, page 583.

*The subject of Quarantine.*

Sir Patrick Manson, in his *Tropical Diseases*, states that “in 1830, cholera visited Europe for the first time. Advancing through Afghanistan and Persia, it entered by way of Russia, and swept as an epidemic over nearly the entire continent, reaching Britain at the beginning of 1832. During the same summer, it crossed the Atlantic to Canada and the United States. This epidemic did not die out in Europe till 1839.”

In August, 1828, a system of quarantine was established by the executive council on the arrival of the ship *Morley* with whooping-cough (see page 347 et seq., volume XIV). The first quarantine act, 3 Wm. IV, No. 1, was passed on the 28th of July, 1832.

Note 173, page 589.

*The supplementary estimates.*

These estimates were printed in the proceedings of the legislative council.

Note 174, page 590.

*That bounty.*

In August, 1824, Earl Bathurst authorised a subsidy to the extent of one-third of the cost of erecting a Presbyterian church (see page 346, volume XI). In October, 1825, this subsidy was commuted for a payment of £300 as stipend for a Presbyterian minister (see page 62 et seq., volume XII). Notwithstanding the commutation, the trustees of the Scotch church received a loan from government of £520 (see page 421, volume XV). In January, 1831, an advance was granted for the establishment of a college under the auspices of the Presbyterian church (see page 22 et seq.).

Note 175, page 594.

*The land.*

The lands acquired by W. Stewart consisting of fifteen thousand, three hundred and sixty acres are detailed in note 43, volume XIII.
COMMENTARY.

Note 176, page 594.
Also pages 600 and 671.

The Government Notice.

This notice was as follows:—

"His Excellency the Governor having taken into consideration in Council the large Amount of Arrears, which are due by Individuals for Lands purchased from the Crown, and which by the Regulations contained in the Government Notice of the 16th of September last are required to be wholly paid up by the 30th day of June next, and having reason to believe that the strict enforcement of those Regulations would be attended with serious inconvenience, His Excellency has been pleased, with the advice of the Executive Council, to order that a further extension of time be allowed to pay up the said Arrears; and accordingly, provided security for the regular payment of the same at the times hereinafter mentioned be lodged with the Collector of Internal Revenue before the first day of March next by a Mortgage of the Title Deeds and a Warrant of Attorney to be approved by the Crown Lawyers, His Excellency directs that the balance of the Arrears in question, in all cases where the deposit of Ten per Cent, has been paid, shall be made payable in three equal Instalments on the 31st day of March, 1832, the 31st day of March, 1833, and the 31st day of March, 1834, respectively.

"In all cases in which the deposit of Ten per Cent, has not been already paid, the same shall be added to the first Instalment."

Note 178, page 602.

New regulations.

The regulations, dated 1st July and 1st August, will be found in notes 25 and 116, and those, dated 25th August, on pages 605 and 606.

Note 179, page 619.

Advantages.—Memorandum.

The concessions on land grants for military officers were established by orders dated 8th June, 1826, 16th May and 24th August, 1827. In December, 1827, these concessions were extended to officers of the navy (see pages 603 and 596, volume XII, and pages 485, 486, 596 and 668, volume XIII).

The remissions on the total purchase money for land to military officers were as follows:—To field officers of 25 years' service and upwards, £300; of 20 years' service and upwards, £250; and of 15 years' service or less, £200. To captains of 20 years' service and upwards, £200; of 15 years' service or less, £150. To subalterns of 20 years' service and upwards, £150; of 7 years' service or less, £100.

The remissions were extended to officers of the navy with the following comparative ranks:—Admirals of the fleet with field-marshals; admirals with generals; vice-admirals with lieut.-generals; rear-admirals with major-generals; commodores and first captains to commanders-in-chief with brig-generals; captains of three years' post with colonels; other post-captains with lieut.-colonels; commanders with majors; lieutenants, masters, pursers and surgeons with captains.

Note 180, pages 624 and 625.

A late regulation.—Another late Regulation.

The two references were to sections 1 and 6 of the government order, dated 29th June, 1831. This order controlled the assignment of convicts for many years, and was printed annually in the New South Wales Calendar.
Note 181, page 626.

 Dispatches.

These despatches were dated 1st, 10th and 28th September, 1831, and numbered 70, 72 and 81 (see pages 341 et seq., 346 et seq. and 380 et seq.).

Note 182, pages 627 and 806.

The Australian College.

The Australian college was instituted in the year 1831 on the basis of the prospectus submitted to Viscount Goderich by the Reverend J. D. Lang (see pages 23 and 24). It was located in Jamieson-street, the main building being on one side of the street and a lecture hall on the other. It was controlled by a council of twelve and a treasurer. The Reverend J. D. Lang, D.D., was principal, the Reverend W. Pinkerton, professor of English and English literature, and the Reverend Henry Carmichael, A.M., Professor of Latin and Greek languages and of mathematics and natural philosophy.

Note 183, page 635.

The instructions.

These instructions were contained in a despatch, dated 27th November, 1828 (see pages 494 and 495, volume XIV).

Note 184, page 637.

A sufficient Police Establishment.

In a despatch dated 5th May, 1830 (see page 466, volume XV), Sir George Murray ordered that police, stationed on the estates of the Australian agricultural company, should be maintained by the company.

Note 185, page 642.

A letter.

This letter will be found on page 640 et seq.

Note 186, page 656.

Two letters—Sydney Gazette.

The two letters filled six columns of the Sydney Monitor. They contained adverse criticism on the acquittal of the prisoners, on the abandoning of the prosecution by the attorney-general, and on Mr. Justice Dowling’s charge to the jury. The report of the trial filled two columns of the Gazette.

Note 187, page 658.

The plan . . . transmitted to Sir George Murray in a despatch.

The despatch and plan will be found on page 356 et seq., volume XV.

Note 188, page 659.

His project for the establishment of an Academical Institution.

This “project” will be found on page 23 et seq.

Note 189, page 660.

The two schoolmasters.

The schoolmasters were the Reverends George Innes and Robert Forrest (see pages 259 and 281).
COMMENTS.

Note 190, page 660.
The arrangement.
The agreement with the Church missionary society was detailed in a despatch dated 21st December, 1831 (see page 477).

Note 191, pages 661 and 692.
Grants of Land.—Reports.
These grants are detailed in note 133. The report by the Reverend T. H. Scott will be found on page 55 et seq., volume XIV.

Note 192, page 663.
A Bill.
A copy of this bill is not preserved with the original despatch at government house, Sydney.

Note 193, page 667.
A letter.
This letter is not preserved with the original despatch at government house, Sydney (see also page 688).

Note 195, page 673.
His Majesty's Commission.
The colony of Van Diemen's land (Tasmania) was established as an independent government by a proclamation of Governor Darling on the 3rd of December, 1825 (see page 11, volume V, series III). Although the colony was independent, a separate governor was not appointed. On the 16th of July, 1825, Governor Darling was given two commissions, one as governor of New South Wales, and the other as governor of Van Diemen's land (see page 1 et seq., volume V, series III). By the last commission, it was provided that, so soon as Governor Darling should be absent from the limits of the jurisdiction of the government of the island, the administration should be undertaken by the lieut.-governor. Governor Darling sailed from Hobart town on the 8th of December, 1825, and the administration was assumed by lieut.-governor Arthur, and Darling thereafter exercised no powers as governor in the island. A similar practise was adopted when Governor Bourke was appointed to succeed Governor Darling.

Note 196, page 682.
In the Margin.
The only despatch available relating to the claims of Catherine Murphy was dated 25th May, 1830 (see page 533, volume XV), and there is no record of the delivery of this despatch at Sydney.

Note 197, page 692.
The Australian Company of Edinburgh.
This company was formed on the 31st of October, 1822, with Robert Brown as manager, for trading with the Australian colonies. Thomas Inglis was appointed agent at Sydney, and Charles McLachlan agent at Hobart. The company's ships were the Greenock, 442 tons; Triton, 404 tons; Portland, 385 tons; and the City of Edinburgh. On the 28th of May, 1824, an act of parliament was passed to enable the company "to sue and be sued in the Name of the Manager for the Time being of the said Company."
COMMENTARY.

Note 198, pages 694 and 785.

The Government Garden.—The Site.—His Plan.

The government garden was the western portion of the government domain (see note 67). The site chosen for the new government house was about one hundred feet north-west from the north-west corner of the stables, now the conservatorium of music. The principal proposals in the plan for the improvement of Sydney were the extension of O'Connell, Bligh, Phillip and Macquarie streets northerly across Bent-street to converge on a point a little south of the present corner of Bridge and Phillip streets; Bridge-street was to be extended in a curve from Pitt-street to this point. A road from this point was intended to the front of the new government house. Other proposals were the extension of Macquarie-street south, and of Park-street west through Hyde park, and the extension of George-street in a straight line past the turnpike, which occupied the site of the modern buildings of Marcus Clark. One only of these proposals is adopted to the present day, viz., the extension of Park-street.

Note 199, page 700.

The Letter of Instruction.

This letter was dated 8th July, 1825 (see page 12, volume XII).

Note 200, page 707.

The Regulations.

These regulations were enunciated in despatches from Viscount Goderich, dated 3rd March, 1832 (see page 548 et seq.), and from Earl Bathurst in a despatch dated 20th May, 1826 (see page 295, volume XII).

Note 201, page 709.

Trustees for our Chapel and Chapel House.

The trustees were J. H. Plunket, R. Therry and R. Murphy.

Note 202, pages 710 and 718.

Recommendation.—Resolution.

A copy of the resolution of the legislative council will be found on page 589.

Note 203, page 714.

Certain transactions.

In the year 1807, William Balcombe settled at St. Helena as superintendent of public sales under the East India company. He also entered into partnership with W. Fowler and J. Cole as merchants. When Napoleon arrived at St. Helena in 1815, he lived for two months in a small pavilion in the garden of Balcombe's house until his removal to Longwood. An intimacy thus arose, which led to the appointment of Balcombe as purveyor at Longwood. Balcombe then acted as an intermediary in the transmission of clandestine correspondence from Napoleon to Europe and in negotiating bills drawn by Napoleon. In consequence, Balcombe was forced to leave St Helena.

Note 204, page 719.

A pamphlet.

This pamphlet was entitled, "Letter to the Right Honourable His Majesty's Principal Secretary of State for the Colonies, London, from John Bingle, Esq., one of His Majesty's Justices of the Peace for the Colony of New South
Wales, dated Sydney, 15th August, 1832, accompanied by official correspondence with the Colonial Government of that Colony. Sydney:—printed by Stephens and Stokes, 5 King Street, 1832.” It contained forty pages.

Note 205, page 726.

A New Colony.

In the year 1831, proposals were initiated for the formation of a settlement within the boundaries of the modern state of South Australia. On the 3rd of August, a meeting was held in the chambers of William Tooke with colonel Torrens in the chair. At this meeting, certain proposals as drafted by a sub-committee were adopted, which were printed afterwards in a pamphlet of thirty-two pages, entitled, “Proposal to His Majesty’s Government for founding a Colony on the Southern Coast of Australia.” It was proposed to form a company with a capital of £500,000, divided in shares of £50 each, to supervise the settlement; one-fourth of the capital was allocated for the purchase of land; one-fourth for advances to small capitalists as settlers; and one-half for the construction of roads and bridges and for general improvement. A system for local government was drafted, and the proposed site for the settlement was on Kangaroo island or on the mainland between the meridians of 132° and 141° of east longitude, i.e., between the neighbourhood of Fowler’s bay on the west, and the modern boundary of the state of South Australia on the east.

These proposals were not adopted, but had considerable influence on the passing of the statute, 5 Wm. IV, c. xciv, which gave rise to the South Australian company, and under which “the colonisation commissioners for South Australia” were appointed in the year 1834.

Note 206, page 726.

A Despatch.

This despatch was dated 21st February, 1832 (see page 524).

Note 207, page 731.

An Act.

This was the act of council 2 Wm. IV, No. 13. By section 4, all moneys received by the trustees of the savings bank as deposits were paid to the colonial treasurer the same day. By section 7, the treasurer was ordered to make no payment without an order of the trustees, and it was enacted that all securities, etc., should be deposited with the treasurer and not delivered up by him without an order of the trustees.

Note 208, page 736.

The original Selection.

This was the land selected and approved by Robert Dawson, the principal agent of the Australian agricultural company in the year 1828 (see page 370, volume XIV).

Note 209, page 747.

A statement of grievances.

A copy of this statement is not available. Claims for a pardon by C. Nye will be found on page 1 et seq., volume XII.
COMMENTARY.

Note 210, page 752.

That Instrument.

In section six of the charter of justice, dated 13th October, 1823, it was “Provided nevertheless that it shall be lawful for the said Chief Justice to occupy and inhabit any Official House or residence within the said Colony of New South Wales, which hath been or may hereafter be provided for his residence and occupation, without paying to us, our heirs and successors, any rent for the same, and without being obliged to repair, uphold or maintain any such house or Official Residence at his own Costs and Charges.”

Note 211, page 758.

The enclosures.

The reference is not available.

Note 212, page 760.

His Majesty's Warrant.

This warrant will be found on pages 623 and 624, volume XIV.

Note 213, page 761.

Former occurrences.

In September, 1822, Sir John Jamison, in a letter to James Hall, made serious charges against the administration of the convict establishment at Emu plains. On inquiry, these charges were found to be groundless (see page 818 et seq. and note 243, volume XI). In acknowledging the receipt of the proceedings of the inquiry, Earl Bathurst ordered that no account whatever should Sir John Jamison be employed in any civil situation under the colonial government (see page 563, volume XII). In November, 1827, the right hon. W. Huskisson, and, in April, 1830, Sir George Murray refused to reconsider his case (see page 615, volume XIII, and page 444, volume XV).

Note 214, page 764.

Special Grants.

The references were probably to lands, granted to John Macarthur and Hannibal Macarthur, and proposed for T. Kent (see page 161, volume V, page 809 et seq. in this volume, and page 196, volume XIV).

Note 215, pages 765 and 787.

Goose Farm.—Grose Farm.

Grose Farm included the area now occupied by the university of Sydney, its associated colleges, and the university park. It acquired its name from the establishment of a farm by Lieut.-governor Francis Grose on thirty acres of land, leased to him by Governor Phillip. On the latter area, St. John's college is now erected.

Note 216, page 768.

Sir George Murray's orders.

These orders were contained in a despatch dated 30th November, 1828, and were published in a government order, dated 20th July, 1829 (see page 518, volume XIV, and pages 287 and 288, volume XV).
COMMENTARY.

Note 217, page 769.

Goderich Lodge.

This building was erected in Darlinghurst to the south of Bayswater-road.
A house near the same site has borne the same name to the present day.

Note 218, page 770.

A printed copy of the Terms.
A copy of these terms will be found in notes 25 and 116.

Note 219, page 784.

The enclosed Paper.

This paper consisted of extracts from the following despatches.—No. 42,
2nd November, 1828, relating to a subsidy for the benevolent asylum; No. 22,
28th April, 1828, relating to the salary of W. Dumaresq; No. 48 of 1827,
relating to allowances for civil officials; and queries by the auditor (see
pages 414 and 161, volume XIV, page 242, volume XIII, and page 429 in
this volume).

Note 220, pages 785 and 787.

One official residence.—An intention.

Governor Phillip had established two government houses, one at Sydney
and one at Parramatta, and both houses had been used by all the prede­
cessors of Governor Bourke. The house at Sydney was erected on the site of
the south-western corner of Bridge and Phillip streets. The house at Parramatta
is still standing and is used as the preparatory school for King's
school. In a despatch dated 29th September, 1831 (see page 385), Viscount
Goderich ordered the discontinuance of one of these residences.

Note 221, page 789.

The late Act of Council.

This was the act of council, 3 Wm. IV, No. 3, entitled, "An Act to con­
solidate and amend the Laws for the transportation and punishment of
Offenders in New South Wales, and for defining the respective powers and
authorities of General Quarter Sessions and of Petty Sessions, and for
determining the places at which the same shall be holden, and for better
regulating the summary jurisdiction of Justices of the Peace, and for
repealing certain Laws and Ordinances relating thereto."

Note 222, page 795.

Sydney Herald.

The Sydney Herald was first published on the 18th of April, 1831. It
appeared as a small weekly sheet of four pages. The paper is still in exist­
ence under the name of the Sydney Morning Herald.

Note 223, pages 796 and 797.

The Imposts.—The correspondence.

The details of these impost will be found on pages 452 and 453, volume
VII.
The correspondence relating to B. B. Thomas and his partners will be
found on pages 10 et seq. and 71 et seq., volume XII.

Note 224, page 801.

A despatch.

This despatch was numbered 122 in the series of despatches to New South
Wales; accordingly a despatch numbered 122/1832 is missing.