might be reduced very considerably. The inconvenience attending
the dependance of this Church on the authority of a Bishop
placed at the distance of Calcutta from Sydney is too obvious
to require much proof; but the circumstance, referred to in a
letter recently addressed to me by Archdeacon Broughton a Copy
of which I have the honor to transmit, places this matter in a
striking point of view.

The establishment in the Colony of a Presbytery of the Church
of Scotland, which I had the honor to recommend in my des-
patch of the 8th July last, No. 56, will secure the proper disci-
pline of that Church; and the recent appointment of a Vicar
General, with whose discretion, character and morals I have the
greatest reason to be satisfied, will I hope effect what is required
in the Roman Catholic Church. I am inclined, however, to think
that the Salary of £200 a year is too low for the office, and that
it might be advantageously raised to £400 to enable the Vicar
General to visit frequently the Chapels in the Interior.

In the foregoing outline, I have limited the support of the
Government to the three principal Christian Congregations in
the Colony. This limitation may be considered an objection to
the Plan, as it may be urged that, in granting assistance sys-
tematically to more than one Church, a claim is given for assist-
ance upon the same principle to every Congregation of Dissenters
and of Jews. This however is an objection to the Theory and
is not likely to interfere with the practical benefits of the Plan.
If it should be thought proper at any future period to extend
assistance to other Congregations whose Members may seem to
require it, there will be nothing in the present arrangement to
prevent it. Or, if it shall be deemed more advisable, the pro-
posed system may be established by the local law as it affects
the Church of England, only leaving it to the discretion of The
Governor and Council to extend a similar provision to such other
congregations as shall require it. At this early period of the
Colony’s existence, it is I think necessary that the Government
should grant pecuniary assistance for the establishment of religi-
ous Institutions, and take upon itself the nomination of the Min-
isters; or it might happen that the Ordinances of Christianity
would become altogether neglected or its tenets perverted by in-
competent Teachers.

I cannot conclude this subject without expressing a hope, amou-
ting to some degree of confidence, that, in laying the
foundations of the Christian Religion in this young and rising
Colony by equal encouragement held out to its Professors in
their several Churches, the people of these different persuasions
will be united together in one bond of peace, and taught to look up to the Government as their common protector and friend, and that thus there will be secured to the State good subjects and to Society good men.

I shall now beg leave to lay before you a brief account of the Schools, which have been lately under the Superintendence of the Church and School Corporation. The principal of these are the Male and Female Orphan Schools, at the former of which 133 Boys are now maintained and educated at an expense, estimated at the year 1834 at £1,300, and at the latter 174 Girls at an estimated expense of £1,500, exclusive of supplies obtained from the lands set apart for the use of these Schools. The Buildings of the Female School are handsome and commodious, and those for the Boys are sufficient for the purpose. In both of these Schools, the Children are brought up exclusively in the doctrines of the Church of England. As they are received at a very early age, and those who are not Orphans in the strict meaning of the term are for the most part deserted or neglected by their Parents, it is proper that they should be so brought up. There is in Paramatta also a considerable Boarding School, called the King's School, at the head of which is a Clergyman of the Church of England with a Salary of £100 a year only, but who has been promised the occupation of a House to be built at the Public expense to contain from 60 to 80 Boarders and Day Scholars. The House not being yet built, two are rented in the Village by Government at £80 per annum, in which the Master receives at present 54 Boarders and 15 Day Scholars, the former at the rate of £28 the latter at from £6 to £10 a year. This arrangement, which originated I believe with the late Archdeacon, is an expensive one, and the wealthier part of the community will be the greatest gainer by it. The three Schools thus described now are and will in all probability continue to be exclusively for the Church of England.

They may be supported and the Orphan Schools extended by means of the Income, which will at no great distance of time be derived from the Lands granted under Seal to the Church and School Corporation, and which on its dissolution became by the terms of the Charter vested in the Crown, to be disposed of by His Majesty, His Heirs or Successors, in such manner as shall appear "most conducive to the maintenance and promotion of Religion and the Education of Youth in the said Colony." Under these terms, the Income of the Lands may be applied to the support of any of the Churches or Schools referred to in this despatch.
The primary Schools Established by the Corporation, which are 35 in number situated in various parts of the Colony, attended upon an average by 1,248 Children of both sexes, are charged in the Estimates for 1834 at £2,756. These are Superintended by the Chaplains, and in all of them the Catechism of the Church of England is taught; and, although Children of other persuasions may and do sometimes attend, these Schools are necessarily considered as belonging to the Church of England. Thus the charge for all the Schools of this description for the year 1834 is taken at £5,736, to which should be added a Vote of the Legislative Council of £2,300 for the site and Buildings for the King’s School at Paramatta. Nothing has been granted to any primary School connected with the Church of Scotland; but a loan of £2,500 has lately been made by the Government and secured by Mortgage for aiding the erection of the Scots College. The sum of £800 has been voted for Roman Catholic Schools for the year 1834.

You may thus perceive, Sir, the great disproportion, which exists in the support given by the state to Schools formed for the denominational use of different denominations of Christians in the Colony; a disproportion not based on the relative numbers of each, but guided it would seem by the same principles which have regulated the support afforded to the different Churches. It is a subject of very general complaint. I am inclined to think that Schools for the general education of the Colonial Youth, supported by the Government and regulated after the manner of the Irish Schools, which since the year 1831 receive aid from Public Funds, would be well suited to the circumstances of this Country. I have not by me the parliamentary papers to refer to, and cannot give those Schools their proper designation; but I allude to those, in which Christians of all Creeds are received, where approved Extracts from Scripture are read, but no religious instruction is given by the Master or Mistress, such being imparted on one day in the week by the Ministers of the different religions, attending at the School to instruct their respective Flocks. I am certain that the Colonists would be well pleased to find their funds liberally pledged to the support of Schools of this description. It would be necessary however that Government took the lead in their Institution, fixing the places from time to time where they should be established as population increased, erecting the School Houses, and appointing well qualified Masters and Mistresses to be brought from Europe if need required. The Salaries of such Persons should be liberal, not less than from £100 to £150 per annum including House Rent. Whatever weekly payments were obtained from the Parents of the Children,
who attend these Schools, should be applied to the repair of the School House and purchase of School requisites under the care of a local Committee. In like manner, Infant Schools should be established in the Towns and other populous places. I may without fear of contradiction assert that in no part of the world is the general education of the People a more sacred and necessary duty of the Government than in New South Wales. The reasons are too obvious to require that I should state them. The proposed arrangement will like that for the Churches require a local law.

With respect to the 35 primary or parish Schools, as they are called, established by the Church and School Corporation, I would observe that they are of no great importance or value; and I propose that, in proportion as Schools for general Education were established in the manner I have described, the support of Government should be withdrawn from the Primary Schools, leaving the Buildings and Furniture to any of the Congregation of the Church of England that might choose to maintain the Schools at their own expense.

I have thus, Sir, endeavoured to lay before you a brief sketch of the present state of the principal Churches and Schools in the Colony, and the outline of an arrangement for their future extension and management. I have reason to believe that a System, such as I have described, is favorably regarded by the Colonists in general, though it is not improbable that it would be opposed by all the Clergy. The opinions of the Archdeacon of New South Wales I know are opposed to it. He has declared, in a pamphlet* published here in the last year, that a Protestant cannot subscribe to the erection of a Place of Worship for Roman Catholics without guilt. He has also expressed to me his opinion that, though Government might tolerate others, it should afford aid to one Church only, namely that which it believed to be the true Church. Knowing these to be the sentiments of the Archdeacon, I have merely informed him that I am about to address you, acquainting him with the substance of the arrangement I have proposed. In a separate despatch, I shall have the honor of transmitting a proposal laid before me by the Archdeacon for the future application and management of the property, which has by the dissolution of the Corporation become vested in the Crown, together with the substance of my reply.

I hope to be honored with an early communication on the subject of this despatch. Applications have lately been made to me for aid towards the erection of two Places of Worship of the Established Church of Scotland, the one at Sydney, the other at

* Note 54.
Bathurst. At the former place, the amount of Private Subscription is £640, at the latter £400. I intend to propose to the Legislative Council, at its Session in the next year for the Appropriation of the Revenue, that equal Sums be granted in aid of these undertakings, being assured that in so doing I shall only anticipate the instructions of His Majesty’s Government.

I have, &c.,

RICH. BOURKE.

[Enclosure.]

[A copy of this letter is not available.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 77, per ship Elizabeth.)

Sir,

Government House, 1st October, 1833.

Referring to my despatch of the 30th Ultimo, No. 76, I have the honor to transmit a Memorandum, which I have received from the Archdeacon of New South Wales regarding the management of the Estates, lately under the care of the Church and School Corporation, but now vested in the Crown. I have written a short minute upon each Paragraph, and lay the whole before you as having reference to the arrangements I have proposed for the future establishment and management of Churches and Schools in this Colony.

I have, &c.,

RICH. BOURKE.

[Enclosure.]

[A copy of this paper will be found in a volume in series VII.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 78, per ship Elizabeth; acknowledged by right hon. T. Spring Rice, 16th November, 1834.)

Sir,

Government House, 2nd October, 1833.

The defective state of the Law as regarded the Police of this increasing Town, the obvious inconvenience occasioned by the nuisances to be met with in its Streets, the danger of insalubriety if some of these nuisances were suffered to continue, and the innumerable disorders and indecencies which prevail in all populous places, when unchecked by the operation of penalties, having for some time past engaged my serious attention, I brought into Council a Bill to remedy the Evil in Sydney. This Bill has passed into a law, of which I have the honor to transmit a Copy. To carry the law into full effect, I have found it
necessary to make the following changes in the appointments of the Police Magistrates and Constabulary for the Town and Port of Sydney.

Captain Rossi, who has been for eight years at the head of the Sydney Police, having suffered considerably in health and finding himself unequal to the discharge of the duties, which the New Act on its coming into operation on the 1st Instant will impose on the Magistrates, has obtained leave of absence for a year in order to enable him to make arrangements for his ultimate retirement from the service. Upon this subject, I shall have the honor to address you in another Despatch.

I have named Colonel Wilson, who arrived here at the close of last year with the Appointment of Barrack Master, to take Captn. Rossi’s duty with half his Salary £300 and the allowance of £100 a year lately made to him in lieu of a House. I have named Colonel Wilson on this occasion in the hope that he may be permanently appointed to the situation of first Police Magistrate in Sydney under the New Act. This Act has been copied in some respects from the last London Police Act, 10 Geo. 4, Cap. 44, and it is proposed to organize the Constabulary something in the way of the London Police. For this duty, I have great reason to believe that Colonel Wilson is very well suited, and that his exertions in repressing vagrancy and crime and promoting cleanliness and order will be found advantageous to the Inhabitants of Sydney.

As Colonel Wilson must of necessity be chiefly employed out of doors in the arrangement and discipline of the constabulary, the duties of the Bench would have been more than the Second Police Magistrate Mr. Wyndeyer could possibly have performed. I have therefore appointed Mr. Earnest Augustus Slade, who holds the employment of Superintendent of Hyde Park Barracks, to be a third Police Magistrate, requiring him to employ certain hours in the day, during which he can be spared from Hyde Park, in assisting Mr. Windeyer at the Police Office, for which Extra duty he is to receive one hundred pounds per annum additional Salary. By this small augmentation of expense, I hope to obtain sufficient strength in the Judicial Department of the Police; but it may be right to observe that the duties are daily increasing with the rapidly increasing population of the Town, in which there is no municipal Magistracy, and where more than an Ordinary share of Crime is committed, in addition to the numerous petty delinquencies for which Convicts are obnoxious to summary trial and punishment by the Provisions of the
Special Code enacted to control them. I may therefore find it necessary before long to appoint, in conjunction with Mr. Windeyer, a Justice whose whole time will be devoted to the Police, and whose Salary must therefore be higher. In the mean time, I have to request your approbation of the arrangement I have adopted.

With respect to the Constabulary, I have found it necessary to add to the number in consequence of the increased dimensions and population of Sydney. The demands of Capt. Rossi for an augmented Establishment, both out of doors and in the Office, have been frequent and loud during the period that has elapsed since my arrival in the Colony. I am satisfied that, to carry into effect the regulations of the present useful Law, an augmented force is required both of Clerks in the Office and Constables in the Streets. In proof of the necessity of an augmentation of the former, I beg leave to enclose the Copy of a Report made by the Assistant Commissary of Accounts, whom I directed to examine the State of the Office. With respect to the latter, the details, into which I have entered with Colonel Wilson, have shewn me that with the present number of Constables He would be unable to execute the law with the necessary vigour and effect. I have therefore found it necessary to authorize an augmentation.

The whole additional expense of the Police for the Town and Port of Sydney, as authorized by me from the 1st Instant and proposed for your Sanction, amounts to £1,093 10s. per annum, as may be seen by the Comparative Statement which I have the honor to transmit. This expense will be defrayed by the Military Chest, into which a much larger Sum collected within the Colony has been paid for the year 1833 than for any that preceded. The amount received by the Collector of Internal Revenue for Licenses to Retail Spirits lately paid to the Chest has reached the large sum of £9,037 10s., being nearly one half of the Annual charge for Police throughout the whole Colony. As by much the greater part of the Income for Licenses indeed of the whole Colonial Revenue is raised in Sydney, it appears but equitable that a sufficient Sum should be devoted to maintain the Police of the Town. I hope therefore that the expense I have thus authorized will meet your approbation. I have, &c,

RICH'D. BOURKE.

[Enclosure No. 1.]

[This was a copy of the act of council, 4 Wm. IV. No. 7.]

[Enclosures Nos. 2 and 3.]

[Copies of these papers are not available.]
1833.
2 Oct.

Objections by
R. Campbell
to passing of
jury act.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 79, per ship Elizabeth.)

Sir,

Government House, 2nd October, 1833.

At the desire of Mr. Campbell, a Member of the Legislative Council of this Colony, I have the honor to enclose a letter addressed to me by that Gentleman on the 11th Ultimo, containing his objections to the Jury Act which recently passed the Council. The ostensible reason for this unusual course of proceeding on the part of Mr. Campbell is alleged to be his anxiety that you should be apprized of the fact that the Jury Act had been carried in direct opposition to the recorded wishes of seven Members of the Legislative Council. I cannot but consider his anxiety upon this point to be at least unnecessary, as he could hardly suppose I should fail to inform His Majesty's Government of the circumstances under which so important a measure was passed; and, in point of fact, I had addressed a despatch to you on this subject before the letter of Mr. Campbell reached me. As Mr. Campbell however seems to attach much weight and importance to the names and numbers of these Members who opposed the Bill, I feel that I am called upon to make a few observations in reply to that argument, and to shew that I have not persevered in a measure opposed to the wishes and opinions of a Majority of the Inhabitants of the Colony.

Mr. Campbell appears to assume that the unofficial, or as he Styles them the independent Members of the Legislative Council represent the opinions of the Majority of the respectable part of the Colonists; and, certainly if they are to be so considered, the majority of the Public is decidedly opposed to Trial by Jury in any Form whatever. But upon this point of fact I entirely differ with him. I do not consider the present Legislative Council as the representative of the Public opinion; but on the Contrary it is opposed to it. There is perhaps no safer way of judging of public opinion than by the Constitutional Petitions of the People. The last Petition to Parliament for Trial by Jury in the English form was signed by nearly four thousand free Inhabitants of the Colony, bearing a large proportion to the number it contains capable of exercising a political right. In looking over the names of the Petitioners, I find amongst them Persons of the largest Property and highest respectability in the Colony, who must be presumed as deeply interested in the morals of the rising generation and in the due administration of Justice, as Mr. Campbell or any other Member of the Council. Among the Petitioners are the names of two of the unofficial Members, Mr. Blaxland and Mr. Bell, and that of Mr. Robert Campbell, Junr., the nephew of the Member of Council. Mr. Campbell
himself seems not to have been at all times so decidedly hostile to Trial by Jury. It appears in the Evidence* taken before a Select Committee of the House of Commons, whose Report was ordered to be published on the 10th July, 1812, at page 70, that Mr. Campbell not only bore testimony to the desire of the Colonists for Trial by Jury but to the practicability of instituting it and the expediency of admitting Emancipists as Jurors. Assuming the answers given by Mr. Campbell in 1812 to express his true opinion then, it is difficult to discover any reasonable cause for his opposing Trial by Jury at this period. The main objection urged by the opponents has been the disproportion in numbers between the Emancipists and Free Emigrants or Native Borne subjects; but every year has tended to diminish the disproportion by the encrease of the latter classes by birth and immigration.

With respect to the objections of Mr. Campbell, which he has numbered in detail, I feel that it would be out of place to enter into arguments to refute them. The same objections were urged in the House of Commons on discussing the New South Wales Bill† in 1824, again upon Mr. Huskisson’s Bill† in 1828, and may be urged with equal force at any time as long as New South Wales shall continue to be a recipient for Transports. Parliament however seemed to affirm the maturity of the Colony for the Constitutional form of Trial by Jury by introducing it under certain modifications in Civil Cases in 1824, and by subsequently extending it in 1828. His Majesty’s Government was further pleased in 1831 to authorize me to propose the extension to Criminal cases; and, on this measure being announced to the House of Commons by a Minister of the Crown in 1832, it was favorably received by the House. The opinion of Parliament then as to the maturity of the Colony for this free Institution appears to have been expressed with sufficient clearness, and upon all those several occasions the desire of the Inhabitants of the Colony for trial by Jury was never for a moment doubted; nor can I admit that any assertions of Mr. Campbell or of the six other Members, who concur with him in opinion, are to be taken as conclusive the other way. On the contrary I repeat that those Gentlemen do not speak the Sentiments of the great majority of the respectable Inhabitants of the Colony.

The objection to sitting in the same Jury Box with a Person, who had been a Convict, was at least as strong in Civil as it can be in Criminal Cases; and I have never heard of such an objection but once, when it was made by a Son of Mr. Campbell himself. The objection indeed has been frequently raised in Theory; but, as it is found to be disregarded in practise when association in gainful concerns bring the respective Parties into

* Note 55. † Note 56.
contact in Counting Houses or Banking Establishments, it may be expected it should not prevail in the Jury Box.

In reply to that part of Mr. Campbell's letter, in which he states himself to have been unapprized of the day when the third reading of the Bill would take place, I would merely beg leave to refer to my answer to that Gentleman. I will only add that there is not the slightest foundation for any charge of surprize. An occurrence did certainly take place in Council on the day alluded to, such as had never been witnessed there before, Namely a division upon the third reading of a Bill, which, having been fully discussed and amended in Committee, was (according to the form of this Council) ordered to be fairly transcribed and presented to the Governor by unanimous consent in order to its being laid before the Council to be read a third time and passed.

I have, &c.,

RICH. BOURKE.

[Enclosure No. 1.]

MR. R. CAMPBELL TO GOVERNOR BOURKE.

Sir, Sydney, 11 Sept., 1S33.

I take the liberty of addressing your Excellency, in consequence of my having been informed that at the third reading of the Jury Bill on 28th Ult., the Votes for and against it were even and that therefore, if I had attended and voted, the Bill could not have been passed.

My absence, I beg to state, was owing partly to indisposition, and partly to my concluding that the third reading was for some reason to be postponed, from the circumstance that the printed Report of the Proceedings of the Legislative Council contained under the head of "Orders of the Day" no intimation that the Jury Bill would be finally disposed of on the 28th, altho' notice was given that the Australian Bank Bill,* a much less important one, would be read a third time that day. Otherwise I should certainly have made a point of attending, in order that I might support to the last the Independent Members of the Council in their opposition to a measure which, in its present shape, it is my humble opinion must operate most prejudicially to the Colony, as regards the Youth of our community, by discouraging the growth of those feelings to which the high moral character of the country parts of England is chiefly attributable, and as regards the Convicts by opposing another obstacle to the enforcement of a rigid system of penal Discipline, without which Transportation to New South Wales cannot be rendered efficient either as a punishment for or as a prevention of Crime.

Such being my views of the Tendency of the Bill in question, I cannot but reproach myself, as a Colonist, for having negligently absented myself when my vote would have prevented its being passed; and, as a Father, my regret on the occasion is augmented by the reflection that, had I taken my seat that day at the Council, my children would not have been exposed to the degradation of being brought in association, day after day, in the Jury Box, with the refuse of the Goals and Hulks of the Mother Country.

* Note 57.
It will not, therefore, be matter of surprise to your Excellency, that I am anxious that the Right Honorable the Secretary of State should be officially apprised of the Fact that the Bill so recently passed has been carried in direct opposition to the recorded wishes of Seven members of the Legislative Council, only one member indeed not holding office under the Government having voted for it. To this end allow me to request that your Excellency will do me the favor to transmit this letter to the Secretary for the Colonies, together with my reasons for opposing the Bill, which I have appended for the purpose of shewing that I am not actuated by factious or other improper motives.

I have, &c.,

ROB. CAMPBELL.

[Sub-enclosure.]

STATEMENT OF OBJECTIONS.

I object to the Jury Bill submitted to the Legislative Council on the 17 July for the following reasons:—

1st. Because the present mode of Trial in criminal cases, viz., by a Jury composed of Military or Naval Officers, is well adapted to the exigencies of a Colony in which the number of free persons qualified to serve on Juries is comparatively small, and the number of Criminals to be tried, owing to the character of our population, is amazingly great.

2nd. Because I think that, of the Two Institutions the grand Jury and the Petit Jury, the complete establishment of the former in the Colony ought to precede that of the latter, more especially as it appears by "the opinion of the three Judges," furnished for the Information of the Council, that a great number of men, who have been guilty of the vilest crimes and suffered the most degrading punishments, persons whom the force of public opinion alone would exclude from the Jury Box at home, whatever might be the law on the subject, will be here qualified to serve, and will serve on our Petit Juries.

3rd. Because the admission of Convicts into the Jury Box immediately on their becoming free must tend to lower the dignity of our Courts, and to excite general distrust with regard to the administration of Justice; for we shall frequently witness the extraordinary Spectacle of men sitting as Jurors on the trial of those, with whom they have been imprisoned in the same gaol and transported in the same Ship to our Shores.

4th. Because it is notorious that the acquisition of wealth, and even of a conditional pardon in the Colony, is by no means invariably a safe criterion by which we may judge of the reformation of a Convict.

5th. Because many of the Colonial Youth, who will be possessed of considerable property, not having, as would generally be the case with persons of the same class in England, the example of honest and industrious parents to stimulate them to a virtuous and respectable course of life, it is very desirable that they should be taught, by the marked exclusion of Convicts from the Jury Box, to value a character for honesty and integrity as the great qualification, on which their own right to sit there, must depend.

ROB. CAMPBELL.
[Enclosure No. 2.]

PRIVATE SECRETARY BOURKE TO MR. R. CAMPBELL.

Sir, Government House, Para’a, 23rd September, 1833,

I am commanded by The Governor to acknowledge the receipt of your Letter of the 11 inst., and to inform you that, as you express a wish to have your opinions upon the Jury Act lately passed by The Governor and Council laid before the Secty. of State for the Colonies, H.E. will transmit a copy of your Letter to that Minister.

I am further to acquaint you that H.E. cannot see any sufficient reason for your having concluded that the 3d reading of the Jury Bill was to be postponed, as, upon referring to the Clerk of the Council and the printed Rules and Orders, it will be found that the usual and regular course of proceeding was pursued with respect to that Bill, as with respect to three other Bills passed on the same day under circumstances precisely similar.

I have, &c.,

R. Bourke.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 81, per ship Elizabeth; acknowledged by right hon. E. G. Stanley, 13th May, 1834.)

Sir, Government House, 4th October, 1833.

In consequence of the dissolution of the Church and School Corporation, The Archdeacon of New South Wales will shortly lose the advantage and convenience of an Office with a Messenger attached and a Clerk to enter his letters. He has therefore applied to me to continue under his direction the Junior Clerk of the late Corporation with a Salary of £150 a year, whose duty it will be to prepare the Annual Alphabetical Indices of Baptisms, Marriages and Burials agreeably to the Act of Council 6 Geo. 4, No. 21, and to carry on the Archdeacon's Correspondence with this Government and the Clergy.

The former being a necessary duty required by law to be executed under the Archdeacon's Superintendence, I would recommend that the Clerk be allowed, and I have authorized the Archdeacon to avail himself of the Services of the Person he applies for until the pleasure of His Majesty's Government be known. He has also applied for the Services of the Messenger to be paid at the rate of 2s. 6d. a day; but, as it is not obvious to me that this appointment will be necessary after the Affairs of the late Corporation are wound up, I propose in this instance to decline complying with the Archdeacon's request, unless I shall receive your Commands to the contrary.

I have, &c.,

Ricbd. Bourke.
GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 82, per ship Elizabeth; acknowledged by right hon. T. Spring Rice, 16th November, 1834.)

Sir,

Government House, 5th October, 1833.

Since I had the honor of addressing you on the subject of the Police Establishment for Sydney in my Despatch of the 2nd October, 1833, No. 78, I received from Mr. Windeyer, the 2nd Police Magistrate, the Memorial which I now transmit.

Mr. Windeyer lays claim to the appointment of first Police Magistrate in Sydney; but I may say, without disparagement to his fitness for the general duties of a Justice of the Peace, that I do not think he would succeed in the organization or command of a Police force, for which his previous habits have in no respect qualified him, and which duties it is proposed to assign to the first Magistrate. I am of opinion that it will be more for the good of the Service to leave Mr. Windeyer on the Bench.

With respect to his Application for an increased Salary, I have no doubt that his duties have augmented and may be still further enlarged with the Population of the Town. I would not therefore object to raise his Salary by fifty pounds a year, making in all four hundred; but, as I do not wish to propose any further expense to the Treasury, I would suggest that fifty pounds be taken from the Salary of the first Magistrate, which will thus stand at £650. The difference between the two Salaries may be fairly claimed by the first Magistrate, who must necessarily keep Horses, for which no allowance is made to him, and neither of the Magistrates will in my opinion be overpaid.

I have, &c,

RICH'D. BOURKE.

[Enclosure.]

THE Humble Memorial of Charles Windeyer, 2nd Police Magistrate of Sydney, New South Wales.

To the Right Honorable Edward Geoffrey Stanley, His Majesty's Principal Secretary of State for the Colonies, etc., etc., etc.

Sheweth

That Your Memorialist was, in the Month of August, 1831, appointed to the situation of Assistant Police Magistrate of Sydney with a salary of £350 per annum.

That your Memorialist has fulfilled the duties of that office, as he presumes to hope, with credit to himself and to the satisfaction of His Excellency the Governor.

That, Captain Rossi, the Principal Superintendant of Police, having obtained the permission of His Excellency the Governor to be absent from the Police Twelve Months on account of his
impaired Health which will probably prevent that Gentleman from resuming his situation, Your Memorialist, in the event of Captain Rossi’s retirement, ventures to express a hope that, from his previous services and experience in the Police Department, he may be thought worthy to succeed him.

Your Memorialist begs further to represent That, in the meantime, the arrangements consequent on Captain Rossi’s absence have thrown on your Memorialist a great increase of labor and responsibility.

That the duties of Your Memorialist comprise not only those which are in England ordinarily fulfilled by Justices of the Peace and Police Magistrates; but your Memorialist is also called upon to act singly, and also in Petty Sessions to decide in a summary manner on Offences committed by Prisoners of the Crown; and also in the Trial of Informations against free persons, for offences against the various penal Statutes and Ordinances in force within the Colony. These duties, already exceedingly heavy, are, from the increasing commerce and Population of the Colony, becoming every day more onerous.

Your Memorialist therefore humbly submits that, for the due performance of such duties, the Salary of £350, now enjoyed by Your Memorialist, will be considered altogether inadequate; and he prays therefore for such increase thereto, as may to His Majesty’s Government seem just and reasonable; and that the same may be allowed to take effect from the 1st October Instant.

CHAS. WINDEYER, 2nd Police Magistrate.
Sydney, New South Wales, 5th October, 1833.

Right Hon. E. G. Stanley to Governor Bourke.
(Despatch No. 46, per ship Fairlie.)

Sir,

Downing Street, 14th October, 1833.

With reference to my Despatch No. 33 of 21st August last, relative to the Classification of Convicts, who may in future be sent to the Australian Settlements, I transmit to you herewith a List of Twenty eight Convicts, embarked in the Ship “Fairlie” for New South Wales, whom, from the nature of their offences and characters, it is deemed advisable to place in the second and third classes, vizt., those kept to labour in chains, and those sent to the most Penal Settlements; and I am to desire that you will take the necessary steps for disposing of these Convicts, on their arrival in the Colony, in the manner and under the restrictions proposed with respect to the Prisoners of the Classes before mentioned.

I have, &c.,

E. G. STANLEY.
RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 47, per ship Numa.)

Sir, Downing Street, 20th Octr., 1833.

I have received and have laid before the King three Acts passed by the Governor and Council of New South Wales in the Months of August, September, and October, 1832, the operation of which is suspended for the signification of His Majesty's pleasure. A List of the Titles* of these Acts is subjoined.

I have the honour to acquaint you that His Majesty has been graciously pleased to approve and allow these Acts.

I am, &c.,
E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 4*, per ship Numa.)

Sir, - Downing Street, 22d October, 1833.

I have received and laid before the King your despatch No. 33 of the 18th of March last, with its Enclosures containing the Proceedings in the case of Samuel Ryan, William Steel, Thomas Macgrath and Patrick Daly, convicted before the Supreme Court of New South Wales in Decr. last of the Murder of Mr. John McIntyre; and I have now the honor of transmitting to you herewith the accompanying Pardons, which His Majesty has been graciously pleased to grant to the said Prisoners upon the conditions, as therein set forth; and I have to desire that you will allow the said Prisoners to receive the full benefit of these Pardons.

With respect to the Prisoner Patrick Daly, I consider that it would be irregular to hold out to him a promise of free Pardon (as intimated in your despatch) as an inducement to him to give such information as might be the means of bringing to Justice any of the Principals or Accessaries in the Murder; but, if he should hereafter make any satisfactory statement, you will then be at liberty to recommend him to the mercy of the Crown.

I am, &c.,
E. G. STANLEY.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 83, per ship Elizabeth; acknowledged by right hon. T. Spring Rice, 16th November, 1834.)

Sir, Government House, 23rd October, 1833.

In my despatch No. 78 of the 2nd October Instant, I had the honor to inform you that Captain Rossi, who has been for eight years at the head of the Sydney Police, had represented to me that, from his having suffered considerably in health from

* Note 58.
the constant labor of his Office, he found himself unequal for the present at least to the discharge of the increased duties required by the Sydney Police Act lately passed, and that I had at his request given him a year's leave of absence with half Salary with a view to his making arrangements for his ultimate retirement from the Service.

I have now the honor to transmit a Memorial from Captain Rossi, detailing his case and stating that his desire, on retirement from employment in the Police, is to obtain leave to sell his Company of Foot, a permission which was actually accorded to him by His Royal Highness the late Duke of York, but afterwards withdrawn in the manner Captain Rossi has related in his Memorial; and, upon such sale being effected, he hopes to obtain the established remission in the purchase of Land in this Colony.

If there should be no insuperable objection raised to the proposed arrangement by the Military Department, I would strongly urge its adoption by the Colonial, as offering a very easy way of satisfying the strong claim of an officer, who has labored unceasingly under great disadvantages and has certainly impaired his health in the service of this Colony. Captain Rossi has addressed the Secretary at War and Commander in Chief, and trusts the success of his application will be ensured by the powerful recommendation of the Secretary of State for the Colonies. A refusal would I fear render it very difficult to bring to a favorable issue the arrangements I have proposed for the improvement of the Sydney Police.

I have, &c.,

RICH. BOURKE.

[Enclosure.]

MEMORIAL of Francis Nicholas Rossi, Captain Half Pay late 3rd Ceylon Regiment, and Superintendent of Police in New South Wales.

To The Right Honble. Edward Geoffrey Smith Stanley, His Majesty's Principal Secretary of State for the Colonies, etc., etc., etc.

Humbly Sheweth,

That Memorialist had the honor of entering into His Majesty's Service in the Month of July, 1795, and was placed, at his own request, upon Half Pay in December, 1817.

That Memorialist has held several Civil Situations in His Majesty's Service since the Year 1811, and that Earl Bathurst, in consideration thereof, was pleased to appoint him in August, 1824, to the Situation of Superintendent of Police at New South
Wales on a Salary of £600 per Annum, by which Memorialist was deprived of his Half Pay as Captain of Foot, amounting to £125 per Annum.

That Memorialist, having experienced the inadequacy of his Salary, was, in consequence of the expectations and promises held out to Him on his Departure from England, induced, in November, 1825, to petition Earl Bathurst for an Increase of Salary; and, in reply, Your Memorialist received, on the 5th January, 1827, a communication from Governor Darling enclosing Copy of Earl Bathurst’s Despatch wherein His Lordship is pleased to express his satisfaction of the Zeal and Activity of Memorialist; but could not sanction any Increase of Salary, after the short period of Memorialist’s Service, which scarcely exceeded a Twelve Month.

That Memorialist, on the 6th October, 1829, addressed to The Right Honble. Sir George Murray, then Secretary of State, a Petition, setting forth Memorialist’s claims and praying for such an Increase of Salary, as Memorialist’s Services in Military and Civil Capacities might be thought to merit.

That Memorialist received a Letter from The Colonial Secretary of New South Wales, dated 5th November, 1830, by which it will be perceived The Secretary of State regretted that circumstances did not permit his compliance with Memorialist’s prayer; remarking that no time could have been more unfavorable for renewing the application, and that Memorialist’s prayer would not have failed to have received The Secretary of State’s most favorable consideration, had not circumstances compelled him to decline any application of this nature.

That Memorialist having, on the 15th November, 1825, humbly addressed His Royal Highness for permission to sell his Company, received, on the 1st January, 1827, a Letter from Sir Herbert Taylor, conveying His Royal Highness The late Commander in Chief’s gracious permission for the sale thereof; and informing Memorialist that a candidate would be selected for the purchase of the Company, and that Memorialist would receive from Messrs. Greenwood, Cox and Co. through his Agents, the sum of £1,800.

That Memorialist, on the 24th February, 1827, received a Letter from Sir Herbert Taylor, annexing Copy of a Letter from Mr. Merry of the War Office, stating that “The Secretary at War had postponed the notification of Memorialist’s retirement from the Military Service, not being in the receipt of Half Pay.”

That Memorialist in consequence addressed, on the 28th February, 1827, a detailed Letter to Sir Herbert Taylor, expressing

* Note 59.
his concern and surprise at The Secretary at War's view of his Case, and praying the reconsideration of Memorialist's Petition by His Royal Highness The Commander in Chief.

That, unfortunately for Memorialist, this Appeal arrived in England, after the lamented Death of his late Royal Highness The Duke of York; and, as there was not, at that period any Commander in Chief, The Letter to Sir Herbert Taylor was submitted to and decided upon by The Right Honble. Secretary at War, as would appear by a Letter, addressed to Memorialist by his Agent in London on the 18th August, 1827; and thus Memorialist was informed that "Lord Palmerston could not see sufficient reason to alter the decision already given by him on this point."

That Memorialist, having, in consequence of Lord Palmerston's decision, suffered considerable pecuniary Losses and embarrassment, submitted the hardship of his Case in a Memorial addressed to His Grace The Duke of Wellington, the then Commander in Chief, praying for His Grace's powerful interference in Memorialist's behalf.

That Memorialist received, on the 30th April, 1829, by order of Lieut. General Darling, copy of a Letter from Mr. Sullivan, addressed to Major General Lord Fitzroy Somerset, stating that, "altho' Sir Henry Hardinge was ready to admit the apparent hardship of Memorialist's Case, etc., he felt himself compelled to adhere to the former decision."

That Memorialist has thus been deprived of the reward of Twenty two Years' Military Services on the plea that his Half Pay was in abeyance during the time he held a Civil Situation, with a Salary of £600 per annum; and That Memorialist, on the other hand, has been refused any augmentation of Salary, held out and promised to him in England, not in consequence of any demerit on his part, but because the time for renewing the application could not be more unfavourable; thus placing Memorialist in a much worse position than he would have been, had he retired altogether from the Service in December, 1817.

That Memorialist, having served in different Climates upwards of Thirty eight Years in Military and Civil Capacities, some of which were of a very arduous and laborious nature, more particularly that which he has filled during the last Eight Years, and being now in the 57th year of his age, feels naturally desirous to pass a few Years in retirement and repose, and to be permitted to resign both the Military and Civil Service.

That, with this view, Memorialist has submitted to His Excellency Governor Bourke, in the most unreserved and candid
manner, the whole of the Documents and Papers connected therewith; and His Excellency, feeling disposed to enable Memorialist to effect his object, has been so kind as to grant him Twelve Months' leave of Absence from his Duties as principal Superintendent of Police, with the Half Salary of his Situation, £300 per annum, thereby entitling Memorialist to draw his Half Pay.

That the main objection hitherto made by the successive Secretaries at War being thus fully removed, Memorialist has again Petitioned The General Commanding His Majesty's Forces and The Secretary at War, praying for the fulfilment of a permission which had been solemnly guaranteed to him by His Royal Highness The late Duke of York; and, in the event of Memorialist being permitted to retire from the Military Service, and to receive the full Price of his Company £1,800, Memorialist will lay at the feet of His Majesty his resignation of the Situation of Principal Superintendent of Police of New South Wales; and has most respectfully and earnestly to entreat that You will, Right Honorable Sir, in consideration of Memorialist's Attachment and sacrifices to the cause of Great Britain and of his long and faithful Services, be pleased to allow him, agreeably to His Majesty's Regulations, the remission of Purchase Money on Land usually granted to Officers of Memorialist's Rank and Services, on their retirement, and Settling in this Country.

And Memorialist as in Duty bound shall ever pray.

F. Rossi,

Sydney, New South Wales, 15th October, 1833.

[Sub-enclosure.]

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

Sir,

Colonial Secretary's Office, 5th November, 1830.

I am directed by His Excellency the Governor to inform you that the Secretary of State has expressed his regret that circumstances do not permit of his complying with the prayer of your Memorial for an increase of Salary. He remarks that no time could have been more unfavorable than that which you have chosen for renewing your application upon this subject. The recommendations, which you have produced from two officers in the administration of the Government under whom you have successfully served in support of the prayer of your Memorial, would not have failed to receive the Secretary of State's most favorable consideration, had not circumstances compelled him to decline sanctioning any applications of this nature.

I have, &c.,

ALEX. MCLEAY.

* Note 60.
Sir,

Government House, 24th October, 1833.

I have the honor to bring before your notice an application made to me by the Committee of the Sydney Mechanics Institute* for the grant without purchase of part of the Land, formerly occupied as a Lumber yard fronting Georges Street, as a site for the erection of a Building for that Institution.

Not feeling myself authorized to accede to their wishes without the previous sanction of His Majesty's Government, notwithstanding the fact of the grant being devoted to a public purpose, I have remained satisfied for the present with shewing my desire to promote the objects of the applicants by allowing them the temporary use of some rooms in a Public Building, lately occupied as the residence of the Principal Superintendent of Police. I have at the same time engaged to submit their application to His Majesty's Government, and I can strongly and conscientiously recommend it to the most favorable consideration. The Sydney Mechanics Institute has been lately established on the model of those in the Mother Country. It appears to have been already somewhat successful in promoting a taste for mental cultivation among persons in the middle ranks, thereby greatly tending to check those coarser pursuits unhappily too common in this Colony; and there appears to me no reason to fear that it will ever be perverted from its legitimate object to any of a political nature.

Although the Land sought for is of considerable value, this must be the case with any other site, which is equally central; and no other can be so well adapted for the purposes of the Institution. The Committee propose leasing the Land to some person, who will undertake to build thereon and appropriate a sufficient part of the Building to the purposes of the Institution free of expense. The Secretary of State for the Colonies lately established a precedent for an arrangement of this kind by granting to the Committee of the Australian Library two Allotments in Rush Cutters Bay† near Sydney, with an express view to their being sold and a Library being erected out of the proceeds on an allotment in Sydney, promised as a grant to the Committee by my Predecessor, previously to the promulgation of the order for the Sale of Crown Lands. I cannot help adding that the present applicants are much more in need of assistance than the Subscribers to the Library and are at least equally deserving of it.

The Land applied for would probably fetch at a Sale by Public competition about £600.

I have, &c.,

RICH. BOURKE.

* Note 61.  † Note 62.
Sir,

Government House, 25th October, 1833.

At the request of Sir Edward Parry, the Commissioner for managing the Affairs of the Australian Agricultural Company in this Colony, I have the honor to forward to you the enclosed Letter from him occasioned by my refusal to allow the Sum of 8s. per ton for Coal, delivered by the Company to the use of this Government, and for which 6s. had been paid before the arrival of the despatch* of Lord Goderich authorising me to consent to the higher sum being fixed as the price between the Government and the Company.

Copies of all the correspondence on the subject will accompany this despatch; but it may be convenient for me to present you with an outline of the case in the light in which it appears to myself.

The original agreement between the Government and the Company was that all Coal required for the use of Government, not exceeding one fourth of the annual produce of the mines, Should be supplied at the pit's mouth at prime cost.

Some difficulty being found in adjusting the amount to be considered as prime cost, Sir Edward Parry proposed† that the Government should pay 6s. provisionally. This was certainly not proposed in such a way as to form any admission by the Company that it was an adequate payment; but, in acceding to it, I was myself influenced by an opinion that it was a fair and reasonable price being 25 per cent. lower than 8s., the price charged to the Public at the same time. This difference appeared to me consistent with the spirit of the original agreement, according to which it was clearly contemplated that the Government should be supplied at a price lower than the Public. Under this impression, I directed that Sum to be paid; and, although Sir Edward Parry may have retained an impression that more would appear to be justly due on fuller investigation, the local Government could not be considered as authorising such a view of the case by the mere act of paying the price proposed by Sir Edward Parry.

The accompanying papers will shew that, in consequence of a correspondence between the Governors of the Company in London and Lord Goderich, the latter by his despatch No. 89 of the 26th April, 1832, authorised me to assent to 8s. per Ton as the

* Note 63.  
† Note 64.
price between the Government and the Company, provided I saw no objection to the reasonableness of that account.

Under this authority, I assented to this new arrangement, considering of course that it was perspective only and that the consent of Lord Goderich applied only to future payments. My objections to extend the allowance of 8s. to the Coals, which have been already paid for at 6s., are as follows:—1. That to open up an account, which has been adjusted and paid, is contrary to the invariable practise of Government; 2nd. That I do not consider I was required to do so by the despatch alluded to; and 3 That, had I so interpreted that Despatch, I should not, under the discretion which it left me, have assented without qualification to the payment it proposes. When I agreed to allow 8s., the Coals were selling to the Public at 10s. 6d., when 6s. were paid they were selling at 8s. Both prices have therefore been paid by me on the same principle of claiming a reduction to the Government from the price charged to the Public, and which I should abandon, if I assented to a payment of 8s. for Coals supplied to the Government at a time when the Public paid no more.

I have, &c,

RICHD. BOURKE.

[Enclosure No. 1.]

[A copy of Sir Edward Parry's letter, dated 12th September, 1833, is not available.]

[Enclosure No. 2.]

SIR EDWARD PARRY TO COLONIAL SECRETARY MACLEAY.

Sir,

Port Stephens, 7th June, 1833.

I do myself the honor to acquaint you, for the information of His Excellency the Governor, that I have received from the Directors of the Australian Agricultural Company a Communication on the Subject of the price to be paid for Coals furnished by the Company to His Majesty's Local Government, enclosing a Copy of a Letter addressed to the Governor of the Company by Mr. Hay, dated the 12th of April, 1832.

As it appears by this latter document, of which I have now the honor to transmit to you a Copy, that His Majesty's Home Government has referred to His Excellency the proposal made by the Directors of the Company that the Government should pay, as a fixed price, eight shillings per ton for the whole quantity of Coals supplied to them, I beg leave respectfully to request that this proposal be acceded to by His Excellency on the part of His Majesty's Government.

In making this request, I am prepared to shew that His Majesty's Government will, under the proposed arrangement, be Supplied with Coals on terms highly advantageous to the Public, while the
confusions arising from the payment of two distinct prices under the present System (according to the quantity furnished) will be altogether avoided.

I beg leave to add that finding it impossible to go on Supplying the Public at the losing Price of eight-shillings per Ton, I have been under the necessity of raising it to nine Shillings; And, unless the demand Should increase very considerably, I shall be obliged to return to the price Charged by His Majesty's Government up to June, 1831, or three Months before the Working of the Mines was transferred to the Company.

I have, &c.,

E. W. Parry.

Commissioner for Managing the Affairs of the Australian Agricultural Company in New South Wales.

[Sub-enclosure.]

UNDER SECRETARY HAY TO MR. J. SMITH.

Sir, Downing Street, 12th April, 1832.

I am directed by Viscount Goderich to acknowledge the receipt of your letter of the 6th Inst., in which, with reference to the Original Arrangement by which the Australian Company undertook to supply the Government of New South Wales with Coal from their Mines at Newcastle, you Submit that this article Should be Charged at the fixed rate of Eight Shillings per Ton at the Pit's mouth, instead of the price being annually regulated by the process at first proposed, Viz., that the Principal Manager of the Mines Should make a periodical Statement upon Oath, founded upon the Company's Books of Account, as made up to the 30th April of each Year.

Lord Goderich desires me to acquaint You, in reply, that he is desirous of meeting the wishes of the Company by Simplifying, as much as possible, the transactions in question between the Colonial Government and the Company’s Agent in the Colony, and has no doubt that the proposition which you have brought forward in behalf of the Company Originates in no other Views than those which are professed; at the same time Lord Goderich feels that he should be incurring a Most heavy responsibility, were he upon the Company’s Statement alone to decide upon dispensing altogether, and without previous Communication with the Governor, with those measures of precaution which were deemed necessary, at the period at which the transfer of the Mines was agreed upon, for Securing the interests of the Public.

Under these circumstances, His Lordship can only undertake to authorise General Bourke to receive the Coal furnished by the Company’s Agent for the use of the Colonial Government at the price which you have named, provided he sees no reason to question the reasonableness of that Amount, and upon the understanding that he will have the power of returning to the original mode of ascertaining the cost price of the Coal to the Company, Viz., by the Statement made on Oath by the Manager, whenever it shall appear to the Governor necessary, with the view of satisfying himself that the Government are not charged higher for the article than the circumstances of the case justify.

I have, &c.,

R. W. Hay.
Letter acknowledged.

Qualified consent to fixed price for coal.

Reduction in price of coal by government.

Protest against increase in price of coal.

Submission of account for retrospective increase in price of coal.

[Enclosure No. 3.]

COLONIAL SECRETARY MACLEAY TO SIR EDWARD PARRY.

Sir,

Colonial Secretary's Office, 27th July, 1833.

I have the honor to acknowledge the receipt of your letter of the 7th Instant, enclosing the Copy of one addressed by the Under Secretary of State to the Governor of the Australian Agricultural Company in reply to their proposal that the price for the whole quantity of Coal supplied should be eight shillings per Ton, instead of One fourth part of the whole disposed of by the Company being charged at the Cost price only; and requesting that, as it appears that the application has been referred to the Governor, His Excellency will comply with it.

Having laid your communication before the Governor, I am directed to inform you that his Excellency accedes to the proposal that the Government shall be furnished at the Pit's mouth with all the Coal wanted for its own consumption at the rate of Eight Shillings per Ton, reserving however the right to return to the Original Agreement whenever His Excellency thinks proper.

I am also directed to inform you that this Government reduced the price of Coals from ten Shillings and sixpence to eight shillings per Ton on the 25th August, 1829, and not three months only before the working of the Mines was transferred to the Company as you seem to consider.

I am likewise instructed to inform you, with reference to your intimation of a further rise in price to the public, that this Government is bound to pay its attention to the Subject, and to remonstrate if the Company should avail themselves of their monopoly to the prejudice of the Public for whose benefit the Mines were transferred by the Crown to the Company.

I have, &c,

ALEX. MCLEAY.

[Enclosure No. 4.]

SIR EDWARD PARRY TO COLONIAL SECRETARY MACLEAY.

Sir,

Port Stephens, 1st August, 1833.

His Excellency the Governor having been pleased to accede to the proposal made by the Directors of the Australian Agricultural Company to H.M. Home Government to fix the price to be paid to the Company for coals furnished by them to the Local Government at Eight Shillings per Ton, as notified to me by your letter of the 27th ultimo,

I have the honor to enclose to you herewith an account in triplicate, amounting to £25 10s. Sd., Twenty five pounds, ten shillings and eight pence, for the arrears due to the Company upon the several quantities of coals furnished to the Colonial Department, and for which the sum of six shillings only per ton has before been charged on account; and I request you will obtain the sanction of His Excellency the Governor for the immediate payment of the above Sum.

I have, &c,

E. W. PARRY.
HAY TO BOURKE.

[Sub-enclosure.]


H.M. Colonial Government.

Dr. to the Australian Agricultural Company for the following quantities of coals supplied to the Department of the Master Attendant, charged in the original accounts rendered at Six shillings per Ton on account, but now agreed to be paid for by H.M. Government at Eight Shillings per Ton, as per letter from the Colonial Secretary dated 27th July, 1833.

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E. W. Parry.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Numa.)

Sir,

Downing Street, 26th October, 1833.

I have laid before Mr. Secretary Stanley your letter of the 15 March last, together with the one, which accompanied it from Mr. Busby, who fills the office of British Resident at New Zealand.

Mr. Stanley approves of your having declined to issue to Mr. Busby full Salary for any part of the time, that he was, for the reasons stated by you, detained at New South Wales, half salary from the date of his landing there till his arrival in New Zealand being the utmost he had a right to expect. He also approves of the decision, which you formed in regard to the unreasonable application which he made for the Materials of a House and for the services of Mechanics and Constables.

In communicating to Mr. Busby the Secretary of State’s decision upon these points, you will remind him that he was distinctly informed, at the time of his appointment, that his Salary of £500 would form the whole of his advantages and emoluments, and that, in subsequently acceding to his application for the framework of a house, the Secretary of State acted under the impression that the Local Government, from the means at their disposal, could at a trifling expense relieve Mr. Busby from a very heavy outlay, and on that ground alone was his request entertained.

I have, &c.,

R. W. Hay.
Sir.

Government House, 27th October, 1833.

I have the honor to transmit herewith a Memorial from Mr. Macquoid the Sheriff of this Colony, petitioning to be relieved from the payment of a certain Sum recovered against him in the Supreme Court on account of the default of one of his Bailiffs, on the ground that the Fees of the Sheriff’s office, which have been received by Government since the fixing of the Sheriff’s Salary at £1,000, ought to be considered as a fund for guarding him from all liabilities not arising from wilfulness or gross negligence; and soliciting likewise that such fees or a larger Salary than is at present allowed may be applied to the remuneration of a Deputy Sheriff for performing the duties of the Civil Branch of the Sheriff’s Department.

On the first point, I have to observe that I see no reason to alter the opinion, which I directed to be conveyed to the Sheriff on his first making an application to me for the indemnity claimed, viz., “that I object wholly to the principle, which would oblige the Government to pay for the mistakes of the Sheriff not proved to be wilful, both as separating liability from the Acts of the Officer, and thereby taking away a chief motive of circumspection, and also opening a door to the Public Treasury, which would never be closed.” To this communication (a letter from the Colonial Secretary to The Sheriff, dated 6th July, 1833), I also beg leave to refer you for the circumstances of the case in which the Sheriff applied for indemnification.

With regard to the alteration requested in the Salary of the Deputy Sheriff, who is now allowed £200, I beg to premise that the Salaries in the Sheriff’s Department amount to £1,800 per annum, while the Fees for 1832 amounted to £727 16s., and are not likely to be increased this year; and it appears by a Minute of the Chief Justice transmitted herewith that the Judges are not prepared to advise any increase of the present rate of Fees, which is conformable to that of the Sheriff’s Office in England. I stated in a despatch to Mr. Hay of the 25th May, 1833, that, on a new appointment, whenever such shall take place, I thought it would not be difficult to find a responsible person possessing a legal education and therefore better able to guard against mistake and loss, who would be willing to undertake all the duties of the Office (Civil and Criminal) for the fees only. This opinion I still retain. It is at the same time true that the duties devolving
on the Sheriff in the Criminal branches of this department, for which no fees are receivable, are much more onerous here than in the most populous County of England.

On these facts taken together, I should recommend that no alteration be made in the present arrangement, by which both the Criminal and Civil business is to be done, and its liabilities borne for £1,800 distributed in Salaries to the Sheriff and his Officers, Government receiving the Fees; or that the Fees be allowed to the Sheriff, from which to defray the Salaries and other expences of his Officers and Clerks, with a Salary to himself of £600 a year for discharging the Criminal duties, to be raised to £800 a year on the establishment of Circuit Courts and to include charges for travelling. If the latter arrangement be made, I should recommend that it be considered and expressed to be personal to Mr. Macquoid, and not to be taken as a basis upon which the Office is permanently to rest. The greater facility and security, with which the duties of the Office could be fulfilled by a person bred to the Law, would enable such a person to undertake them for a less remuneration than would answer the purpose of the present Sheriff.

I have to add that, in order to prevent the ill-effect which would have arisen from an execution against the goods of the Sheriff, I authorized the payment to him in advance of Salary of £287 16s. 8d., the amount of debt and costs in the Action referred to in his Memorial. For this Sum, I have taken his Bond.

A few other matters relating to the Office of Sheriff are embraced in the Memorial of Mr. Macquoid, concerning which, as they are connected with the Judicial arrangements of the Colony, I have no observations to make beyond expressing my concurrence in those, which are comprised in a Minute of the Chief Justice addressed to the Colonial Secretary of the 14th October, 1833, and transmitted herewith.

Copies of letters addressed by the Sheriff to this Government being appended to his Memorial, the Copies of the Official replies to such letters are also forwarded herewith, as also a letter from Mr. Justice Burton on the general subject of his Memorial addressed to myself.

I have, &c.,

Richd. Bourke.

[Enclosures.]

[Copies of these papers are not available.]
GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 87, per ship Elizabeth; acknowledged by right hon. T. Spring Rice, 9th July, 1834.)

Sir,

Government House, 1 November, 1833.

At the request of Chief Justice Forbes, I have the honor to transmit the accompanying letter upon the subject of his Official residence in Sydney. I have every reason to believe that the Chief Justice was convinced, on taking his Seat on this Bench, that the advantage of an Official Residence was fully secured to him, and I would therefore earnestly hope that the application, he now makes to retain it, may be favorably received.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

CHIEF JUSTICE FORBES TO RIGHT HON. E. G. STANLEY.

Sir,

Sydney, New South Wales, 28th October, 1833.

In presuming to address you personally, I feel that I am bound to offer a sufficient apology for doing so. I will therefore briefly state that this letter is intended as an appeal to your justice from what appears to have been a direction* given by your predecessor, Lord Goderich, respecting the payment of rent for the house occupied by me, as the Chief Justice of the Supreme Court. In order to bring the whole subject under your view, I would beg leave to lay before you the following circumstances.

Upon my retiring from the Office of Chief Judge of Newfoundland in the year 1822, I was recommended by Earl Bathurst, without solicitation on my part, for the appointment of Chief Justice of the Supreme Court, then about to be instituted in New South Wales; and I was informed that my salary would be fixed at two thousand pounds a year, without fees or other allowance, except an official residence, which was already provided in the Colony, and would be kept in repair at the expense of the Government. I would here beg leave to observe in explanation that, at the time of my appointment, there were two Judges in the Colony, who respectively presided over the criminal and the civil courts, for each of whom an official house had been provided at the public charge; and, as both of these houses would become vacant, it was considered an arrangement of mutual convenience that one of them should be assigned to me in lieu of a larger salary. This was the clear understanding at the time, and, in furtherance of it, a plan of the house I now occupy, which was at that time in the Colonial Office, was lent to me by direction

* Note 65.
of Mr. Wilmot Horton to enable me to adapt my furniture to it in London. It is now so many years since this arrangement took place, that it may be difficult to refer to any record of it in the Colonial Office, especially as it was substantially incorporated into the charter, and confirmed, as I considered, by its express provisions. I think, however, that Mr. Stephen, who prepared the charter, will remember the circumstances under which the proviso relating to the residence of the Chief Justice was inserted. For the facility of reference, I have the honor to annex to this letter a printed copy of His late Majesty's charter, under which the Supreme Court is at present held, and you will observe, Sir, that by the sixth section I am expressly protected from the payment of rent for my official residence.

On the 4th September, 1833, I had the honor to receive a communication from His Excellency the Governor, informing me that "instructions had been received from His Majesty's Government to require the Colonial Secretary and the Chief Justice to pay the Government a fair and equitable rent for their official residences, from the 1st July, 1832, for the period they shall occupy them, the Secretary of State not feeling himself at liberty to revoke the directions of his predecessor upon this point." As this requisition appeared to me to be at variance with the terms of the Charter, I was naturally led to suppose that the circumstance had not been presented to His Lordship's view at the time, and I requested His Excellency to give me such further information as he might be at liberty to communicate upon the subject. I now understand that the original directions of Lord Goderich were contained in a despatch dated 29th September, 1831, in which His Lordship, adverting to the Offices of this Colony generally, is pleased to observe that, although no reduction had been recommended by the committee of the House of Commons in the one which I have the honor to hold, yet His Lordship saw no reason for continuing the indulgence of an official residence. To that despatch, Sir, I would most respectfully call your attention; it contains no allusion to His Majesty's Charter, and I cannot but assume that His Lordship was not aware that an official residence had been provided for me, as a part of my fixed judicial allowance. I entertain the greater confidence upon this point, because of His Lordship's high sense of justice and of his recorded efforts to place the salaries of the Judges in the Colonies upon the same settled basis as the salaries of His Majesty's Justices in England. And you will further perceive, Sir, upon referring to the despatch of the 29th of September, that His Lordship was pleased to consider an express promise to the
Colonial Secretary of being permitted to receive a superannuation allowance of £750 a year, in addition to his salary of £2,000 a year, as binding upon the Government, although it is admitted that the emoluments of that office greatly exceeded what His Lordship considered to be an adequate remuneration for the duties. And I feel quite assured that His Lordship would not have deemed a promise, made to the Colonial Secretary, under such circumstances, more binding than a compact entered into with the Chief Judge of the Supreme Court, and solemnly recognized by His Majesty's Charter. I hope it will not be deemed out of place if I add that the house alluded to by Lord Goderich, as being occupied by the Colonial Secretary, is in fact the house formerly attached to the office of the Judge of the Criminal Court; and, upon the abolition of that Court, it was occupied by Major Goulburn, the then Colonial Secretary, with the permission of the local Government, as a mere indulgence; and, upon Major Goulburn's retirement, it came into the possession of his successor, the present Colonial Secretary.

Under these circumstances, Sir, I think you will admit that my case stands upon its own grounds, both in a legal and personal point of view, and that no other servant of the Crown is similarly situated. The salaries of all the other public Officers have been progressively increased, since I came to this Colony, and in some instance to double their original amount. Mine alone has remained stationary; and I feel some confidence, if its duties be examined, that it will not be thought overpaid. I have, Sir, stated my case as plainly as I can, and I will appeal to you, as I would have appealed to Lord Goderich if His Lordship had continued in office, with the fullest confidence of receiving justice at your hands. It would be, to me, a source of much pain and mortification to be supposed to receive any thing from the public, beyond what might be a fair remuneration for my services; and I will cheerfully abide by any decision you may deem just. Should you, Sir, be pleased to consider the further continuance of an official residence unreasonable, or attended with inconvenience to Government, I will immediately resign my claim. But I would respectfully submit that some short time be allowed me to build a suitable residence, which I am not aware I could hire at present; and that His Excellency the Governor be instructed to assign me a convenient piece of ground for such purpose.

I have, &c.,

FRANCIS FORBES,
Chief Justice, New South Wales.
BOURKE TO STANLEY.

Governor Bourke to Right Hon. E. G. Stanley.

(Despatch No. 88, per ship Elizabeth; acknowledged by right hon. T. Spring Rice, 6th June, 1834.)

Sir, Government House, 2nd November, 1833.

I have the honor to transmit herewith the Copy of a letter received from Chief Justice Forbes, requesting me to obtain His Majesty's gracious allowance of a Rule of the Supreme Court of this Colony, made on the 29th September, 1829, for dividing the business of the profession of the Law in that Court in like manner as the same is divided in England, and for giving to the Practitioners admitted in the Court at the date of the Rule the power of electing to which branch of the Profession they would adhere.

This Rule, it appears was transmitted with others by my Predecessor in his despatch No. 27/1831. It contains a suspending clause, by which its operation has been deferred until His Majesty's pleasure shall be made known. No intimation of the King's commands having been received, the Rule remains inoperative. It has now become very desirable that it should take effect without further delay, and I have therefore to request that you will please to recommend its immediate sanction at your earliest convenience.

With respect to that part of the Rule, which gives to the Practitioners the choice of the branch of the profession to which they are to adhere when the separation shall take place, I am authorized to say that, if the Rule for separation were to be made for the first time at this period, The Judges would not desire to allow a choice to the Practitioners and would admit none but Barristers to practise as such. If, in the new Charter of Justice, which I have been informed is preparing for the Colony, the regulation of the practise of Barristers and Attornies should form any part, it will not I conceive be advisable to allow of any choice to the Parties on a Separation of their practise taking place.

I have, &c.,

Richd. Bourke.

[Enclosure.]

Chief Justice Forbes to Governor Bourke.

Sir, Sydney, 28th October, 1833.

I had the honor some time since to enclose to His Excellency General Darling certain Rules for the conduct of business in the Supreme Court of this Colony, in order to their being transmitted to England for His Majesty's allowance, in conformity with the Act of Parliament, 9th Geo. 4, Cap. 83, S. 16, which, as appears by an Official notice published in the Government Gazette under date April 6th, 1831, were duly transmitted by His Excellency to His Majesty's Government. I have been informed that his Majesty's pleasure has not been signified with respect to the particular Rules
1833.
2 Nov.

SUSPENDING CLAUSE IN RULE FOR DIVISION OF LEGAL PROFESSION.

referred to; but, as it is provided by the Act that all Rules of Court promulgated by the Judges shall be in force until His Majesty shall disallow them, no inconvenience has been experienced upon that account. Your Excellency will, however, observe that the very important Rule, which relates to the division of the profession of the Law and the separation of the barristers and attorneys, is in express terms Suspended until the allowance of His Majesty shall be first signified. This suspending clause was introduced in consideration of the very important changes its immediate operation would effect, and the great inconvenience which would result, if it should be ultimately disallowed. It was also expected by the Judges that, by promulgating the Rule in its present form, the practitioners would be induced to adapt their practice gradually to the contemplated division, and sufficient time would be afforded them for making the necessary arrangements. For the same reasons, this important measure has not been pressed upon the further consideration of His Majesty's Government. The expectations of the Judges have in the mean time been realized, and I have now the satisfaction of informing your Excellency that my brethren and I concur in opinion that the time is fully arrived when the two Departments of the profession may be separated, without serious inconvenience to the practitioners and with permanent advantage to the Suitors and the Court; and I have the honor to request that your Excellency will bring the Subject of this letter under the early consideration of the Right Honorable the Secretary of State for the Colonies, and be pleased to suggest the expediency of recommending to His Majesty, either to signify His Most gracious allowance of the Rule transmitted to England, as before stated (a Copy of which I have the honor to annex for the convenience of reference) or to sanction the promulgation of a new Rule by the Judges in this Colony to take effect immediately for dividing the profession.

I have, &c.,
FRANCIS FORBES,
Ch. Justice Supreme Court.

[Sub-enclosure.]

RULE OF COURT.

That the business of the profession of the Law be divided in this Court in like manner as the same is divided in England, provided that this Rule shall not take effect until His Majesty's pleasure shall first be made known.

That the several Practitioners admitted in the Supreme Court at the date of this Rule be allowed to elect to which branch of the profession they will adhere; such election to be made and signified to the Court within the time limited for the preceding Rule* to take effect.

That no other persons be admitted as Barristers in the Supreme Court, unless such persons shall have been duly admitted as Advocates or Barristers in some one or other of the King's Courts in Great Britain or Ireland.

That, from and after this Rule, the following persons only shall be eligible to act as Solicitors or Attornies in the Supreme Court, Viz.:—

1st. Persons actually admitted as Solicitors, Attornies, Proctors, or Writers to the Signet, in some one or other of the King's Supreme Courts within the United Kingdom of Great Britain or Ireland.

* Note 67.
2. Persons having been articled to some practising Solicitor or Attorney in New South Wales, and having served the term of five years of Clerkship.

3. Persons, who having been so articled and served for any period of time, shall complete the residence of the full term of five years of Clerkship in England; or who, having been duly articled and served as aforesaid in England, shall complete the residue of the full term of five years of Clerkship in New South Wales; or

4. Persons who shall have served the term of five years as a Clerk in the Office of the Supreme Court.

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RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 50, per ship Numa.)

Sir, Downing Street, 5th November, 1833.

I have received your Despatches No. 37 of the 1st, and No. 52 of the 18th of May last.

The claim of Mrs. Henry Cooper, submitted in your Despatch No. 37, to a Grant of Land, which Sir Thomas Brisbane had in 1825 authorised her husband to select, but which Mr. Cooper neglected to do until after the promulgation of the new Regulations, has very properly been rejected by you.

The general view, which is taken in your Despatch No. 52 of the case of Mr. E. S. Hall, meets with my concurrence. He certainly is entitled to receive the Thousand acres, granted to him by General Macquarie in the particular spot intended by that Officer, and, of course, ought not to suffer for an oversight of the local Government; but, at the same time, I see no reason for giving Mr. Hall a larger quantity than General Macquarie meant him to receive. You will, accordingly, put him in possession of One Thousand acres only in that position, and, if he should still be desirous to have his Grant bounded by the Lake, you will require him to surrender a portion of his original Grant, equal to the quantity that he may obtain between the former and present margins of the Lake. In the absence of a Map of the locality, I am unable to judge how far the interests of Mr. Henry Hall (whose Grant adjoins and, indeed, as I understand the matter, encroaches upon that of Mr. E. S. Hall) may be affected by this measure; but, as the latter had priority of possession, Mr. Henry Hall must give way if necessary, and be compensated with Land elsewhere for any loss which he may sustain, to such extent as, in your opinion, the justice of his case may appear to require.

I am, &c.,

E. G. STANLEY.
RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 51, per ship Numa.)

Sir,

Downing Street, 6th November, 1833.

By the despatch addressed to you by Lord Goderich on the 23rd March last, No. 153, you were made acquainted with the decision of His Majesty’s Government in respect to the tract of Land selected on behalf of the Australian Agricultural Company by their Agent, Sir Edward Parry, to which certain objections had been made by you on the report of the Surveyor General. I do not consider it, therefore, necessary to enter upon the consideration of the contents of the further Despatch, which you have sent home upon this subject, dated the 6th May last, No. 43, as the question has been finally set at rest by that decision.

I am, &c.,

E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 52, per ship Numa.)

Sir,

Downing Street, 7th November, 1833.

I have received your Despatch No. 45 of the 9th May last, reporting the dismissal of Mr. Kentish from his situation as Assistant Surveyor. The tone of the letters, which he addressed to yourself and to the Head of his Department, was extremely reprehensible, and, coupled with his previous misconduct, quite warranted the decision which you adopted.

With respect to the Salary which you authorised to be issued to him for the purpose of enabling him to return to this Country, although I shall not withhold my sanction in this instance, yet I think it right to caution you against such an indulgence in future, as I consider that any Officer, whose conduct may have been such as to call for his removal from the Public Service, should not be relieved from the inconveniences to which such a course may have subjected him.

You are at liberty to engage the services of the person referred to in your Despatch at the rate of £120 per annum to supply the place of Mr. Kentish; but you will acquaint him that the duration of his employment must depend upon the opinion, that may hereafter be entertained of the value of his services and of the necessity of their being continued.

I have, &c.,

E. G. STANLEY.
Sir,

Downing Street, 10th November, 1833.

I have had the honor to receive and to lay before Mr. Secretary Stanley your letters of the dates noted in the margin.*

The explanations afforded in your letter of the 16th May, respecting the complaints of Mr. Smeathman, the Coroner of Sydney, as to the inadequacy of his Emoluments and his Grant of Land, are satisfactory to Mr. Stanley. You will, therefore, acquaint Mr. Smeathman that the Secretary of State does not see any occasion for his further interference in the matter.

Mr. Stanley concurs in the opinion, expressed in your letter of the 25th May, that it would be inexpedient to change the Rank assigned by Sir George Murray to the Sheriff of New South Wales in the Table of Precedency. You will be good enough to communicate this decision to Mr. Macquoid. Whenever it may become necessary to select another Gentleman for this situation, your suggestion in regard to his qualifications will receive consideration.

The sum of money, to be taken in Land, which has been awarded to Mr. James King by the Executive Council for his discovery of the valuable properties of certain Sand found in the neighbourhood of Sydney, is, in Mr. Stanley's opinion, amply sufficient. Mr. King must look for further remuneration to the advantages, which a commercial speculation in the Sand may appear to afford. You will be good enough to communicate to Mr. King the result of this reference of his case to England.

In compliance with the request contained in your letter of the 3d July, I enclose a copy of Mr. Twiss's letter to your Predecessor of the 27th November, 1828. It, however, only relates to the amount of annual increase, which ought to take place in the Salaries of the Clerks in the several Departments of your Government, the question of attendance having formed the subject of a Despatch from Sir George Murray of a later date, of which I enclose an extract for your information.

I am, &c.,

R. W. Hay.

[Enclosure No. 1.]

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch marked Private.)

[A copy of this despatch will be found on page 498, volume XIV.]

* Marginal note.—16th May, 1833; 25th May, 1833; 3rd July, 1833; 3rd July, 1833.
Proposed
Increase of
hours for
official work.

10 Nov.

EXTRACT Sir G. Murray to Genl. Darling, 12 April, 1829, No. 93.
"The very full explanations, which Mr. Lithgow has given in his letter in respect to his own duties and that of the persons belonging to his Office, may furnish sufficient grounds for the increase of Expenditure; wh. the arrangements suggested by him will occasion; but you will acquaint that Officer and the Clerks of his Dept. that, when augmentations of Income and of assistance are acceded to only on the express condition that if the Estabt. shall not be found fully adequate to keep down the business of the Dept. at the present rate of official attendance, which appears to be for only seven hours a day, they will be required to afford without further increase of Salary such additional attendance as that business shall require, not exceeding a daily average of nine hours diligently and efficiently employed."

11 Nov.

Instructions
re J. Orr.

12 Nov.

Refusal of
remission of
quit rent for
T. B. Wilson.

Extension
of term for
residence.

[Enclosure No. 2.]

Extract Sir G. Murray to Genl. Darling, 12 April, 1829, No. 93.

Sir,

Downing Street, 11th November, 1833.

I am directed by Mr. Secretary Stanley to transmit to you the enclosed letter, which has been received from a Clergyman at Paisley, and to request that it may be forwarded to James Orr; but, in the event of the Prisoner's decease, I am to request that you will return it, accompanied by a Certificate of the date of his death, in order that his Children may benefit by a small legacy which, it appears, has been left to the Father.

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

[Enclosure.]

[A copy of the Revd. J. Macnaughten's letter, dated 28th October, 1833, is not available.]

Sir,

Downing Street, 12th November, 1833.

I have received an application from Dr. Wilson, with the twofold object of obtaining a remission of Quit Rent on an Allotment of Land granted to him by General Darling in pursuance of Instructions from the Secretary of State, and of being relieved from the usual restriction of residence. I have not felt myself at liberty to relieve Dr. Wilson from any charge, to which the land in question may be liable on account of Quit Rent; but I have no objection to meet his wishes in regard to the condition of personal residence, so far as to authorise you to extend the period to two years from the 12th of March next, as
STANLEY TO BOURKE.

I consider that the employment of Dr. Wilson in charge of Convicts on their passage out to the Colony, and the outlay of Capital which it would appear has already taken place upon his Land, is a sufficient Guarantee of his intention of residing upon it, as soon as that employment shall cease; and that no inconvenience can, therefore, accrue from dispensing with the strict enforcement of the Regulations in this particular in Dr. Wilson's case.

I have, &c.,

E. G. STANLEY.

13 Nov.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.

(Despatch No. 54, per ship Numa.)

Sir,

Downing Street, 13 November, 1833.

I have received and referred, for the consideration of the Lords Commissioners of the Treasury, your Despatch No. 14 of the 24th January last, respecting the claim of Mr. J. R. Kent to be paid the sum of £297 6s. 2d., on account of certain Disbursements made by him, while in the command of a Government Vessel. Their Lordships, having called upon Deputy Commissary General Wemyss for his report upon the claim, the statement of which a copy is enclosed, has been received from that Officer, by which you will perceive that Mr. Wemyss does not consider Mr. Kent to have any well founded claims against the Government.

I am, &c.,

E. G. STANLEY.

[Enclosure.]

DEP. COMMISSARY-GENERAL WEMYSS TO HON. J. STEWART.

Sir,

Edinburgh, 1st October, 1833.

I have the honor to acknowledge the receipt of your letter of the 26th Ultimo, transmitting the Copy of a Letter from Major General Bourke and its several Enclosures.

Having perused the same, I now at your desire hasten to return them, and to observe that the accounts in question preferred by Mr. Kent were submitted to me many years ago, is admitted; but why they were not adjusted Mr. Kent can best tell. He left the Colony, returned once or twice, but of this I am not certain, however, with the opportunity certainly, if he had felt aggrieved of submitting his case to the Governor.

I objected to them, if my memory serves me, on the principle that, as the Master of a Government Vessel, he was not authorised to carry on any traffic. He received his stipulated Pay and the Crew their regular wages; and, therefore, in the absence of any instructions to the contrary the gain if any should have been to his Employer, the Public.

I perfectly well remember as another ground of objection that, of a quantity of Spirits put on board of one of the vessels Mr. Kent had charge of, no satisfactory account was given. The Master Attendant I am sure will bear me out in this; nor would I am persuaded have given his sanction, had he known it to be any thing
1833.
13 Nov.

Report by
W. Wemyss
on claims of
J. R. Kent.

under the denomination of private Trade, for to have attained the
objects of the Voyage on which he was sent he had the resources of
the Government, the Command of the King's Stores.

I know not if it was at the time, but I should certainly do so
now, were it found necessary, object to his scheme of conversion,
one Article for another. No such practice then existed, nor was he
authorised to do so.

I should in like manner object to the charge of condemned Biscuit
and Flour without proof, of which some was offered.

I should have required also to be furnished with the Authority,
under which he provided so many Thousand Rations to more than
his Complement of Men, and for what purpose no less a quantity
than 4,402 lb. Salt was expended.

There are many other points on which I think objections may
fairly be urged with Mr. Kent; and his Agent must know well that
my departure from the Colony was announced eighteen months
before it actually took place, thereby affording ample time for
claims of every description to have been preferred.

If application had been made even after this great lapse of time,
a period of seven years from the commencement of the account, I
should have been most happy to have met Mr. Kent or his Agent;
but I hesitate not to say that no well founded claim on his part
exists against the Public.

I have, &c,

W. WEMYSS, D.C.G.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 55, per ship Numa.)

18 Nov.

Sir,
Downing Street, 18 November, 1833.

I have had the honor to lay before the King your despatch
No. 46 of the 10th May last, together with the List of 84 Male
and Female Convicts in New South Wales, whom, for the rea­
sons stated in your Despatch, you recommend for the indulgence
of "Tickets of Leave"; and I have to acquaint you, in answer,
that His Majesty has been graciously pleased to signify His
approval of the issue of Tickets of Leave to these Prisoners.

Their names are enumerated in the enclosed List.

I am, &c,

E. G. STANLEY.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 56, per ship Numa; acknowledged by
Governor Bourke, 25th September, 1834.)

21 Nov.

Sir,
Downing Street, 21st November, 1833.

Having forwarded for the consideration of the Lords Com­
missioners of the Treasury the Abstract of the Revenue and
Expenditure of New South Wales for the year 1832, which
accompanied your Despatch No. 36 of the 8th April last, their
Lordships have applied to me for the Quarterly Returns and
Abstracts, which were called for by Lord Goderich's Circular
Despatch of the 28th February, 1832. As you have not sent any of these Returns and Abstracts for 1832, and as you have not assigned any reason for the omission, I am induced to imagine that you have misapprehended the terms of the Instructions conveyed to you by his Lordship, and have supposed that the Statement for the whole year was what the Board of Treasury required. I, therefore, must explain to you distinctly that the Returns and Abstracts, specified in the Treasury letter, which accompanied the Circular before-mentioned, are, in the case of New South Wales, to be made up and sent home immediately after the end of each Quarter; you will, accordingly, give the necessary Instructions to the Colonial Treasurer for his guidance in future, and direct him to prepare, without loss of time, these Returns and Abstracts for the year 1832, together with those for the Quarters of 1833, which may have expired when you receive this Despatch. In conveying these directions to the Treasurer, you will apprise him that any neglect in punctually transmitting the Returns and Abstracts in question, hereafter, will be visited with the serious displeasure of His Majesty's Government.

As this measure will occasion the Accounts to be kept quarterly, I see no reason why their Audit should not take place then instead of being deferred till the end of the year as at present; by this means, the early transmission of the "Blue Book" would be facilitated, which has, hitherto, I understand, been delayed principally on account of the Financial Returns, the preparation of which cannot commence till after the Accounts have been passed by the Auditor. You will, therefore, give the necessary directions to the Auditor General for the purpose.

I am, &c.,

E. G. STANLEY.

GOVERNOR BOURKE TO HON. J. STEWART.

(Despatch No. 12, per ship Children.)

Government House,

Sir,

Sydney, 21st November, 1833.

I have the honor to acquaint you, for the information of the Lords Commissioners of H.M. Treasury, that, on the application of Deputy Commissary General Laidley, I have caused a further payment of £10,000 to be made from the Colonial Treasury to the Military Chest on account of Commissariat claims accruing between the years of 1828 and 1831 both inclusive.

This is the third payment of £10,000 made in this manner, and the claim of the Military Chest on the Colonial Treasury has been thereby nearly liquidated, a sum of little more than £2,000 now appearing to be due.
I ought also further to state that the same causes, which are mentioned in my despatch of the 4th May, 1832, as leading me to apprehend an insufficient demand for Treasury Bills, still exist, and are even stronger than they were at that period; and, as so small a sum now remains due to the chest from the Colony, I have particularly to request the attention of the Lords of the Treasury to the difficulty in which the Commissariat of this Colony will be placed, unless some other means are provided for replenishing its funds.

I have, &c.,

RICH. BOURKE.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 57, per ship Numa.)
22 Nov. Downing Street, 22d November, 1833.

Sir,

I have lately had under my consideration a letter addressed to this Department by Mr. Walter Raymond, whose case is referred to in Lord Goderich's Despatch to General Darling of the 27th December, 1830, respecting a Grant of Land consisting of 2,500 Acres, to the confirmation to him of which difficulties subsequently arose under the circumstances, which are fully explained in General Darling's Report of the 14th July, 1831, and in Lord Goderich's reply of the 28th of December following. Upon an examination of Mr. Raymond's first application, and upon a comparison of the statements which he then made with the information furnished by General Darling, I am inclined to take a more favorable view of Mr. Raymond's case than his Lordship appears to have done after the receipt of General Darling's communication, as I do not perceive that any representation was made by Mr. Raymond, when he first brought his claim under the notice of this Department, which was so far controverted by the enquiry subsequently instituted, as to nullify the conditional promise originally held out to him in regard to the Land in question. I have, therefore, to desire that the Agent of this Gentleman may be immediately placed in possession of a Grant of 2,500 Acres of Land upon the conditions in force, in respect to Quit Rent prior to the year 1831, with the understanding that, if within three years from this date, Mr. Raymond shall not have returned to the Colony, and established himself as a permanent Settler upon his Grant, he will forfeit all claim to it, and the Local Government be competent to resume the same, without reserve, on the part of the Crown.

I have, &c.,

E. G. STANLEY.
1833.
25 Nov.

BOURKE TO STANLEY.

RIGHT HON. E. G. STANLEY to Governor Bourke.

(A circular despatch per ship Hive; acknowledged by Governor Bourke, 10th September, 1834.)

Sir,
Downing Street, 25th November, 1833.

The Lord President of the Council has signified to me that, in order to the formation of rules to guide the proceedings of the Privy Council as a Court of Appeal under the Act of 3 and 4 William 4th, C. 41, the Judicial Committee of the Privy Council deem it expedient that Returns should be obtained from the several Colonial Courts "of all Rules and Regulations as to appeals to His Majesty in Council, the time allowed for appealing, the fees payable in respect of applications to appeal, and authenticated Copies of proceedings, the deposits and securities required, and generally the whole practice in each Court touching appeals to the King in Council."

And I have to desire, therefore, that you will transmit to me the above Returns as soon as possible, so far as relates to your Government.

I have, &c.,

E. G. STANLEY.

GOVERNOR BOURKE to RIGHT HON. E. G. STANLEY.

(Despatch No. 89, per ship Children; acknowledged by earl of Aberdeen, 25th February, 1835.)

Sir,
Government House, 26 Novr., 1833.

I have the honor to transmit for His Majesty's gracious allowance 13 Acts of Council passed during the last Session, the particular objects of which I proceed concisely to state.

3 Wm. IV, No. 8, Is an Act for Licensing Public Houses and regulating the Sale of fermented and Spirituous liquors. This Act was rendered necessary by the expiration of the former licensing Act* and contains only such variations as experience and local circumstances suggested.

4 Wm. IV, No. 1, Is an Act for protecting from encroachment and damage and facilitating the formation of the Tunnel for supplying the Town and Port of Sydney with Water. This Tunnel in its present state produces a daily supply of about 144 Tuns, besides the supply to Shipping, which averages about 600 Tuns per Month. This proves, according to a Report of a Committee of the Legislative Council formed for investigating the subject, a sufficient supply for the present consumption, and, when the Tunnel is completed, it will be most ample. This government is now adopting every means to promote the speedy and

* Note 68.
1833. 26 Nov.

Census act.

Impounding amendment act.

Minor courts fees act.

Appropriation act.

Sydney police act.

Act for appropriation of fees for spirit licenses.

Act for erection of court of claims.

Economical completion. A Report upon this work, as desired by Lord Goderich on the 12th December last, is transmitted in a separate despatch.

4 Wm. IV, No. 2. Provides the means of taking a general Census of the Inhabitants of this Colony. When this Census is completed, I shall have the honor to transmit the Returns made under the act to His Majesty’s government.

4 Wm. IV, No. 3. Is an Act repealing the former Law,* which regulated the impounding of Cattle and substituting new provisions. The former rates of damages and pound fees were felt to be extremely high and oppressive, as the fall in the price of Cattle rendered their proportion to the value greater than before.

4 Wm. IV, No. 5. Regulates the Fees to be taken in the Courts of Police and Petty Sessions, and by Clerks of Justices acting singly. These were before directed to be similar to those taken in the county of Middlesex; but different opinions as to the rates, which prevailed there, had led to considerable variety and uncertainty. The rates are now equalized in the various Districts and for the most part moderated, as they were generally higher than was deemed reasonable.

4 Wm. IV, No. 6. Is an Act Appropriating the Revenue of 1834 to certain purposes therein named. I have had the honor to forward a Copy of this Act with my remarks thereon by a Separate Despatch.*

4 Wm. IV, No. 7. Provides for the better regulation of the Police of the Town and Port of Sydney. A Copy of this Act with my observations thereon has also been already transmitted to you.*

4 Wm. IV, No. 8. Applies the amount collected on the issue of licenses to retail fermented and Spirituous Liquors in the year 1833 towards the Expences of the Police Establishment. This Legislative Appropriation became necessary in consequence of a provision in the Licensing Act of this year that the proceeds of Licenses should be paid into the Colonial Treasury and not into the Military Chest as heretofore. In future, the aid, which the Council may direct to be given for the support of the Police in this Colony, will form a Provision in the Annual Appropriation Act.

4 Wm. IV, No. 9. Is an Act for appointing and Empowering Commissioners to hear and determine on claims to grants of Land† under the great Seal of the Colony. The number of Claimants to such grants, whose Titles rest on evidence requiring minute investigation has been so much increasing of late, that it had become absolutely necessary to establish some

* Note 69. † Note 70.
Tribunal of this nature to consider and decide upon their validity. Upon communicating with the Judges, they recommended the appointment of Commissioners by a Legislative enactment, which they prepared, and which was laid before Council and passed into a Law. I have little doubt that the whole business will be gone through with in the time specified by the Act, namely two years from the passing of the Act, and that the expense will not be considerable to the Colony as the greater part will be defrayed by the Claimants.

4 Wm. IV, No. 10, Is an Act for protecting the Crown Lands of this Colony from encroachment, intrusion or trespass. It authorises the appointment of Commissioners to act as the representatives of the Crown in all matters relating to property in Land, and more particularly to make such entries as should prevent the rights of the Crown from being affected or lost sight of by mere occupation without purchase for a long space of time. I do not however propose, nor could I recommend it as a measure of Sound Policy to seclude settlers from the temporary occupation without payment of those tracts of Country in the remote interior, which are already so occupied as Stock Stations.

4 Wm. IV, No. 11, Is an Act for making altering and improving the Public Roads of the Colony. It regulates the manner in which public roads are to be traced and carried through private property, and provides for compensating individuals for land required for such roads by the decision of a Jury impanelled to assess its value, as nearly as possible in accordance with the Law of England. This compensation can be granted only in those cases, in which no reservation for roads is to be found in the grant of such Land from the Crown.

Provisions have been added, enabling individuals to apply in certain cases to the Surveyor General to mark out for them a private road over the Land of other Persons as a means of access to their own Property; but I propose hereafter to introduce a more complete series of Enactments to apply to Parish roads, and to regulate the means of raising the expense of their repairs within the more populous districts of the Colony.

4 Wm. IV, No. 12, Is an Act regulating Juries, a Copy of which with my remarks thereon I have already had the honor to transmit by a Separate Despatch.*

A Private Act also passed during the last Session for renewing the incorporation of the "Bank of Australia" is likewise here-with transmitted. I am not aware that there are any alterations in the Constitution of this Banking Company, so distinguishing it from that which subsisted under the expired Act, as to require

* Note 71.
any particular notice. But I beg to observe that, as in pursuance of the King's Instructions all private Acts are rendered inoperative until the Sanction of His Majesty has been obtained, an express clause has been inserted in the Act to this effect, it becomes of the greatest importance to the Company that such sanction be given as speedily as possible.

I have, &c.,

RICH. BOURKE.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 90, per ship Children; acknowledged by right hon. E. G. Stanley, 16th May, 1834.)

27 Nov.

Sir,

Government House, 27th November, 1833.

I beg leave to draw your attention to the enclosed Memorial, addressed to me by Mr. Samuel Wright, late a Captain in the 3rd Regiment of Buffs and now resident in this Colony, praying to be allowed to hold his Land on the same terms* as were granted to Military and Naval Officers at the time he retired from the service for the purpose of settling in New South Wales, that is, Free of Quit Rent.

The facts of the case are shortly these. On the 21st February, 1827, Captn. Wright, being then on the Full pay of his Regiment but having previously sent in his Papers requesting leave to sell his Commission as having served Twenty years, applied for and obtained authority to search for Land, having stated in his application to The Governor that, until he received the notification of the Sale of his Commission, he was aware that by Colonial Regulations he was not entitled to obtain a grant. On the 3rd of August, 1827, he communicated to the Colonial Secretary his Selection of Land, and applied for the Letter of possession usual in such cases, the Official notification of the Sale of his Commission having been then received. A letter of possession, dated the 21st September, 1827, such as is given to ordinary Settlers and containing no remission of Quit Rent, was transmitted to him by the Colonial Secretary on the 25th of the same Month. Captn. Wright claimed the advantage proffered to the Military and Naval Officers, retiring from the Service with a view to settle in the Colony, made by a Regulation of H.M.'s Government, dated 8th June, 1826, and made public in London not only previously to his notifying his selection, but previously to his having applied for permission to sell his Commission, though the Regulation does not seem to have been published in the Colony until the 23rd September, 1827. The late Governor having declined to allow Captn. Wright's claim without reference

* Note 60.
to the Secretary of State, the case of certain officers (tho' not specifically that of Capt'n. Wright) were submitted to Secretary Sir George Murray, who, in his despatch dated 30th November, 1829, declares that, unless the advantage held out by the Regulation to Military Officers was the consideration, which induced them to retire from the Service, they were not entitled to benefit by it. It being evident that Captain Wright had resolved upon quitting the service and becoming a Settler in New South Wales in entire ignorance of the Regulation, my Predecessor did not think himself authorized to allow Capt'n Wright the claimed exemption from Quit Rent, and under the same impression I have also thought it right to refuse it.

Mr. Wright has urged a reconsideration of his case; and, having laid his Memorial before the Executive Council, it has been recommended to me to refer the application to the Secretary of State, whom the Council hope will take a favorable consideration of the case. A Minute of Council on this occasion is sent herewith.

I have, &c.,

Richd. Bourke.

[Enclosure.]

The Memorial of Samuel Wright, late a Captain in the 3rd Regt. (or Buffs) and now a Settler in New South Wales.

To His Excellency Major General Richard Bourke, Governor in Chief of New South Wales and its Dependencies, etc., etc., etc.

Respectfully Sheweth,

That Your Memorialist was Gazetted Ensign in the 3rd Regt. (or Buffs) on 6th March, 1806, out of which Corps Your Memorialist sold his Captain's Commission on 25th December, 1826, having resolved to become a Settler in New South Wales.

That Your Memorialist having made what he considered an eligible selection of land (vizt., Four Sections on the River Hunter) apprised the Government of this circumstance and requested that such situation might be confirmed to him as a Grant.

That Your Memorialist in reply to his communication received a letter sanctioning Your Memorialist's selection and authorising him to take possession of it as a Grant.

That Your Memorialist on receiving the above named letter observed that it contained no clause of exemption from Quit Rent.

That Your Memorialist, in consequence of this omission, immediately addressed a letter to the Col. Government claiming the exemption to which Your Memorialist considered himself entitled by an order published in the London Gazette, Your Memorialist having served upwards of Twenty Years as a Military Officer and having retired from the service for the avowed and express purpose of becoming a settler in New South Wales.

That Your Memorialist received no reply to his letter of remonstrance for nearly eighteen months, when at length a communication...
was forwarded to Your Memorialist informing him* that "it had been found necessary to refer to the Secretary of State on his and other similar applications and that he should be informed of the result when an answer had been received."

That Your Memorialist was lately informed by the Colonial Secretary that the result of the reference to the Secretary of State was unfavorable to his Claim; on Your Memorialist enquiring why his name had been included in a List of retired Officers, nearly the whole of whom had been residing on their Farms for many years previous to the promulgation of the Government Order granting exemption from Quit Rents for certain Naval and Military Services, Your Memorialist was informed that it was in consequence of his having applied for permission to select a Grant of Land before the date of the Government Order alluded to.

That Your Memorialist did not Officially apply previously to the date of this Government Order will appear from the accompanying Copy of his first letter and the late Governor's Note on the back thereof, and

Your Memorialist therefore respectfully begs to observe that as his first application cannot be considered an official one, and as more particularly Your Memorialist did not select or receive possession of his Grant until after the Government Order had been received in the Colony, he with great deference submits that he is fully entitled to exemption from Quit Rent for ever.

Your Memorialist has the greater confidence that his claim will be allowed from the impossibility of its being able to afford a precedent, as no similar claim to exemption can arise, the circumstance being peculiar to the case, and having arisen entirely in the mistake in Your Memorialist being classed with retired officers not entitled to the indulgence claimed.

All which is respectfully submitted. [Unsigned.] 17 July, 1832.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.

(Despatch No. 91, per ship Children: acknowledged by right hon. E. G. Stanley, 17th May, 1834.)


I have the honor to Enclose a letter addressed to Viscount Goderich by Mr. I. S. Nind, formerly employed as Colonial Assistant Surgeon in this Colony, praying to be allowed a grant of two Sections of Land under the circumstances which he has detailed. The principal facts, I have reason to believe, are correctly stated, though the cause of Mr. Nind's not having applied for Land in 1829 on his return from King Georges Sound was, as I am informed, that he then labored under mental derangement,† from which he has now recovered. Had this applicant preferred his Suit in 1826, he would have obtained Land in the proportion to his Capital of one Section or 640 Acres for each £500 up to the maximum of 4 Sections or 2,560 acres for £2,000;

* Marginal note.—8 Jan., 1829. † Note 73.
BOURKE TO STANLEY.

but, as it is uncertain what the amount of Mr. Nind's capital might then have been, I would recommend, should you think well of acceding to his request, that one Section only be offered to him upon the terms in force on his reaching this Colony.

I have, &c.,

RICH. BOURKE.

[Enclosure.]

MR. I. S. NIND TO VISCOUNT GODERICH.

My Lord,

Paterson's River, 20 Septr., 1833.

I beg leave to represent to Your Lordship that, in the Year 1825 it being my intention to emigrate to New South Wales, I applied to the then Secretary of State for the Colonies for the usual Grant of Land, which at that time was given as an inducement to Settlers to proceed to these Colonies, giving the usual references, etc.

That in consequence on the 16 Jany., 1825, I received a Letter signed by Mr. Hay referring me to His Excellency General Darling, which letter is now in possession of the Colonial Secretary.

Being of the Medical Profession, immediately on my arrival in Sydney I accepted an appointment as Colonial Assistant Surgeon and was within three weeks ordered to proceed with the party then going to form a Settlement* at King George's Sound.

That, understanding from several intelligent persons that it would be more advantageous for me to delay applying for my Grant till after my return from King George's Sound, as it was usual to reward the services of Officers either by additions to or choice in Selection of their Grants and as my absence would be a bar to any improvement taking place, I did not at that time make application.

That, after a residence of nearly three years at King George's Sound, on my return to Sydney in Novr., 1829, I found it necessary from family affairs to proceed immediately for England, and understanding that, if I then made application for my Grant, it would probably be not less than three Months before I could obtain it, and as the Ship in which I had taken my passage sailed in three weeks, I again deferred applying.

On my return to the Colony in the Month of February last, I was informed that such new Regulations had taken place that I should be unable to obtain my Grant, Land not being any longer at the disposal of the Governor except under very peculiar circumstances. Thinking however that my case was one merit­

* Note 73.
but that there was no objection to my referring my case to Your
Lordship.”

Under these circumstances, I would beg your Lordship’s favor­
able consideration, as otherwise my having entered the service
of His Majesty’s Government will have proved the occasion of
my losing my Grant.

The Quantity of Land I would request Your Lordship’s San­
tion to my obtaining is Two Sections.

I have, &c.,

I. S. NIND.

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 92, per ship Children; acknowledged by
right hon. T. Spring Rice, 22nd October, 1834.)

Sir,

Government House, 29 Novr., 1833.

In accordance with my despatch of the 3rd August last,
No. 59, I have now the honor to enclose you a printed Copy of
the Report of the Committee of the Legislative Council on the
Tunnel for conducting Water into Sydney.

I have, &c.,

RICH. BOURKE.

[Enclosure.]

[This report* was dated 28th August, 1833.]

GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 93, per ship Children; acknowledged by
right hon. T. Spring Rice, 1st August, 1834.)

Sir,

Government House, 30th Novr., 1833.

I have the honor to transmit herewith for the considera­
tion of H.M.’s Government and to be proposed in case of ap­
proval to the Legislature of Great Britain a Bill for the more
effectual administration of Justice† at Norfolk Island in Capital
cases, which at present fall exclusively under the cognizance of
the Supreme Court of this Colony.

The motive for desiring a Bill of this Sort to be passed into a
Law is principally this. There has appeared abundant reason
to suspect that Capital crimes have been committed in that
Penal Settlement from a desperate determination to stake the
chance of capital conviction and punishment in Sydney against
the chances of escape, which the passage might afford to the
accused and to the Witnesses summoned to attend the Trial.
The number of the latter has usually been much augmented by
the Sinister endeavor of Convicts to procure themselves to be
summoned, there being hardly any possibility of detecting the
imposture until the trial, and sometimes not even then, as many,
who have invented or exaggerated statements to procure their

* Note 74.  † Note 75.
being summoned, will persist in them at the Trial with the greatest effrontery. To defeat such atrocious machination and with the desire of diminishing crime by depriving it of all hope of success in its principal objects, I deemed it advisable on a recent case of murder occurring in Norfolk Island to send one of the Judges* of the Supreme Court with a Crown Lawyer and Military Jury to try the Offenders at that Place, the usual Session of the Supreme Court being adjourned to Norfolk Island for the purpose. The Criminals were tried, convicted and executed, and I have no doubt that, the chance of quitting the Island by the Commission of desperate crime being thus at an end, it will be less frequently attempted.

By this arrangement however, the Colony has been subjected to the inconvenience of a delay of the Sessions of the Supreme Court in Sydney during the period in which it was held at Norfolk Island, A delay which any misfortune on the passage might have rendered of very serious consequence; and, as it must always prove very difficult to make the arrival of the Judge and Jury in the Island coincide with the time fixed by the proclamation of adjournment, any considerable delay might be yet further augmented by the necessity imposed by each variation of time of returning to Sydney and proceeding again with fresh powers.

To prevent such inconveniences from interfering with a measure otherwise so desirable, I propose that the Govr. of the Colony shall be empowered to issue a Commission for the Trial of offenders at Norfolk Island, whenever occasion, and to appoint any Barrister of three years standing to be a Judge, who, with a Jury of five Military Officers, shall try such offenders as shall be brought before them, and shall have power to award capital punishment as detailed in the Bill herewith transmitted. I propose likewise that the Rules of the Court thus established shall be framed by the Legislative Council, who will no doubt render its practise as nearly similar to that of the Supreme Court as circumstances will admit.

The expense of this Commission need not be considerable as the Barrister will require to be paid only for the days of his absence from Sydney, and the occasion for employing him will probably be rare. Since the month of February, 1832, when some Persons were tried in Sydney for Offences committed at Norfolk Island, there has occurred there no crime requiring a Capital Conviction until July last, being a period of nearly eighteen months; and it is highly probable that the certainty of such crimes being all tried on the Island will greatly diminish, if not wholly prevent their Commission. I have, &c.,

RICHD. BOURKE.

* Note 76.
GOVERNOR BOURKE TO RIGHT HON. E. G. STANLEY.
(Despatch No. 94, per ship Children: acknowledged by the earl of Aberdeen, 20th December, 1834.)

Sir,

Government House, 2nd December, 1833.

I have the honor to enclose the Copy of a Despatch, which I have found it necessary to address to the Secretary to the Lords Commissioners of H.M.'s Treasury, from which it will appear that there has been and is likely to continue a very deficient demand for Treasury Bills in this Colony, the effect of which on the Finances of the Chest has been hitherto averted by the payment of £30,000 at various times from the Colonial Treasury towards the Liquidation of a debt due to the Chest; but, as this debt is now nearly discharged, it becomes necessary to provide for the future wants of the Commissariat by other means.

As one method of contributing to this object, I take the liberty of suggesting for your consideration whether it might not be advantageous to arrange with the Masters of Vessels conveying Emigrants from Great Britain to this Country at the Public charge to receive the amount of passage money payable here in Bills upon the British Treasury. By this means the whole amount of payments from the Colony for this Service would be paid in cash into the Military Chest, to the replenishing of which a Sum amounting to £10,000 or £12,000 a year might be thereby effectually secured for a few years.

I have, &c.,
RICH. BOURKE.

[Enclosure.]

[A copy of this despatch will be found on page 267.]

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

Sir,

Downing Street, 3d December, 1833.

I am directed by Mr. Secretary Stanley to enclose to you the accompanying letter,* and to request that it may be delivered to James Currey, who, it is understood, holds the situation of Barrack Sergeant at Sydney. The relations of this person being very anxious to learn his fate, I am further to request that, in the event of his having quitted the Colony or of his death, you will report to me the date of his death, and what property he left behind him, or when he left the Colony and where he is supposed to be living.

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

* Marginal note on original.—No letter was enclosed.