HAY TO BOURKE.

1833.
21 April.

Proposal to send
R. Cunningham
to islands.

represented to Mr. Secretary Stanley that this would be a good
opportunity to send to those Islands an experienced Botanist,
who might make himself acquainted with the various Vegetable
productions of New Zealand; and you will therefore consider
yourself at liberty to employ Mr. Cunningham upon this Service,
should it be your opinion that the Colony will derive any benefit
therefrom. I beg to add that directions have been given to the
Master of the Buffalo, on receiving from you a requisition to
that effect, to accommodate Mr. Cunningham with a Passage in
that Vessel, on his settling with the Mess for his Provisions.

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

UNDER SECRETARY HAY TO GOVERNOR BOURKE.
(Despacht per ship Captain Cook.)

Sir,
Downing Street, 22 April, 1833.

I am directed by Mr. Secretary Stanley to transmit to
you the enclosed copies of a Letter and of its Enclosures from
Messrs. Fairlie, Clark, Innes and Co., upon the subject of the
claim referred to in Lord Goderich's Despatch of the 22d of
March last; but, as Mr. Stanley considers that the opinion ex­
pressed in that Dispatch provides for all the circumstances which
can be addressed in support of this Claim, he does not consider
it necessary to offer any additional observations upon the subject
of it.

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

[Enclosure.]

MESSRS. FAIRLIE, CLARK, INNES AND CO. TO VISCOUNT GODERICH.

Broad Street Buildings,
London, 15th March, 1833.

We have the honor to address Your Lordship, as His Ma-
jesty's Secretary for the Colonies, on the subject of a pecu­
niary claim of old-standing, which we possess in right of Our Prede­
cessors under the Firms of David Scott and Co., and Fairlie,
Bonham and Co., and also as representing the Firm of Fairlie,
Fergusson and Co. of Calcutta, upon the Government of New
South Wales, of which due satisfaction has not been obtained after
long continued endeavours by our Agent and legal Representative
from the local authorities in that Colony.

The following exposition of its origin and circumstances, we trust,
will serve to convince Your Lordship of the correctness of the claim
and of the justice of our being allowed the redress sought for.

In the year 1802, Governor King, being desirous to convert a
Piece of ground in the Town of Sydney, then in the occupation of
Mr. John Palmer, into a Lumber Yard for the use of Government,
gave to that Individual in exchange for it the Lease of some
ground in another situation, containing 3 Acres, 32 Roods, upon
which he erected two Windmills, one of Stone and another of Wood,
together with a Bakehouse and Dwelling House at a cost of upwards £5,000. Mr. Palmer having mortgaged the said Lease and Premises to Mr. Robert Campbell, the latter in the year 1813 assigned the same to Messrs. Fairlie, Ferguson and Co. of Calcutta on account of our joint demands upon him in consideration of the sum of £3,759 12s. 6d.; But, a few months after this assignment, Governor Macquarie having called on the Agent in possession, Mr. William Walker, to surrender this property to Government, the latter took occasion to remonstrate with His Excellency on the unprecedented hardship of being required to give up Leasehold Ground, wherein Buildings had been erected, it being without example since the foundation of the Colony that Government should demand the return of Lands upon which there was an outlay of Capital by the Lessee. In corroboration of which, permit us to refer your Lordship to a letter, dated Sydney, 16 February, 1822, to Our Predecessors, Fairlie, Bonham and Co. from the House of Jones, Riley and Walker, some of whose Members have resided in the Colony a period of 25 years. In farther corroboration, we would also refer to a letter from Mr. W. C. Wentworth, Solicitor, addressed to the Attorney General at Sydney, under date 17 March, 1825, which united testimonials may doubtless be appealed to as conclusive upon this point. After some discussion, the Governor agreed to refer the matter home to Earl Bathurst, then Secretary for the Colonies.

No decision was, however, signified during his Lordship’s Administration, nor has been subsequently. Having thus experienced a very long interval of suspense and disappointment, we humbly presume to renew our application to be classed with other occupants of Land in New South Wales, who, although not having given as Mr. Palmer has done a valuable consideration for their properties, and, in many instances, held them upon mere verbal permission, have nevertheless, in virtue of an Order* of the Colonial Government, been allowed to convert these loose Tenancies into Fee Simples, a right of possession which we are surely entitled in regarding ourselves as equally entitled to with respect to Ground specified in the Lease in question, and for which a pecuniary concession to the Amount above named was made on our behalf to the existing Tenant on the full faith that Government would act towards us, as they had done to others, without exception holding Lands under the like circumstances, namely to permit our lease to be considered in the light of freehold property. We are, My Lord, not unaware that some legal doubts have been raised as to the validity of the Lease referred to in which our claim originates; but we respectfully submit that such objections should, in all justice and equity towards us, merge into and in point of practical effect be governed by the general consideration which has just been urged. For Your Lordship’s satisfaction, however, and to shew that we are willing to afford every elucidation on the subject in our power, and to expose fairly the arguments which have been used on either side of this question, we beg leave further to submit in a set of papers annexed, Copy of the disputed Lease and of two Affidavits concerning the value of the Buildings erected, together with sundry correspondence, which has passed between the Colonial Government and our said Agent, which embrace all material points in the case, and from which our true position will be clearly seen, requesting most particularly to draw Your Lordship’s attention to the

* Note 13.
concluding Paragraph of Mr. Campbell, the Government Secretary’s letter of 26 September, 1814, and also to the communication from Mr. Alexr. McLeay, the present Government Secretary to our later Agent, Mr. Thomas Steele, dated 22d February, 1832, relative to a portion of our said claim, in which reference thereon is promised to be made to Your Lordship by the first opportunity.

And, on the ground of these documentary Statements, which we think bear us out fully in assuming that the faith of Governor King was pledged in this case upon public grounds to afford fair reimbursement in return for the surrender of a valuable Allotment by Mr. Palmer to the Crown, we feel justified in asking from His Majesty’s Government compensation to the extent of our loss sustained, reckoning the same as follows, and which we consider to be the most moderate Estimate that could justly be made under the rising situation of the Colony and improved value of Lands belonging to it, vizt:—

Principal sum, at which the Ground in the above recited Lease, together with the Buildings thereon, was valued to us and others concerned £3,789 12 6

Compound interest thereon from 31st March, 1815, date of required Surrender to 31st December last at 8 per cent. pr. annum is 11,069 2 6

£14,858 15 0

In conclusion we beg permission of Your Lordship to add that we understand it to have been usual, when the Colonial Government has taken back Lease-hold Property upon which Capital had been expended by the Grantee or Holder, to make remuneration for the value thereof, either in Money or Colonial Property; and that, although it is not for us to prescribe to Your Lordship in which of these modes the desired Compensation shall in the present instance be afforded, we take the liberty to suggest that, if the latter be preferred, and should it be deemed unadvisable to convert our leased property into a Freehold Tenure disposable by us, on account of its contiguity to the Government House or otherwise, a Grant of Land in some unappropriated quarter of the Town of Sydney of equal value would prove a satisfactory mode of liquidation, in part of which, we would be content and undertake for others concerned to receive, should His Majesty’s Government be pleased to make it over in fee, the piece of ground originally exchanged by Mr. Palmer, the same appearing to be no longer required as a Lumber Yard for which it was designed. This Allotment would, of course, have to be valued professionally on the spot with any other that Government might fix upon to make good the Amount of our claim.

Entreating Your Lordship’s pardon for the length of this address, which we hope the importance of its object will appear to justify, and trusting that our Appeal will receive the earliest convenient attention,

We have, &c.,
FAIRLIE, CLARK, INNES and Co.

[Sub-enclosure No. 1.]

[A copy of this deed of lease to John Palmer will be found on page 342, volume VIII.]

SER. I. VOL. XVII—F
{Leases of property.}

I, Andrew Frazer, Baker, in the Town of Sydney, in the Territory of New South Wales, do hereby certify that I rented the small Windmill Bakehouse and Dwelling house, erected by John Palmer, Esqre., on the West side of Farm Cove, adjoining the enclosure of the Government Domain for the period of one year, vizt., from the 1st of March, 1808, to the 1st March, 1809, and that I paid the sum of Six hundred pounds Colonial Currency as Rent for said premises.

ANDREW X FRAZER.

Personally appeared before me, Andrew Frazer, Baker in Sydney, who, being duly sworn deposes and saith that the matters and things set forth by him in the foregoing certificate are just and true to the best of his knowledge and belief.

ANDREW X FRAZER.

Sworn before me the 23d day of May, 1815.

ELLIS BENT, J.A.

We, Thomas Rose and Charles Thompson, Bakers, in the Town of Sydney in the Territory of N. S. Wales, do hereby certify that we rented the large Windmill, erected by John Palmer, Esqre., on the West side of Farm Cove, adjoining the enclosure of the Government Domain, during the period of one year, vizt., from the 21st of June, 1813, to the 21st of June, 1814, and that we paid the sum of Three hundred pounds Colonial Currency as rent for said Windmill.

THOS. ROSE.

CHAS. THOMPSON.

Personally appeared before me, Thomas Rose and Charles Thompson, Bakers in Sydney, who, being duly sworn, depose and say that the matters and things, set forth by them in the foregoing Certificate, are just and true to the best of their knowledge and belief.

THOS. ROSE.

CHAS. THOMPSON.

Sworn before me this 23d day of May, 1815.

ELLIS BENT, J.A.

[Sub-enclosures Nos. 2 and 3.]

[Copies of these letters, dated 20th and 26th September, 1814, will be found on page 316 et seq., volume VIII.]

[Sub-enclosure No. 4.]


Gentlemen,

Sydney, 10th February, 1822.

With reference to the enclosed Duplicate of our letter of 12th Inst., we think it proper to state that the buildings, for which the remuneration is claimed from Governor Macquarrie under terms of his letter of 19 December, 1814, stood on part of the ground leased; and that the remaining and by far the greater part of the Allotment, together with a large and very costly building of a Windmill standing thereon, still remain in our possession by virtue of the lease, which Governor Macquarrie thought proper to say so
far back as 1814 had expired, and would then immediately be taken possession of by Government, but which threat has not up to the present time been executed.

On this subject, we may further add that we are not aware that Government have in any instance taken back Leasehold property, upon which Capital had been expended by the grantee or holder without making the owner some remuneration either in Money or Colonial property for the same; and, in the present instance, the claim would appear to be particularly strong as the Lease itself expresses that a valuable consideration was given to Government for it, namely the piece of ground now occupied by Government as a Lumber Yard, and which from its local situation is an extremely desirable allotment.

The property in question was taken from Mr. Campbell (to whom Mr. Palmer had mortgaged it) on your Account in April, 1814, at a valuation of £3,789 12s. 6d. We are, &c.,

JONES, RILEY and WALKER.

[Sub-enclosure No. 5.]

MR. W. C. WENTWORTH TO THE ATTORNEY-GENERAL.

Sir,

Macquarie Place, 17th March, 1825.

In reply to your communications on the subject of the claim of Mr. Walker as Agent for the Assignees of the land on which the Windmill stands, I beg in the first place to enclose you all the documents in my possession, including the Lease itself, and secondly to inform you that Mr. Walker will not be satisfied with the sum he claims in the way of compensation for any but that part of the Lease to which this sum is referable by the valuation.

Mr. Walker, however, is willing to resign the remainder upon receiving a just compensation for it, the amount of that compensation to be decided by Arbitrators indifferently chosen between him and the Government; you will perceive from the lease itself that the land was given to the original lessee in exchange for another and more valuable Allotment, upon which the Government Lumber Yard stands. Mr. Walker, seeing that the Government have had value for this land, considers that his Constituents should not be placed in a worse situation than those Occupants of land in this Town, who gave nothing for their land, and who in many instances, having entered upon their lands without any but a verbal permission, have nevertheless by force of the Government order* been allowed to convert these loose Tenancies into fee simples. Mr. Walker considers himself under that order entitled to demand on behalf of his Constituents either a fresh Lease or Grant at his option; and I beg on his behalf to add, what I am informed and believe to be true, that no person since the foundation of this Colony except during the arbitrary Government of Captain Bligh was ever deprived of any portion of Land, which he or the persons from whom he derived title were allowed to occupy without receiving some sort of compensation for it.

Under these circumstances, Mr. Walker feels himself bound in justice to his Constituents to demand from Government a fair equivalent for the piece of Land in question. I will thank you to return to me the enclosed documents when you have done with them.

I am, &c.,

W. C. WENTWORTH.

* Note 13.
Proposed settlement of claim by L. Macquarie.

Invalidity of lease.

Claim to be referred to Earl Bathurst.

Letter acknowledged.
Ground on the West side of "Farm Cove," leased by Governor King to Mr. John Palmer, and which were removed at the desire of Governor Macquarie by Mr. William Walker, then Agent for Messrs. Ferguson and Co., on the understanding that the sum above mentioned would be paid for them, should the lease of the ground alluded to be admitted as valid for twenty-one years.

I am directed by His Excellency the Governor to inform you that he will lay the claim submitted by you before the Secretary of State by the first opportunity, the promise of payment of the principal sum, as stated above, having been conditional and dependant on the concurrence of the Secretary of State, and without which His Excellency cannot take any further steps in the matter.

I have, &c.,
ALEXR. MCLEAY.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Captain Cook.)

Sir,

Downing Street, 24 April, 1833.

I am directed by Mr. Secretary Stanley to transmit to you the copy of a Letter from Mr. John Masson, a gentleman who is interested in the payment ordered in the case of Thomas Clark, whose Wife, instead of proceeding in the same ship with her husband (the Arundel), appears to have gone out in the Ship "Sir John Rae Reid"; and I am to request, under the circumstances, stated by Mr. John Masson, that payment of the Sum ordered in favor of this party may be made in the manner solicited by him on the arrival of the female in question in the Colony.

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

[Enclosure.]

MR. JOHN MASSON TO UNDER SECRETARY HAY.

Sir,

5 Lime Street Square, 18th April, 1833.

The Ship Arundel, John Henderson, Master, sailed for Sydney, New South Wales, April, 1832. A married man named Thomas Clark had the Advance made him, whose Wife, upon arrival at Gravesend, found the Ship had sailed.

The despatch was No. 145.

I am about to send the woman out in the Ship Sir John Rae Reid; it is not unlikely that the man has renewed his Bill, which as a matter of course I presume would be demanded of him in such case. I shall hold the Arundel responsible for her Passage; but, should the contrary be the fact, I solicit such conditional order as may enable my correspondent at Sydney, A. R. Sparke, Esq., to receive the amount either for one vessel or the other, as by the Woman proceeding now the matter will be made perfectly correct as if she had proceeded direct in the first instance.

I am, &c.,
JOHN MASSON.
1833.
26 April.

Female immigrants per ship Bussorah Merchant.

Advances to immigrants.

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

Sir,

Downing Street, 26 April, 1833.

With reference to my letter of the 12th Instant, I am directed by Mr. Secretary Stanley to transmit to you, for your information, a copy of a letter from Mr. Forster, with a List of the 217 Females, who were sent out by the Refuge for the Destitute in the Ship "Bussorah Merchant." The sum of £1,302 has been advanced by the Lords Commissioners of the Treasury in part payment of the Bounty for these Females; and I am to desire that, in pursuance of the directions conveyed in my before mentioned letter, you will lose no time in repaying this sum into the Military Chest out of the Funds arising from the Crown Lands.

I am, &c.,

R. W. HAY.

[Enclosure.]

MR. E. FORSTER TO UNDER SECRETARY HAY.

Sir,

Mansion House Street, 18th April, 1832.

I have received the enclosed List from Mr. Branbridge, who left the "Bussorah Merchant" at Deal, in addition to which one young woman from Birmingham, who arrived in London too late to go on Saturday, was taken on board at Deal. Mr. Marshal, the Ship Broker, will I suppose certify to this; he is at present confined with the Influenza. By the account at Lloyds, the ship sailed last night.

I have, &c.,

EDWD. FORSTER.

[Sub-enclosure.]

[This was an alphabetical list of the two hundred and seventeen women.]

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

Sir,

Downing Street, 28th April, 1833.

I am directed by Mr. Secretary Stanley to transmit to you the Copy of a Letter from the Secretary to the Admiralty, together with its Enclosure from the Accountant general of the Navy, relative to the Bills which the Surgeons Superintendent of Convict Ships are allowed to draw to enable them, after the disembarkation of the Convicts, to provide themselves with Passages to England; and I am to request, with the view of obviating the inconvenience pointed out in the Accountant General's Communication, that all Bills, which may be drawn on such occasions, may bear on the face of them a certificate that your permission had been previously obtained.

I have, &c.,

R. W. HAY.
MR. J. BARROW TO UNDER SECRETARY HAY.

Admiralty, 26 April, 1833.

I am commanded by the Lords Commissioners of the Admiralty to send you herewith a Copy of a letter from the Accountant General, suggesting that the Governors of the Colonies of New South Wales and Van Diemen's Land should be directed for the reasons stated to approve of the Bills drawn by the Surgeons Superintendent of Convict Ships for the purpose of providing themselves with passages home after the convicts have been disembarked; and I am to request you will move Mr. Secretary Stanley to give the necessary directions on this subject, their Lordships having authorized the requisite alteration in the Surgeon's Instructions.

I am, &c.,

JOHN BARROW.

[Sub-enclosure.]

Department of the Accountant General of the Navy,

Admiralty, 25th April, 1833.

The Accountant General requests their Lordships' consideration to the 41st Article of the Instructions to Surgeons Superintendent of Convict Ships, by which they are directed, on being discharged from their duty on the disembarkation of the Convicts, to apply to the Governor of the Colony for a Passage to England, and, in the event of His Excellency not having an opportunity of providing them therewith, the Surgeons are allowed to draw upon the Account General for £100 to enable them to provide their own conveyance and mess; And, as the Bills drawn in such cases are mostly presented for payment before the arrival of the Governor's Certificate of permission to these Officers to return to England (which Document is required by the 40th Article, to shew the period for the Allowance of their Lodging money while on shore, and would serve, if it arrived in time, as proof of there not having been any opportunity of providing a passage for them home), this Office is exposed to the uncertainty whether such permission was obtained previously to the Passage being taken, and consequently a doubt is created whether the Surgeons do right in drawing such Bills.

In order therefore to obviate this inconvenience, and the necessity of charging the Bills, as Imprests, until the proper Documents arrive, the Accountant General begs to submit to their Lordships the propriety of suggesting to the Secretary of State for the Colonies to instruct the respective Governors of New South Wales and Van Diemen's Land to approve of the Bills drawn in these cases (so as to render the Certificate unnecessary) and of their Lordships authorizing an alteration to the above effect in the 41st Article of the Surgeons' Instructions before alluded to.

JOHN S. BRIGGS,
Accountant General.

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

(Despatch No. 8, per ship Captain Cook.)

Sir,

Downing Street, 29 April, 1833.

I have the honor to acknowledge the receipt of your despatch No. 86 of the 8th September last, reporting the arrival of the Ship "Red Rover," without any Instructions from Lord
1833.
29 April.

Payment of freight on ship Red Rover.

Goderich to pay on her arrival the moiety of the Freight left unpaid on her departure from this Country, and mentioning your decision, upon a general consideration of the circumstances of the case, to furnish the Master with Bills on the Treasury, instead of making an immediate payment. The course, which you adopted, appears to me to have been the most judicious which could have been taken with the information you then possessed, and I have to express my approval of it. But the arrival of Mr. Hay's despatch of the 24th of May last will have apprised you that it was the intention of His Majesty's Government, that the second moiety of the freight should be paid in the Colony, and that both moieties should thus be drawn from the Funds arising from the Crown Lands. You will, probably, therefore have paid before this time the sum left due to the Military Chest. In order, however, to ensure a correction of the mistake, which has taken place, I have deemed it right to furnish you with the present Instruction to transfer to the Military Chest, if it have not already been done, the sum necessary to complete a repayment of the whole amount advanced from His Majesty's Treasury on account of the expenses of the Red Rover.

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

30 April.

Despatches acknowledged.

Approval of schedule of fixed contingencies.

Proposed reduction in travelling allowances.

RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 9. per ship Captain Cook.)

Sir,
Downing Street, 30 April, 1833.

I have received the Despatches addressed by you to my Predecessor of the numbers and dates specified in the margin.*

The Schedule of fixed Contingencies, transmitted with your Despatch No. 89, is approved by His Majesty's Government. The allowances, however, for travelling expenses granted in the case of the Attorney General, the Commissioner of the Courts of Requests and the Sheriff, whilst absent from Sydney in the execution of their duties, appear to be higher than circumstances warrant; and, although I am aware that this subject has been fully gone into, in consequence of Lord Goderich's despatch No. 24 of the 10th of March, 1831, I cannot avoid again calling your attention to it, in the hope that you may be able to reduce this item of Expenditure in the next Estimates, which you may bring before the Council. In the event of your finding it practicable to diminish the charge on this account in respect to the Officers above mentioned, it will of course be desirable to effect

* Marginal note.—No. 89, 18 Septr., 1832; No. 108, 28 Oct., 1832.
a corresponding reduction in the travelling allowances granted to Officers filling subordinate situations, to whom a lower rate of remuneration is already assigned.

The Estimates of Revenue and Expenditure, which accompanied your despatch No. 108 for the year 1833, do not appear to require any particular observation, beyond the expression of my approbation of the very complete and satisfactory manner, in which you have brought the several items, referred to in these Estimates, under the consideration of the Council, and my satisfaction at receiving the Information contained in your Minute, which explains the diminished charge for the Civil Establishment of your Government for this year, as compared with that for the last; arising, as it appears, from the reductions which have been effected in some of the Departments.

The protests of Mr. Blaxland against the payment to Mr. McLeay of the sum of £750 a year from the Colonial fund, in addition to his Salary as Colonial Secretary, and against the Appointment of a Resident at New Zealand, have not been overlooked by His Majesty's Government. In reference to the payment first mentioned, I have to express my apprehension that it will not be possible for the reasons, which were stated by Lord Goderich in his Despatch of the 29th of Sept., 1831, to discontinue the payment of this sum to Mr. McLeay; but I see no objection to relieve the Colonial fund from the charge by transferring it to that derived from the Droits of the Crown (which, as you are aware, are reserved for the purpose of being appropriated to such specific objects as His Majesty may direct), should you see no objection to that arrangement.

In regard to the Resident at New Zealand, against which Appointment Mr. Blaxland has also remonstrated, I do not consider his representations entitled to the same consideration. The Appointment was made at the request of Merchants connected with New South Wales as well as upon the suggestion of your Predecessor; and, as such an Appointment appears as necessary for the protection of the Trade which is carried on between New South Wales and those Islands, as for the interests of the Europeans who have established themselves there, I cannot acquiesce in the soundness of the objections, which Mr. Blaxland has urged against it, or rather against the Salary of £500, which has been assigned by His Majesty's Government to the officer who has been selected for the situation in question.

I am, &c.,

E. G. STANLEY.
RIGHT HON. E. G. STANLEY TO GOVERNOR BOURKE.
(Despatch No. 10, per ship Captain Cook.)

Downing Street, 30th April, 1833.

Sir,  

I have received your Dispatch No. 115 of the 17th November last enclosing a Letter from the Revd. J. McEncroe, one of the Roman Catholic Chaplains in New South Wales, submitting the propriety of a larger Sum, than is at present appropriated, being set apart for the support of an additional number of Priests, and for the Instruction of the Roman Catholic Population of that Colony.

The Dispatches, which have been so recently addressed to you upon this subject by my Predecessor, render it unnecessary that I should offer any observations in answer to Mr. Encroe's representations, further than to assure you that the same readiness exists on my part, which has been expressed by Lord Goderich, to second any arrangement which the Council of your Government may propose for remedying the Evil, which is stated to exist in this particular.

After the disposition manifested by the Government (especially in the case of Mr. McEncroe's own appointment) to provide for the wants of His Majesty's Roman Catholic Subjects in New South Wales, I cannot but express some surprize that Mr. McEncroe should have deemed it necessary, in support of the claims which he has undertaken to advocate, to remark in the very objectionable terms employed in his Letter upon the amount of funds provided for the maintenance of the Established Church and for the conversion of the Aborigines, as compared with those which have been appropriated for purposes of religion, in reference to the Roman Catholic Population of the Colony.

I am, &c.,

E. G. STANLEY.

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

Downing Street, 1st May, 1833.

Sir,  

I am directed by Mr. Secretary Stanley to transmit to you the Copy of an application, which has been addressed to this department by Messrs. Buckles, Bagster and Co., on the subject of the Bounty, which you have declined to pay under the circumstances which they have stated; and, as it appears to have been the understanding between this department and the respective ship Owners, who undertook the conveyance of Emigrants
to the Australian Colonies, that the utmost liberality would be shewn to them in all cases in which Indulgence could be given, Mr. Stanley has directed me to inform you that he considers Messrs. Buckles and Bagster entitled to the payments, which they have claimed on account of the two females in question. Before issuing however the Bounty in the case of "Catherine Hodges" who appears to have embarked under the feigned name of "Catherine Watts," you will require the Agent of Messrs. Buckles and Bagster to identify this female as having actually proceeded to the Colony in the Ship for which her Passage is claimed.

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

[Enclosure.]

MESSRS. BUCKLES, BAGSTER AND BUCKLE TO UNDER SECRETARY HAY.

Sir, 33 Mark Lane, 29th April, 1833.

We beg leave to represent to you that His Excellency the Governor of New South Wales has declined payment of two warrants for Bounty to females embarked in the Ship Renown, in the month of May last year; the one on account of an incorrectness in the name, being in favor of Catherine Watts in place of Catherine Hodges; the other in favor of Emma Langenhand, who had been a very riotous inmate of St. Mary le Bone Workhouse, and, after a long continuance of violent and refractory conduct on board Ship, ultimately threw herself overboard on the 25th July and, notwithstanding every effort to save her, was unfortunately drowned.

The warrants were received by us as part payment of the Passage money; and, in the full confidence that nothing short of premeditated and proven fraud on His Majesty's Government would render them invalid, we therefore respectfully request that renewed instructions may be forwarded to the Governor authorizing his Excellency to pay our Agent the full amount of these two recited warrants, notwithstanding the irregularity in the name of one Female, and the suicide of the other.

We beg leave to enclose a Letter from the Secretary to the Directors of the Mary le Bone Poor House in explanation of an enquiry addressed to him.

We have, &c.,
BUCKLES, BAGSTER AND BUCKLE.

[Sub-enclosure.]

WATTS TO MESSRS. BUCKLE AND CO.

Sir, St. Mary le Bone Work House, 29 April, 1833.

I have enquired concerning the name of Catherine Watts as mentioned in your note, and find that Catherine Hodges for reasons best known to herself used to go by that name at times, but her real name is Catherine Hodges and as such we know her.

I am, &c.,
WATTS.
GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 37, per ship Clyde; acknowledged by right hon. E. G. Stanley, 5th November, 1833.)

My Lord,

Government House, 1st May, 1833.

I have the honor to transmit a Memorial, addressed to me by Mrs. Henry Cooper upon the subject of a Grant of Land in this Colony, which she claims by virtue of an Order made by Sir Thomas Brisbane to her husband in 1825. As I have not felt myself authorized to allow Mrs. Cooper’s claim, she has requested me to obtain Your Lordship’s commands upon the subject. In so doing, I beg leave to observe that there are in the Colony many persons similarly circumstanced, by whom an equal claim might be made, and in whose favor an inconvenient precedent might be formed, were your Lordship to accede to the present application. The facts of the case are as follows:—

In 1825, Mr. Henry Cooper, an Architect and Free Emigrant, received from Sir Thomas Brisbane an Order to select 600 Acres of Land, which however he neglected to do until the Month of August, 1831, when he applied for a renewal of the order. This was refused by my Predecessor in consequence of the application being made, subsequently to the promulgation in the Colony of the Regulations for the Sale of Land, as also long after the publication in the Gazette of a notice from General Darling directing all persons, holding Orders for Land from former Governors, to select before the expiration of a certain day or to consider their order as cancelled, but of which notice Mr. Cooper had not availed himself within the stipulated time. From the decision of my Predecessor, to which I have adhered, Mrs. Cooper now appeals; but, considering the circumstances of the case, I cannot recommend Your Lordship to comply with her request.

I have, &c.,

RICH. BOURKE.

[Enclosure.]

THE MEMORIAL OF MRS. HENRY COOPER.

May it Please Your Excellency,

Your Memorialist, Charlotte Cooper, with her Husband Mr. Henry Cooper, Architect and Builder, sailed from England in the Year 1824 in the Ship Hugh Crawford as Free Emigrants and arrived in this Colony in the Month of April, 1825.

Upon our arrival, Mr. Henry Cooper waited upon Sir Thomas Brisbane, the Governor for the time being, with the customary presentation letter from the Secretary for the Colonies, authorising him to receive a Grant of Land, to which his Excellency was pleased to accede, addressing an Order to Thos. Oxley, Esq., then Surveyor, to allow him to select 640 Acres, which Order is now among the Records at the Surveyor General’s Office.
As Your Memorialist's Husband had for many years carried on an extensive business as Architect and Builder in the City of London, and as there were but few persons of that profession in the Town of Sydney at that period, he was induced to forego an immediate location on the Land ordered to him, and to practise his business in the Capital of this Rising Colony. He consequently engaged extensively in Buildings, and was frequently resorted to by H.M. Government. He purchased a large Town Allotment by the Waterside of Darling Harbor, and was instrumental in effecting improvements thereon to the extent of £8,000. He also erected for other Individuals several large edifices in the Town of Sydney. His engagements engrossing the whole of his attention and time seriously affected his health, confining him frequently to his Home for a period of Nine Months, and rendering him both unable to attend to his daily avocations and the Land in question acceded to by the Government.

The Health of Your Memorialist's Husband being so seriously affected, he was under the necessity of returning to England about 18 months ago, and, as Your Memorialist has heard of his being much recovered, she is about to leave this Colony in the Ship Edward Lombe to accompany him back.

Your Excellency may remember that, about six Months ago, Your Memorialist waited upon you with the Prayer that the Grant of Land in question might be conceded to her, and that you were pleased to shew a favorable consideration to her request, and to promise that you would forward her Memorial to His Majesty's Minister setting forth the ground of her claim. Therefore, Sir, as she now goes to England herself with the intention of returning in about 15 Months with her husband, she sincerely hopes that Your Excellency will notice the Prayer of her Petition and as in duty bound will ever pray.

[Unsigned.]

New South Wales, Darling Harbour, 13 April, 1833.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 38, per ship Clyde.)

My Lord, Government House, 1 May, 1833.

I have the honor to acknowledge the receipt of your Lordship's Despatch of the 27 Decr., 1831, No. 55, enclosing an Extract from a Report of the Comptrollers of Army Accounts relative to the distribution of Convicts amongst the Civil and Military Officers at Penal Settlements, their occupation in fabricating articles for sale at Sydney for the benefit of their Masters, and the employment generally of Convicts in Places of Trust, and conveying to me Your Lordship's Instructions to call upon all Officers, whether Civil or Military, to refund the value of the Provisions drawn by them for their regulated Civil Servants for the period that Convicts were allowed them.

With reference to this Instruction, I beg leave to enclose a letter from the Deputy Commissary General at this Station, by which it appears that he is not aware of any Officers having maintained by government.
Convict Servants fed and clothed by Government, whilst receiving the regulated allowance for their Civil Servants, nor can I from any other sources of Information discover the persons to whom the Comptrollers of Army Accounts allude.

With respect to the distribution of Convicts at Penal Settlements, I have the honor to transmit the Copy of a Regulation of this Government, by which Your Lordship will perceive that Officers, Stationed at Penal Settlements, are allowed the Services of Convicts in Numbers proportioned to their Rank. The Constitution of Penal Settlements, which prevents the Establishment of any kind of Market, and deprives Officers stationed there of the power of purchasing any necessary supplies of Vegetables, Milk, and other Articles, obliges them to resort to other means for their production, which, without some assistance in Convict Servants of the kind now afforded, would render those Stations extremely inconvenient and expensive, and add much to the privations which under the most favorable circumstances Officers are doomed to experience there. I would therefore very respectfully submit the propriety of allowing them to retain the limited number of Convict Servants authorized by the existing regulation.

With respect to the manufacture by Convicts of Articles sold in Sydney for the benefit of their Masters, such a practise was, I am informed, never authorized by this Government, and, if at any time it did exist, I am confident it is now abandoned.

The employment of Convicts in places of Trust is a measure from which, in my Despatch 4 February last, No. 18, I have expressed myself wholly averse; and, whenever an opportunity has offered of removing a Convict from such an employment under this Government and of substituting a Free Man in his place, I have availed myself of it.

I have, &c.,

RICH. BOURKE.

[Enclosure No. 1.]

MR. J. LAIDLEY TO COLONIAL SECRETARY MACLEAY.

Sir, Commissariat Office, Sydney, 11th June, 1832.

I have the honor of your letter of the 6th, and in reply beg to acquaint you that I am not aware of any Officers at Port Macquarie or any other Settlement, whether Penal or otherwise, who have received Convict Servants fed and clothed from the Stores, and at the same time have drawn provisions for their regulated Civil Servants; nor is it consistent with my knowledge that any Commissariat Officers fall under the head.

The Commandants at these Settlements may indeed have exercised a discretion in allowing Officers the temporary Service of Convicts under their Control; in such cases, the Men have continued
to be returned to the Commissariat as in Government Employ, and have received Provisions and Clothing accordingly. Provided the Commissariat Officer at the Station was satisfied with the numerical accuracy of the returns rendered to him, it did not behove him to interfere with the distribution of the Convicts, or the manner in which the Commandant chose to employ them.

The Information desired might I presume be best obtained from the Registers of the Employment of Convicts kept at the different Settlements.

I have, &c.,

JAMES LAIDLEY.

[Enclosure No. 2.]

EXTRACT of the Regulation for the Management and discipline of the Penal Settlements of New South Wales, as relates to the number of Servants allowed to each officer at such Stations.

Dated 12th August, 1829.

As all Servants under these Regulations are to be victualled from the public Stores, the number that each officer is allowed to take to the Settlement is limited as follows:—

Military Officers as fixed by Regulations according to their Rank.

Civil Officers (free of expense), if married, not exceeding Two; If unmarried, One.

To enable the officer of the Settlement to cultivate the Gardens allotted to them, they shall be allowed to have Convicts appropriated to their service in the following proportion:—

Commandant, Three men; Civil and Military Officers, Two each.

These men are not to be Mechanics or Tradesmen, and are to be allowed in addition to any Servants they may have been permitted to take with them to the Settlement.

Governer Bourke to Viscount Goderich.

(Despatch No. 39, per ship Clyde; acknowledged by right hon. T. Spring Rice, 25th July, 1834.)

My Lord,

Government House, 1 May, 1833.

I have the honor to transmit a Resolution of the Legislative Council, passed at the last Sitting, by which Your Lordship will perceive it is proposed to take off the duty on the distillation of Spirits from grain or other produce of this Colony.

That your Lordship may be enabled to enter the more readily into the Merits of the proposed measure, I will take the liberty of laying before you such details as bear upon the question, as it relates to the distillation of Spirits within the Colony and to the importation of Spirits from abroad; and first I would state that
the following are the duties of Customs and Excise upon Spirits, made in or imported into this Colony:

1. "On Spirits, made or distilled from Grain the produce of the Colony, a duty of 2s. 6d. per gallon."

II. "On Spirits, the produce and manufacture of the United Kingdom or His Majesty's Plantations in the West Indies, imported directly from the United Kingdom, a duty of 6s. 6d. per gallon."

III. "On all other Spirits, made within or imported into the Colony, a duty of 8s. 6d. per gallon."

"11 Geo. 4, No. 9."

By a later Act, Canada Spirits are admitted on the same terms as West Indian.

There is but one licensed Distiller in New South Wales, who resides in Sydney, and has distilled annually about 9,000 Gallons upon an average of the last seven years. The duty charged has thus averaged about £1,150 per annum. It has been collected by the means of a small Excise Establishment, which for some time cost about £700, but is now reduced to £454 a year. There is another Distillery upon a large Scale in Sydney, which has been completed I believe more than two years, but the Proprietor has not thought fit to work it. There are no licensed Distilleries in the Country Districts, but some small Stills have occasionally been used in Private Houses in the distant Counties of the South and West, where grain is raised more freely than in the Eastern and more populous part of the Colony. These Stills have at times thrown off small portions of Spirits made from the surplus grain of the Farm for private use. Upon the Spirit thus manufactured, no duty has been paid or demanded. Beyond Sydney, there is no Excise Establishment nor any licensed Distiller, and, with the private distillation to which I allude, the government has not thought it worth while to interfere. The quantity of Spirits thus distilled has been too trifling to injure the business of the Licensed Distiller or to affect the Revenue in any perceptible way.

Such being the present state of Colonial Distillation, there would be no reason for proposing any change in the Law with respect to it, if this state of things were likely to be permanent; but there is said to be a growing disposition in the Colony for private distillation; and it is generally asserted that a succession of two or three favorable years for grain would place a small still on almost every Farm in the Districts of Bathurst, Argyle and
the Hunter's River. On Spirits thus produced, it would be vain to expect any considerable payment of duty. The inclination to avoid it is at least as strong here as in other parts of the world, and the nature of the Country, consisting in many tracts of thick wood and rocky Hills, is peculiarly favorable to illicit distillation. The inducement to the practise is doubtless very considerable, as the high duties on imported Spirits, together with the expense of Carriage, raise the price of Rum (the Spirit most in use) in the Country Districts to the rate of 14 Shillings a gallon wholesale, and about 20s. by Retail. The practise of illicit distillation prevailing to any extent would not merely injure the Revenue, but produce the moral evil with which it has always been accompanied. The Council, therefore, believing illicit distillation to be on the increase, and considering that it cannot be altogether put down in this Country by Laws, however severe, and Establishments, however expensive, considering also the small amount of duty now obtained from the licensed Distiller and the expense of collecting it, and the stimulus to Agriculture which an unrestricted freedom to distill would impart, have been induced to propose an entire abandonment of the Excise duties.

To this proposal, there would perhaps be no difficulty in acceding, if the Revenue derived from Colonial Distillation were the only consideration. It is, however, to be remembered that about three fourths of the whole Revenue of New South Wales is derived from the duties of Customs upon imported Spirits. At the rates hereinbefore specified, the duties in the last year amounted to £81,500. It is, therefore, of importance to consider how far this Revenue is likely to be impaired, if the Excise duty on Spirit manufactured in the Colony were removed. There is, I believe, no doubt that, at the ordinary price of grain and at the present rate of duties, a Spirit can be manufactured in the Colony at a cheaper rate than the Importer can afford to sell. In fact, the usual market price of Colonial Spirit is now about 1s. 6d. per gallon below the imported of the cheapest kind. Nevertheless the quantity of Colonial Spirit hitherto brought into the market has been too trifling to interfere in any perceptible way with the sale of the imported, the quantity of grain either grown in New South Wales or brought in from Van Dieman's Land not having afforded any large Stock for distillation; nor has the price given by the Distiller induced any extended cultivation for the purpose of supplying him. If, however, the existing duty were taken off, the Distiller might find his account in giving a higher price for grain thus stimulating the Agriculturist to produce it, whilst at the same time he could

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1 May.

Reasons for proposed change in law.
1833.
1 May.

Possible effect on revenue by abolition of excise duty.

Probable distillation of spirits from sugar.

Difficulties involved.

afford to undersell the Importer, whilst the latter remained subject to the high Custom duties. That this would be the consequence of the removal of the duty at some distant period is more than probable; but a considerable time would elapse before, at the present price of labor, it could be possible or profitable to raise much Grain either in New South Wales or Van Dieman's Land for the price which the Colonial Distiller could afford to pay.

But there is another Article from which, at the present prices of both, Spirits can be manufactured at a rate full 25 per cent. cheaper than from grain. I allude to Sugar imported from Mauritius, from which substance Beer is now chiefly brewed in Sydney. If distillation from grain only were to be free of duty, it would require a most expensive excise Establishment to prevent the Distiller from the use of Sugar; whilst, without such an Establishment, a Spirit would get into use, from which no duty would be derived and prepared from an article from the consumption of which no benefit would result to the agricultural interest of the Colony. It might indeed be possible, without any encrease of officers, by a high Custom duty on the importation of Sugar to render it too expensive for the Distiller as compared with grain; but this measure would be one of great inconvenience by raising the cost of an article, which in so many ways enters into the wholesome consumption of the people.

From the foregoing statement, Your Lordship will perceive the difficulties of the question, which it will be impossible altogether to escape at a period, which by many well informed Persons is thought to be fast approaching. I am not, however, inclined to think that illicit distillation is likely to encrease considerably for some time to come; but I confess I should have no hope of being able to put it down, if the article to be distilled became abundant and that the inducement to distil continued high. My present intention is to leave the matter as it stands, hoping to receive Your Lordship's Instructions before it shall become necessary to make any change.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

EXTRACT from the votes and proceedings of the Legislative Council on the 12th October, 1832.

MOTION was made and question put, that His Excellency the Governor be requested to communicate to the Right Honorable the Secretary of State for the Colonies the recommendation of this Council, that, with a view to the greater encouragement of Agriculture, the duties, now charged on spirits distilled from grain or other produce of the Colony, should be repealed, more especially
as, in this thinly-peopled Country, it would be impracticable, even with the most expensive establishment of Excise, to prevent illicit distillation, while the revenue hitherto derived from this source has been of small amount, and the expenses of collection comparatively large. Passed without a division.

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

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch marked "Private," per ship Clyde.)

My Lord,

Government House, Sydney, 1 May, 1833.

In reply to Your Lordship’s letter of the 11th October last introducing Mr. Sackville Lambert, I have great pleasure in stating I have been able to name him to an appointment in the County of Camden with about £150 a year, where he is Clerk to the Bench of Magistrates and Registrar of the Court of Requests.

I have, &c,

RICHD. BOURKE.

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch marked "Private," per ship Clyde.)

My Lord,

Government House, Sydney, 1 May, 1833.

I have the honor to reply to Your Lordship’s letter of the 21st August last, recommending to the protection of this Government the Family of the late Mr. Balcombe, who formerly filled the Office of Colonial Treasurer. Mrs. Balcombe and her daughter have lately arrived. As it is by the employment of her Sons that this Lady proposes to benefit by Your Lordship’s favorable disposition towards her, I will state briefly how they are situated. The eldest Son, Mr. William Balcombe, resides upon Land granted him in Argyle above one hundred Miles from Sydney. I do not believe that he is well qualified to fill, nor do I imagine would desire any small Colonial appointment, such as it might be possible to offer him. Another Son, Mr. Thomas Balcombe, is a Draftsman in the Surveyor General’s Department with a Salary of £150 a year. He is not well spoken of by his superior, and it was in consequence my intention to have reduced him on the first opportunity. The third Son, Mr. Alexander Balcombe, is now without employment, having been dismissed by my Predecessor in April, 1831, from the Situation he held as Clerk in the Commissariat on account of negligence. From this statement, Your Lordship will perceive that it may not lie practicable very speedily to assist Mrs. Balcombe in the way that has been pointed out, but I will not fail to bear in mind Your Lordship’s wishes on this subject.

I have, &c.,

RICHD. BOURKE.
GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 40, per ship Clyde.)
My Lord,
Government House, 2d May, 1833.

With reference to Your Lordship's Despatch of the 8th August, 1832, No. 116, directing me to report to the Lords Commissioners of the Treasury the grounds upon which certain appointments and increased allowances were made by General Darling, I have the honor to transmit the copy of a letter* which I have addressed to the Secretary of the Treasury on the subject.

I have, &c.,

RICHD. BOURKE.

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GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 41, per ship Clyde; acknowledged by right hon. E. G. Stanley, 28th September, 1833.)
My Lord,
Government House, 2 May, 1833.

With reference to the Despatches noted in the margin,† I have the honor to inform your Lordship that Mr. James Busby sailed for the Bay of Islands in New Zealand in His Majesty's Ship Imogene, Commanded by Captain Blackwood on the 21st of last month. I had delayed Mr. Busby's departure for some time in the hope of receiving an Act of the Imperial Parliament, containing the Provisions to which Your Lordship referred to in Your despatch of the 14th June, 1832, No. 103. Finding however that the proposed Act had not passed in the last Session of Parliament, I thought it no longer advisable to detain the Resident here; but, having furnished him with such Instructions as the present state of the Law authorized and the objects of his employment seemed to require, I despatched Mr. Busby on his Mission. A Copy of his Instructions are transmitted herewith.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]
[These instructions, dated 13th April, 1833, will be found in a volume in series III.]

GOVERNOR BOURKE TO HON. J. STEWART.
(Despatch per ship Clyde.)
Sir,
Government House, 2 May, 1833.

In obedience to the commands conveyed to me in Viscount Goderich's despatch of the 8th August, 1832, I have the honor to transmit for the information of the Lords Commissioners of the

* Note 14.
† Marginal note.—31 January, 1832, No. 63; 18 March, 1832, No. 75; 14 June, 1832, No. 103; Mr. Hay's, 14 June, 1832.
Treasury a Statement of the grounds, upon which the under-mentioned appointments and encreased allowances were made by General Darling.

Appointment of a Clerk to Mounted Police. This appointment was authorized by General Darling on the 5th January, 1831, in consequence of a representation made by the Commandant of the Mounted Police of the necessity of such assistance, and I am of opinion that without this it would be impossible for that officer to conduct his duties.

Encrease of Salary of Superintendent of Carters’ Barracks. The encrease of this Salary, from £127 15s. to £150 per annum, was made by General Darling with the advice of the Executive Council in consequence of a representation from the Superintendent of the arduous nature of his duties and the low rate of his pay in comparison with that of others in similar situations. This encrease was made subject to the approval of the Secretary of State and was reported in General Darling’s Despatch, dated 5th February, 1831, No. 18, to which however no reply has as yet been received.

Appointment of Mr. W. K. Ogilvie, Clerk to the Bench of Magistrates at Merton £70 per annum.

This appointment was made in consequence of the representations of the Magistrates of the District, and is absolutely necessary to enable them effectually to carry on their duties. It does not appear to have been reported to the Secretary of State by General Darling.

Appointment of Mr. John Robinson as Clerk to the Master Attendant at 5s. per diem.

The salary of this Officer was encreased in consequence of the substitution of a free man in lieu of a Convict, and a communication to that effect made to the Secretary of State in General Darling’s despatch of the 5 February, 1831, No. 18, to which no reply has as yet been received. The Fees received in this Office, which amounted to a considerable Sum, and the responsible nature of the Clerk’s duties rendered it necessary to appoint a Free Man.

Lodging allowance to Lieutenant MacAlister, Commanding the second Division of Mounted Police.

This allowance was made to Mr. MacAlister in lieu of the Quarters to which as a Subaltern he is entitled.

I have, &c.,

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 42, per ship Clyde; acknowledged by
right hon. E. G. Stanley, 28th September, 1833.)
My Lord,

Government House, 3rd May, 1833.

The Postmaster of this Colony having represented the
inadequacy of his Establishment and the necessity of allowing
him additional Clerks to enable him to carry on the increased
and increasing duties of his Office, I appointed a Board to
examine and report upon the state of the Department. The
Board have recommended the appointment of a letter Sorter at
the Salary of four Shillings per diem, with which I have com­
piled. The Postmaster still complains that his Establishment is
deficient, and, judging by the augmented Revenue of the Office,
I can have no doubt the labor has much increased; and it is
probable I shall find it necessary to make further additions to
the Department. At present, it consists as stated below, and I
have to request Your Lordship's permission to place it in the
Schedule of the Fixed Establishment of the Colony accordingly.

£  s.  d.
Postmaster of the Colony ... ... ... 400 0 0
Three Clerks, one at £160, one at £120, and
one at £80 per ann. ... ... ... 360 0 0
One Letter Sorter at 4s. a day ... ... ... 73 0 0
Three Letter carriers, one at £40 and two at
£30 per ann. each ... ... ... 100 0 0

£933 0 0

I have, &c.,

RICH. BOURKE.

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 43, per ship Clyde.)
My Lord,

Government House, 6 May, 1833.

At the request of Sir Edward Parry, Commissioner for
the Australian Agricultural Company, I have the honor to trans­
mit Copies of several communications, which have passed be­
tween him and this government upon the subject of the second
Selection of Land, allowed to the Company by Secretary Sir
George Murray's Despatch of the 21st April, 1830, No. 23.

In forwarding these Papers, I have little to add in the way
of explanation, to what I have already had the honor to address
to your Lordship in my Despatch of the 17th September last.
No. 88. In that communication, I stated that I had declined
acceding to the Commissioner's proposal to take up two locations,
one on Peel's River and one on Liverpool Plains, as both were
defined by arbitrary Lines laid down in a manner, calculated to give the Company a much greater proportion of good land than is usually found in locations of much smaller size, as well as the unauthorized possession of large tracts from which other Colonists would be excluded by the Company's occupation of nearly all the Water. In that despatch, I further stated that, with the view of granting to the Company a location selected upon equitable principles and in accordance with the Spirit of Sir George Murray's despatch, a Surveyor from this Government and one appointed by Sir Edward Parry had been directed to trace the dividing range on the left bank of Peel's River with the view of making that ridge and the river the boundaries of the Company's location in that Quarter. For further information on this point, I beg leave to refer your Lordship to the Despatch and the Map which accompanied it.

The Survey thus directed having been completed, I received from Sir Edward Parry the letter marked A of the 22nd December last, together with a Map of which I transmit a Tracing. This letter, as Your Lordship may perceive, contains a proposal to take up a location on Peel's River, confined by Boundaries even more arbitrary and objectionable than the first. To this arrangement, I was compelled to give a refusal; but I offered a Location on the left bank alone with one on Liverpool Plains, selected from the Ridge down the streams to make up the required quantity. The reasons, which induced me to object to Sir Edward's proposals are to be found in the Colonial Secretary's letter of the 31st January last, and the Surveyor General's of the 22nd of that month, both marked B and transmitted herewith. Sir Edward Parry, having declined to accept of my offer, has requested that the case may be submitted for the decision of His Majesty's Government. In the enclosure of Sir Edward Parry's letter of the 11th March last, marked C, are to be found the reasons which he urges in opposition to those of the Surveyor General. Upon these, I need make no further remark than to express my belief that the latter is warranted in asserting that no more than one seventh of good land is to be found in locations of the size, formerly granted in this Colony and now directed to be sold by His Majesty's Instructions. Such at least is the general impression of those with whom I have conversed on the subject; and it is beyond all doubt that, in assigning to the Company the tract in question with two thirds of good land, they will be provided with a location, which will not fail to attract the admiration and excite the jealousy of less fortunate Colonists.
With respect to the unauthorized possession of large tracts, which it is asserted by the Surveyor General the Company would obtain, but which the Commissioner disclaims, it is certain that it would necessarily follow the occupation of locations defined in the manner proposed by Sir Edward Parry. I am quite ready to admit that neither the Company nor their Commissioner are desirous of obtaining the use of more land than may be granted to them, nor to exclude others from the benefit of ranging over vacant lands near them; but can Sir Edward Parry answer for the views and conduct of Persons, to whom the Company may lease or grant their lands, or is it to be supposed that the same usurpation will not be exercised by those placed on the Company's possessions, which is so notoriously resorted to by other Colonists, whose lands are circumstanced in a manner similar to that proposed for the Company by the Commissioner? The occupation of the Water by the Company would necessarily remove the Herds and Flocks of others from their vicinity.

Upon the whole, I would strongly advise that the Company be recommended to take their land in one location on both sides of Peel's River, as pointed out in the Colonial Secretary's letter of the 31st January last.

For the satisfaction of Sir Edward Parry, I have the honor to submit one other enclosure marked D. It is an explanation of some remarks, made by him on the conduct of the Surveyor General of this Colony, of which I thought it necessary some notice should be taken. The Remarks and the notice, I desired to be taken of them, are contained in the enclosure to my despatch of the 27th September last, No. 88, hereinbefore referred to.

I would now merely observe that I give entire credit to the purity of Sir Edward Parry's motives and the honesty of his intentions in endeavoring to obtain the most favorable conditions for the Company who employ him; but I cannot understand why he should not allow motives as honorable to actuate the conduct of the Surveyor General in his anxiety to protect the property of the Crown, whose Servant he is, and to defend the Interests of the Colonists from whose Funds he is supported.

With respect to the two last paragraphs in Sir Edward Parry's letter of the 11th March last, I beg leave to state that I will pay every attention to the wants of the Company whilst the question now detailed is pending, and that I have reason to hope I have lately adjusted the Company's claim at New Castle to the satisfaction of the Commissioner.

I have, &c.,

Richd. Bourke.
[Enclosure marked A.]

SIR EDWARD PARRY TO COLONIAL SECRETARY MACLEAY.

Sir, Port Stephens, 22nd December, 1832.

Paragraph 1st. Mr. Dangar having completed the Map of his recent Survey made in conjunction with Mr. White, Government Surveyor, of that portion of Land which is included between Peel's River and the dividing Range to the South Westward of it for the purpose of ascertaining the precise position of the Range and of the River respectively and the real quality of the land enclosed by those boundaries:

2nd. I have now the honor to transmit to you herewith for the information of His Excellency the Governor a Sketch of Mr. Dangar's Map; and, with reference to my former communications on this subject, I beg leave to Submit for His Excellency's consideration the following observations and Proposals.

3rd. The whole Area proposed by His Excellency as one location of the two intended to be granted to the Australian Agricultural Company, as shewn by the Red boundary line A B C D, has been ascertained to consist of (481,456) Four hundred and eighty one thousand four hundred and fifty six Acres reckoning to the summit of the Range.

4th. Of this Tract, The Portion bounded by a Yellow line consisting of about (100,000) One hundred thousand Acres is wholly without a Stream of Water, and on that account a mere waste. The Yellow line is drawn at the distance of Four miles from the permanent Streams.

5th. The Tract bounded by a Blue line, amounting to (40,960) Forty thousand nine hundred and Sixty Acres, is in some parts mountainous, in others Rocky with very small intervals of tolerable land.

6th. The Portion C D G H amounting to (29,747) Twenty nine thousand Seven hundred and forty Seven Acres contains two thirds or 19,831 Acres of land which, from its rough character, is of no value for any purpose.

7th. In addition to the above, there are (10,240) Ten thousand two hundred and forty Acres of precipitous and therefore useless land immediately bordering on the Range.

8th. Thus it appears that from the various causes above mentioned (171,031) One hundred and Seventy one thousand and thirty one acres, being considerably more than One third of the whole proposed tract A B C D, is of little or no value.

9th. This proportion of unavailable land being much greater than I should be justified in consenting to receive as one of the two locations intended to be granted to the Company. I beg leave to propose as follows.

10th. That a Magnetic North line E F be drawn as the Western boundary of the proposed location from a remarkable pointed Hill in the Dividing range (about a Mile to the Eastward of "Durii" which is not in the Range); and that the Rough tract C D G H be altogether excluded; thus making the proposed location E F G H to include (348,345) Three hundred and forty eight thousand three hundred and forty five Acres, of which (89,280) Eighty nine thousand two hundred and eighty acres, or more than One fourth of the whole, will still consist of unavailable land as above described; namely of the Yellow portion 40,960 Acres, the Blue Tract also 40,960 acres and 7,360 Acres of the precipitous sides of the Range.
11th. The Land on the opposite or right bank of Peel's River having been ascertained to be a still narrower strip than was before supposed and nothing having been discovered worthy of Notice to the North Eastward, though the Surveyors pursued their way up the Valley of Cockburn's River (the only opening in that direction) for about thirty miles, it is not in my power to propose any addition to this location on that Bank of Peel's River.

12th. Should the Governor accede to the above proposal, in which it has been my anxious endeavour to conform as far as possible to His Excellency's wish of making the Range a Boundary, there will remain to be selected for the Company a Second location consisting of (193,735) One hundred and ninety three thousand Seven hundred and thirty five Acres.

13th. This Second location it is still my wish to take for the Company, as shewn by the Green shading in Mr. Dangar's former Map, accompanying my letter addressed to you on the 5th of May last. And, as by your letter of the 27th of July, His Excellency intimated his readiness to grant the required quantity of Land, or more, on or near Liverpool Plains, if selected in a particular manner, I have only respectfully to request that His Excellency will be pleased to propose to me some other situation and shape, if he still objects to the Selection I made.

14th. As Mr. Dangar is now unoccupied and is retained in the Company's Service at a heavy expense solely for the purpose of assisting in the Settlement of their Grants, I take the liberty of requesting as early an answer as the Public Service will allow, as well to this communication as to my application of the 15th October last for the decision of the Company's Coal Grant at Newcastle.

I have, &c.

E. W. PARRY.

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

[Enclosure marked B.]

[1] SURVEYOR-GENERAL MITCHELL TO COLONIAL SECRETARY MACLEAY.

Sir,

Surveyor General's Office, 22 January, 1833.

I have to acknowledge the receipt of your letter No. 33/62 dated 15th Instant, enclosing a letter from Sir Edward Parry, on which by direction of His Excellency the Governor you request my report, the same having reference to a plan by Dangar, which I have also received, and which is herewith returned as well as Mr. Dangar's former Map.

I have therefore the honor to refer to the 4th Paragraph of that Letter, which contains the first objection to the land on the Peel, namely that the tract distinguished in Dangar's Map by a Yellow boundary and containing One hundred thousand Acres is wholly without a Stream of Water, and on that account a mere waste, and to observe that, although there may be no Streams, Water holes are not wanting as one proof of which I beg to state that I encamped in the very centre of it, at a place where there was Water in abundance on the night on which I left my party on the bank of the Peel last Autumn, having also found water on another part where I had encamped with my party two months before; and it may be added that one half of this land is included in Sir Edward Parry's first selection on the Peel. It is bounded by bold Hills on

* Note 15.
one side and a fine River on the other so that no part of this ground is distant above six miles from one of these; the whole affords good pasturage, and would be not less available to the Company if divided from the Company’s grant by the imaginary line E F as proposed, than if it were included therein. For the triangular portion, which would be separated therefrom by this line, is enclosed on the two other sides by such impassable barriers, viz., the mountain range on the South West, and the River Peel on the North or towards the unlocated interior, that it would in fact only be entered by the side of the Company’s Grant, and thus this fine tract containing about One hundred thousand acres would be as much in the possession of a Company possessing three hundred and forty eight thousand Acres adjoining, from which it would be seperated only by a magnetic North line (E F) as if it formed part and parcel of the granted land. The tract bounded by a Blue line (Paragraph 5) is objected to as being in some parts mountainous, in others Rocky, with very small intervals of tolerable land; but, in a large tract, such inequalities are necessary to supply the Streams; a dead flat would be without water, and upon the whole this, even as Mr. Dangar marks it, appears to be a remarkably small proportion, as it forms an intermediate basin which retains the waters between the Peel and the boundary range.

The portion C D G H (Paragraph 0th), of which two thirds are stated to be of no value from the rough character, I have not seen; but, from the Admission that One third is otherwise, I conclude that it partakes of the general character of the Vallies of the Liverpool range so much desired for the other location proposed at the head of Liverpool Plains by Sir Edward Parry, and which, not only from the proportion of good, Vizt., One third, but from the abundant pasture and unfailing Springs of that higher region, would probably be now occupied by the Colonists, were it accessible to them at all, since to occupy such parts somewhat nearer, they leave their locations and cross a lofty range; whether the Company would virtually occupy this, while holding the land adjacent to it, admits of no question.

That land bordering on a range and being precipitous is therefore useless for Sheep farming (as stated in Paragraph 7th) does not appear to follow, for the Steep sides of the range are in general well clothed with grass, and I believe in certain seasons such Mountain pasturage is desirable, if not absolutely necessary on extensive Sheep walks.

In paragraph 8th, it is set forth that such objectionable parts, as they are at least represented to be by Sir Edward Parry (or Mr. Dangar), amount to considerably more than One third of the whole proposed tract A B C D. I have already observed that One third of good land is a great proportion, because I consider the average proportion of good or available land in the whole Colony is about One Seventh, and in ordinary sized Grants will be frequently found a still smaller proportion even of good grazing land. I say One Seventh because my predecessor in this Office thought the proportion of good still less; and, having since ascertained the whole extent of the Colony, I find that the granted land bears about this proportion to the waste land, of which it was not for some years past in my power to point out to Emigrants a four Section grant of average quality within the present limits of the Colony.
1833.
6 May.

Criticism of location proposed by Sir E. Parry.

It is admitted that two thirds of the extensive tract on the Peel offered to the Company are good or unobjectionable, and in Paragraph 9th Sir Edward Parry states that, with such a proportion of unavailable land as one third, he cannot consent to receive it, as one of the Two locations intended to be granted to the Company. He therefore still proposes to cut off by an imaginary line E F the triangular tract I have already alluded to, a portion confined on other sides by the continuation of the strong natural boundaries of the proposed grant, to where they meet, and enclose the whole on the North West. He also proposes to exclude by another Ideal line the tract C D G H, which is similarly situated at the opposite or South Eastern extremity of the proposed location, thus making it to contain Three hundred and forty eight thousand, three hundred and forty acres only, although it would really include within the natural limits by Dangar's calculation four hundred and seventy eight thousand acres. I would do myself the honor to observe that I see no reason whatever for leaving at each extremity of a tract, enclosed by such boundaries, so much land in the unauthorised possession of the Company, especially considering the extensive survey which Government has found it necessary to make for the purpose of determining natural limits. The tract now proposed to be taken by Sir Edward Parry is scarcely at all different from his former selection on the Peel, as shewn in his first chart, the only difference being in the Quantity, which was Three hundred thousand, One hundred and Sixty Acres; the situation is almost precisely the same.

The difference between the whole extent of the Land on the Peel as enclosed by the Range and River, Viz., Four hundred and seventy eight thousand Acres, and what would remain to be selected, as stated by Sir Edward Parry, would be about Sixty four thousand Acres or one hundred Square Miles. It is therefore to be regretted that Sir Edward Parry cannot be persuaded to take this land on the Right bank of the Peel, for, according to Mr. White's report as well as Mr. Oxley's Journal, the Valley of the Cockburn is good, and there can be little doubt that One hundred Square Miles at least of unexceptionable land may be found; the Plains of Mulamba on the other side of the Peel, and part of which I traversed, are at least as good as Liverpool Plains; but there possession is not necessary to ensure it to the Company as far Northward as they chuse to go, or Eastward even to their Grant on the Coast, while it is desired to extend their exclusive possession to the Western limits of Liverpool Plains, where it would be available for the exclusion of the Colonists; and, if a Tract can be shewn equally good, where the interests of the Company and those of the Colony would not clash, it seems most desirable on principles of common Justice to arrange the locations accordingly. It is not only by the occupation of a great portion of what has been hitherto available to the Colonists that their interests would be affected; the occupation of the two best watered tracts would leave the intervening Country comparatively unavailable. On the other hand for the ostensible objects of the Company, the One situation is as eligible as the other; the intrinsic value of the land nearest to the Settlers might be greatest; but, all other circumstances being equal, the deterioration in value of a still greater extent left waste on the hands of Government, and the wants of the Colonists on whose numbers and wealth the actual value depends, appear entitled
to consideration. Adhering to the principle of natural boundaries for such large tracts, and admitting that the left bank of the Peel is an eligible tract of this kind, the adjacent Country of Liverpool Plains may be considered another tract of much greater extent, having also its limits very well defined, viz., The Liverpool Range on the South, The Boonalla Range on the West, the Mulnerindie (or Peel) on the North, and the Range bounding the Upper Peel tract on the East. The Conadilly divides it, and, taking this River as a Western boundary, it would confine a tract of twice the extent of all the land to be selected in two locations by the Company. The Colonists by the occupation of the land give it a value, and therefore Sir Edward Parry, to whom land unoccupied and as good for Sheep has been offered in another situation, would prefer this, for no other reason that I am aware of than because it is occupied. Whether it was contemplated by His Majesty’s Government in granting to a Company large tracts in New South Wales for the growth of Wool that room could be found there for the Company and the Colonists too, or not, I shall not presume to offer an opinion; but, if the One hundred Square Miles only, which still remains to be selected, are to be allowed on Liverpool Plains, I would beg to suggest that this land should be taken at the Western part of the former large selection there, and between natural limits so as to leave unequivocally open the whole space between that selection and the other on the Peel, with free access for the Colonists to the intervening Plains and the interior.

I would also have the honor to suggest that, in granting the land on Peel's River, the right may be reserved of making as many roads as may be necessary to the Country beyond the Peel, and free passage to the Public along those which may be made, or across the Country before Roads are made, also the right of carrying Great Roads across any portion which may be granted on the West side of Liverpool Plains.

I have, &c,

T. L. MITCHELL, Sur. G.

[2] COLONIAL SECRETARY MACLEAY TO SIR EDWARD PARRY.
(No. 33/72.)

Colonial Secretary’s Office,
Sydney, 31 January, 1833.

Sir,

I duly received and submitted to the Governor Your Letter of the 22nd ultimo, No. 764, transmitting Mr. Dangar’s Sketch of the recent Survey, made in conjunction with the Government, of the Land on Peel’s River proposed for the Australian Agricultural Company, and preferring observations and proposals for determining the Company’s Selections.

With reference thereto, I am directed by His Excellency to inform you that the reasons given by the Surveyor General, in the Enclosed Extract from his report on the subject, for adhering to the Natural Boundaries before proposed by this Government for the Company’s Location on Peel’s River, are too cogent to allow of His adopting the modification suggested by you. His Excellency therefore recommends your taking on the right bank of the River what is wanting to complete the whole quantity; by which you will secure a compact location along both sides of a noble River, with the best possible boundaries and the probability of direct communication with Port Stephens; and, if you are disposed to do so, His Excellency will endeavour to accommodate the Company by allowing a very full and favorable Selection on the right bank.
HISTORICAL RECORDS OF AUSTRALIA.

Should you, however, decline this proposal, the Governor has no objection to give you a location on Liverpool Plains, if taken upon the principle that has been already suggested, viz., from the dividing range downwards along the streams, leaving perfectly open to the Colonists all the space between it, and the Location on the Peel, reserving therein to the Government the right of making as many roads as may be necessary to the Country beyond the Peel, and free passage to the Public along those which may be made, or across the Country before roads are made, as well as the right of carrying great Roads across any portion which may be granted on the West side of the Liverpool Plains.

I have, &c.,

ALEX. MCLEAY.

[Enclosure marked C.]

SIR EDWARD PARRY TO COLONIAL SECRETARY MACLEAY.

Sir,

Paragraph 1st. I do myself the honor to acknowledge the receipt of your Letter of the 31st January last, acquainting me by the Governor's Commands that His Excellency declines acceding to the proposals Contained in my Letter addressed to you on the 22nd December last, and also Communicating to me His Excellency's Recommendation that I should take for the Australian Agricultural Company, on and near Peel's River, what is wanting to complete their whole Quantity of Land.

2nd. I regret that it will not be in my power to adopt His Excellency's Recommendation in this respect, for the reasons already very fully detailed in my former communications, some of which reasons are again stated in the Enclosure to this Letter.

3rd. It is also a Matter of sincere regret to me that I can not consent to the second of His Excellency's Proposals, and this for the following reasons; If I could conscientiously consent to take the whole Tract (A B C D) of 481,456 Acres on the left Bank of the Peel, as one Location, there would remain only about 60,000 acres to Select elsewhere.

If even these Sixty thousand acres were to be all good, or at least available Land, it would become a question whether so small a portion of the Company's whole grant would be worth the expense of forming a third and very distant Establishment. But to this consideration must be added the important fact, well known to any person acquainted with the nature of that Country, that, if these 60,000 acres were selected in the Manner His Excellency proposes, namely "from the Dividing Range downwards along the streams" towards Liverpool Plains, fully one half of any such Tract would be utterly useless. Whatever appearance, therefore, such an arrangement might make on paper, His Excellency will, I trust, perceive that I cannot accede to a proposal, which, if adopted, would in fact amount to a mere nominal possession of two new Locations.

Indeed I cannot persuade myself that the granting of so small a portion of Land to constitute a third Location, separated 40 miles from the other, is in accordance with the spirit of the intention of His Majesty's Home Government in Granting to this Company the indulgence of making two fresh Selections.

4th. Your Letter having informed me that the Governor's refusal to comply with my request is grounded on the reasons given by the Surveyor General in the Extract from that Officer's communication
BOURKE TO GODERICH.

which you have enclosed for my information, it has become my duty to offer some Remarks thereupon. To these which form a part of the Enclosure to the present communication. I respectfully solicit the Governor's attention, and, through His Excellency, that of His Majesty's Home Government.

5th. Anxious as I am to bring this Matter to a Conclusion, I cannot, for the reasons now fully stated in my various Communications to His Majesty's Government, Consent to betray my trust by accepting for the Company a Grant in which the quality of the Land and a Supply of Water are, in my opinion, made to Yield, as Matters of Comparatively light Moment, to the convenience of adopting certain natural Boundaries, the acceptance of which Grant would, therefore according to my Judgment, be committing a Second error, similar to that which had nearly involved the Company in ruin at the outset.

6th. Having given to this important Subject the most mature consideration, it appears to me that His Majesty's Local Government having virtually declined allowing me to select the Lands required to complete the Company's Grant, I have no power to proceed any further, and shall, therefore, not be justified in incurring more expense on the Selections now refused. Much less can I venture to Commence afresh by exploring some still more distant parts of the Colony, or rather out of the Colony, under the apprehension which I cannot but entertain that any fresh Selection might be met by a Similar refusal.

7th. I have, therefore, respectfully to request that His Excellency will be pleased to transmit to His Majesty's Secretary of State for the Colonies, Copies of the several Communications I have had the Honor to make to His Majesty's Local Government on this Subject. And, in Compliance with the tenor of Lord Goderich's Letter to His Excellency, dated the 3rd of March, 1832, I beg to acquaint you that I am about to transmit to the Directors of the Company Copies of the same Communications for the purpose of enabling them to address His Majesty's Home Government on this question.

8th. As under these Circumstances the prospect appears a distant one of any final Settlement of this question, I would also respectfully request that His Excellency will be pleased to grant to the Company, during this interval, temporary occupation of such further portions of Land near Liverpool Plains as may from time to time be absolutely necessary for the Support of their increasing and valuable Flocks.

9th. And as I have given Mr. Dangar notice of my intention to discharge him almost immediately from the Company's Service, I trust His Excellency will be pleased to direct that the Company's Grant at Newcastle be decided on and finally marked out without delay in the situation requested by my Letter addressed to you on the 18th of October last, to which I have not yet received a Reply.

I have, &c.,

E. W. PARRY,
Commissioner for Managing the Affairs of the Australian Agricultural Company in New South Wales.

[Sub-enclosure.]

[In this enclosure the second, third, fourth, fifth and sixth paragraphs of surveyor-general Mitchell's letter, dated 22nd January, 1833, were quoted; see page 106 et seq.]

[Remarks on the second paragraph.]

It is true that there are, at some seasons, Water holes in the Extensive Tract of Land here alluded to, but they are only such as must be dried up during the Summer Months. The autumnal rains had commenced at the latter period mentioned by the Surveyor General, namely in March, 1832, and the expression of having "found Water" two Months before implies the difficulty which there really was in finding it. If any portion of this Tract of one hundred Thousand acres could be advantageously Occupied by Stock during Some part of the Year, they must at least be removed every Summer.

It follows that, even in this most favorable Supposition, this tract is virtually a mere waste as I described it. No man would be unwise enough to form Sheep Stations on such a Tract.

It is true that I included a very considerable proportion of this Land in my first Selection, because I never have been so unreasonable as to expect that I could Select the whole quantity good; and I therefore consented to include this very large portion of Waste Land. But this is a Strange Argument to use, as it here seems to be used against the Company's Claims.

[Remarks on the third paragraph.]

The distance of Six Miles from Peel's River is too great by at least two Miles, or one third of the whole, for Stock to feed from the Water. This Circumstance, therefore, is nothing in favor of the Tract. What advantage the Surveyor General expects the Company to derive from the fact that "no part of this ground is distant above Six Miles from the bold Hills on one side." I am quite at a loss to conceive.

I appeal to the Maps of the Colony, and to the experience of the Settlers generally, whether this reasoning will not equally apply to any other unappropriated Land in New South Wales. On three fourths of the Grants on the Hunter River, for instance, the Proprietors enjoy the advantage of what is called a "back run" for their Cattle, etc., namely, Land not appropriated, nor ever likely to be appropriated, as separate Farms, being only useful in connection with the Neighbouring Estates, which latter must in a multitude of instances be passed through to arrive at the unappropriated Land.

But the Company desire no such advantage; and I particularly Solicit the attention of His Majesty's Government to the following observations:—If these one Hundred Thousand Acres do really constitute so very desirable a Tract, what is to prevent its being occupied by other Colonists. The Surveyor General says, because "it could in fact only be entered by the side of the Company's Grant." If Major Mitchell has occasion to go to Port Macquarie by land or to visit the Grants on the Manning River, he would have to ride some fifty miles through the Company's present Grant; And why not, has the Company ever objected, or, if they did, would the objection be held valid for one Moment to Roads being made and frequented through their Grants in Any direction necessary to the Public Convenience. The objection raised by the Surveyor General in this head might indeed startle an English Gentleman, through
whose Park or Game reserve a Public Road was about to be made; but in this Country such an objection is never thought of, and it must be a weak cause that in New South Wales requires such an objection to Support it.

If I understand these remarks aright, they amount to an admission that the Tract in question is, as I described it, little better than waste Land. It is true that it is only a "Small proportion" of the whole; but I only described it of its proper extent. The facts that "inequalities are necessary to supply Streams, and that a dead flat would be without water" are truisms which Cannot be denied, but they have nothing to do with the one only essential fact that the Tract in question is principally bad.

[Remarks on the fourth paragraph.]

The theoretical "Conclusion," in which the Surveyor General has here ventured, is erroneous. I, who have seen the portion of Land in question, know that it is not of the description "So much desired" by me elsewhere.

The Surveyor General's assertion that it probably is so seems to convey rather an insulting insinuation.

If however this Tract be really so desirable to the Colonists as is here represented, it will most certainly be occupied by them whenever Colonization naturally extends so far. The Company know to their Cost that their Neighbourhood is more sought after than is consistent with their interests, and with respect to Roads, see my Remarks above on this Subject.

[Remarks on the fifth paragraph.]

This question appears to turn on the meaning of the word "precipitous." My meaning was, hills too steep for Sheep or Shepherds to climb without difficulty, which is the Case generally with the Hills to which I alluded.

[Remarks on the sixth paragraph.]

This is a very fallacious, and therefore a very unfair point of view to put it in. The question is, not what is "the average of good or unavailable Land in the whole Colony," but what is the average of good or available Land in the Tracts Appropriated to the usual order of Grants in the Colony. There are Tracts of immense extent in New South Wales not worth one farthing, but nobody has ever thought of including these in any Grants at all; I claim, then, for the Company, only the usual method of giving Grants, that is, the usual proportion of good to bad Land in the Grants of the Colony generally, and every Surveyor who knows the Colony is aware that, had the question been put in this, the only fair point of view, and the Hunter River District for instance taken as a guide, the proportion of bad Land would not be found to exceed one Eighth instead of Six Sevenths, as the Surveyor General's observations appear to intimate; I earnestly request the attention of His Majesty's Government to the fallacy, which is at least implied, in the Surveyor General's Statement on this most important part of the Subject.

I have before admitted that Strong natural boundaries are extremely desirable to all parties; but if One Hundred Thousand Acres in one place and half as much in another are to be sacrificed to this consideration, it would be purchasing boundaries much too dearly.
The insinuation, that the Company or I, as their Agent, desire to have "unauthorized possession" of any portion of Land merits no reply on my part.

The real facts respecting Surveys are these. The Company has been engaged for three Years, at an expense considerably exceeding Two thousand Pounds, in endeavouring to complete their Grant, extending their researches even beyond the proclaimed limits of the Colony for this purpose. Their Selection is refused, and the expense, therefore, probably in great part thrown away. His Majesty's Government has made one survey, occupying a Surveyor from four to five Months, embracing some material points, calculated (as His Excellency justly observed) to be of great service to the Geography of the Colony, even independently of the question relative to the Company's Lands. Is it any thing new or unreasonable that the Government should Survey Lands proposed to be granted.

Indeed can Lands be sold or granted without a Government Survey, and yet the Surveyor General speaks of this Survey as some great and unusual boon conferred upon the Company.

I respectfully solicit the attention of His Majesty's Government to this instance, among many others, of the want of candour which characterizes the Surveyor General's Statements in opposition to the Company's just Claims.

E. W. Parry,
Commissioner to the A.A. Coy.

Port Stephens, 11 March, 1833.

[Enclosure marked D.]

Sir Edward Parry to Colonial Secretary Macleay.

Sir, Port Stephens, 11th March, 1833.

Having by Letter of this Day's date communicated to you my request that the Governor will be pleased to transmit to His Majesty's Secretary of State for the Colonies copies of the various documents relative to the unlocated Lands, which His Excellency has declined allowing me to select for the Australian Agricultural Company,

I feel called upon to endeavour to exculpate myself in the eyes of His Excellency from the charge of "Commenting with uncalled for asperity on the conduct of the Surveyor General in this business," and to express my deep regret at the reproof which His Excellency has been pleased to convey to me on this account in your letter* of the 27th of July last.

Upon this subject, I would beg leave to observe that no man can detest and deprecate more than I do those licentious expressions of republicanism, and that indiscriminate and unmerited abuse of the officers of Government, tending to subvert all Government in Church and State which are unhappily too prevalent in these times and in this Colony. I trust I may be permitted to say that my disposition and the habits of a life spent chiefly in the service of the King make me equally averse to such expressions of disloyalty and misrule under the specious garb of Public Spirit. But, Sir, when an Officer of His Majesty's Government behaves in a matter, which seriously and deeply concerns me, as I believe the Surveyor General has in this instance behaved, I would respectfully appeal to His Excellency whether, in such a case, remonstrance is to be

* Note 15.
denied me; whether I am silently to submit to that entire want of Candour and consideration for the Company's claims which, as I conceive, so glaringly appears in that officer's conduct and Statements on this occasion. I cannot believe that His Excellency would thus wish to exclude me from what I understand to be the common right of the meanest British Subject, who feels himself aggrieved and injured. That I on behalf of the Company have thus been aggrieved and injured, and that I have thus a just cause of serious complaint, I conceive that I have fully shown. I consider that I have proved the arguments of the Surveyor General to be in some cases frivolous, in others fallacious; that they abound in theory, where practice alone can be a safe and fair guide; that they substitute speculation for experience and fact; and that they are not always in accordance with ordinary usage but in many very essential points directly opposed to that usage. I have likewise shown that all this opposition arose from a predetermination on the part of the Surveyor General to oppose any selection I might make, that predetermination having been expressed in the strongest and most unwarrantable terms long before I had even seen the land which I have since selected.

These, Sir, are the facts on which I grounded my remonstrance to the Governor. If in making that remonstrance I was so unfortunate as to express myself in a manner, which could be construed into the most distant appearance of want of respect to His Excellency, most heartily do I regret it, and most earnestly do I disavow any such intention. But to the Surveyor General I am not aware that I owe any such respect, much less any such apology; and I therefore once more most respectfully appeal to the Governor and through His Excellency to His Majesty's Secretary of State against a decision based on the Arguments of which I complain, and coming from an Officer so prejudiced as the Surveyor General.

I have, &c.,

E. W. Parry.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 45, per ship Clyde; acknowledged by right hon. E. G. Stanley, 7th November, 1833.)

My Lord,

Government House, 10 May, 1833.

In forwarding to your Lordship a Memorial from Assistant Surveyor Kentish with my Despatch of 3rd Novr., 1832, No. 117, I had occasion to remark upon his extraordinary conduct, and to express my intention of removing him from the Surveyor General's Department on the first opportunity. I regret to state that Mr. Kentish has since compelled me to remove him by addressing to me and to the Surveyor General the very improper letters, of which Copies are herewith transmitted.

As Mr. Kentish came out from England to hold his appointment, and has a Wife and Family, I propose to allow him a sum not exceeding one year's Salary to enable him to return, if he should be so disposed.

1833.  
6 May.

Reply to criticism of remarks by Sir E. Parry re T. L. Mitchell.

10 May.

Dismissal of N. L. Kentish.

Allowance for return to England.
1833.
10 May.

Proposal for filling vacancy.

If it should be necessary to fill up the vacancy occasioned by this dismissal, I would propose, in conformity to the intention expressed in my Despatch of the 4th January, 1833, No. 4, to appoint for the Roads a Person now in the Colony, who has been employed under McAdam in England and whose Salary will not exceed £120 per annum.

I have, &c.,

RICH. BOURKE.

[Enclosure.]

MR. N. L. KENTISH TO GOVERNOR BOURKE.

Parramatta, 8 April, 1833.

Sir,

I feel it my duty to submit to your Excellency the annexed correspondence, and to crave your interposition.

My observations in reply to Major Mitchell, I perceive on re-copying my letter, are strong but they are also just and not uncalled for. I therefore hope Your Excellency will justify me in the opinion that, under feelings of honest indignation, it is more honorable and manly to address them direct to him, than to make them matter of Complaint without doing so. I would entreat Your Excellency, if you should travel upon the Liverpool Road, to Judge for yourself, and by the testimony of the Neighbouring Magistrates and Gentlemen and Liverpool Coachmen, to ascertain whether Overseer Ellis’s Men are not kept stricter and closer to their duty, and do not perform more work and better than any other Gang of Prisoners in the Colony, which is matter of notoriety and general remark; also whether the new line of Menangle Road (which I laid out exclusively myself) is not the best line that could have been formed and greatly approved of by the Public.

With regard to firewood, I should observe to Your Excellency that the Carts from Ellis’s Gang are obliged to come to Parramatta upon an average two or three times a Month; that in the Bush through which they must pass there are thousands of Loads of Wood laying on the Ground almost intercepting the Cart tract; that it is and ever has been the practice from the Institution of a Road Department for the Carts upon these opportunities to bring firewood to the very Overseers and Convicts themselves, and certainly to the Officer in charge of them; that the Carts, in charge of Mr. Simpson of Parramatta and of every other Assistant Surveyor of Roads, bring him and them firewood as often as required. I therefore hope and respectfully request that Your Excellency will be pleased to countermand the Order of the Surveyor General to my Overseer, and the Prisoners in his Gang, and to protect me from the unmerited censure, and continued persecution of my Superior in Office.

I have, &c.,

NAT LIPSCOMB KENTISH.

[Sub-enclosure No. 1.]

SURVEYOR-GENERAL MITCHELL TO ASSIST. SURVEYOR KENTISH.

Sir,

Surveyor General’s Office, Sydney, 2nd April, 1833.

The Road to Liverpool from Sydney Eastward, some miles from Bowlers Bridge, was during last Winter in a very bad state, and it will be as bad this Season unless it is immediately attended to. I request you will therefore place Ellis’s Gang upon this part
to form it properly and metal it, breaking for this purpose the Stone which is to be found on a Hill near the Dog trap, and which is of a very good description. Until I can strengthen Ellis's Gang sufficiently to form two parties, it will be necessary to leave a man in the present Huts near Jackson's to take care of them, and to be occupied filling up any holes which may be made in the Road in that Neighbourhood, etc. Having found the party under Assistant Overseer Greenfield standing idle to a Man, when I visited the Quarry where they ought to have been at work, I told Greenfield that I should discontinue him as an assistant on pay; you will therefore apprise him that he is to be discontinued from the End of the present Month. I find that the printed extract from the Regulations ordered to be put up at the station of each party has not been so affixed in Ellis's Gang, and I request you will explain why this has not been done. On remarking that little had been done to the Road from the time I had been there before, I enquired and learnt that you had not visited that party for upwards of two weeks. On this point, I request also that you will report.

I am also desirous to know by what authority you have opened and are now forming with Lahiff's Gang a new Road to Menangle ford, different from the line which had been previously cleared to the full width.

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

[Sub-enclosure No. 2.]

ASSIST. SURVEYOR KENTISH TO SURVEYOR-GENERAL MITCHELL.

Parramatta, 6th April, 1833.

I have the honor to reply to your letter dated the 2nd Inst. received by last night's post.

I have personally given directions for the immediate removal of Ellis's Gang towards Bowlers Bridge according to your Instructions, and acquainted Greenfield that he will be discontinued as Deputy Overseer after the present Month.

I have received no Copies or Copy of any Printed Extract from the Regulations ordered to be put up at the Station of each Road Party, which is the reason that none has been exhibited to either of the Gangs in my charge. In your Circular of the 27th September last, transmitting the new Instructions, mention is made of the Document to which I presume you allude, which is directed to be painted on a board. Mention is also made of a Depot being formed in my District, supplied with Stores, Tools, etc., and provided with Sawyers and other Mechanics; also of a sort of Hospital, etc., etc.; but, none of these intended Regulations having been carried into effect, I imagined that it was on this Account you neglected to issue the placard.

With regard to the "little" which you remarked had been done to the Road from the time you had been there before, and to your very severe rebuke to Overseer Ellis, I have to observe that but for certain circumstances, so unfounded a complaint, so unfounded a charge, and one so diametrically opposed to Justice, and to facts which are and must be notorious to all persons in the habit of travelling the Liverpool Road, could never have been made. You must, Sir, be well aware of this; out of the numerous and almost numberless Overseers and Road Gangs, which have been under my Superintendence the last two years and quarter, I never knew more than one Overseer (or at most two) worthy of the name or situation...
and that one is Ellis; he is a Sober, Civil, Strict Overseer, and incomparably superior to any other within my knowledge; he has been nine years in that situation, and the last Six and a half on the Liverpool Road; he has upon an average got twice as much work done and more than twice as well as any other Overseer in the Colony, in proof of which and of his exemplary conduct (for this is mere assertion which would at once be overthrown by your mere contradiction), Major Lockyer, Captain Dumaresq, Colonel Dumaresq, Mr. Nicholson and other Gentlemen, to whom he and his services and merits were known, signed a Petition to the late Governor to obtain for him a Conditional Pardon; and a similar petition to General Bourke has been signed by Mr. Justice Stephen and the Liverpool Magistrates and other Gentlemen, to whom his character and long services are known. Sir, it is poor encouragement to Overseers, who are vigilant in the performance of their duties, or to your hapless Subaltern Officers, when most earnestly and successfully striving in the Public Service, to receive nothing from you but upbraidings and reprimand, when most entitled to expect commendation and encouragement. To such ungenerous return for Zealous exertions, I have been accustomed as long as I have been under your Orders, but that solely on my account; a most praise-worthy and exemplary Overseer under my charge, and entitled to my protection, should be damned and threatened to be dismissed from his situation, is more than I can tacitly endure. Sir, you know, or, if you do not, before you give vent to your Curses and Excommunications you ought to have known, that since Christmas, when you last passed over the Liverpool Road, Ellis' Gang, which has not averaged above thirty working Men (and a part of them Cripples) with only five teams, some of but two bullocks each, has Quarried broke and Carted Eleven hundred loads of Stones, removed about five hundred loads of earth, and made about eight hundred Yards of Road not merely Stoning it, but taking out Stumps, filling large hollows, and forming a new bed, and then laying the stone upon it, which I have no hesitation in asserting is not only as much as but twice as much as any other Gang of the same strength or rather weakness in the Colony has done within the same period; besides all this new work, Ellis has in the last three months made repairs both in the bottom and to the hand rails of four or five bridges, and carted about 150 loads of Stones for the repair of holes in the worst part of the Road. As to the manner in which this work has been performed, it is open to ocular demonstration, and I have the satisfaction to know that there is not in England a better nor in any other part of this Colony half so good a Road as that of which you are pleased to complain, made by Ellis and the Prisoners under my Superintendence.

In regard to my not having visited the Gang for a fortnight, I beg to observe that, since my correspondence with His Excellency the Governor and Lord Goderich, I have sold two of my horses, and the rides, I now take, are nearly as much as my one remaining horse is capable of performing; on or about the very day of your numerous complaints, I rode on horseback thirty miles or thereabouts on duty, as I had done the second day preceding, and ten the intervening day, and further on that very journey was Robbed and ill used by Four Bushrangers; this circumstance and a Summons to attend the Supreme Court may perhaps be sufficient reason for my visits not being quite so frequent; but the men are kept
in good order and the work is particularly well performed by the Gang of which you complain; and, in respect to it and the Road, I have done all that any man is capable of doing, and at least as much as any other Officer of the Road Department.

In regard to the Menangle Road, I must for my authority for making the same refer you to your former letters of instructions in particular to my letter of the 3rd August last, requesting your directions relative to the Road between the ridge and Old Road which it crosses, West of Mr. Reddall's house, and the ford, and to your laconic reply of the 7th of the same month No. 32/68 stating only that “I was to open and render passable for carriages what is called the New line” of which that new piece forms a part which Lahiff has made under my directions from the ford. You must, I should presume, be aware from inspection that the Lands, which are in cultivation in the direction of the former cleared line, are after heavy rains flooded to the depth of very many feet, and from the nature of the Soil, as well as form of the Bank or Banks (one above the other) of the River, utterly unfit for a Road; the line I have laid out is not only the most easy that the ground would admit of and but slightly circuitous, but is by far the greater part of it on a bed of gravel; and I have had the satisfaction to receive great praise for laying it out as I have done from many Argyle Settlers and others, who have already travelled over it, as well as from Mr. Howe, Mr. Reddall and Gentlemen in the neighbourhood.

There is, Sir, yet another matter of Complaint, loud and Vehement Complaint, which, though not mentioned in your letter to me, I feel it my duty to mention to you, and not to you only but to His Excellency the Governor. Overseer Ellis told me a long while ago, soon after my Complaint to Lord Goderich of your treatment, that you had personally forbidden him to allow any firewood to be conveyed to me in the Bullock Carts upon occasion of their coming to Parramatta (otherwise empty) to fetch Forage, Stores, etc. With this which he said was your Order, I of course told Ellis to comply; but, after a while upon reflection, I greatly doubted whether you could really have given such an order, and began to think it was an invention of the Overseer or his Deputy (to whom your Orders were said to have been given more particularly) to save the Men the little trouble of filling the Carts, or rather to enable them to Sell the Wood instead of bringing it to my house. I, therefore, renewed my Orders to the Overseer and Bullock Drivers, when it was necessary to send a Cart to Parramatta, to bring me fire Wood as is usual with every Officer of the Department, observing that, if you had intended to countermand my Orders, you would as a Gentleman have done so in an official manner, and which common civility required, by a communication addressed to me and not by Verbal Orders through any of the Prisoners in my charge; and further, Sir, I was unwilling to believe that it was possible that you could be guilty of such meanness; that you could deseend to such littleness as to attempt amongst other measures of annoyance to revenge yourself on me for complaining of your tyranny to the Home Government by depriving me of a small Privilege permitted to every other Officer of the Road Department; this you could not do without glaring Injustice, unless you gave the same order to all the other Officers; you do not therefore venture Officially to give any such Order to me, but, in an ungentlemanly
underhand manner, give your peremptory Orders to the Overseer under my Superintendence (himself a Convict) accompanied by a due proportion of Oaths not to obey my orders at the peril of your displeasure, and of removing him from his situation. Sir, I know not how to dissimulate; this conduct is worthy of you; it is in keeping with Your Complaints in the very teeth of Truth and Justice; it corroborates as strongly as facts can do the Justice, the occasion, the necessity of my complaint to Lord Goderich of your continued persecution, of which it is another Act. I transmit a Copy of this letter to His Excellency the Governor, and have the honor to remain, etc. 

NAT LIPSCOMB KENTISH.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 46, per ship Clyde; acknowledged by right hon. E. G. Stanley, 18th November, 1833.)

My Lord, Government House, 10th May, 1833.

The Statute 2d and 3d W. 4, Cap. 62, having forbidden the indulgence of any exemption from labor to Convicts, who had not served the periods therein mentioned, I found myself at a loss what to do in the cases of Male Convicts, to whom an abridgment of Servitude had been promised by the Regulations of this Government in consideration of certain services performed by them, as also in the case of Females to whom Tickets of leave were promised after two years of good conduct. With the advice of the Executive Council, I ventured to publish the notice,* of which a Copy is transmitted, and forward at the same time a list of Convicts, to whom I have to request His Majesty may be graciously pleased to permit Tickets to be granted in pursuance of the pledge given by this Government before the Statute referred to was passed, and in conformity to the terms of the Notice now transmitted.

I have, &c.,

RICHD. BOURKE.

GOVERNOR BOURKE TO UNDER SECRETARY HAY.

(Despatch per ship Clyde; acknowledged by under secretary Hay, 10th November, 1833.)

Sir, Government House, 16 May, 1833.

With reference to Your letter of the 6th October last, directing my attention to one addressed to Viscount Goderich by Mr. Smeathman, Coroner of Sydney, and requesting my report upon certain points which it contains, I beg leave to enclose two Returns, the one shewing the Salary and allowances drawn by Mr. Smeathman during the years 1830, 31 and 1832, the second setting forth the quantity of Land granted to that gentleman in this Colony.

I cannot agree with Mr. Smeathman that his Salary is too small a remuneration for the duties he has to perform; and, as

* Note 16.
besides his established rate of pay he receives an allowance for every Inquest which he may be called upon to hold, I cannot recommend any encrease.

With respect to Mr. Smeathman's complaint of not having received the quantity of Land to which he was entitled, I beg to refer you to the Note at the end of the accompanying Return, from which you will perceive that General Darling granted to Mr. Smeathman 640 Acres of Land more than the amount of Capital produced gave him any claim to. I have, &c.,

Ricld. Bourke.

[Enclosure No. 1.]

RETURN of the Salary and Allowances for Travelling and all other Allowances, paid to C. T. Smeathman, Esquire, Coroner at Sydney, from 1st January, 1830, to 31st December, 1832, inclusively.

<table>
<thead>
<tr>
<th>For what Period.</th>
<th>Coroner's Salary.</th>
<th>Allowances to the Coroner for Holding Inquests at £10/- each.</th>
<th>Allowances to the Coroner for Travelling Expenses at £1. per mile.</th>
<th>Fees Paid to Surgeons for Attending at Inquests at £10/- each.</th>
<th>Paid to Persons for Picking up Dead Bodies at £5/- each.</th>
<th>Amount for each Year.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1830. 1 Jan.—31 Dec.</td>
<td>£ 100 0 0</td>
<td>£ 69 0 0</td>
<td>£ 12 0 0</td>
<td>£ 88 0 0</td>
<td>£ 1 0 0</td>
<td>£ 250 2 0</td>
</tr>
<tr>
<td>1831. 1 Jan.—31 Dec.</td>
<td>100 0 0</td>
<td>80 0 0</td>
<td>9 0 0</td>
<td>108 0 0</td>
<td>3 5 0</td>
<td>291 14 9</td>
</tr>
<tr>
<td>1832. 1 Jan.—31 Dec.</td>
<td>100 0 0</td>
<td>43 0 0</td>
<td>1 0 0</td>
<td>80 0 0</td>
<td>3 10 0</td>
<td>253 14 0</td>
</tr>
<tr>
<td>1832. 1 Jan.—31 Dec.</td>
<td>300 0 0</td>
<td>212 0 0</td>
<td>2 6 0</td>
<td>232 0 0</td>
<td>8 5 0</td>
<td></td>
</tr>
</tbody>
</table>

Total..................................£804 11 6

Amounting in all to Eight hundred and four Pounds, Eleven shillings and six pence Sterling.

Audit Office, Sydney, 21st March, 1833. WM. Lithgow, Aud. Gl.

Note.—The sums actually paid to Mr. Smeathman are those in the first three Columns, Vizt.: Salary, £300; Inquest Fees, £212; Travelling Expenses, £2 6s. 6d.—£514 6s. 6d.

[Enclosure No. 2.]

RETURN of Lands granted to Major Smeathman in New South Wales.

Date.—15 May, 1829.
Number of Acres.—1,250.
Situation.—Williams River.
Tenure.—Military; At a peppercorn Quit rent, having served upwards of 20 years in the Army.
Remarks.—The original order for selecting this Land is dated 18 February, 1829. According to the regulations in force at the time of Major Smeathman's application for Land, that Gentleman, as in ordinary cases, proved his Capital, which however only entitled him to 640 Acres; but, having stated that he had other property although then unavailable, General Darling was induced to grant him an additional 640 acres.

ALEX. McLEAY.

Colonial Secretary's Office, Sydney, New South Wales, 18 May, 1833.
GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 49, per ship Clyde.)

My Lord,

Government House, 17 May, 1833.

In obedience to the Instructions contained in Your Lordship's Despatch of the 8th August, 1832, No. 116, I have reported to the Lords Commissioners of His Majesty's Treasury all such new appointments and variations either in augmentation or diminution of expenditure defrayed by the Commissariat out of the Military Chest in this Colony, as have occurred between the 1st January and 31st March last. I have adopted the Form of a Schedule, directed by Viscount Howick's letter of the 12th August, 1831, to be forwarded for the use of the Commissioners for Auditing Public Accounts, as being the readiest and most effectual way of communicating the desired information; and I have the honor to transmit a Copy* to Your Lordship herewith as required by the Despatch first referred to.

I have, &c.,

BICHD. BOURKE.

18 May.

Request by J. McLean for full salary as botanist.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 51, per ship Clyde: acknowledged by right hon. E. G. Stanley, 28th September, 1833.)

My Lord,

Government House, 18 May, 1833.

At the request of Mr. John MacLean, Superintendent of the Botanical Gardens at Sydney, I have the honor to transmit a letter, addressed by him to the Secretary of this Government, requesting to be allowed the full Salary of Colonial Botanist, the duties of which office he performed from the decease of the former† to the arrival of the present Botanist. Whilst thus employed, I authorized an increase of £20 per annum to Mr. MacLean's Salary by raising it to one half of that of the Officer whose duties he was performing. The Regulations of the local Government did not permit of my making a more liberal allowance to Mr. MacLean, nor would I recommend Your Lordship to accede to his application, a compliance with which, though in the present instance well merited, might in other cases prove an inconvenient and injurious precedent. I have, &c.,

RICHD. BOURKE.

[Enclosure.]

MR. J. MCLEAN TO COLONIAL SECRETARY MACLEAY.

Sir,

Botanical Garden, Sydney, 12th April, 1833.

I have the honor to acknowledge receipt of your communication of the 25th ult., No. 33/81, intimating that His Excellency the Governor, altho' fully sensible that I deserve the remuneration solicited, cannot however accede to my application for the Salary

* Note 17. † Note 18.
attached to the Situation I had filled between the Decease of the last and the appointment of the present Botanist.

His Excellency appearing to consider that the regulations would not warrant his directing the payment in question, I beg you will do me the favor to submit to His Excellency's attention the Cases of Captain Dumaresq and John Stephen, Esquire, each of whom received the full Salary attached to the situation of Colonial Treasurer and Registrar of the Supreme Court between the Decease of their respective predecessors, and the nomination of the Gentlemen who now officiate in these capacities.

Having thus adduced two precedents in support of the claim, I humbly trust that His Excellency, if still disposed to decline compliance with my application, will transmit the same to the Right Honorable the Secretary of State for the Colonies, particularly as I had entered into engagements upon the full confidence that this Salary would have been granted; and as in former instances of this nature, I hope His Excellency will not object to authorise this payment, upon my entering into a Bond to refund the amount, should the decision of His Majesty's Government be opposed to the present claim.

On the ground of equity, I humbly conceive the Colonial Government can, with perfect propriety, entertain a favorable view of my case. The Regulations, it is true, provide for leave of absence in the case of a Successor actually appointed, between whom and the party discharging the duties of the Office, the Salary is to be divided. But, during the period from 21 December, 1831, and 6 August, 1832, there was no Successor fixed upon; and, the duties devolving ostensibly upon me, I feel confident that His Excellency will now consider himself at liberty to accede to my application, especially under the Security I beg to offer.

I have now acted as an assistant in the Botanical Department of this Colony for four Years, upon a Salary of £80 per annum, a Sum which I feel inadequate to the support of a person in my situation, or indeed as a full remuneration for the services I am required to perform. This circumstance will, I have no doubt operate with due force in the mind of His Excellency, when the present subject again comes before him.

I have, &c.,

JOHN MCLEAN.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 52. per ship Clyde; acknowledged by right hon. E. G. Stanley, 5th November, 1833.)

My Lord,

Government House, 18 May, 1833.

I have the honor to transmit herewith a Memorial addressed to Your Lordship by Mr. Edward Smith Hall, praying that certain Lands* in the Southern District of this Colony, granted to him in the year 1818 by Governor Macquarie, may be measured in the manner he describes. I have no reason to doubt the accuracy of the statement upon which this claim is founded; but, not finding any Order or letter of former Governments either in the Secretary's or Surveyor General's Office in direct support of it, I did not think proper to remove another Person, though

* Note 19.
1853.
18 May.

Measurement of land grant to E. S. Hall.

located much later than Mr. E. S. Hall, in order to give to the latter the exact position, to which he considers himself entitled. Your Lordship will find this position described in his Memorial.

I agreed to Mr. E. S. Hall's request that his Land should be measured according to the natural boundaries, such being beyond all doubt the mode in which it was proposed to be taken up, when he obtained it from Governor Macquarrie; but I directed the actual Shores of the Lake and Morass should be taken as the boundaries, and not the lines to which the waters reached, as Mr. Hall represents when he got his grant. The Surveyor reports indeed that there are traces clearly defined of the distance, to which the Waters spread over the shores at a former period. But, if these are now taken as Mr. Hall's boundaries, he must also retain possession of all the Land, amounting to about 300 Acres as I am informed, situate between that line and the present margins of the Lake and Morass (as otherwise he will be without water), and thus he will obtain perhaps 1,300 Acres instead of 1,000 Acres of Land as originally granted to him. This however would not be a matter of any consideration, if the permitting such mode of measurement to Mr. E. S. Hall had not the effect of driving to the South ward the adjoining Grantee of the Crown, and depriving him of the quantity thus added to Mr. E. S. Hall. No doubt the former might obtain compensation by adding to his Land in another direction; but to this he either objects or seeks such unreasonable compensation as to render it useless to treat with him. I therefore proposed to Mr. E. S. Hall to have his Land measured according to the present line of Water and to give him a small portion of Land elsewhere; but this he has not accepted, alleging that as the first located his possession should not be disturbed and that his neighbour ought to be moved. It seems that the Land to the Southward, of which Mr. Henry Hall has authorized possession, is the best in the District and hence his desire to retain it, and Mr. E. S. Hall's objection to hold land between the present and former Margins of the Waters in lieu of it.

As I am disposed to consider the Statement of Mr. E. S. Hall to be correct, supported as it is by the evident marks of a reflux of the Waters, I would beg to recommend him for such compensation as I proposed, if Your Lordship should not deem him entitled to the full amount of his claim. I have proposed the compensation, considering that the present confused state of the question has arisen from the long delay on the part of this Government in measuring the Land. I have, &c.

Richd. Bourke.
BOURKE TO GODERIC. 125

[Enclosure.]

THE MEMORIAL OF EDWARD SMITH HALL.

To The Rt. Honorable Lord Viscount Goderich, H.M. Principal Secty. of State for the Colonies, etc., etc., etc.

Most Humbly Sheweth,

That, on the recommendation of Mr. Wilberforce and Sir James Shaw, Your Memorialist was favoured by the Earl of Liverpool, in the year 1811, with a free passage from London to this Colony for himself and family in the female Convict Transport "Friends, Ralph," master.

That, during the latter part of the administration of Governor Macquarie, an exploring party was sent out by him to discover the country lying to the South-West of the Cowpastures, when two Discovery Lakes were discovered distant from Sydney about one hundred and fifty miles, and from the Coast (to the South of Port Jackson) about sixty miles.

That Governor Macquarie, being desirous to settle the Interior of the newly discovered Country (which he designated Argyle), and Your Memorialist having a large family, recommended Your Memorialist to settle on a triangular piece of land bounded on the eastern side by a morass, and on the western by Lake Bathurst, the base being enclosed by the forest.

That, accordingly, Your Memorialist proceeded to the said farm accompanied by ten assigned Servants, two hundred head of Cattle, and a waggon and three carts laden with provisions, implements and Stores.

That, on his arrival at the said farm, Your Memorialist found the waters both of the Lake and the Morass had extended themselves since the time that Governor Macquarie visited the Lake. But it had been clearly explained to your Memorialist by the Governor (who had found the Lake and Morass increasing when he visited them) that Your Memorialist's land should not be composed of any portion of land subject to the overflow of the Lake and Morass, but of land free from such inundation; and that, for this purpose, the farm was to be extended at the base of the triangle (which lies to the South) into the adjoining forest, so as to make up the compliment to Your Memorialist of one thousand acres of sound land, free from inundation.

That Your Memorialist, on his said journey, met with very heavy rains, so that he was three weeks on his passage to the Lake; and such was the boggy state of the road at one period that his carts took nine days to go twenty miles. That besides the loss of provisions (which at that period were dear) thus consumed on the road, Your Memorialist lost a horse through fatigue, value £50, and a working Ox value £14; the loss of Your Memorialist on this journey alone nearly equalled the marketable value of the farm, which he thus essayed to take possession of.

That one or more years after Your Memorialist had settled on his said farm, a new mode of measuring land in the Colony came into practice, to wit, measuring it by sectional lines in lieu of by natural boundaries. But, as Your Memorialist had settled at Lake Bathurst under the old mode of measuring, and under a specific pledge of Governor Macquarie, namely, that his farm should consist of the

* Note 20.
1833.
18 May.

Arrival of H. Hall.

Land selected by H. Hall.

peninsula of Land situated between the Lake and the Morass, he felt no apprehension that any new rule of admeasurement would be allowed to have a retrospective operation.

That, about the same time, Mr. Henry Hall, a relative of Your Memorialist, arrived in the Colony with a recommendation from the Secretary of State to receive a Grant of Land.

That, at the time Mr. Hall received an order from Governor Brisbane to select his land, he was residing on the farm of Your Memorialist at Lake Bathurst in the capacity of Bailiff or Overseer to Your Memorialist, and it was not without the greatest surprise and disappointment that Your Memorialist heard that Mr. Henry Hall had settled on the centre of Your Memorialist's farm by sectional lines and not by the natural boundaries as promised him by Governor Macquarie.

That Your Memorialist gave due notice to Mr. Henry Hall of his trespass, but waived bringing an action of Trespass against him; Your Memorialist having no formal Grant of the land to produce in a Court of Justice until the farms in Argyle should have been measured.

That Your Memorialist, therefore, waited patiently for the farm being measured during the administration of Governor Brisbane, and afterwards during the Government of Governor Darling.

That, on the arrival of His Excellency Governor Bourke, Your Memorialist heard that the Surveyor General was about to dispatch Mr. Hoddle (one of the Surveyors) to measure the farms at and in the neighbourhood of Lakes George and Bathurst. Accordingly Your Memorialist applied by Memorial to His Excellency Governor Bourke, praying him to direct the Surveyor General to measure the farm of Your Memorialist according to the promise of Governor Macquarie, on the faith of which Your Memorialist (as before explained) had at the outset incurred great risk, difficulty and expense.

That Mr. Henry Hall, by Memorial to His Excellency Governor Bourke, objected to such mode of measuring the farm of Your Memorialist, on the ground that he, Mr. Hall, had made certain improvements on the farm; and His Excellency Governor Bourke, in consideration of Mr. Henry Hall producing a letter addressed to him from the Colonial Secretary permitting him to settle where he had fixed himself, offered to compensate Mr. Henry Hall by giving him land elsewhere for the loss and inconvenience of his having made improvements on the farm of Your Memorialist through the error of the Secretary of the Colony.

That Mr. Henry Hall agreed to this arrangement, but, afterwards for reasons unknown to Your Memorialist, retracted from his agreement, and Mr. H. Hall now contends that the farm of Your Memorialist should not encroach on his improvements, but should be composed of so much of the land liable to be covered by the periodical overflow of the Lake and Morass (the said Lake and Morass having, during the last six years' droughts, greatly receded) as will leave Mr. Henry Hall's improvements outside or clear of the land of Your Memorialist.

That Your Memorialist humbly suggests to Your Lordship that whether Mr. Henry Hall wilfully or inadvertently led the local Government astray in procuring from the Colonial Secretary permission to settle on the land of Your Memorialist (and which, as hath before been mentioned, Mr. Henry Hall did in opposition to
the entreaties and warnings of Your Memorialist expressed to him repeatedly, both by message and in writing) your Memorialist having been the first or original Settler at Lake Bathurst (and under whose wing in fact Mr. Henry Hall had been introduced there, without incurring any of that risk and expense which Your Memorialist had incurred in settling in so remote a quarter of the Colony) ought not to be the sufferer by any such error or misapprehension of the Secretary for the Colony; but rather, if through the said mistake of the Secretary some one must suffer, it ought to be he who was the cause, wilfully or inadvertently, of such mistake being made, and not Your Memorialist, who has made no error. For, when Your Memorialist made his first journey as before mentioned, he had, as of course, the choice of the whole Country; and consequently, he took peaceable and unopposed possession of his farm, using all the forms and means usual, namely, by sitting down upon it. And Your Memorialist could not, except by violence, prevent either Mr. Hy. Hall, or any other new-comer, or number of new-comers (if so inclined) from settling on the farm; seeing it had not been measured and consequently not fenced in.

That no doubt can exist as to the identical land chosen by Your Memorialist, because the same is marked by grass, different both in colour and kind to that which grows on the late partial beds of the Lake and Morass. If the farm selected by Your Memorialist be measured as is required by Mr. Henry Hall, Your Memorialist will, when the periodical rains again fill the Lake and Morass, find himself in possession of a farm consisting, as your Memorialist believes, of about six or seven hundred acres of land, and three or four hundred of water; a loss which Governor Macquarie expressly engaged with Your Memorialist should not happen to the family of Your Memorialist, for whose benefit this farm at Lake Bathurst was by Governor Macquarie more particularly intended.

Your Memorialist therefore most humbly prays Your Lordship to give directions to His Excellency Governor Bourke to cause the farm of Your Memorialist at Lake Bathurst to be measured to him in the manner promised him by Governor Macquarie, to wit, the peninsula or triangular piece of land, which Your Memorialist took unopposed possession of during the administration of Governor Macquarie and before the arrival of Mr. Henry Hall in the Colony, which happened in the administration of Governor Sir Thomas Brisbane; and consequently that no portion of the Land at Lake Bathurst, which lately formed the beds in part of the said Lake and of the Morass adjoining thereto, be measured to Your Memorialist, it being covered with water at the time Your Memorialist chose his land, and consequently formed no portion of his choice; and that Your Memorialist be not indemnified or compensated by His Excellency Governor Bourke for the error made by the Government of Sir Thomas Brisbane in permitting Mr. Henry Hall to settle on the farm of Your Memorialist, but rather that Mr. Henry Hall as the cause (witting or unwitting) of such error, and also as being junior to Your Memorialist as a settler at Lake Bathurst, and further as having incurred none of the expenses which Your Memorialist incurred in being the Settler who adventured first into that remote quarter of the Colony, be compensated by the local Government for such error, as is agreeable to equity.

And as in duty bound Your Memorialist will ever pray, etc.

Sydney, 5th April, 1833.

E. S. HALL.
Inquiry re T. Hewit.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.
(Despatch per ship Lord Lynedock; acknowledged by Governor Bourke, 5th December, 1833.)

Sir,
Downing Street, 22nd May, 1833.

I am directed by Mr. Secretary Stanley to transmit to you the enclosed copy of a Memorandum, which has been received from Mr. Ward, an Attorney in Lancashire, respecting a man named Thomas Hewit, who was transported to Van Dieman's Land in 1817, and from thence removed in 1820 to Sydney to be tried for some crime, which he had committed in the former Colony. As the succession to an Estate in this Country depends upon the fate of Thomas Hewit, I am directed to request that you will use your best endeavours to ascertain, whether this person is living or dead, and in either case that you will forward to this office such a Certificate of the fact, properly attested, as would be received in evidence in the Courts here. If you should be unable to procure any satisfactory information on the subject in New South Wales, I am to request that you will apply to Colonel Arthur to institute similar enquiries in Van Diemen's Land.

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

[Enclosure.]

MR. EDMUND WARD TO RIGHT HON. E. G. STANLEY.
Prescot, Lancashire, 1st May, 1833.

Sir,

I feel deeply indebted to you for your kindness in endeavouring to procure me information respecting the Convict Thomas Hewit, and, in accordance with the suggestions contained in Mr. Hay's Letter of the 12th Ult., I beg to inclose you a Statement containing as ample Information as I have been able to collect.

I have, &c.,
EDMUND WARD.

[Sub-enclosure.]

STATEMENT.

THOMAS HEWIT, of Prescot, Lancashire, Husbandman, only son of James Hewit, formerly of Prescot aforesaid, but latterly of Whistow, Lancashire, Yeoman, was in or about the year 1817 or 1818 convicted of stealing a quantity of Cotton belonging to Kenworthy and Company, the celebrated Carriers from London to Liverpool and Manchester, and he was sentenced to seven years' transportation. John Seddon of Whistow aforesaid, Farmer, being the principal Witness, and also the Prosecutor in consequence of the Cotton having been stolen whilst under his custody as Agent to Kenworthy and Company. Thomas Hewit was transported in the Ship Surrey to Van Diemen's Land, where in or about the year 1820 he committed some offence and was sent to Sydney, New South Wales, for trial; what became of him afterwards is unknown to his family, for, by a Letter I have from Mr. Capper of the Home Office, dated 26th July, 1830, it appears that no Notice has been