RUSSELL TO GIPPS.

the United States, seems to Lord Palmerston to be liberal, but at the same time just.

For, although such Citizens could not reasonably object to being called upon to prove that they are rightly entitled to the Lands which they claim, yet, as in the case of a conquered Colony, it would not be just to apply retrospectively to Aliens, who had become Land owners before the Islands formed part of the Dominions of The British Crown, the Law which prevents Aliens from acquiring Landed Property within these Dominions.

With respect to the question about the Permission to Fish in the Waters belonging to New Zealand, and to make oil upon the Shores of those Islands, Lord Palmerston would submit for the consideration of Lord John Russell whether, on the whole, the most expedient course would not be to place New Zealand, in this respect, upon the same footing as a conquered Colony or as any other part of the Dominions of The British Crown.

Lord Palmerston believes that the Law of Nations is that the Right of Fishing, in the Sea, within three Miles of Low Water Mark, belongs to the nation which inhabits the adjoining Land; unless that Nation has by immemorial usage waived its exclusive right, and admitted Foreigners to fish within those Limits; but Lord Palmerston conceives that such usage could only be reckoned as far back as the time when the Right of Sovereignty to the land first began; and that a Sovereign, who, by conquest, purchase or Settlement, or by any other means, acquired a new Territory, and adds it to his former Dominions, will thenceforward hold that new acquisition with the same Rights which attach to his other Possessions unless it be otherwise stipulated in the Instrument by which he made the Acquisition.

In the case of Newfoundland, the Rights, which the French and Americans respectively enjoy to participate in the Fishery upon the Coasts of that Island, are so enjoyed by those two Nations in virtue of stipulations in Treaties concluded by them with Great Britain.

The Right of the French arose out of the Treaty of 1713, by which France ceded Newfoundland to Great Britain. For the same Article of that Treaty, which declared the Island to "belong of right wholly to Great Britain," stipulated that French subjects should no longer resort to the Island, beyond the time necessary for Fishing and the drying of Fish; and that they should be allowed to catch Fish, and to dry it upon Land, upon a certain part only of the Coast therein described. The right of the Citizens of the United States arose out of the Treaty of Separation of 1783, which stipulated that the Americans should continue to exercise the Rights, which they had theretofore enjoyed, to take Fish on the Banks and Coast of Newfoundland. But they were restricted from drying or curing Fish on that Island; tho' liberty was conditionally granted to them to dry and cure fish in certain unsettled Bays, Harbours and Creeks on the Coasts and Islands in the Neighbourhood.

These concessions on the part of Great Britain were annulled by the subsequent wars with France and the United States, and the limited rights of Fishery at present enjoyed by the French and Americans at Newfoundland are derived from the new Stipulations contained in the Treaties concluded with those Powers respectively after the termination of the last War.
But, between them and Great Britain, in the case of N. Zealand, no such stipulation exists, for no condition of this kind has been attached to the acquisition of those Islands.

These mixed rights of Fishing have, as Lord John Russell is aware, been the fruitful source of differences with Nations in whose Favor they have been granted; and it may be well doubted whether, as The Queen has acquired the full and complete sovereignty of New Zealand unfettered by any such mixed Rights, it would be expedient for H.M. voluntarily, and without any apparent necessity, to waive a portion of Her sovereign rights by allowing Foreigners to use the Waters within the Territorial Jurisdiction of N. Zealand for the purpose of fishing, and the Land of those Islands for the purpose of making oil.

Lord Palmerston has suggested these considerations founded upon general principles, but his Lordship cannot be aware how far local considerations may render it expedient to modify those Principles in their application to this case. I have, &c.,

J. BACKHOUSE.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.
(Despatch No. 72, per ship Kelso.)

My Lord,

Government House, 18th March, 1841.

I have the honor to forward herewith a letter, which has been addressed by Captn. Hobson to Your Lordship on the subject of his salary as Lieutt. Governor of New Zealand.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

[A copy of this letter will be found in a volume in series III.]

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.
(Despatch No. 225, per ship Burhampooter.)

Sir,

Downing Street, 19 March, 1841.

I transmit to you herewith, with reference to my Dispatch No. 190 of the 8th of January last, a Copy of a Letter from the Colonial Land and Emigration Commissioners, with Drafts of the Regulations under which they propose to execute the duty of supervising the system of Emigration under Government Bounties.

I also enclose a Copy of the reply which has been returned to that Letter; and, although it is not contemplated that these Regulations should take effect until the month of April next, I have thought it right at once to place you in possession of the details of the arrangement.
RUSSELL TO GIPPS.

You will not be at liberty to pay the Bounties to any parties except on the production of the required Certificates from the Land and Emigration Commissioners in this Country, which must be regarded as indispensable vouchers to justify your future expenditure of this part of the Local Revenue.

I am, &c.,

J. RUSSELL.

[Enclosure No. 1.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Colonial Land and Emigration Office, 9 Park Street, Westminster, 13th February, 1841.

In reference to your letter of the 7th Ultimo conveying to us Lord John Russell's Instructions to announce in the "Royal Gazette" that parties, intending to claim bounties on the introduction of Emigrants into New South Wales, must previously furnish themselves with certain certificates from this Board or its Officers, we do ourselves the honour to report to you, for Lord John Russell's information, that we inserted such a notice in the Gazette accordingly, and that we transmitted copies of it to all persons whom we understood to be extensively engaged in sending out Emigrants on bounty, acquainting them, at the same time, that it was the wish of the Commissioners to meet their convenience to the utmost extent consistent with the ends to be secured, and that every information, respecting the conditions under which it was proposed to issue the intended Certificates, might be procured on application at this Office.

Gentlemen from two very respectable firms in London, engaged in the present description of business, have called upon us in consequence of the foregoing intimation, and we are glad to say that, having explained to them the nature of the regulations we thought it would be our duty to prescribe, and the manner in which we proposed to carry them into effect, they appeared to consider the measure reasonable, and capable of being executed in practice without inconvenience. From Mr. Marshall, who has advertised 20 ships to sail in the course of this year, and to whom in common with others we sent our circular letter, we have received an earnest expression of objection to our interfering in any way with the selection of Emigrants to be taken out under orders forwarded to him by the Colonial Government. We have replied to Mr. Marshall's letter, which appeared to us to proceed in some measure upon a misapprehension of the course we should pursue; and we shall transmit to him, when issued, the detailed Regulations under which the system is to be executed.

A draft of those Regulations we now beg leave to submit for Lord John Russell's sanction. We feel, however, some little difficulty as to the course we should pursue in bringing this subject under his Lordship's notice. The rules proposed by us are based on a large number of examples falling within our knowledge and upon our information of the practice and opinion of the Trade, the whole of which considerations, were we to attempt to embody them in a letter, would swell it to a most inconvenient size. Perhaps it may be better to observe, in general terms, that none of the
HISTORICAL RECORDS OF AUSTRALIA.

1841.
19 March.

Preparation of regulations.

Proposed delay in making regulations effective.

Problem re certifying eligibility of bounty emigrants.

enclosed Regulations arise only from an attempt to forecast possible evils, but all, without exception, are founded on actual occurrences which we could cite in support of their utility. We have consulted on them some of the Officers who will have to execute their details, and have long been accustomed to similar duties, and we have also conferred upon them, as above mentioned, with some of the most eminent Bounty Agents, and have borne in mind the suggestions derived from these various sources. With these general remarks, we would venture to submit the main part of the Regulation for consideration.

But there are two provisions, to which, as involving more or less of deviation from the letter of the Notice in the Gazette, it is our duty more specially to invite attention, and to explain more particularly the grounds on which we apply for their approval.

First, in order not to interfere with arrangements actually in progress upon the issuing of the Public Notice, we recommend that the rules do not take effect in respect of vessels, which sail from London sooner than the 20th of March, or from the Outports sooner than the 26th of March, and that the absence of our Certificates shall not in these cases form any objection to the claim to Bounty. If this limitation be sanctioned by Lord John Russell, an early intimation of it to the Governor would be desirable to prevent inconvenience to ships arriving on Bounty. And, for one Vessel which has sailed in the meanwhile, we have taken it upon ourselves to issue a certificate that, the Rules under the late Notice not being yet brought into operation, the absence of our approval under them should not be construed to the prejudice of this Vessel.

The second point to which we have to advert is of a more important nature. The exact terms of the Notice in the Gazette contemplate our Certifying, that the Emigrants are "fit and proper persons to be removed at the public expense." We are sure, we need not say, that the Commissioners would not shrink from the labour or responsibility of such an undertaking. This would be sufficiently disproved by the proposals we have at various times made to fill Vessels entirely with Emigrants selected under our own discretion. In the present case, however, it is not Lord John Russell's desire that we should, by assuming too much of the duty, obliterate any of the characteristic features of the Bounty System; but what we are called upon to do is candidly to consider the amount of regulation, which is likely to be beneficial to that system, without destroying its essential principles. We must then confess that we do not think our Certificate to the personal fitness of the Emigrants reconcilable with this end. A brief recapitulation may be necessary to explain our opinion on the subject.

We reported certain examples of abuse in the practical working of the system, and Lord John Russell decided that, unless parties would submit to the necessary rules to enable us to cope with those abuses, they should lose their right to Bounty in the Colony.

One abuse was the attempt to pass Emigrants on the faith of certificates which, on the face of them, were obviously of the most doubtful authenticity. It would be too late to attempt to examine into such cases in the Colony. We have endeavoured in the annexed Rules to provide against them in this Country.

The identity of the parties, with whom the Certificates of Character are produced, is another point into which inquiries, even if
good grounds of doubt should appear, would be exceedingly difficult in the Colony. It will now be the duty of our responsible officers to see that at any rate no obvious case of that kind shall escape observation before the people have ultimately made their voyage. The number of Ships sailing with Emigrants on Bounty is daily increasing. This business will no longer be confined to persons who, from long experience and by having an almost exclusive interest in the Trade, will have both the motive and the appropriate knowledge to ensure their sending out their people on the best arrangements. A fresh example has within the last few days come before us of a vessel, which had sailed with Bounty Passengers in most objectionable circumstances. Our Rules on the subject of the arrangements on board of ship have been framed with a view of guarding against these Evils. They may perhaps effect very little, if at all, the practice of the best Firms, but they will compel others to conform to the same standard. Far, therefore, from feeling our control in this matter vexatious or really dis-serviceable to them, we should expect that the most respectable and successful Merchants engaged in the Bounty will find reason to be much obliged to us for our interference. The effect of it will be to protect the fair Trader, and to rescue the whole business from the discredit which might be brought upon it, if persons of deficient experience or inferior responsibility could act free from all control or guidance.

In these and in several other respects provided for in the annexed Regulations, we consider that a supervision in England will be not inconsistent with but favorable to the working of the Bounty system. As regards the eligibility of the Emigrants, we think, as above explained, that advantage would be derived from attesting here the apparent propriety of their certificates as Documents, and the apparent identity of the Bearers of them. But we will now state why we conceive that the question whether the Emigrant himself comes within the terms of the Bounty must be left to those by whom the Bounty is held out; and that the expression of our opinion here on their personal fitness would be fatal to the principle of the system.

If we undertake to attest the fitness of the Emigrants, we speak the result of long and extensive experience when we state that it would be impossible to do it without the same expense of Agency, and without bestowing upon it the same amount of time, as if we were to make the selections ourselves. If, therefore, such a cost were to be incurred, it would appear simpler that we should in fact be the Selecting parties. But this would be perfectly incompatible with the System, which is preferred in the Colony, and which it is our present object to preserve. By this System, the Ship Owner or Broker takes upon himself the expense and risk of finding the Emigrants, looking for his remuneration to the price paid him for the conveyance of the party to the Colony, while the Check upon his selections is supplied by the Board acting there.

The objections then to our interference in this particular are that there would be the double expense of our Agency, as well as of the charge for Agency which must virtually be included in the Bounty; there would be the double Ordeal to be passed by the Bounty Agents, of which they would have just grounds to complain, and which we know that in point of fact some of them would have considered to undurable as to propose rather to throw up the
business; and finally, there would be the natural tendency, owing to the hardship of such a double ordeal, to impair the free exercise of the right of rejection on the part of the Colonial Board.

Such are the circumstances under which, while we submit the enclosed Regulations to carry out the other parts of the notice in the Gazette, and offer the expression of our belief that the measure thus adopted in pursuance of Lord John Russell’s directions will be beneficial to every party, we request permission to modify, to the extent we have described, the nature of our Certificate upon the propriety of the selection of the Emigrants. And, if his Lordship should assent to this view, we take leave to suggest that the decision be duly communicated to the Governor so as to obviate any difficulty from the variance between the exact tenour of the notice in the Gazette, and of any Certificates issued thereon.

We have, &c,

T. FREDERICK ELLIOTT.
ROBERT TORRENS.
EDWARD E. VILLIERS.

[Sub-enclosure.]

NOTICE for the information of Persons sending out Emigrants on Bounty to New South Wales.

Office of Colonial Land and Emigration,
9 Park Street, West., February, 1841.

IN reference to the Notice inserted in the Royal Gazette of the 29th day of January last, announcing, by direction of Her Majesty’s Secretary of State for the Colonies, that parties, proposing to claim Bounty on the introduction of labourers into New South Wales, must previously furnish themselves with certain certificates issued under the authority of the Commissioners of Land and Emigration, the object of the present Notice is to explain the conditions which the Commissioners deem it necessary to attach to the issuing of such Certificates.

Selection.

1. The parties holding Orders for Bounty will be required to employ in the selection of their Emigrants the form of Certificate annexed to this Notice.
2. It will be necessary that they should transmit such Certificates to this Office, when they are duly filled up, in respect of all persons whom it is proposed to take out.

The Certificates will be examined here and, if approved of, will be returned to the parties managing the Emigration, with the approval of the Commissioners marked upon the face of the Documents. They are afterwards to be produced at the Port of embarkation to the Commissioners’ Agent there, whose duty it will be, as stated in paragraph 8, to see whether the persons presenting themselves and their Certificates correspond.

3. The kind of persons to be selected must be entirely regulated by the terms of the Notice in the Colony under which the Order for Bounty has been granted.
4. If the Applicants consist of married parties, it will be necessary that the Certificate of marriage should be forwarded with the general Certificate.
5. In order to comply with the following extract from the rule laid down in the Colony, the Ages of the Parties must be established, where possible, by the production of copies or extracts of the registry of their Baptism, duly certified by the Parish Minister or other proper Officer.

In order not deprive parties of a reasonable opportunity to supply the place of defaulters when the Vessel is about immediately to sail, and from some other Port than London, the Commissioners will not under such circumstances enforce the reference to their own Office of the Certificates of Passengers added in order to fill up the Ship. The Commissioners’ Agent acting on the Spot will possess authority to examine and decide on the fresh Certificates used on such occasions, and will note his approval in a special form, which is appended for the purpose to this notice. It must rest with the same Officer to determine the cases in which the principle of the present exception will fairly apply.

7. All Publications whatever, by which the people are invited by Bounty Agents to emigrate, must be submitted to the Commissioners, previously to circulation, as they will not otherwise be able to authorise their Officers to certify that improper influence is not used.
8. It will be the duty of the Commissioners’ Agents at the Port of Embarkation to inspect the Emigrants, and, if the parties presenting themselves correspond
with the description contained in the Certificates, to state the fact upon the face of those Documents which will then be forwarded with the Emigrants to the Colony.

9. It will further be the duty of the Agents to receive and enquire into any Complaints, which the intending Emigrants may have to make concerning the means used in prevailing upon them to emigrate on the non-fulfilment of any engagements made with them by the selecting Agents or their Employers: and, if such complaints are of an important character and appear well founded, the Agents of the Commissioners must either qualify or altogether withhold their final Certificates, according to the nature of the case.

10. The Commissioners will require that all Ships, in which it is intended to convey Emigrants to the Colony, should be of the first Class; and, if there should ever be reason to doubt the seaworthiness of any vessel, it will be competent to the Commissioners or their Officer to order a Survey.

11. It will be necessary that the proper Officer of the Commissioners should be made acquainted with the mode in which it is intended to fit up the Ship.

12. It will be required in all cases that married couples should not be separated, that their berths should be interposed between those of the single men and single women, and there should be a separate hospital for males and females of sufficient dimensions, and in convenient situations. The Victualling Scale must be submitted to the Commissioners and approved by them.

13. The Decks are not to be lumbered, but to be kept duly clear for the working of the Ship and the exercise of the people. All provisions to be stowed under Hatches, and only sufficient water for immediate use to be allowed to remain on Deck. A proper space is to be reserved in the hold for the Emigrants' luggage.

14. The diplomas and testimonials of the Surgeon, to whose care it is proposed to entrust the Emigrants, should be submitted to the Commissioners, or their Agent, as they may direct.

Issuing of the Commissioners' General Certificate.

15. When all the Arrangements are complete and the Ship is about to sail, the Commissioners' Agent will, if no objections have occurred, issue a General Certificate in the Form No. 4.

16. When all the Arrangements are complete and the Ship is about to sail, the Commissioners' Agent will, if no objections have occurred, issue a General Certificate in the Form No. 4.

17. In order not to interfere with arrangements now in progress, the present Regulations will not take effect in respect of Vessels sailing from London sooner than the 20th of March, or from the Outports sooner than the 25th of March, and, in all previous Ships, the absence of the Commissioners' Certificate is not to constitute any objection to the Claim to Bounty.

18. In conclusion, an explanation may be useful on one point. The Signature of the Commissioners' Secretary will attest the fact that the Emigrants' Certificates appear proper as documents, that there is no apparent reason to doubt the genuineness of the Signatures or truth of the descriptions, and into these Circumstances enquiry will be made if necessary. The Signature of the Commissioners' Agent will testify the apparent Identity of the Parties. But their personal fitness, or the question whether or not they come properly within the kind of Emigrants for whom Bounty is promised, will be left as at present exclusively to the decision of the proper Board in the Colony.

By Order of the Commrs.,

S. WALCOTT, Secy.

No. 1. Form to be used by the Secretary on the face of each Certificate seen and passed at the Commissioners' Office.

There appears no reason to disapprove of this Certificate.

By order of the Board.

Signature

Secretary.

9 Park St., Westminster.

date

1841.

19 March.

Notice to persons sending emigrants on bounty.
1841, 19 March.

No. 2. Form to be used by the Commissioners’ Agent on the face of the Certificate, after the people have been mustered by him on board the Ship.

The parties herein named have been mustered by me, and I see no reason to doubt that they are really the persons described in this Certificate, which has been passed as above attested.

Signature .............................................
Agent for H.M.’s Commissioners.

Date ..................................................

No. 3. Form to be used by the Commissioners’ Agent, when he considers that, in consequence of Defaults and the necessity of supplying Vacancies, there is not time to refer the Certificate to the Commissioners.

I certify that, in consequence of a real necessity arising out of defaults and the consequent occasion for filling Vacancies, I have undertaken to examine this Certificate, in pursuance of a general discretion from the Commissioners for Land and Emigration, and that I find no reason to disapprove of it.

Signature .............................................
Agent for H.M.’s Commissioners.

Date ..................................................

No. 4. Form of General Certificate of the Emigration Officer at the Port where the Ship is fitted out and from which she first sails.

With regard to the propriety and correctness of the Certificates of Bounty Passengers in this Ship, and to the apparent identity of the Parties, the several Certificates themselves shew whether they have been passed by the Commissioners and their Officers. I hereby certify that the Emigrants in this Vessel appear to be proceeding on the voyage freely and without any undue influence or misrepresentation having been employed on the part of the Claimants of the Bounties or their Agents to induce them to Emigrate, and that all contracts made with the Emigrants appear to have been duly carried out; and further that the Ship appears to me in every respect sound and seaworthy and properly manned, and not stowed in an objectionable manner, and provided with all things requisite for the sustenance, health, and necessary comfort of the Emigrants during the Voyage.

If the Ship touches at an outport and takes in Emigrants, this Certificate is to be countersigned by the Commissioners’ Officers there.

Signature .............................................
Agent for H.M.’s Commissioners.

Countersignature ..................................
(in cases where required)
Agent for H.M.’s Commissioners.

Free Emigration on Colonial Bonnies to Sydney or Port Phillip, New South Wales, under the management of ..................................................

Form to be filled up by persons desirous of obtaining a Passage to the Colony of New South Wales under the Colonial Bonnies, then to be returned as a letter prepaid and directed to ..................................................

The same Form will do for a Man and his Wife and their Children.

Name of applicant ..................................
Trade or Calling ..................................
Whether in the receipt of Parish Relief and, if so, for how long ..........
Place of Residence .................................
Married or Single (if married, the Certificate or Marriage must be enclosed) ....
Whether to go to Port Phillip or Sydney ...........................
Name and Address of some late Employer, with the time the Applicant worked for him ..........................
Names and Address of the Minister of the Parish in which the Applicant resides ..........................

Notice to persons sending out emigrants on bounty.
RUSSELL TO GIPPS. 289

<table>
<thead>
<tr>
<th>In this Column write the names of all parties included in the Certificate: giving each Parent and each Child a separate line.</th>
<th>In this Column write each one's age at the last birth-day.</th>
<th>In this Column write the date of the birth-day.</th>
<th>In this Column write opposite to the Name of each Adult the trade or calling.</th>
</tr>
</thead>
</table>

N.B.—The Ages must if possible be proved by baptismal certificates.

1841.

19 March.

Notice to persons sending out emigrants on bounty.

I do hereby declare that the above statement is true, that I have carefully read the Regulations for the selection of Emigrant Labourers, and that, in applying for a passage to the Colony under the Colonial Bounties, I am really and truly acting in accordance with the spirit of those Regulations, which I understand to be this: That the privilege of a free passage, if granted, will be allowed me in the expectation that I go to the Colony as one willing and intending to work there for wages. I also engage during the voyage to conform to such Regulations as may be established for the good government and welfare of all on board; and I further pledge myself to appear before the Board of Inspection, appointed by the Governor on arrival in the Colony.

Certificate to be signed by two respectable Householders.

N.B.—This is not to be signed by Publicans or Dealers in Beer or Spirits.

We certify that we are well acquainted with the above named applicant; and we believe the above statement to be strictly true; further, that we believe the applicant to be honest, sober, industrious, and of general good character, and not likely to become a burthen in the Colony.

Signature
Place of abode

Certificate of a Physician or Surgeon.

I certify that I have examined the above named Applicant, and his Wife and Children, and that none of them are seriously mutilated nor deformed in Person, nor, in my opinion, afflicted with any disease calculated to shorten life, or to impair physical or mental energy. I certify also that they have all had the small-pox, or have been vaccinated, and are entirely free from every disease usually considered infectious or contagious.

Signature
Place of abode

Certificate of Bounty Agent.

I do hereby declare that I have carefully enquired as to the validity of the above statements, and that I am perfectly satisfied of their correctness; also that I have made all other necessary enquiries and examinations, and that I believe the above Parties to be in all respects desirable Emigrants.

Signature

It is particularly requested that no Gentleman will certify this Return unless thoroughly convinced of the statements contained in it.

This Certificate will be returned unless filled up exactly according to the directions given.

SER. I. VOL. XXI—T
HISTORICAL RECORDS OF AUSTRALIA.

[Enclosure No. 2.]

UNDER SECRETARY STEPHEN TO LAND AND EMIGRATION COMMISSIONERS.

Gentlemen, Downing Street, 3rd March, 1841.

I have laid before Lord John Russell your Letter of the 13th Instant, enclosing drafts of the Regulations under which you propose to execute the duties of supervising the system of Emigration to New South Wales under Government Bounties; and I am directed to acquaint you, in reply, that His Lordship sees no reason to object to the principles on which those Regulations have been prepared, and accordingly authorizes you to promulgate them.

Lord John Russell would, however, recommend that these Regulations should not take effect until the month of April next, and that provision be made for ships driven by stress of weather into Port taking one or two persons on board.

I am, &c.,

JAS. STEPHEN

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 73, per ship Kelso.)

My Lord, Government House, 19th March, 1841.

I have had the honor to receive Your Lordship's Despatch of the 26th Augt. last, No. 193, notifying me that the Senate of Hamburgh has appointed Mr. W. H. Dutton to be their Consul at Sydney, and desiring me to state whether I am aware of any objection to the Grant of the Royal Exequatur on the appointment. In reply to which, I have the honor to report that the only objection I am aware of is that Mr. Dutton has very recently been unfortunately under the necessity of assigning his property to Trustees for the benefit of his Creditors.

I have, &c.,

GEO. GIPPS

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 74, per ship Kelso; acknowledged by Lord John Russell, 13th August, 1841.)


With reference to the correspondence marked in the margin,* on the subject of granting Leave of Absence to the Attorney General of this Colony, and particularly to Lord Normanby's Despatch of the 19th June, 1839, No. 73, authorizing me to grant to the Attorney General Leave of Absence on the best terms which it may be possible to make with a due regard to the public expense and the efficient discharge of the duties of his office; I have the honor to report to Your Lordship that

* Marginal note.—Sir George Gipps to the Secretary of State: No. 203, 27 Dec., 1838; No. 26, 23 Feb., 1840. Secretary of State to Sir George Gipps: No. 73, 19 June, 1839; No. 114, 20 July, 1840.
I have granted to Mr. Plunkett Eighteen months' Leave of Absence to be reckoned from the time of his departure from the Colony.

In my Despatch of the 23d Feb'y., 1840, No. 26, I explained to Your Lordship the difficulties, which rendered it impossible for me then to grant Mr. Plunkett Leave of Absence; some of those difficulties having been removed by the passing of the Local Acts, 4 Vict., Nos. 22 and 25, I received on the 17th Octt. last a renewed application for Leave of Absence from Mr. Plunkett, a Copy of which I enclose; and on the receipt of it, I authorised Mr. Plunkett to make arrangements for leaving the Colony, which he did by forthwith engaging his passage on board the "Kelso," the vessel by which this Despatch will be conveyed.

The first of the Acts above alluded to enabled me to relieve the charge, to which the Colony was subject for the Law Officers of the Crown, from the sum of £500 theretofore paid to Dr. Kinchela, as Chamber Counsel to the Government, Dr. Kinchela being appointed Master in Equity to the Supreme Court, as reported in my Despatch of the 1st Jany. last, No. 4.

The second Act above alluded to (4th Vict., No. 25) enabled me to make a new and long desired arrangement respecting the Courts of Request in the Colony, by which Mr. R. Therry, the Commissioner who holds his appointment under the Sign Manual, can be temporarily relieved from the duty of presiding in those Courts, which it was held he could not be before the act of the Imperial Legislature, 2nd and 3rd Vict., C. 70, was passed.*

The whole expense of the Law Officers of the Crown, as provided for on the Estimates for 1841, is as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attorney General</td>
<td>£1,200</td>
</tr>
<tr>
<td>Chamber Counsel</td>
<td>500</td>
</tr>
<tr>
<td>For defraying the expense of Counsel in</td>
<td></td>
</tr>
<tr>
<td>the second Court when sitting</td>
<td>500</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>£2,200</td>
</tr>
</tbody>
</table>

The expense under the temporary arrangement now made will be,

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acting Attorney General (Mr. R. Therry)</td>
<td>£1,200</td>
</tr>
<tr>
<td>Acting Solicitor General (Mr. a'Beckett)</td>
<td>800</td>
</tr>
<tr>
<td>Half Salary to the Attorney General</td>
<td>600</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>£2,600</td>
</tr>
</tbody>
</table>

*Marginal note.—On this subject my Despatch, No. 133, of the 3d Octt., 1839, may, if necessary, be referred to.
292 HISTORICAL RECORDS OF AUSTRALIA.

1841.
20 March.

Arrangement re duties of R. Therry.

being an excess of £400 over what is provided for, which £400 however will be saved in the following manner:—

Mr. Therry is at present Commissioner of the Courts of Request with a fixed salary of £800 per annum; but his duty as such will be done during Mr. Plunkett's absence by the Chairman of Quarter Sessions for £400, so that the charge for the year will not exceed what is provided for in the Estimates; and I shall not have occasion to avail myself of the permission, granted to me by Lord Normanby's Despatch above mentioned, to any greater extent than that which was obviously within the contemplation of His Lordship.

I have been thus particular in explaining these arrangements, because nearly two months after I had given my consent to them, and after Mr. Plunkett had paid £400 for the passage of himself and family to Europe in the "Kelso," I received (on the 16th Decr. 1840) Your Lordship's Despatch of the 20th June, No. 114, in which Your Lordship declines to sanction the revival as a permanent measure of the office of Solicitor General in this Colony.

I beg to point out to Your Lordship that I have distinctly explained to all the parties concerned that no guarantee of permanency is given, either to Mr. Therry or Mr. a'Beckett; and that the question whether or not the office of Solicitor General is to be revived will be altogether uninfluenced by the present arrangement.

I enclose a copy of a Minute made by the Executive Council, on the 24th Novr., 1840, by which Your Lordship will perceive that Leave of Absence is granted to Mr. Plunkett with the concurrence of the Council, as required by the 54th Geo. 3, C. 61, and by Your Lordship's Circular of the 10th March, 1840.

In consideration of the delay which has occurred in granting Leave of Absence to Mr. Plunkett and the urgency of his private affairs, occasioned by the death of his Father, I beg respectfully to recommend that Mr. Plunkett should, if he require it, be allowed an extension of six months in his Leave, making his total absence from the Colony not to exceed two years.

I have, &c.,
Geo. Gipps.

[Enclosures.]

[A copy of the letter is not available; the minute will be found in a volume in series II.]
Sir George Gipps to Lord John Russell. (Despatch No. 75, per ship Kelso.)

My Lord, Government House, 21st March, 1841.

I have the honor to forward herewith the usual Annual Report from the Agent for Immigration in this Colony for the year 1840. I have, &c.,

Geo. Gipps.

Sir George Gipps to Lord John Russell. (Despatch No. 76, per ship Mary Ridgway.)

My Lord, Government House, 22nd March, 1841.

I have the honor to enclose a Copy of a document, which I received a few days ago from the Lieutt. Governor of New Zealand, the same being an application from a gentleman named Sinclair for Seventy allotments in the Town of Auckland in the expectation that an order will shortly arrive from Your Lordship for the sale of land in that Town at a fixed price.

I beg respectfully to explain to Your Lordship that my object in transmitting this letter is merely to shew how the practice, which in New South Wales is called "Land Sharking," is likely to flourish, and be improved upon, under the operation of a fixed price for Land in New Zealand.

The parties, for whom Mr. Sinclair seeks to get a preference in the selection of Town allotments, are all I believe resident in England; at any rate they cannot want for their own use the number of allotments they propose to purchase in the Town of Auckland; and it is therefore only fair to conclude that their object is to sell them again at a profit.

It must be evident that no regulations of Government can entirely prevent speculations of this sort in land, nor would it indeed be desirable to do so; but, as the Colony of New South Wales has been particularly reproached for the obnoxious practice of "Land Sharking," I think it right to bring under Your Lordship's notice the existence of it elsewhere.

I have repeatedly taken the liberty of expressing to Your Lordship my firm conviction that the practice of buying land on speculation is likely to be very greatly increased by the establishment of an uniform price.

I have, &c.,

Geo. Gipps.

[Enclosure.]

[A copy of this letter, dated 6th February, 1841, will be found in a volume in series III.]
1841.
23 March.

Proposal for introduction of camels.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.
(Despatch per ship Burhampooter.)

My dear Sir,

Downing Street, 23 March, 1841.

It has been suggested to me that it would be of much importance to the Welfare of Australia if it was found practicable to introduce Camels into that country.

Considering the peculiar nature of the Continent, the vast extent of unexplored country, the want of water, and peculiarity of the long journeys which must be made by land from one Colony to another, I think they might be found very applicable, as well for purposes of discovery as for a means of communication; and that it is a subject well worth your attention and encouragement.

I wish therefore you would turn your attention to it, and, should it appear expedient, that you would promote the project in any manner you should think proper.

Elephants have also been mentioned to me; but the use of these I think more doubtful.

The only obstacle to the introduction of camels seems to me to be the greater coldness of climate in the southern parts of Australia; you will be able to decide upon this local question much better than I can.

I remain,

Yours faithfully,

J. RUSSELL.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.
(Despatch No. 77, per ship Mary Ridgway; acknowledged by lord Stanley, 27th October, 1841.)

My Lord,

Government House, 23rd March, 1841.

On the 11th Jany., 1840, I transmitted to Your Lordship, with my Despatch No. 5, a letter of defence from Mr. H. C. Wilson, late First Police Magistrate of Sydney, and in so doing I remarked to Your Lordship that an appendix, stated by Mr. Wilson to accompany the letter, had never reached me; Mr. Wilson was informed that the Appendix had not been received; and he also was perfectly well aware that all documents intended for the Secretary of State should be forwarded in Duplicate; he however took no means either to supply another Copy, or to account for the loss of the original. Relying therefore on the habitual accuracy of the gentlemen in the Colonial Secretary's Office, through which Mr. Wilson's letter had been transmitted, I was led, after many fruitless enquiries, to conclude that no appendix had ever been transmitted by Mr. Wilson; and it was to me a matter of great annoyance and regret, when many months
afterwards, on the 7th Octr., 1840, the Appendix was discovered among some Papers which had been put away by the Assistant Colonial Secretary Mr. Harington.

I lost no time in carrying the appendix before the Executive Council; and, after causing a record to be made of the circumstances under which it had been both lost and found, I took the advice of the Council upon the course of proceeding, which ought to be adopted in consequence of the numerous charges conveyed in the Appendix against the Officers of the Department, in which Mr. Wilson's late accuser, Mr. Ryan, fills the situation of Chief Clerk.

Your Lordship will perceive that, by the advice of the Council, it was intimated to Mr. Wilson that he would be placed precisely in the same situation as Mr. Ryan had been placed in, when Mr. Ryan was his accuser; and also be afforded the same facilities to prove his charges, which had been allowed to Mr. Ryan.

Mr. Wilson having declined this offer and refused to appear as an accuser, the Council proceeded to investigate the charges without his assistance; but, though Mr. Wilson did not himself appear before the Council more than once, he wrote either to myself or to the Colonial Secretary a great number of letters, describing the nature of the proof, which might be adduced in support of his charges, and the names of the persons, who could prove them. All these letters were brought before the Council, though many of them were of so trifling a nature that they are not noticed on its proceedings; and all the witnesses were summoned, whose names were handed to me by Mr. Wilson.

The charges against Mr. Ryan, Mr. Wilson's late accuser, extended over a period of twelve months, one of the principal of them having reference to some private transactions, in which Mr. Ryan was engaged as far back as the year 1829; and, after a very laborious investigation, which lasted more than two months, the Council unanimously determined that nothing whatsoever had been substantiated against Mr. Ryan, tending to criminate him or to affect his character as a Public Officer.

The accusations against Captain McLean, the Head of the Convict Department (in which Mr. Ryan is Chief Clerk), were principally connected with the feeding of his Pigs, or allowing his Pigs to be fed on hominy left by the Convicts; the employment in 1838 or 1839 of a party of Convicts to carry to his private garden Manure which he had purchased in Sydney; and his having occupied an Island for his private advantage, contrary to the regulations of Government.

The Council did not enter into the question of the hominy, first, because the fact of hominy having been given to his Pigs
1841.
28 March.
Investigation of charges against J. L. McLean.

Charges against Lane.

was admitted by Captain McLean; and secondly, because it had been disposed of, and the practice of giving hominy to Pigs belonging to Officers of the Department put a stop to by myself about two years ago, as reported to Your Lordship in my Despatch above mentioned of the 11th Jany., 1840.

The employment of some Convicts in conveying Manure to his private Garden having been also admitted by Capt'n. McLean, a letter was written to that officer, strongly reprimanding him for so improper a proceeding, agreeably to the recommendation of the Council made at their meeting of the 24th Novr., 1840.

The accusation respecting the occupation of the Island was declared by the Council to be perfectly frivolous and unfounded, Capt'n. McLean having done no more than put a few Goats and some Poultry for a short time on a small Island in the Parramatta River, with the written permission of the Surveyor General and the verbal approval of the Governor.

The charges against Mr. Lane, the third officer in the Department, of which Capt'n. McLean is the Head, related to alleged habits of drunkenness, and to his having been confined in the Watchhouse when drunk; to his having shewn favor to particular convicts by allowing them to be improperly at large; and to his having allowed Convicts to work for persons (friends of Mr. Lane) contrary to the orders of Government, and receiving presents in return. The decision of the Council in the case of Mr. Lane was that no sufficient evidence had been adduced of his having been found drunk in the Streets or confined in the Watchhouse; but that the charges of having allowed convicts to be improperly at large, and of having received presents (though only trifling ones) for so doing, and of having had Spirits brought into the Convict Barracks, even on Sundays, by a Convict Messenger, had been substantiated. Mr. Lane was therefore, in pursuance of the advice offered by the Council on the 21st Decr., severely reprimanded, and cautioned that any repetition of similar misconduct would lead to his immediate dismissal.

Your Lordship will perceive that the Council, on the first reading of Mr. Wilson's Appendix, declared that it contained nothing which could affect in any degree Mr. Wilson's own case; and that, after having gone through the laborious investigation which his appendix gave rise to, the Council again recorded their unanimous opinion that nothing had come before them, which in any way whatsoever altered the view, which the Council had taken of Mr. Wilson's case.

Your Lordship will perceive that the investigation terminated on the 21st Decr., 1840. The delay, which has occurred in
transmitting the proceedings to Your Lordship, has arisen solely from the inability of the Clerk of the Councils to attend to the arrangement and copying of the Papers, until the pressure of business was over, which occurs in his office during and immediately after the Session of the Legislature.

The original Appendix, as furnished by Mr. Wilson, is forwarded herewith; as also are the Minutes of the Executive Council containing all the proceedings of which an Abstract is given above.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

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

GIPPS TO RUSSELL.

Sir George Gipps to Lord John Russell.

(Despatch No. 78, per ship Mary Ridgway; acknowledged by Lord Stanley, 23rd February, 1842.)

My Lord,

Government House, 24th March, 1841.

With reference to my Despatch No. 3 of the 1st January last, and to the Act of Council, 4th Vict., No. 22, for the establishment of branches of the Supreme Court at Port Phillip and in New Zealand, I beg leave to report to Your Lordship that I have found it necessary to appoint a Deputy Registrar and a Deputy Sheriff at Port Phillip; and that I have appointed, subject to Your Lordship's approval, Mr. Francis Merewether to the former situation (Deputy Registrar) with a salary of £150 a year; and Mr. Samuel Raymond to the latter (Deputy Sheriff) with a salary of £400.

Mr. Merewether has been employed for some time as a Confidential Clerk in the Treasury at Sydney.

Mr. Raymond is the son of the Post Master General, an old and meritorious servant of this Government. Mr. Raymond is also an LL.D. of the University of Dublin, and has been admitted to the Bar of New South Wales.

I beg to assure Your Lordship that I have not made these appointments without a thorough conviction of their necessity, and of the impossibility of establishing the Jurisdiction of the Supreme Court without them.

The salaries are also the lowest at which it was possible to get properly qualified men to fill the situations; and the fees to be taken and carried to the public account will also, I am assured, very nearly, if not entirely, cover the expense of the Offices.
The Registrar will not only be Registrar of the Court, but his office will also be a general Registry for all Deeds (such as Conveyances of Land or Mortgages) and of Births, Marriages, and Deaths, in that part of the Colony.

I have respectfully to request the confirmation of these appointments by Your Lordship.

I have, &c.,
Geo. Gipps.

---

Lord John Russell to Sir George Gipps.
(Despatch No. 226, per ship Burhampooter.)

Downing Street, 25 March, 1841.

With reference to my Dispatch No. 22 of the 26th of October, 1839, in which I stated that I would instruct the Board of Admiralty to provide the necessary freightage for the Statue of the late Governor Sir Richard Bourke whenever the Sculptor should have reported the completion of the Work; I have now to acquaint you that a difficulty has arisen, in consequence of the discontinuance of Convict ships to Sydney, not then contemplated; and that, on communicating with the Lords Commissioners of the Admiralty and the Board of Treasury, I find that there are no funds from which the expense of providing the necessary freight for this purpose could be defrayed by the Public.

I, therefore, regret that the Government have it not in their power to shew that mark of respect to Sir R. Bourke, which was intended by forwarding the Statue to the Colony.

I am, &c.,
J. Russell.

---

Sir George Gipps to Lord John Russell.
(Despatch No. 70, per ship Mary Ridgway; acknowledged by lord Stanley, 28th September, 1841.)

My Lord,

I have the honor herewith to forward a letter, which has been addressed to Your Lordship by Mr. Wm. a'Beckett, who, as reported in my Despatch of the 20th March, 1841, No. 74, has been appointed by me to the situation of Acting Solicitor General during the absence from the Colony of the Attorney General, Mr. Plunkett.

On the subject of the revival in this Colony of the office of Solicitor General, I beg leave to refer to my Despatch, No. 26 of the 23d Feby., 1840.

I have, &c.,
Geo. Gipps.
GIPPS TO RUSSELL.

[Enclosure.]

MR. W. A'BECKETT TO LORD JOHN RUSSELL.

Sydney, New South Wales,

23rd March, 1841.

My Lord,

Having had the honor to being temporarily appointed So-
licitor-General for this Colony by His Excellency Sir George Gipps,
I beg respectfully to apply to your Lordship for confirmation in
that office. Should it be the intention of Her Majesty's Government
to Sanction its permanent revival. Of my qualifications for the
office, it does not become me to speak; but, that your Lordship
may form some judgment in that respect, I take the liberty of in-
closing for your Lordship's perusal two letters addressed to me by
their Honors the Chief Justice and Mr. Justice Stephen, at the
time when the appointment was first notified to me.

I have, &c,

WILLIAM A'BECKETT.

[Sub-enclosure No. 1.]

SIR JAMES DOWLING TO MR. W. A'BECKETT.

My dear Sir,

Sydney, N. S. Wales, 31st October, 1840.

Having heard with sincere pleasure that Sir George Gipps
has temporarily appointed you to the office of Solicitor General of
New South Wales, I beg to express my entire approbation of the
appointment; and venture to indulge a hope that the Right Hon. the Secre-
tary of State may be influenced and confirm the appointment. I
am well aware that Her Majesty's advisers are constrained to
exercise the invidious privilege of nominating to office, too fre-
quently in personal ignorance of the fitness of the candidate, and
at haphazard, under the pressure of political urgency. Their high
sense of anxiety for the public weal may, perhaps in some instances,
be over-ridden by clamorous appeals to consideration on the part
of those who have friends to provide for. The office which you now
hold is most responsible. It requires a man of high principle,
considerable knowledge of the law and of its practice, united
with temper, discretion and good sense. These are qualities which
I certify you possess; and I am persuaded that, from your gentle-
manly manner, and the general esteem in which you are held, the
confirmation of your appointment will be hailed with satisfaction by
the Bench, the Bar and the public. In your hands, I sincerely
think, the interests of the Crown in the law department of this
Colony may be safely entrusted.

Believe me, &c,

JAMES DOWLING.

[Sub-enclosure No. 2.]

MR. JUSTICE STEPHEN TO MR. W. A'BECKETT.

My dear Mr. a'Beckett,

Sydney, 11 Nov., 1840.

I have pleasure in congratulating you, on your forthcoming
appointment of Solicitor-General. It will, indeed in this Colony, add
little to your fame; and probably it will add little if anything
to your professional emoluments. It is, however, a tribute to your
professional and personal merits; a compliment, the value of which
is not to be estimated by money. It is, also, not without value as
 mere advancement in rank; altho', this, I dare say, enters little into
300
HISTORICAL RECORDS OF AUSTRALIA.

1841. 26 March.  
Congratulations on appointment from A. Stephen.

your own calculations of its importance. Yet do not too much 
depise rank even though only Colonial rank. It will confer on 
you the means of more extended usefulness. Every added source 
of influence is important, and with you will be valued as enabling 
the possessor to do good to his fellow men. In this view, I cannot 
but regard your appointment as a subject of greater congratulation 

to the Public than to yourself. It would be little to say that it will 
be acceptable to the Bench, and popular with the Bar. It will be as 
serviceable to the Crown, and as beneficial to the Community. I see 
in it only an additional instance of the discrimination and sound 
policy, which on so many occasions have distinguished the present 
local Government; and I trust that Sir George Gipps’ nomination 
will meet with the cordial approval of Her Majesty’s Government 
at Home.

I am, 
Very faithfully yours,
ALFRED STEPHEN.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.  
(Despatch No. 227, per ship Burhampooter.)

26 March.  
Returns acknowledged.

Sir, Downing Street, 26 March, 1841.

I have received your Dispatch No. 128 of the 5 September 
last, enclosing, with reference to a former Dispatch, a furth­
er portion of the Returns called for by an order of the select 
Committee of the House of Commons on Transportation bearing 
date 29 November, 1837. You state that the remainder of the 
Returns were in course of preparation at the date of your Dis­
patch, but that the expense of preparing such of them as had 
then been completed in the Department of the Superintendent of 
Convicts alone amounted to the sum of £1,006 13s. 1d.

As the Committee made its final report and closed its pro­
cedings in the month of August, 1838, it is to be regretted that 
so much labour and expense should have been bestowed on 
returns which have arrived far too late for the purpose for 
which they were required.

I have, &c.,
J. RUSSELL.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.  
(Despatch No. 81, per ship Mary Ridgway; acknowledged by 
lord Stanley, 28th September, 1841.)

27 March.  
Transmission of letter from S. Bolden.

My Lord, Government House, 27th March, 1841.

Herewith I have the honor to enclose a Copy of a letter, 
which was addressed on the 15th instt. to Mr. La Trobe by a 
gentleman named Bolden, who appears to be settled near a 
place called Heidelberg in the Port Phillip District about six 
miles from Melbourne.
I beg respectfully to state that I transmit this letter only in corroboration of the opinions, which I have already expressed to Your Lordship, respecting the way in which the New Land Regulations will work in Port Phillip. I have, &c,

GEORGE GIPPS.

[Enclosure.]

[A copy of this letter from Samuel Bolden will be found in a volume in series III.]

---

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.
(Despatch No. 229, per ship Burhampooter.)

Sir, Downing Street, 28 March, 1841.

I referred, for the consideration of the Lords of the Committee of Privy Council for Trade, your Dispatch of the 19th April, 1840, No. 37, relative to a question which had arisen as to the legality of the Importation into the Colony of French Wines, in French Bottoms, from the Dominions of the King of the French.

I transmit to you herewith for your information and guidance Copy of a letter from the Secretary to the Board of Trade, stating that the Lords of the Committee are of opinion that French Wines cannot be legally imported into New Holland from France or from any French possession in French Ships.

I have, &c,

J. RUSSELL.

[Enclosure.]

MR. J. MACGREGOR TO UNDER SECRETARY VERNON SMITH.
Office of Committee of Privy Council for Trade,
Sir, Whitehall, 26 March, 1841.

With reference to your letter of the 11th November last, transmitting Copy of a Despatch from the Governor of New South Wales on the subject of a question, which had lately arisen as to the legality of the Importation of French Wines into that Colony in French Bottoms from the Dominions of the King of the French; I am directed by the Lords of the Committee of Privy Council for Trade to acquaint you, for the Information of Lord John Russell, that my Lords are of opinion that French Wines cannot be legally imported into New Holland from France, or from any French Possession in French Ships.

By the 6 Geo. IV, Cap. 114, foreign ships can export, direct from the Countries to which they belong to the British Possessions, the Produce of their respective Countries, when their Governments shall have fulfilled the conditions laid down in that Act. But, although the French Government had not in all respects fulfilled the said conditions, French ships may, by an Order in Council dated 1st June, 1826, and 16 Decr., 1825, export certain enumerated
transportation in French bottoms from French dominions.

An Order in Council, dated 27th July, 1827, extends also to France the privilege of carrying from France to the British Possessions, named therein, certain enumerated Articles, being the produce of France, and all articles the produce of France, subject, at the time on importation into the British Possessions to an ad valorem duty not exceeding £7 10s. for every £100 of the value.

Wine is not included in the enumerated articles, and the order in Council of the 16th December, 1826, specially declares “that Neither that order nor the order in council of June, 1826, shall extend or be construed to extend to authorize the importation, in French ships, into any of the British possessions in the West Indies or America, or into the Island of Mauritius, from the dominions of His Most Christian Majesty of any Wine being the produce of those Dominions.”

The order in Council of 16 July, 1827, confirms and continues in full force and effect the aforesaid orders and exceptions, and extends to France the same privileges, as to importing into New Holland by French Ships the Goods, the produce of France, referred to in the Order in Council of the 1st June, 1826. Wine the produce of France cannot therefore be legally imported into New Holland or into any British Possession from France in French bottoms.

I am, &c.

J. MacGregor.

---

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 82, per ship Mary Ridgway.)

My Lord, Government House, 28th March, 1841.

I had the honor to receive yesterday by the ordinary Post Your Lordship’s Despatch of the 21st Nov., 1840, No. 174, directing me to defer, until I receive further orders, the execution of any powers which I may have derived under the Act of Council passed in this Colony in July last for the investigation of claims to Grants of Land in New Zealand.

The extent, to which I have already acted in pursuance of the powers vested in me by that act, have been reported to Your Lordship in the Despatches marked in the margin.*

The Commissioners are now employed in New Zealand in the investigation of claims; but I have not yet received any reports from them; and I beg to state that it never was my intention to confirm any of their reports, or execute any Deed for Land in New Zealand, until the act of Council referred to should have been confirmed by Her Majesty’s approval.

I also beg to inform Your Lordship that the Commissioners have not been authorized in any way to interfere with the New Zealand Land Company, or with Settlers claiming under them.

---

* Marginal note.—No. 152, 9th Octt., 1840; No. 175, 5th Novr., 1840.
My own measures in regard to the Company were reported in the Despatches, marked and dated as follows:—
No. 130, 12th Sept., 1840; No. 147, 6th Oct., 1840; No. 172, 29th Oct., 1840; No. 27, 29th Jan., 1841. I have, &c.,
Geo. Gipps.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.
(Despatch marked “Separate No. 1,” per ship Mary Ridgway.)
My Lord,
Government House, 28th March, 1841.

I have the honor herewith to forward a copy of a Despatch, which I received from Capt'n Hobson on the 16th inst., enclosing a copy of a letter addressed to him by the Police Magistrate resident at Port Nicholson.

A few days after the receipt of these documents, I wrote to Capt'n Hobson, recommending that he should take no further official notice of the proceedings at Port Nicholson to which they relate; and I should not have thought it necessary to trouble Your Lordship on the subject of them, had I not yesterday received intelligence of the separation of New Zealand from New South Wales, and the erection of it into a separate Colony.

I beg leave also to explain that I now transmit them for the purpose only of shewing how much Capt'n Hobson will stand in need of support from Your Lordship in dealing with the agents of the New Zealand Company, and the persons who have settled in different parts of his Government under their auspices.

I have, &c.,
Geo. Gipps.

[Enclosure.]
Transmission of papers re complaints by settlers under New Zealand land company.

304 HISTORICAL RECORDS OF AUSTRALIA.

1841.

28 March.

Transmission of papers re complaints by settlers under New Zealand land company.

a dozen Officers of Government have been allowed to take each an allotment in the projected Town of Auckland, at a rate which cannot possibly be less than £80 per acre. The complainants appear not to have been aware that the arrangement in question was sanctioned by myself.

The rate, at which the Officers are to pay for their allotments, is the average obtained at Auction for lots in their immediate vicinity; and, in authorizing the arrangements, I expressly declared that, if a selection were made by any officer of an allotment of more than ordinary value, I would not confirm to him the possession of it.

I have, &c,

GEO. GIPPS.

[Enclosures.]

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

29 March.

Despatch acknowledged.

Limitation of operation of land orders to five years.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.
(Despatch No. 230, per ship Burhampooter.)

Sir, Downing Street, 29 March, 1841.

I have to acknowledge the receipt of your Dispatch No. 134 of the 21st of Septr. last, in which you suggest that parties, lodging money in England for the purchase of Land in Australia, should be required to claim their Land within a limited period either of three or five years. I called the attention of the Commissioners of Colonial Land and Emigration to that suggestion, and you will perceive from the inclosed Report from that Board that a Clause will be inserted in all future Land Orders limiting their operation to five years. I am, &c,

J. RUSSELL.

[Enclosure.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Sir,

9 Park Street, Westminster, 24th March, 1841.

In answer to your letter of the 1st Instant, enclosing a Despatch from Sir George Gipps dated 21st December, 1840, and drawing our attention to the Governor's suggestion that parties lodging money in England for the purchase of land in Australia should be required to claim their land within a limited period either of three or five years, we have the honor to state that we propose to adopt the proposal made by the Governor. We did not think it necessary in the first instance to propose a limit of time, because we thought that the interest of the parties must afford a Security against their allowing considerable sums of money to lie for years unemployed, and without procuring the property they were intended to purchase. But exceptions doubtless might occur, as, for example, in
consequence of the death of the persons concerned; and it would of
course be very inconvenient that claims should be liable to be
brought forward after so long a lapse of time as would render it
difficult to ascertain the validity of their origin. We shall insert a
Clause therefore in all future Land Orders, limiting their operation
to five years.

We have, &c,

ROBERT TORBREN.

EDWARD E. VILLIERS.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 88, per ship Mary Ridgway; acknowledged by
lord Stanley, 1st November, 1841.)

My Lord,

Government House, 29th March, 1841.

With reference to my Despatch of the 7th Feby. last, No. 44, in which I informed Your Lordship that I had called on their Honors the Judges for a Report on the working of the Rules of Practice in the Supreme Court, agreeably to the instruc­tions contained in Lord Glenelg’s Despatch of the 26th Octr., 1838, No. 225, I have the honor herewith to forward the docu­ments which have been handed to me by their Honors, namely,
a report and Appendix, received from Mr. Justice Willis on the 5th Jany. last, and a report from the Chief Justice received on the 27th Feby.

Should any report be received from Mr. Justice Stephen, it will be forwarded in a separate Despatch. I have, &c,

GEO. GIPPS.

[Enclosures.]

[Copies of these papers, dated 11th and 11th January, 1841, will be found in a volume in series IV.]
1841.
30 March.

You will forward one of these papers to the Superintendent of Port Phillip for his information and guidance.

I have, &c.,
J. RUSSELL.

[Enclosure.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Colonial Land and Emigration Office,

Sir, 3 Park St., Westminster, 23d March, 1841.

With reference to the arrangement already sanctioned by Lord John Russell, under which it will be necessary for persons, claiming Bounty on Emigrants introduced into New South Wales, to produce a Certificate bearing the Signature of the Emigration Agent stationed at the Port at which the Emigrants may embark, we have the honor to enclose, with a view to their being forwarded to the Colonial Authorities at Sydney, Port Phillip and Van Diemen's Land respectively, three Copies containing the Signatures of all the Agents in the United Kingdom by whom these Certificates in Question are to be signed in order that their handwriting may be known to the Officers in the Colonies, whose duty it may become to inspect the Certificates.

We have, &c.,
T. FREDK. ELLIOTT. EDWD. E. VILLIES.
ROBT. TORRENS.

31 March.

Medical certificate received re M. Anderson.

Certificate required from J. V. Thompson.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.

(Despatch No. 232, per ship Burhampooter; acknowledged by Sir George Gipps, 28th September, 1841.)

Sir, Downing Street, 31 March, 1841.

I have to acknowledge the receipt of your Dispatch No. 141 of the 30th Septr. last, in which you transmit the Medical Certificate which you were instructed by my Dispatch of the 22d January, 1840, No. 7, to procure from Mr. Anderson, late Colonial Surgeon on the Convict Establishment of New South Wales, for the information of the Lords Commissioners of the Treasury in considering the claims of that Gentleman to a retiring Allowance; and I have now to acquaint you, in reply, that, having forwarded this Certificate for their Lordships' Consideration, they have informed me that they deem it necessary that Mr. Anderson's application should be supported by a special certificate from the Principal Medical Officer of the Colony that he has been incapacitated by ill health from performing the duties of the Situation he held at Parramatta, or for further employment in the Colonial Medical Establishment.

I have accordingly to request that you will call on Mr. Anderson to furnish the additional Medical Certificate required by the Lords Commissioners of the Treasury. I am, &c.,

J. RUSSELL.
SIR GEORGE GIPPS TO LORD JOHN RUSSELL.
(Despatch No. 85, per ship Honduras.)

My Lord,
Government House, 31st March, 1841.

With reference to the Despatches marked in the margin,* respecting the appointment of Judges in this Colony, I beg leave
to report to Your Lordship that I issued, on the 27th inst., a
New Commission of Judge of the Supreme Court to Mr. Alfred
Stephen, the Commission, which he previously held, being ren­
dered void by the return of Mr. Justice Burton to the Colony.
The Bench of New South Wales is now complete, the Judges
being the following:—
Sir James Dowling, Chief Justice; Mr. Justice Burton, Mr. Judges in
colony.
Justice Stephen, Puisne Judges in Sydney; Mr. Justice Willis,
Resident Judge at Port Phillip.

There is however as yet no Judge appointed for New Zealand.

I have, &c.,
GEO. GIPPS.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.
(Despatch No. 233, per ship Burhampooter.)

Sir,
Downing Street, 1 April, 1841.

With reference to your dispatch, No. 74 of the 21st of
June last, I have the honour to acquaint you that Letters Patent
under the Seal of the Admiralty have been issued, appointing
the Chief Justice of New South Wales for the time being, and
the Person executing the duties of such Office to be Judge of the
Vice Admiralty Court of the Colony.

This Commission has been taken up by the Brother of the
Chief Justice of New South Wales, Mr. Vincent G. Dowling.

I am, &c.,
J. RUSSELL.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.
(Despatch No. 237, per ship Burhampooter; acknowledged by
Sir George Gipps, 22nd August, 1841.)

Sir,
Downing Street, 5 April, 1841.

The King of the Belgians having appointed Mr. William
Hart Guden to be his Consul at Sydney, I have to request that you
will report to me whether any objection exists to the grant
of the Royal Exequatur to that Officer.

I have, &c.,
J. RUSSELL.

* Marginal note.—No. 46, 9th March, 1839; No. 89, 7th June, 1839; No. 6,
1st Jan., 1841.
Sir George Gipps to Lord John Russell.

(Despatch No. 87, per ship Honduras; acknowledged by Lord Stanley, 17th January, 1842.)

My Lord,

Government House, 5th April, 1841.

I have had the honor to receive Your Lordship’s Despatch, No. 128 of the 5th Augt., 1840, conveying to me a copy of a letter addressed to Your Lordship on the 14th Feby., 1840, by the Secretary of the Church Missionary Society, again urging on Her Majesty’s Government the claim of the Society to an increased annual allowance for the support of the Mission at Wellington Valley, and also the grant to the Society of an absolute property in the land in the County of Wellington, of which they have been for many years in possession.

My Despatch of the 7th May, 1840, No. 60, must I apprehend have reached England within a very short time after Your Lordship’s Despatch of the 5th Augt. was written, and it will, I trust, have satisfied Your Lordship that everything has been done by this Government, that circumstances would either permit or justify towards keeping in efficiency the Mission at Wellington Valley; and that the very inefficient state of the Mission is to be ascribed to causes very different from those, to which its failure seems to be attributed by the Society.

I beg further to inform Your Lordship that I availed myself of a short period of leisure, after the rising of the Legislative Council in November last, to visit Wellington Valley; and that I am consequently better enabled now to speak of the Mission than I was when I last addressed Your Lordship on the subject of it.

On my return from Wellington, I had an interview at Sydney with the gentlemen who form the Corresponding Committee of the Church Missionary Society; and, at their request, I gave them a copy of the Notes which I had made during the four days that I passed at Wellington; these notes are extracted from a diary which I kept of my excursion; but, notwithstanding this unofficial form, I take the liberty of enclosing to your Lordship a Copy of them.

The dissensions between the two Missionaries, the Revd. Messrs. Watson and Gunther, were noticed in the proceedings of the Executive Council, which were transmitted with my Despatch of the 7th May last, as also was the determination of the Corresponding Committee to withdraw Mr. Watson from the Mission. Mr. Watson has been accordingly dismissed by the Committee; in removing however from the Missionary Lands, he carried with him some of the adults and all the children, which had been under his care; and, on my arrival at Wellington, I
found him encamped with them on the River Macquarie, at the distance of about four miles from the Missionary Station. The children have remained with him ever since, and are still main- tained, I believe, at his expense. The grounds, on which he ref­uses to give them up, are stated in a letter to the Colonial Secretary of the 29th Jany., 1841, of which I enclose a Copy; and I have only to add on this head that I have not considered it proper to have recourse to force in order to remove the children from him.

I found, I regret to say, a bitter hostility existing between Mr. Gunther and Mr. Watson; and accusations were made to me by each against the other of such a nature that it would be painful, as well as needless for me to dwell on them.

I will now report on the specific applications made to Your Lordship by the Church Missionary Society, the one being that they may have a grant in fee of the land, of which they have now only the permissive occupation; the other that an increased an­nual allowance may be made to them out of the funds of the Colony.

A Grant to them of the land in fee would in my opinion be of no use to them whatsoever, unless indeed they were permitted to raise money by the sale of it. They have at present complete and unqualified possession of the whole of the land, and of the buildings also, except two or three occupied by the Police, and these even will speedily be given over to them.

Of the 7,000 acres of which they are thus in possession, they cultivate less than 50, and do not seek to extend their cultivation; they rather indeed think of giving it up altogether. For Grazing purposes, less than one quarter of the land, they hold, would be sufficient; and it must be obvious that, if the intrusion on their lands be dreaded of persons whose presence may be hurt­ful to their labours, the Government has far greater means of keeping off or removing intruders, than the Missionaries them­selves would have if the lands were their own; in fact they would have no means of removing intruders but by an expensive process of Law.

With respect to an increase in the sum allowed for the main­tenance of the Mission, I must, so long as it continue in its present inefficient state, adhere to the opinion expressed in my Despatch of the 7th May last, No. 60. Should however any reasonable hope arise of the improvement of the Mission, I shall not be indisposed to render it such assistance, as, with a due regard to the expenditure of the public money, I may be able to afford, and particularly if it can be made a place of Education for the children of the neighbouring Tribes.
I have also expressed my willingness to the Committee to give annual premiums to the amount of £50, or if required of £100, for distribution either amongst the Adults or Children of the Establishment for proficiency in reading, writing, agriculture, or any other useful art.

I submit however, My Lord, that, if the management of the Mission be still to be left in the hands of the Church Missionary Society, the Society should be called upon to contribute at least in part to the support of it. The principle of placing the funds of Government at the disposal of any Society, however respectable it may be, is, I submit to Your Lordship, a very objectionable one.

I cannot conclude without expressing an opinion that, lamentable as has been and still is the state of the Mission at Wellington Valley, the Establishment should not be given up. In an Answer which I delivered at Wellington to an Address which was presented to me by the Inhabitants of the County of Bligh, I stated that I thought the good effects of the Mission might be perceived in the neighbourhood; and I think it right to repeat this opinion to Your Lordship. It has had the effect of shewing to the Settlers in the neighbourhood that the Aborigines are cared for by the Government, and that they may be made useful. At a time when the Colony is so much in want of Labour, I am willing to hope that the Settlers will gradually be induced to turn to the children of the Soil in search for it; and I shall take every opportunity of encouraging them to do so. I have, &c,

Geo. Gipps.

[Enclosures.]

[Copies of these papers are not available.]

Sir George Gipps to Lord John Russell.

(Despatch No. 88, per ship Honduras; acknowledged by Lord Stanley, 24th October, 1841.)

My Lord,

Government House, 5th April, 1841.

Having in my Despatch of this day's date, No. 87, reported further to Your Lordship on the state of the Mission at Wellington Valley, I think the opportunity a proper one of transmitting to Your Lordship the latest information I possess respecting the progress of the German or Lutheran Mission at Moreton Bay.

I accordingly transmit herewith, copies of two letters from the officer in charge of the Government Establishment at Moreton Bay, Lieutt. Gorman of the 80th Regt. as also a copy of a letter addressed to Lieutt. Gorman by the Revd. Mr. Schmidt.
RUSSELL TO GIPPS.

The amount of assistance which this Mission has received from the Government, up to the end of the year 1840, is as follows;—

1837, £450; 1838, £310 19s. 2d.; 1839, £309 7s. 6d.; 1840, £228 5s. 8d.—£1,298 12s. 4d. I have, &c.,

GEO. GIPPS.

[Enclosures.] [Copies of these letters, dated 30th March, 1840, 8th February, 1841, and 26th March, 1840, will be found in a volume in series III.]

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.

(Despatch No. 238, per ship Burhampooter.)

Sir, Downing Street, 6 April, 1841.

With reference to my Dispatch No. 199 of the 10th of February last, I transmit to you, herewith, a Copy of a letter from the Secretary to the Board of Treasury on the subject of your Dispatch No. 98 of the 1st August, 1840, and of the Financial Minute which accompanied it.

I am, &c.,

J. RUSSELL.

[Enclosure.] MR. C. E. TREVELYAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 27th February, 1841.

I have it in command from the Lords Commissioners of Her Majesty's Treasury to request you will state to Lord John Russell, in reply to your letter of the 16th Ultimo, that my Lords only deem it necessary to observe, with reference to the despatch and Financial Minute of the Governor of New South Wales therein submitted to this Board, that they do not object to the arrangements proposed by Sir George Gipps for charging upon the Land Fund the Expenses of the Survey and Sale of Lands, or the Expenses incurred on account of Aborigines, or to the adoption of measures for enforcing the payment of such Quit Rents as may be outstanding.

I have further to request you will observe to Lord John Russell that my Lords necessarily reserve any expression of opinion in regard to the additional Import Duties adverted to by Sir George Gipps, until they shall have before them more specific Estimates of the Expenditure to be provided for; and their Lordships do not consider it requisite to remark upon the grounds which are stated in His Excellency's Despatch to have influenced the Council in the rejection of the Bill relating to district provision for Police, Public Works and Highways.

I am, &c.,

C. E. TREVELYAN.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.

(Despatch No. 239, per ship Burhampooter.)

Sir, Downing Street, 7 April, 1841.

I have received your Dispatch No. 139 of the 28th of September last, containing a report of the progress which has been acknowledged.

* Marginal note.—In these sums are included £500, paid in England as Passage money to the Missionaries.
made in the extension of our knowledge of the Colony of New South Wales and in the Settlement of it during the period of your Administration of the Government.

I beg to express to you my acknowledgment for this highly useful and interesting report; and I have thought it right to give publicity to it by laying it before Parliament, and by circulating it amongst such Societies as may appreciate it.

I shall be glad to receive from time to time reports, which may serve to inform the Public of the actual state and the prospects of the important Colony under your Government.

I am, &c,

J. RUSSELL.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.
(Despatch No. 89, per ship Honduras.)

My Lord,

Government House, 7th April, 1841.

I have had the honour to receive Your Lordship's Despatch No. 161 of the 8th Octt., 1840, containing a Copy of a Report made to Your Lordship by Captn. Grey, on the means by which the Aborigines of New Holland may be improved and civilized.

I have read Captn. Grey's Report with attention and interest; and I beg leave to submit to Your Lordship the following observations upon it.

The first fourteen paragraphs of the Report represent the evils, which in the opinion of Captn. Grey grow out of a practice or supposed practice of treating the Aborigines as a conquered people, and of allowing them from a feeling of generosity to be governed by their own laws, in matters wherein they only are concerned.

I am of course unable to speak of the practice in other Australian Colonies, or to say what may be the language held by the Governments of those Colonies towards the Aborigines; but I must observe that the practice alluded to by Captn. Grey has not for many years past been sanctioned by any act of the Government of New South Wales; and that the language now held by this Government is that the Aborigines are Her Majesty's Subjects; and that, whilst they are entitled in every respect to the benefit and protection of English Law, they are amenable also to the penalties which are imposed on infractions of the Law, whether the offence be committed against one of themselves or against White Men. The practice of the Government also is as far as possible in conformity with this language; and no Law, save English law, or to speak more correctly, the Law of the Colony founded on English Law, is recognized as being of any force in it.
It is true that in administering the Law, and especially in enforcing the penalties of it, a difference is frequently made between Savages (who understand it not) and persons of European origin; but this difference is invariably in favor of the Savage; and, if it were not so, the Law would become the instrument of the most grievous injustice.

It is only the more obvious offences against Society that can with any degree of justice be visited against the Savage with extreme severity, such as Murder, rape, violence against the person, and other offences, which there can be no doubt should be regarded alike by the Savage and the civilized man, as deserving of punishment.

The next five paragraphs of Capt'n Grey's Report relate to the disadvantages which the Aborigines are supposed to labour under from the inadmissibility of their evidence in Courts of Law.

On this head, it might be only necessary for me to remark that an Act of Council was passed in this Colony in the year 1839, (3d Vict., No. 16) to admit their evidence, and that it was disallowed at home, the disallowance of it being notified to me by the Secretary of State's Despatch of the 11th Augt., 1840, No. 127.

It seems to me however right to point out to Your Lordship that the inadmissibility of their evidence acts perhaps quite as often in favor of the Aborigines as against them. The hardship of the exclusion of evidence, that might be favorable to them, is always urged on the Jury both by their Counsel and by the Judge; and is again taken into consideration by the Executive in carrying into effect the judgment of the Court. The admission indeed of their evidence was, in 1839, as much called for in New South Wales by parties who had suffered from the aggressions of the Blacks, as by those who advocate their civilization; and complaints have long been loud amongst our Settlers that, whilst the penalties of the Law are rigorously enforced against persons who commit violence on the Aborigines, the Aborigines themselves are, when brought into our Courts, almost invariably acquitted.

This has operated, there is some reason to believe, very unfavorably for the Aborigines, as, from the difficulty and uncertainty of bringing them to justice, there is a disposition, engendered in the minds of the less principled portion of the White population, to take the law into their own hands, as was the case when nearly three years ago not less than 28 aboriginal natives were barbarously murdered* in the Liverpool Plains District; an

* Note 52.
1841.  
7 April. 

Provisions for defence of aborigines on trial.

I have further to observe that Counsel is usually assigned by the Supreme Court to any Natives brought for trial before it; and that the Government always provides the attendance of Interpreters, when they can possibly be found. Mr. Threlkeld, a Missionary of the London Society, has usually acted on such occasions; and he must, I doubt not, consider it his business to protect the Natives, as well as to interpret for them.

I have moreover very recently, on the application of the Chief Justice, appointed a standing Counsel for the Aborigines, who will receive a fixed payment or fee from the Government for every case in which he is engaged. The fee is to be three Guineas for every case in Sydney, and five Guineas in the Country.

The remainder of Captn. Grey's Report, I am disposed to think by far the most valuable part of it, as it relates to the means by which the Aborigines may be induced to become voluntary laborers for wages.

I consider this the most important part of the Report, because I am myself firmly persuaded that, next to the diffusion of Christian Instruction, the use of money, or to speak more correctly the enjoyments which the use of money commands, are the most effectual of all means that can be resorted to in advancing civilization.

I have on various occasions, and particularly in answer to an address presented to me at Wellington Valley in Novr. last by the Inhabitants of the County of Bligh, endeavoured to persuade the Settlers of New South Wales to look to the Blacks for a supply of Labour.

I have also seriously contemplated the introduction of rewards to persons employing them, somewhat after the manner that is suggested by Captn. Grey, but have hitherto been deterred from attempting it by the fear of the abuses to which such a practice might lead, and the certain difficulties that would attend on the distribution of the rewards.

It is by the employment of the aborigines as Laborers for Wages, and the Education of their children in Establishments conducted either by Missionaries or official Protectors, that I consider the civilization of the Aborigines of this Continent must be worked out, if it is ever to be accomplished.

It may be right for me however to point out to Your Lordship that my opinions, with respect to the employment of the Aborigines, are at variance with those of many persons, who consider it essential to keep them as far as possible out of contact with White Men. I agree with these persons in thinking that
Missionary or other Establishments for the Education of the Aborigines should be placed as far as possible from the resort of ordinary Settlers; and I have accordingly directed the fixed Establishments of the Protectors to be so placed in the Port Phillip District, but, at a distance from these Establishments. I consider that it is, by contact with White men and by being placed as nearly as possible on a par with them, that the civilization of the Aborigines is most likely to be advanced.

It must be admitted indeed that this will frequently expose them to temptations which they may not be strong enough to withstand, the men to the use of ardent spirits, the women to be seduced from their husbands or natural protectors. Already however a Law* exists in the Colony, which inflicts a penalty of £5 on any person who may be convicted of giving or selling Spirits to an Aboriginal Native; and a Law may perhaps be devised that shall give further protection to the Women. I may here also observe that, during the last Session of the Council, an Act was passed to prevent the Aborigines, as far as possible, from using or having fire arms. I have, &c.,

GEO. GIPPS.

---

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despach No. 90, per ship Honduras; acknowledged by lord Stanley, 5th October, 1841.)

My Lord, Government House, 9th April, 1841.

In my Despatch of the 3d Feby. last, No. 35, I reported to Your Lordship the circumstances, under which I had employed Major Lettsom of the 80th Regt. on a Mission to the Ovens River, where I had been led to believe acts of cruelty had been committed on the Aborigines in retaliation for an attack made by them on the Station of Dr. Mackay in May, 1840; I also enclosed to Your Lordship the report which was made to me by Major Lettsom on his return, by which I was happily satisfied that, though some acts of retaliation might have been committed, the accounts of them, which had reached me, were greatly exaggerated.

In connexion with the same subject, I have now the honor to forward a Copy of a letter, which I received a short time since from the Revd. Josh. Docker, a Clergyman of the Church of England, who is settled in the same neighbourhood, and has a Sheep Station not far from Dr. Mackay's.

On the receipt of this letter, I directed Mr. La Trobe to despatch the Chief Protector of Aborigines (Mr. Robinson) to

---

* Marginal note.—2nd Vict., No. 18, Sect. 49.
† Marginal note.—4th Vict., No. 8.
enquire into and report on the statements made by Mr. Docker; and also to collect further information respecting the condition of the Aborigines in the neighbourhood of the Ovens.

I have the honor to enclose a Copy of the Report made by Mr. Robinson to Mr. La Trobe; and I am glad to say that I consider it on the whole a satisfactory one.

The fact that Mr. Docker has numerous flocks of sheep (amounting it is said to 7,000) under the care of Aboriginal Shepherds is a very encouraging one; and I venture to allude to it, in corroboration of the opinions which I have expressed in the latter part of my Despatch of the 7th inst., No. 89, respecting the possibility of getting the Blacks of this Country to work for wages.

The Revd. Mr. Docker is, as I have stated, a Clergyman of the Church of England, but he has at present no cure of Souls in the Colony.

I have ordered the man, named Benjamin Reid (whose conduct towards the Aborigines is complained of by Mr. Robinson), to be sent to Sydney, and his Ticket of Leave to be cancelled.

I have, &c,

GEO. GIPPS.

[Enclosures.]

[Copies of the letters and report, dated 31st December, 1840, and 27th February, 1841, will be found in a volume in series III.]

---

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.
(Despatch No. 240, per ship Burhampooter.)

Sir,

Downing Street, 10 April, 1841.

I have to acquaint you that I propose, for the future, to lay before Parliament the Colonial Blue Books, as well as the Governor's Annual Reports on the state of the Colonies, under the Heads into which the Blue Books are divided, accompanied by a List of those Colonies from which these Returns and Reports shall not have been made. You will, therefore, I am well persuaded, co-operate with me in the object which I have in view by omitting no effort which may be necessary to prevent the Colony under your Government from appearing in those Lists.

It is my duty to impress upon you, with the utmost earnestness, the necessity of bestowing your most serious attention on the subject, and of doing everything in your power to secure a prompt and effectual obedience to the following Instructions:—

First. With the view of securing the arrival of the Blue Books within the time which I consider proper and desirable, it will be necessary to alter the period of the financial Year, by computing it from the 1st of October of the Year to the 30th of
September of the Year following. That arrangement is, however, to apply to the Blue Books exclusively, the object of it being to enable you to forward that document to me as early as possible after the 30th of September, but in no case later than the 30th of November.

Secondly. With regard to the General Annual Reports on the state of the Colony under your Government, I certainly think it extremely desirable that they should accompany the Blue Books. These two documents, of which one is a comment on the other, must in truth be considered inseparable.

Thirdly, as the Colonial Secretary is the Officer who, above all others, must possess the requisite means for completing the Annual Blue Books, I must recall to your recollection the positive injunction, under which you are placed by the Earl of Ripon's Circular Instruction of the 10th of January, 1831, to withhold the payment of any Salary from that Officer, so long as this part of his public duties shall be in arrears.

Fourthly. It may happen that the Secretary may, from the default of other public officers, be unable to complete the returns within the prescribed period. In any such event, you will direct him to transmit the Book in its incomplete state, reporting the omissions of which he has to complain; and, until those omissions are supplied, you will suspend the payment of the Salary of any officer to whom they may be imputable, until the duty shall have been satisfactorily performed.

Fifthly. The Colonial Secretary must be given to understand that he will be held responsible, not merely for the transmission of the Books, but for their transmission in the prescribed form, and I see no reason why that officer should not continue to certify the accuracy of their contents as heretofore.

I am, &c.,

J. Russell.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.
(Despatch No. 91, per ship Honduras.)

My Lord, Government House, 11th April, 1841.

I beg leave to represent to Your Lordship that it is very desirable for this Government to be informed of the amount received by the agent of the Colony in London for lands sold by the Land and Emigration Commissioners. I beg therefore to submit a request to Your Lordship that the Agent may be very particularly directed to forward to the Colony monthly returns of the sums of money so received by him.

I have, &c.,
Geo. Gipps.
Sir George Gipps to Lord John Russell.

(Despatch No. 92, per ship Honduras; acknowledged by Lord Stanley, 9th December, 1841.)

My Lord,

Government House, 13th April, 1841.

I have had the honor to receive Your Lordship's Dispatch of the 10th Oct., 1840, No. 162, covering copies of a correspondence with Mr. Justice Burton, respecting the Condition, which according to the practice of this Colony was inserted in the (so called) Free or Absolute Pardons, granted to two persons named Thomas and Charlotte Hindes, the condition being that they should leave the Colony, whenever called upon so to do by the Governor.

I have the honor to report that similar conditions have been introduced into all Pardons called Free or Absolute by Governors of this Colony since the year 1828 (whilst the opposite condition of not quitting the Colony is introduced into all Pardons called "Conditional"); and that the practice had its origin in a Despatch from the Secretary of State (Sir George Murray) dated the 29th Octt., 1828, No. 39.

It would appear by this Despatch to have been the intention of Sir George Murray that the Condition should be inserted only in Pardons granted to Educated Convicts, or to those who in the Colony are familiarly called "Gentlemen Convicts" or "Specials"; and how the practice grew up of inserting it in Pardons granted to persons not of that class, I cannot now ascertain; though it seems probable that it may have arisen from the difficulty of correctly distinguishing whether any person was "educated" or not.

As the insertion of any Condition in a Pardon that is called an Absolute one is contrary to the plain meaning of language, I have no hesitation in strongly recommending the discontinuance of the practice; the Condition has never I believe in a single instance been enforced, and, in the present state of the Colony, I consider it altogether unnecessary; a further reason also for its discontinuance is that it is inserted only in Pardons which originate with the Governor, and not in those which originate with the Secretary of State or any other Authority in England.

I have already in former Despatches taken occasion to offer remarks on some of the doubts and difficulties which arise out of the various modes in which Pardons are granted in New South Wales; but, as the subject is now brought more formally under consideration, I shall in another Despatch report on it fully to Your Lordship.

I have, &c.,

Geo. Gipps.
My Lord,

Government House, 13th April, 1841.

With reference to my Despatch of this day’s date, No. 92, and also to the Despatches named in the margin* in which I have incidentally mentioned that doubts and apparent anomalies exist in this Colony in respect to the granting of Pardons and the effect which Pardons carry with them, I beg leave now to bring the whole subject of Pardons in one view before Your Lordship.

The Pardons granted in the Colony are of two kinds, “Absolute” and “Conditional”; and they may originate either in England or in the Colony.

Pardons under the Great Seal are, I believe, now rarely issued; but Pardons under the Sign Manual, countersigned by the Secretary of State, are frequently sent to the Colony; and such Pardons have, by the 7th and 8th Geo. IV, C. 28, S. 13, the full effect of Pardons under the Great Seal. When a separate Warrant under the Sign Manual is issued for each person pardoned, this course of proceeding is entirely free from objection or inconvenience; but when, as is frequently the case, the names of many persons are included in the same Warrant, it is evidently impossible to give to each individual the actual instrument which contains his Pardon; a Certified Copy of the Pardon or a Certificate equivalent to a Copy, signed by the Colonial Secretary, is therefore delivered to him; but, in consequence of an opinion having been given by the Attorney General of this Colony that such a Copy or Certificate would be insufficient to prove a man’s Pardon, if questioned in an English Court of Justice, an instance lately arose, in which a person named John MacMillan, refused to accept such Certificate or Copy; and by his refusal gave some trouble to the Government. His case was fully reported on in my Despatch, No. 1 of the 1st Jany., 1840.

Instead however of a Warrant under the Sign Manual, a simple Order is frequently sent out in a Despatch from the Secretary of State to the Governor, directing or authorizing him to issue a Pardon to any Convict, and specifying whether such Pardon is to be “Free” or “Conditional”; and this method is convenient, as it admits of a discretionary power being given to the Governor to issue or withhold the Pardon, according as the person for whom it is intended may be in his opinion worthy or unworthy of it. The Pardons are in such cases issued as soon

* Marginal note.—No. 1, 1st Jany., 1839: No. 120, 26th Augt., 1840: No. 13, 13th Jany., 1841.
after the receipt of the Despatch as circumstances and the necessary preliminary enquiries will permit; but it may be doubted whether this course of proceeding is warranted by strict law, as the 33d Clause of the 9th Geo. IV, C. 83, requires that every Pardon issued by the Governor shall be sent home for approval, without even excepting cases in which the previous approval of Her Majesty may have been notified to him.

In speaking of Pardons which originate with the Governor, it may be proper to premise that the Governor's power to issue Pardons is derived from the 20th Geo. III, C. 47, and the 9th Geo. IV, C. 83, S. 33, the latter very materially limiting the powers granted by the former.

A separate Pardon, whether Conditional or Absolute, is prepared for each individual in duplicate; the original of each is sent to England for approval; and, as soon as a notification of its approval is received in the Colony, the Duplicate is issued, with a Certificate of the Queen's allowance written upon it, and signed by the Governor.

In cases of Conditional Pardons, the only inconvenience, which arises from this course of proceeding, is that the person pardoned is placed in a most anomalous condition, during the period which must elapse (generally little less than a year) between the sending home of the Pardon and the receipt of the Queen's allowance of it. The Pardon, when allowed, takes effect from the day on which it was first signed by the Governor; but, until it is allowed, the person is to all intents a Convict; if however treated as a convict, it is maintained that he has a right of action against the person so treating him, and may recover damages. In order to avoid actions of this sort, it is usual to place the person entirely in a state of freedom, as soon as his Pardon is sent home, from which however he must evidently be reduced and placed again in the condition of a Convict, if his Pardon be disallowed.

I have stated that Free or Absolute Pardons are sent home by the Governor as well as Conditional ones. I can however have little hesitation in saying that this is entirely wrong, the Governor having no power whatsoever (even when acting under the orders of the Secretary of State) to issue a Free Pardon, that is to say, a Pardon which shall have effect beyond the Colony of New South Wales and its Dependencies. The words in the 33d Clause of the 9th Geo. IV, C. 83, seem to me to admit of no doubt in this respect, the words "not elsewhere" evidently restricting the operation of any and every Pardon which the Governor can issue to New South Wales and its Dependencies.
The words are,

"Every such Instrument transmitted as aforesaid shall be valid and effectual, and shall have, and shall be deemed and taken to have had within New South Wales and the Dependencies thereof, but not elsewhere, such and the same effect in the law to all intents and purposes, as if a General Pardon had passed under the Great Seal aforesaid, on the days of the dates of such Instruments respectively, in which the names of such Felons or Offenders as aforesaid had been included."

From the above statement, it appears that, of the various ways in which Pardons are issued in New South Wales, there is only one that is entirely free from objection, which is that wherein a separate Warrant under the Sign Manual is issued for each person pardoned.

The course pursued in respect to Conditional Pardons sent home by the Governor is strictly according to Law, but inconvenient in practice.

The issuing of Conditional Pardons by the Governor, in pursuance of orders from the Secretary of State without sending them home for approval, if not repugnant to Law, is not directly sanctioned by any Law; and the issuing of Absolute Pardons by the Governor is clearly repugnant to Law, such Pardons though called `Free or Absolute being restricted in their operation to New South Wales and its Dependencies, by the words "not elsewhere" in the 33d Clause of the 9th Geo. IV, C. 83.

The remedy required for all these anomalies is the repeal of the 33d Clause of the 9th Geo. IV, C. 83, and the restoration to the Governor of the powers which he formerly had under the 1st Clause of the 30th Geo. 3d, C. 47. Instead however of the limitation or condition contained in the 2d Clause of the same Act, it might be enacted that the Governor should grant no Pardon, for which he had not received the approval of the Queen under the hand of one of Her Majesty's Principal Secretaries of State. The communication with England being now so much quicker than it was when the 30th Geo. 3d was passed, the inconvenience of waiting for the previous approval of the Queen will not very sensibly be felt; whilst the repeal of the 33d Clause of the 9th Geo. IV, C. 83, will get rid of the far greater inconvenience, which now arises out of the necessity of sending home the Pardons themselves for approval. Instead of the Pardons themselves, the preparation of which is both expensive and troublesome, Lists only of the persons recommended by the Governor to the Mercy of the Crown would then be sent home, accompanied however (as the Pardons now are) by

...
Free pardons to be issued in Queen's name; and conditional pardons in governor's name.

Effect of conditional pardons.

Reference to former despatch.

documents showing the grounds which the Governor has for recommending each individual to Mercy.

I would further suggest that all Free or Absolute Pardons, intended to have effect throughout the whole of the Dominions of the Crown, should be issued in the Queen's name, and signed by the Governor as a Witness only, in the same way as Deeds for Lands purchased of the Crown are now issued by the Governor; Conditional Pardons, on the contrary, being intended only to have effect in New South Wales, should be issued as at present in the Governor's name.

With respect to the effect which Pardons carry with them, the most essential remark I have to offer is that it has been decided in the Colony that holders of Conditional Pardons cannot sit on Juries, because the condition of not leaving the Colony is one which cannot be completed whilst life exists; and therefore a person subject to such condition is not restored to civil rights within the meaning of the 7th and 8th Geo. IV, C. 28, S. 13, and though it may I think be doubted, whether this decision be consistent with the declaration in the 33d Clause of the 9th Geo. IV, C. 83, that every Pardon issued by the Governor, and allowed by Her Majesty, shall within the Colony of New South Wales but not elsewhere have the effect of a Pardon under the Great Seal.

With respect to the exercise of political rights by persons in New South Wales who have been pardoned, or whose sentences are expired, I have so fully stated my opinions in My Despatch of the 26th Augt. last, No. 120, that a repetition of them here must be unnecessary.

I have, &c.

GEO. GIPPS.

My Lord, Government House, 15th April, 1841.

With reference to my Despatches Nos. 39 and 128 of the 17th March, and 5th Sept., 1840, I have herewith the honor to forward to Your Lordship further portion of the Returns called for by the Order of the House of Commons of the 29th Novr., 1837 (transmitted with Lord Glenelg's Despatch, No. 58 of the 30th Decr., 1837) being a completion of the "Return of the number of Convicts in New South Wales from the year 1818 to 1837, inclusive, under sentence for Colonial crimes, stating each description of punishment, and distinguishing in each class, the age, sex, and term of Transportation." I have, &c.

GEO. GIPPS.
LORD JOHN RUSSELL to SIR GEORGE GIPPS.

(Despatch No. 241, per ship Clifton.)

Sir,

Downing Street, 16 April, 1841.

I transmit to you the Copy of a Dispatch, which I have this day addressed to the Governor of New Zealand, signifying to that Officer Her Majesty's decision on the Act, passed by yourself with the Advice and Consent of the Legislative Council of New South Wales, entitled "An Act to empower the Governor of New South Wales to appoint Commissioners with certain powers to examine and report on claims to Grants of Land in New Zealand." Until you shall be apprized by Governor Hobson of the actual notification by him at New Zealand of Her Majesty's Disallowance of the Act in question, you will abstain from notifying within your Government that it has been so disallowed.

You will clearly understand that the Advice, which has been tendered to Her Majesty on this occasion, has not been suggested by any disapprobation of the Enactment in question, in which indeed you strictly followed the Instructions under which you were acting. You have every claim to the acknowledgments of H.M.'s Government for the able and zealous Exertions which you made in order to promote the success of that measure. But the altered circumstances of the Case, consequent on the erection of New Zealand into a distinct Government and on the other occurrences mentioned in my Despatch to Governor Hobson, have dictated and appear to require some deviation from the form, though not from the spirit, of the manner actually pursued. I have however, as you will perceive, adverted to the possible misconception to which, from this distance from the Scene of Action, the Confidential Advisers of the Crown are unavoidably liable, and have taken what I trust may be an effectual security against the injurious consequences to which any such misconceptions might otherwise have given rise.

I have, &c,

J. RUSSELL.

[Enclosure.]

LORD JOHN RUSSELL to GOVERNOR HOBSON.

Sir,

Downing Street, 16th April, 1841.

I have laid before The Queen the Act of The Governor of New South Wales, passed with the advice and consent of the Legislative Council of that Colony in the 4th Year of Her Majesty's Reign, Intituled, "An Act to empower the Governor of New South Wales to appoint Commissioners with certain powers to examine and report on claims to Grants of Land in New Zealand."

Her Majesty has been graciously pleased to approve the general provisions of that Act, as well as the more particular details. 323
1841.
16 April.

Objections to act of council.

which it comprises. But circumstances, to which it was impossible
that the Legislature of New South Wales should have adverted,
will probably render the execution of it difficult, if not impossible.
The separation of New Zealand from New South Wales will render
obsolete and impracticable those enactments, which require the
interposition of the Governor of the older Colony. The arrange­
ments, which I have made with the New Zealand Company, will
forbid the application of the Act in its present form to the case of
the lands to be granted to them. To these considerations is to be
added the remark that I propose to commit these inquiries to the
single commissioner appointed by Her Majesty for that purpose,
and not to three joint commissioners as the Act has provided.

For these reasons, it appears necessary that a new law on the
subject should be proposed in the local legislature of New Zealand
to meet the various exigencies which I have pointed out, and any
others which your experience may have brought to light. Subject to
such variations, the Act of New South Wales may be followed as a
safe and proper guide.

Her Majesty has therefore been pleased to disallow the Act
passed by the Governor of New South Wales with the advice of
the legislative council of that Colony. But, as difficulties may
possibly arise in obtaining from the legislature of New Zealand
the necessary enactment in substitution for it, or as the immediate
disallowance of the New South Wales Act may be productive of
other inconveniences which at this distance it is impossible to antici­
pate, the Queen has been further pleased to authorize me to signify
to you Her Majesty’s pleasure that you do postpone the notification
of Her Majesty’s disallowance of the Act in question, if you should
be of opinion that the disallowance of it would on the whole be
injurious to the public service. In that case, you will report to
me the grounds of that opinion, and, until you are in receipt of
further instructions, the New South Wales Act will continue in
force in New Zealand, so far as it may be capable of execution,
altho’ subject of course to any amendments which may in the in­
terval have been made by yourself with the advice of the legislative
council of New Zealand.

I have, &c.,

J. RUSSELL.

Lord John Russell to Sir George Gipps.

(Despatch No. 242, per ship Clifton.)

17 April, 1841.

Sir,

Downing Street, 17 April, 1841.

With your dispatch No. 110 of the 16th of August last
you transmitted an Act of the legislative council of New South
Wales intituled “An Act to declare that the laws of New South
Wales extend to Her Majesty’s Dominions in the islands of New
Zealand, and to apply the same, so far as applicable, in the
administration of justice therein; and to indemnify certain
officers for acts already done.”

I am to acquaint you that Her Majesty has been graciously
pleased to approve and allow that Act.
GIPPS TO RUSSELL.

1841.

17 April.

With regard to the other Act, which accompanied that Dispatch, intituled, "an Act to empower the Governor of New South Wales to appoint Commissioners with certain powers to examine into and report on claims to Grants of Land in New Zealand," I have in my Dispatch No. 241 of the 16 Instant conveyed to you Her Majesty’s decision upon it.

I am, &c.,
J. RUSSELL.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 95. per ship Honduras; acknowledged by lord Stanley, 24th September, 1841.)

My Lord,

Government House, 17th April, 1841.

Agreeably to the instructions contained in Your Lordship’s Circular of the 2nd Novr., 1840, I have called on Mr. Benjn. Urch, late a Serjeant of the 73rd Regt., for a copy of the letter which was addressed by him to Your Lordship, claiming compensation for the loss of a house in Sydney, taken down, according to the statement of Mr. Urch, for the purpose of making improvements in that Town. I find by Mr. Urch’s reply that his case was brought before me in the month of Augt., 1839; and that it was, in consequence of my having refused to entertain his claim, that his appeal was made to Your Lordship.

It appears that, under the Government of General Macquarie, between the years 1810 and 1814, it was the practice to allow wellconducted Noncommissioned Officers and Soldiers, who were married, to live out of Barracks; and that many persons of this description put up huts or temporary houses for themselves on unoccupied portions of Crown Lands; and as these huts or houses were often transferred from one person to another, it is quite possible that Serjt. Urch may have paid to Private Grady some trifling sum of money for the building of which he obtained possession. Whether he sold it again or abandoned it, when he left the Colony for Ceylon in 1814, cannot be ascertained; but all buildings of this sort, which stood in the way of improvements, were subsequently swept away by order of the Government; and I must submit that Urch’s claim for compensation, after a lapse of 27 years, is altogether inadmissible.

I forward a Copy of the application made to me by Mr. Urch; and I have caused to be indorsed on it the various Minutes, which were made when the case was under my consideration.

I have, &c.,
GEO. GIPPS.
[Enclosure.]

The humble Petition of Benjamin Urch, late Colour Sergeant of the 73rd Regiment.

To His Excellency Sir George Gipps, Knight, Captain General and Governor in Chief of the Territories of New South Wales and its dependencies, etc., etc., etc.,

Sheweth,

That your Petitioner, in the year 1806, purchased from Henry Gready of the 102nd Regiment a house and piece of ground Situate at the Corner of Kent Street at the back of the Military Barracks; that, after having paid for it, he made an addition to it of two rooms and lived in it till His Excellency Governor Macquarie was planning out a new Street.

That your Petitioner's house was Standing on part of the ground intended to be taken up for that purpose; that, on his house being ordered to be pulled down, he represented his case to Sir Maurice O'Connell at that time the Commander of the Regiment of which your Petitioner was then one of the Corporals.

That Sir Maurice O'Connell waited upon Governor Macquarie on the subject of your Petitioner's House and Ground, when His Excellency said that your Petitioner could have no claim on account of them till the house was down.

That your Petitioner afterwards waited upon His Excellency himself, who repeated that nothing could be done about it till the house was down, and that, when it was so, your Petitioner would certainly have another built for him.

That, before his house was pulled down, the Regiment which your Petitioner was Serving was ordered off to Ceylon, and that, as your Petitioner on account of these circumstances could not procure a purchaser for his property, he was obliged to leave it.

That your Petitioner having returned into the Colony on the 23rd March, 1839, found that his house was pulled down, and that a public road had been made where his house formerly stood and that the ground was in the possession of another person.

That your Petitioner humbly hopes that your Excellency, taking into consideration all the Circumstances (particularly his being obliged to leave the Colony on His Majesty's Service), will be pleased to order your Petitioner an adequate remuneration for his loss, and your Petitioner as in duty bound will ever pray.

BENJAMIN URCH,

Lunatic Asylum, 19th August, 1839.

I REMEMBER perfectly well that the Petitioner had a house in one of the back Streets, and believe that the house was standing when the 73rd Regiment left this Colony, and Petitioner accompanied it; the Petitioner being always a remarkably well conducted and trustworthy man, I have great pleasure in recommending his case to the favorable consideration of His Excellency the Governor. I shall be glad to hear that he is in some way remunerated if it can be done.

M. O'CONNELL.

It appears to me impossible to make him any remuneration, but the Surveyor General may report.

G.G.

19th August.


39/5 82.

There is not in this Office any record of order in favor of the Petitioner Henry Gready as compensation for the pulling down of his
house, nor is there any precedent for such a case on record. It is a well known fact that, at the period referred to in the petition, the non-Commissioned Officers and Soldiers, who were allowed on account of their families to sleep out of Barracks, located themselves on unoccupied pieces of ground almost at discretion, and in some cases when they had sold their interest and the purchasers or their representatives had continued in possession, titles had been obtained through the Supreme Court; but in this case the applicant does not attempt to prove continued possession; on the contrary he states that, before the house was pulled down, he proceeded with his Regiment to Ceylon; and it would be a new feature in Military matters, if compensation were to be given to a Soldier for any temporary improvements he might make to his quarters. I therefore cannot see any case for compensation.

End. 39/155, fo. 286, W.H. A.

COLONIAL SECRETARY’S remark.—The Surveyor General seems to take a very correct view of the case. 5th September.

I REGRET that it is out of my power to afford the Petitioner any compensation or other assistance.

9th Sept.

G.G.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.

(Despatch No. 243, per ship Clifton.)

Sir,
Downing Street, 18 April, 1841.

I have received your dispatch of the 25 of Octr. last, No. 167, forwarding an Address of Congratulation to Her Majesty on Her Majesty’s late Providential Escape from Assassination, adopted by the Legislative Council of New South Wales.

I have had the honor of laying that address before The Queen, and I have received Her Majesty’s Commands to instruct you to convey to the Legislative Council the assurance of the gratification with which Her Majesty has received the Expression of their loyal and affectionate interest in the deliverance, which it pleased Divine Providence to afford Her Majesty from the great danger to which Her own Person and that of H.R.H. The Prince Albert were exposed.

I am, &c.,

J. RUSSELL.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.

(Despatch No. 244, per ship Clifton.)

Sir,
Downing Street, 19 April, 1841.

I have the honor to acknowledge the receipt of Your Dispatch No. 165 of the 24th October last, stating the grounds on which you declined in the first instance to comply with an application from the Local Committee of the Societies for the
HISTORICAL RECORDS OF AUSTRALIA.

1841.
19 April.

Problem of subsidies on contributions from societies.

Propagation of the Gospel and for the promotion of knowledge in Foreign Parts, that Contributions from the Societies might be regarded as contributions of private Individuals, which would entitle them to be met by sums of equal amount from the Government.

It appears however that, on a representation from the Committee that the sum of £931 8s. 11d. had actually been advanced by them, you sanctioned the payment to them of that sum towards the expense of the erection of Schools.

I approve of the intimation which you at the same time conveyed to the Committee that in future the contributions of the Societies could not be regarded as private ones.

I perceive from your Dispatch that nothing has been done during the last session by the Legislative Council towards establishing a system of general education in the Colony.

It appears to me to be desirable that a Committee or Board for education should, if possible, be formed in the Colony to be composed of the most enlightened and temperate men of different religious persuasions.

I have, &c.,

J. RUSSELL.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 96, per ship Honduras.)

My Lord,

Government House, 19th April, 1841.

With reference to my Despatch No. 34 of the 5th March, 1840, furnishing information respecting George Gambling, which had been asked for by Mr. H. Porter Curtis, I have the honor to forward a copy of a letter, shewing how the property which George Gambling once possessed in this Colony was disposed of; and I have to request that the same may be transmitted to Mr. Curtis, from whom I lately received a letter on the subject, dated Romsey, 19th August, 1840.

The forty acres of land, which once belonged to Gambling, being within a few miles of Sydney, are now of considerable value, perhaps worth £2,000 or more; but I cannot in any way recommend that an attempt should be made by the Heirs to recover possession of them.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

MR. J. E. MANNING TO MR. H. W. PARKER.

Sir,

Supreme Court, Registry Office, 17th March, 1841.

Reference having been made to me for the purpose of ascertaining whether or not the late George Gambling had disposed of 40 acres of land at Petersham, on the Parramatta Road, I have the
honor to state that it appears, by the records of this office, that the said George Gambling did dispose of the said land for £300, by an instrument bearing date the 13th of January, 1826, and registered in my office on the 23rd of March following, to Messrs. John Barker and Richard Norris, "reserving to the said George Gambling the liberty to reside on the said farm during their natural lives, and to enjoy the same, together with the full use of the farm, to cut wood and depasture cattle."

I also find that, by another deed bearing date the 20th day of May, 1830, Gambling and his wife assigned over to one Richard Naylor their life interest in the farm for an annuity of 114 Spanish dollars, payable for their lives and for the life of the survivor.

It appears by other documents laid before me that this George Gambling died in the Benevolent Asylum in February, 1838.

To the foregoing statement, it may be well to add a notice of the fact that the instrument, by which this freehold property is stated in the registered memorial thereof to have been conveyed away, was evidently prepared by an ignorant man, as it is termed "A Convenance," and is dated "the 13th day of Jany., 1826," not probably by indentures of Lease and Release; but, however, I will take the liberty of observing that, although by means of such informality the naked legal estate may yet be in the heir at law of the deceased George Gambling, I should have little doubt of our Colonial Court of Equity decreeing an equitable fee to the purchaser of the reversionary estate in this farm, the price of £300 being such as I believe would be considered a very liberal one for the year 1826, although it might now realise five or six times that sum.

I have, &c.,

J. E. MANNING, Regr., S.C.

P.S.—The person now in possession is Mr. Charles Morris, who purchased from one Beeson, who purchased from Barker, who bought off the moiety of Norris, thereby becoming owner of the entirety. I now find that the "Cheshire Cheese" Inn forms part of the 40 acres.

20th March, 1841.

---

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.

(Despatch No. 245, per ship Clifton.)

Sir,

20th April, 1841.

I have received your Dispatch No. 172 of the 29th Octr. last, transmitting Copies of a Correspondence, which had passed between the Colonial Secretary to Your Government and the Deputies from the Settlers at Port Nicholson on the subject of the Lands acquired by them in that District.

The recent arrangements between Her Majesty's Government and the New Zealand Company, which have been already communicated to you, render unnecessary any observations on your proceedings in this matter.

I am, &c.,

J. RUSSELL.

* Note 53.
MEMORANDUM FROM COLONIAL OFFICE.

It is requested that the copy of Lord John Russell's Dispatch to Governor Hobson No. 15 of the 17th March, 1841, herewith transmitted, may be substituted for the copy of that Dispatch which accompanied Lord John Russell's Dispatch to Sir George Gipps No. 224 of the 18th March.

Colonial Office, 20 April, 1841.

[Enclosure.]

LORD JOHN RUSSELL TO GOVERNOR HOBSON.

Sir,

Downing Street, 17 March, 1841.

I transmit to you herewith, for your information and guidance, Copies of a correspondence* between this Department and the Foreign Department with regard to certain questions raised by the American Consul at Sydney as to the rights and obligations of Aliens in New Zealand. You will act on the views of Lord Palmerston as stated in the enclosed letter unless Local circumstances should render it necessary to modify them in which case you will refer to Her Majesty's Government for further Instructions for your guidance.

I should wish you to bear in mind the principle that, when Aliens have acquired Land from New Zealand Chiefs prior to your Proclamation, and that fact is undisputed, the claims must be acknowledged; but where a doubt arises whether the Alien made a bona fide purchase of the Land, the Settler must be treated as any British Subject and his claim disposed of accordingly. I think also that it would be very desirable to allow Aliens to acquire Land upon taking the Oath of allegiance and living six months in New Zealand or any other easy mode.

J. RUSSELL.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.

(Despatch No. 246, per ship Clifton.)

Sir,

Downing Street, 21 April, 1841.

I have to acknowledge the receipt of your Despatch No. 169 of the 26 October last, transmitting Five Private Acts passed by the Legislative Council of New South Wales in the Session of 1840.

The Queen has been pleased to confirm and allow the acts (No. 1) "to render shares in the Australian Subscription Library not transferable."

After I shall have consulted the proper Departments of the Government on the Subject, Her Majesty's decision will be communicated to you on the remaining 4 Acts, viz.: No. 2. "An Act to simplify proceedings at Law or in Equity by or against the General Steam Navigation Company, and for other purposes therein mentioned."

* Note 54.
No. 3. "An Act to simplify proceedings at Law or in Equity by or against the Sydney Banking Company, and for other purposes therein mentioned."

No. 4. "An Act for facilitating proceedings at Law or in Equity, by or against the Banking Company called the Port Phillip Bank, and for other purposes therein mentioned"); and

No. 5. "An Act to enable the Proprietors of a Certain Joint Stock Company, carried on in the Town of Melbourne in the Colony of New South Wales, under the name Style and firm of the Melbourne Fire and Marine Assurance Company to sue and be sued in the name of the Chairman of the said Joint Stock Company for the time being, and for other purposes therein mentioned."

I have, &c.,

J. RUSSELL.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 97, per ship Honduras.)

My Lord,

Government House, 21st April, 1841.

I have had the honor to receive Your Lordship's Despatch acknowledging No. 165 of the 26th Oct., 1840, enclosing a copy of a letter from Mrs. Holland, containing enquiries respecting the fate of a young man named Samuel Delhunt, who was serving as a Seaman on board the Despatch, when that vessel was destroyed by fire on her way from Sydney to London.

I am happy to be able to inform Mrs. Holland that Saml. Delhunt was saved from the fire, and that he returned to Sydney; but what has since become of him, I am unable to trace.

I have, &c.,

GEO. GIPPS.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.

(Despatch No. 247, per ship Clifton.)

Sir,

Downing Street, 22 April, 1841.

I have received your Dispatch No. 117 of the 22d of August last, inclosing Copy of a Letter from the Acting Commander of H.M. Ship "Favourite" proposing that a Party of Soldiers should proceed in that Ship to Tongataboo for the purpose of recovering Her Guns, which were left in the hands of the Natives of that Island at the time of the recent encounter when Captain Croker lost his life.

I approve of your having declined to direct the embarkation of a Military Force for such a purpose, and especially as it is...
very probable that you may find it necessary to detach a small
Body of Troops to South Australia.
I do not consider that the Guns are worth a dispersion of the
Military Force at your Disposal. 

J. RUSSELL.

23 April.

Despatch acknowledged.

Convicts to be transferred from Norfolk Island to Tasmania.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.
(Despatch No. 248, per ship Clifton.)

Sir, Downing Street, 23d April, 1841.

I have received your Dispatch No. 151 of the 8th of Octo­
ber last enclosing copies of two Resolutions of the Legislative
Council against the introduction into New South Wales of Con­
victs from Norfolk Island, after the discontinuance of the sys­
tem of Transportation to New South Wales from Europe.

In my Dispatch No. 90 of the 6th of July last, which inclosed
a Copy of the Order in Council discontinuing Transportation to
New South Wales, I intimated it to be the intention of H.M.'s
Government that Convicts at Norfolk Island should immediately
before the Expiration of the term of their sentences be sent to
Van Diemen's Land, and that those who should receive a Ticket
of Leave should be subjected in Van Diemen's Land to such
restraint, as, upon a further consideration of the system, might be
thought most useful.

This arrangement, had it been known in the Colony at the
period when those Resolutions were passed which you have now
transmitted, would have dispelled the apprehension entertained
by the Colonists.

I am, &c.,
J. RUSSELL.

24 April.

Despatch acknowledged.

Report required re F. Rougier.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.
(Despatch No. 249, per ship Florentia: acknowledged by
Sir George Gipps, 19th November. 1841.)

Sir, Downing Street, 24th April, 1841.

With reference to your Despatch of the 13th December,
1839, No. 172, requesting that means might be taken for obtaining
repayment from the French Government of the Expense in­
curred in the conveyance to this Country from New Zealand of
a Native of France named Francois Rougier, a Lunatic, I trans­
mit to you herewith copy of a letter from the Under Secretary
of State for Foreign Affairs, with its enclosures, and I have
to desire that you will furnish the further information required
by the French Government respecting the individual in question.

I have, &c.,
J. RUSSELL.
[Enclosure.

UNDER SECRETARY BACKHOUSE to UNDER SECRETARY STEPHEN.

Sir,

Foreign Office, 20th April, 1841.

With reference to your Letters, dated the 17th June last and the 19th Ultimo, requesting that repayment may be procured from the French Government of the expense incurred in conveying a French Lunatic named Rougier from New Zealand to New South Wales, and from thence to France, I am directed by Viscount Palmerston to transmit to you the accompanying copy of a Despatch from Her Majesty's Minister at Paris, enclosing a copy of a Note from Monsr. Guizot, requesting to be informed of the quality or profession of the individual in question; and I am to request that you will lay these papers before Lord John Russell, and move his Lordship to endeavour to cause Lord Palmerston to be furnished with the information required by Monsr. Guizot. I have, &c.,

J. BACKHOUSE.

[Sub-enclosure No. 1.

RIGHT HON. H. L. BULWER to VISCOUNT PALMERSTON.

My Lord,

Paris, 16th April, 1841.

I have the honor to enclose to your Lordship the copy of a Note which I have received from Monsr. Guizot, in reply to that which I addressed to His Excy. to demand the repayment of the Sum of £49 2s. 6d. which had been advanced by the Government of the Colony of N. S. Wales for the passage to Europe of a Frenchman of the name of Francois Rougier.

I have, &c.,

HENRY LYTTON BULWER.

[Sub-enclosure No. 2.

MONSIEUR GUIZOT to VISCOUNT GRANVILLE.

My Lord,

Paris, le 15 Avril, 1841.

V.E. a reclame au nom de l'Agent Colonial de la Nouvelle Galles du Sud le remboursement d'une Somme de £49 2s. 6d., avancee par le Gouvernement de cette Colonie pour les frais du Transport en Europe d'un Francais, nomme Rougier. Pour determiner a quel Ministere doit etre addressee votre reclamtion, j'ai besoin de savoir quelle est la qualification du Francais repatrie; s'il est Soldat, Marin, ou s'il appartient a l'ordre civil. Il est necessaire aussi, pour le bon ordre de la comptabilite, que l'ordonnance de remboursement qui sera delivree, soit appuyee d'un etat indiquant l'objet de la dispense et certifie par l'autorite qui l'a faite. Je prie V.E. de vouloir bien me procurer ces renseignemens et cette piece. Aussitot qu'ils me seront parvenus, je donnerai a sa reclamtion la suite la plus convenable et la plus prompte.

GUIZOT.

LORD JOHN RUSSELL to SIR GEORGE GIPPS.

(A circular despatch, per ship Florentia.)

Sir,

Downing Street, 24 April, 1841.

My attention has been directed to the existence in various Ports in the West Indies, of Orders to Fort Officers to Fire on Vessels under certain circumstances, for the purpose of enforcing
Quarantine or the payment of Customs or Port Dues; and, having referred the subject to the Lords of the Committee of Privy Council and to the Lords of the Treasury, I now enclose for your information and guidance copies of Letters, addressed to this department by desire of their Lordships.

You will be so good as to take such measures as may be considered necessary to ensure the observance in the Colony under your Government of the Laws and Customs on this subject, which are at present in force in the United Kingdom.

I have, &c.,

J. RUSSELL.

[Enclosure.]

MR. C. E. TREVELYAN TO UNDER SECRETARY STEPHEN.

Sir,

Treasury Chambers, 29 January, 1841.

With reference to your Letter of the 4th instant, I am commanded by the Lords Commissioners of Her Majesty's Treasury to transmit to you, in order that the same may be submitted for the information of Lord John Russell, Copy of a Report from the Commissioners of Customs, dated 20th instant, on the subject of the Regulations in regard to Firing on Vessels violating the Customs Laws, or the Laws of the respective Ports and Harbours.

I am, &c.,

C. E. TREVELYAN

[Sub-enclosure.]

REPORT BY COMMISSIONERS OF CUSTOMS.

May it please your Lordships.

Your Lordships having referred to us the annexed Letter from Mr. Stephen, representing that the Governor General of the Windward Islands (Sir E. Macgregor) has stated to Lord John Russell that serious consequences might result from the want of a "well defined and duly sanctioned code of Regulations," respecting the firing with Shot at Vessels quitting any Port or Harbour in violation of the Laws of Customs, or the Laws for the Regulation of such Ports or Harbours, both in cases where the violation is unintentional and in cases where it is wilful, and signifying Lord John Russell's wish to receive a statement from this Board of the Regulations that are in force in this Country on this subject, and whether they are established by positive statute, or under any other authority, in order that Lord John Russell may recommend the observance as closely as possible of such Laws or Customs in the Colonies under Sir E. Macgregor's Government.

We beg leave to state that there is no Law nor Regulation of Customs authorizing the firing with Shot at Vessels "quitting any Port or Harbour" in the United Kingdom in violation of the Laws of Customs. But, by the 62nd Section of the Customs Regulation Act of the 3rd and 4th Wm. 4th, Cap. 52, Masters of Vessels are subject to a penalty of £100, if such Vessels shall depart from any Port in the United Kingdom or in the Isle of Man for parts beyond the Seas, without being duly cleared Outwards for their intended Voyage in manner directed by the said Act; and, by the 135th Section of the same Act, Masters of Vessels are liable to a further penalty of £100, if they do not bring their Vessels to at certain stations appointed for the purpose of Boarding or of landing Officers of this Revenue.

That the only Law upon the subject of Firing is the 8th Section of the Smuggling Act, of the 3rd and 4th Wm. 4th, Cap. 55, by which it is enacted that, in case any Vessel or Boat liable to seizure or examination under any Act or Law for the prevention of Smuggling shall not bring to or being required so to do, or being chased by any Vessel or Boat in Her Majesty's Navy having the proper Pendant and Ensign of Her Majesty's Ships hoisted, or by any Vessel or Boat duly employed for the prevention of Smuggling, having a proper Pendant and Ensign hoisted, it shall be lawful for the Captain, Master, or other person having the charge or command of such vessel or Boat in Her Majesty's Navy, or employed as aforesaid (first
RUSSELL TO GIPPS.

causing a Gun to be fired as a signal) to fire at or into such Vessel or Boat: and such Captain, Master, or other person acting in his aid or assistance, or by his directions, shall be, and he is thereby indemnified and discharged from any indictment, penalty, action, or other proceeding for so doing.

R. B. DEAN. S. G. LUSHINGTON.

Custom House, 20th Jan., 1841. E. STEWART. H. RICHMOND.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.

(A circular despatch, per ship Florentia.)

Sir, Downing Street, 24th April, 1841.

I transmit to you herewith a copy of a Notice to Mariners which has been published by the Elder Brethren of the Trinity House, reporting the intended exhibition of a Light at Gibraltar; and I have to instruct you to cause such Notice to be made public throughout the Colony under your Government.

I have, &c.,

J. RUSSELL.

[Enclosure.]

(This notice was published in the "Government Gazette" in the colony in November, 1841.)

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.

(A circular despatch, per ship Carthagena; acknowledged by Sir George Gipps, 16th April, 1842.)

Sir, Downing Street, 24th April, 1841.

I transmit to you an extract* of a letter from the President administering the Government of Grenada, enclosing an abstract taken from the Government Office Records of all the Colonial Civil Appointments of trust and confidence which had been made within that Colony during the last three years, with a return of the names and rank of the Officers attached to the Local Regiment of Militia.

I have to request that you will send home similar returns, for the last three years, from the Colony under your Government.

I have, &c.,

J. RUSSELL.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.

(Despatch No. 250, per ship Florentia.)

Sir, Downing Street, 25 April, 1841.

With reference to your despatch of the 1st of July, 1839, No. 99, reporting the measures which you had adopted for reducing the Establishment at Moreton Bay as a Penal Station,

* Note 55.
1841.
25 April.
Application
for gratuity
by J. Kent.
Instruction
for sale of flocks
and herds at
Moreton bay.

I transmit to you, herewith, copy of a Letter from the Secretary
to the Board of Treasury, stating that an application had been
received from Mr. Kent, the Commissariat Officer in charge of
the Government Herds and Flocks, for a special allowance in
consequence of the large increase of those Herds.

You will perceive that the Lords Commissioners of the Treas­
ury suggest that these Herds should be disposed of, as soon as
the Sale of them can be effected without serious loss, and that
the proceeds of the Sale should be paid into the Commissariat
Chest, when the Board will be prepared to grant a gratuity to
Mr. Kent proportioned to the success of his management. You
will accordingly take the necessary measures for disposing of
these Flocks and Herds, reserving to yourself the discretionary
power of postponing the Sale, either in whole or in part, should
you see sufficient reason for so doing.

I shall be glad, to receive an early report of the proceedings
which you may adopt in this matter. I have, &c,

J. RUSSELL.

[Enclosure.]

MR. C. E. TREVELYAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 10th April, 1841.

Adverting to a communication dated the 17th Decr., 1839,
from which it appears that the Convict Establishment at Moreton
Bay, New South Wales, has been broken up, with the exception of
the small number of Convicts required for the custody of the
Government Herds at that place. I am commanded by the Lords
Commissioners of H.M. Treasury to acquaint you, for the informa­
tion of Lord John Russell, that My Lords have since received
communications from the Commissariat Officer in charge at
N. S. Wales reporting a large increase in the number of the Cattle
and Sheep composing these herds, and applying for a Special
Allowance for Mr. Kent, the Commissariat Officer in Charge of
them.

It appears to my Lords that early measures should be taken to
dispose of these Herds to the best advantage, and to pay the pro­
cceeds of the Sale into the Commissariat Chest; and should Lord
John Russell be of the same opinion. My Lords request that you
will move his Lordship to issue Instructions to the Governor of
N. S. Wales accordingly.

If, however, it should appear, after full notice shall have been
given of the Intended Sale at Sydney and elsewhere, that the Herds
could not be sold except at a price much below their real value,
the Governor might be vested with a discretionary power to post­
pone the sale, either in whole, or in part; but it appears to my
Lords to be desirable that they should be disposed of as soon as
the sale can be effected without any serious loss.

When the property shall have been finally disposed of, their
Lordships will be prepared to grant a gratuity to Mr. Kent propor­
tioned to the success of his management, and I am to request that
the Govr. may be instructed to report his opinion on the proceedings of that Officer in this matter, and on the reward which it will be proper to confer upon him.

I am further to add that, when the Herds shall have been sold, the remaining Convicts and Commissariat Establishment at Moreton Bay may, my Lords presume, be finally removed.

I have, &c,
C. E. TREVELYAN.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.
(Despatch No. 251, per ship Florentia.)

Sir,
Downing Street, 26 April, 1841.

I have received your Despatch No. 133 of the 19th Sept. last, with a Copy of a Minute of the Executive Council in the case of an Aboriginal Native named Tolboy or Jackey, who was convicted of the Murder of an English man named Frederick Harrington, but who has been reprieved at the recommendation of the Judge before whom he was tried.

The Executive Council recommend that the Prisoner should be pardoned on condition of being confined for life at Cockatoo Island; and you concur in that recommendation, at the same time further suggesting that a power should be given to yourself or the Governor for the time being to make a further mitigation of his punishment, should he so far profit by the discipline to which he will be subjected and the instruction which he will receive at Cockatoo Island, as to make it probable that he might safely be restored to liberty.

Her Majesty has been graciously pleased to approve of a Pardon being granted to the Prisoner on the condition recommended, and to authorize the further mitigation of punishment which you suggest, if by his subsequent good conduct the Prisoner should shew himself worthy of that indulgence.

I have, &c,
J. RUSSELL.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.
(Despatch No. 252, per ship Florentia.)

Sir,
Downing Street, 27 April, 1841.

I have received your Despatch No. 142 of the 1st of Octo-ber last, in which you report the measures which have been adopted, since your appointment to the Government of New South Wales, for the better management of the Female Factory at Parramatta, and the success of those measures.

I beg to express my thanks for the Report which your Des-patch contains, and my approval of the measures adopted. As of report.
transportation to New South Wales has now ceased, the number of the Female convicts in the Factory will of course be considerably diminished.

J. RUSSELL.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL,
(Despatch No. 101, per ship Honduras; acknowledged by lord Stanley, 15th November, 1841.)

My Lord,

Government House, 27th April, 1841.

With reference to my Despatches named in the margin,* respecting a claim advanced by Sir Maurice O'Connell on the part of the Heiresses of the late Governor Bligh to a very valuable portion of land at Parramatta, I have the honor herewith to forward to Your Lordship a further Report from the Attorney General, by which your Lordship will perceive that this claim is abandoned, and that the Deed from Governor King to Governor Bligh, under which it was set up, has been formally surrendered.

My former reports will have explained that a Bill in Equity was filed by the Attorney General, attacking the Title† of the Heiresses of Governor Bligh to other properties held by them in the Colony under Grants from Governor King; but that these Titles were attacked solely for the purpose of defending the Title of the Crown to the land at Parramatta. The parties were not disturbed by me in the possession of these other properties, but the filing of the Bill had the effect of preventing the sale of them; indeed I intimated to the parties that, if they attempted a sale, I should immediately press the proceedings in Equity to a hearing; but that, on the other hand, if they would surrender all claim to the Parramatta property, I would immediately not only stop proceedings against the other properties, but confirm their Titles to them, if necessary.

The parties being very anxious to sell, closed on this proposal; and the formal surrender of the Parramatta property to the Crown has accordingly been made in the manner approved by the Attorney General.

The sale of one of the other properties has since taken place, and has realized for the Heiresses of the late Governor Bligh upwards of £26,000. This property‡ is the one described in my Despatch of the 9th March, 1840, as 240 acres in the District of Petersham.

GEO. GIPPS.

* Marginal note.—No. 115, 7th Augt., 1839; No. 136, 11th Oct., 1839; No. 35, 9th March, 1840.
† Note 56.
‡ Note 57.
ATTORNEY-GENERAL PLUNKETT TO COLONIAL SECRETARY THOMSON.


I have the honor to report for the information of His Excellency the Governor, with reference to the property in the Town of Parramatta which had been claimed by the Representatives of the late Admiral Bligh, and on which the Female Factory, the King’s School, the Roman Catholic Chapel and other Buildings were erected, that, from Documents lately put before me, it appears that this property was actually conveyed to two Trustees, Messrs. Hallet and Slade, by Deed of Conveyance, dated the 22nd day of June, 1838, signed by five of the Coheiresses of Admiral Bligh and their respective husbands; and, one remaining Coheress being of unsound mind and declared a Lunatic, a private Act of Parliament was passed in the 2nd and 3rd year of Vic. for vesting her sixth share in the said Trustees.

The object of the Trust in the said Deed of Conveyance and Act of Parliament was to Sell and only to Sell. The Trustees, Messrs. Hallet and Slade, transmitted a power of Attorney to Messrs. S. A. Donaldson and J. W. Gosling, Merchants of Sydney, dated the 24th day of January, 1840, to carry the Trusts into Effect by Sale of the Property.

By Virtue of the said Power of Attorney, it appears they Sold and Conveyed by Lease and Release, dated the 9th day of February, 1841, the said Parramatta property to Major General Sir M. O’Connell by which any interest the Said Representatives might have had was absolutely vested in him. Sir M. O’Connell together with Lady O’Connell, his Wife (acknowledged in the usual way) have on the 24th day of February, 1841, by Surrender endorsed on the Conveyance so made by the Attorney of the Trustees, Surrendered all Claim thereto to the Crown, and delivered up the Deed purporting to be signed and sealed by Phillip G. King as Governor of the Colony, under which the Title was Claimed against the Crown.

These several Documents have been registered in the usual and proper form, and I have instructed the Civil Crown Solicitor to take care that a Certain Small portion of the said property at Parramatta, which had been some time since (without notice to the Government) recovered by the said Representatives from a Tenant of the Crown, should be restored without any litigation, trouble, or Expense.

Thus the whole Case now Stands, and when the piece of Land last mentioned shall be so restored, I consider all the Proceedings and Claims of the Representatives of Admiral Bligh to the said property at Parramatta as finally arranged.

I have, &c,

JOHN H. PLUNKETT, Attorney General.

[Sub-enclosure.]

DEED OF SURRENDER.

To all to whom these presents shall come Greetings. Whereas divers disputes and differences have existed between Her Majesty’s Government and the Representatives of the late William Bligh, Esquire, respecting the validity of the within recited Grant, made on the tenth day of August, one thousand eight hundred and six
Deed of surrender of land at Parramatta

by Phillip Gidley King, Esquire, of the lands therein mentioned; And whereas further proceedings are intended to be instituted on behalf of Her said Majesty to impeach the said recited Grant and also other Grants and Conveyances made by the said Phillip Gidley King to the said William Bligh, Esquire; And whereas it is deemed advisable by us and the Representatives of the said William Bligh to prevent the said proceedings; Now Know ye that, in consideration that all disputes, differences and Suits shall be settled and forborne respecting the premises, We, the within named Maurice Charles O'Connell and Mary, his Wife, Have surrendered and yielded up and Do by these presents grant, surrender and yield up, release and forever quit claim all right, title and interest in the said land hereinafter referred to unto Her Majesty Queen Victoria, Her Heirs and Successors, absolutely and as fully and effectually to all intents and purposes as if no such Grant or pretended Grant had been made or issued, And we do deliver up the said recited Deed of Grant, dated Tenth day of August, one thousand, eight hundred and six in order that the same may be cancelled accordingly.

In witness whereof we have hereunto set our hands and Seals the twenty fourth day of February, one thousand, eight hundred and forty one.

Signed, sealed and delivered in the presence of—

M. C. O'CONNELL (L.S.).
M. O'CONNELL (L.S.).


Be it remembered that, on the Twenty fourth day of February, one thousand, eight hundred and forty-one, came and appeared before me, Alfred Stephen, one of the Judges of the Supreme Court of New South Wales, the above named Mary C. Connell, Wife of Sir Maurice Charles O'Connell, Knight, and did acknowledge the above written Deed to be her voluntary act; previous to which acknowledgement, the said Mary O'Connell was examined by me apart from her Husband touching her knowledge of the contents of the same and her consent thereto and declared the same to be freely and voluntarily executed by her. In testimony whereof, I have set my hand and Seal the day and year above written.

ALFRED STEPHEN (L.S.).

G. L. ANSON TO SIR GEORGE GIPPS.
(Despatch per ship Clifton.)

Sir,

Buckingham Palace, 28th April, 1841.

I have this day had the honor to lay before His Royal Highness Prince Albert the congratulatory Address from the Governor and Legislative Council of New South Wales upon the marriage of His Royal Highness with Her Majesty. I have received His Royal Highness's commands to convey to you and to all those who concurred in this Address the expression of His Highness's sincere thanks for the gratifying sentiments contained in it.

I have, &c.,

G. L. ANSON.
GIPPS TO RUSSELL.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.

(Despatch No. 233, per ship Florentia.)

Sir,

Downing Street, 28 April, 1841.

I have received Your Dispatches Nos. 145 and 146 of the 4th and 5th of October last, inclosing Schedules of all appointments to Public Offices and Payments of a special description under your Warrant from the Colonial Treasury during the three Quarters ending respectively the 31st Decr., 1839, and the 31st of March and 30th of June, 1840; together with similar Returns of Payments under your Warrant from the Military Chest during the same period.

In forwarding those Returns to the Board of Treasury, I have intimated to the Lords Commissioners that I do not perceive anything objectionable in the several charges which appear in them.

Referring, however, to the numerous instances of increase in small Salaries, I think it right to call your attention to the necessity of keeping the Expenditure of your Government within the means of the Revenue; but I have already so strongly impressed on you that necessity that I feel confident it is almost superfluous now to advert to the subject.

I am, &c.,

J. RUSSELL.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 102, per ship Honduras.)

My Lord,

Government House, 28th April, 1841.

I feel it my duty to bring under Your Lordship's consideration the amount of salary received by the Superintendent of Port Phillip, Mr. La Trobe, the same being only £800 a year, with an allowance of forage for two horses, but without an official residence or lodging money.

When the Estimates for the present year were before the Legislative Council, I was urged by more than one of the unofficial Members to augment Mr. La Trobe's salary, and the Council appeared generally to concur in the propriety of such a measure; but I in reply stated that I did not consider myself at liberty, without the permission of Your Lordship, to propose an augmentation in any salary, the amount of which had been fixed in England.

The appointment of a Resident Judge, with a salary of £1,500 a year, seems to render an increase in Mr. La Trobe's salary more necessary even than it was when the Estimates were last before the Council; and I therefore beg to submit his case to your Lordship.

I have, &c.,

GEO. GIPPS.
LORD JOHN RUSSELL TO SIR GEORGE GIPPS.

(Despatch No. 254, per ship Florentia.)

1841.
29 April.

Transmission of letter from treasury.

Sir, Downing Street, 29 April, 1841.

With reference to my Dispatch No. 221 of the 15th Ultimo, respecting the future Form of Demands for Stores for the Convict Service in New South Wales and Van Diemen's Land, I transmit to you, herewith, for your information and guidance, Copy of a further Communication from the Board of Treasury on that subject.

I am, &c.,

J. RUSSELL.

[Enclosure.]

MR. C. E. TREVELYAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 24th April, 1841.

I have it in command from the Lords Commissioners of Her Majesty's Treasury to transmit copy of a Letter from the Secretary of the Ordnance dated the 12th Ulto. respecting the future Form of Demands for Stores for the Convict Service in New South Wales; and I have to request that you will submit the same to Lord John Russell, with reference to the Letter addressed to you from this Board on the 10th Ulto., and that you will move His Lordship to give such further Instructions on the subject to the respective Governors of New South Wales and Van Diemen's Land, as his Lordship may deem to be necessary.

I have, &c.,

C. E. TREVELYAN.

[Sub-enclosure.]

MR. R. BYHAM TO MR. C. E. TREVELYAN.

Sir, Office of Ordnance, Having submitted to the Board your Letter dated the 9th Inst. returning the demand of Stores for the Service of the Convict Department in New South Wales for the year 1841/2, I have the honour by their Command to acquaint you, for the information of the Lords of the Treasury, that instructions have been given for the supply to be proceeded with forthwith. And with respect to the concluding portion of your Letter relative to future demands, I am to observe that the respective officers of the Ordnance Department at Sydney and Hobart Town have been directed in their future requisitions of Stores for the service of the Convict Departments at New South Wales and Van Diemen's Land to class the various articles under the following heads:—

Clothing; Bedding; Barrack Stores; Artificers' Tools and Articles for repair of Barracks and Convict Buildings; Tools for the use of Convicts employed on the Roads or other Public Works carrying on in the Colony; Convict Hospitals and Medical Establishments; Vessels attached to the Convict Department at Van Diemen's Ld.

I am further to observe that the respective Officers have been instructed that the Stores, required for the ordinary use of convicts, or for such Works as they may be called upon to execute for the ordinary service of the Department, are to be distinguished from those that may be demanded for any peculiar or special works or services, as required by your Letter of the 9th Inst.

And I am to request that you will move their Lordships to cause such directions, as they may consider necessary, to be issued to the Officers connected with the Convict Establishments at New South Wales and Van Diemen's Ld., as will ensure their being given to the Officers of the Ordnance Department in carrying these orders into effect.

I have, &c.,

R. BYHAM.
LORD JOHN RUSSELL TO SIR GEORGE GIPPS.  
(Despatch No. 255, per ship Juno.)

Sir, Downing Street, 30th April, 1841.

My Attention having been called by the Colonial Land and Emigration Commissioners to a Report of the proceedings of the Board of Directors and Guardians of the Parish of Saint Mary-le-bone relative to the application of Parish Funds to convey certain young Females, unfit subjects for Emigration to Australia, I thought it right to communicate on the subject with the Secretary of State for the Home Department, requesting the Marquess of Normanby to make such enquiries and take such steps as should appear to his Lordship best calculated to prevent evils of a grievous nature, which seemed likely to arise from the misapplication of Funds devoted to Emigration.

I now transmit to you for your information a copy of a letter from the Under Secretary of State for the Home Department with copies of a correspondence between the Poor Law Commissioners and the Directors and Guardians of the Poor of St. Mary-le-bone on the subject.

I have, &c.,

J. RUSSELL.

[Enclosure.]

MR. S. M. PHILLIPPS TO UNDER SECRETARY STEPHEN.

Sir, Whitehall, 23d April, 1841.

On the receipt of your Letter of the 20th March, the Marquess of Normanby lost no time in communicating with the Poor Law Commissioners, respecting the report of the Proceedings of the Board of Directors and Guardians of the Parish of Saint Mary-le-bone, relative to the Emigration of certain Females, supported by the Funds of that Parish; and I have now received Lord Normanby's directions to transmit to you, for the information of Lord John Russell, the enclosed copy of a Letter from Mr. Coode, forwarding copies of the correspondence, which has taken place between the Poor Law Commissioners and the Board of Directors and Guardians of the Poor of St. Mary-le-bone.

I am, &c.,

S. M. PHILLIPPS.

[Sub-enclosure No. 1.]

MR. J. COODE TO MR. S. M. PHILLIPPS.

Sir, Poor Law Commission Office, Somerset House, 21 April, 1841.

I am directed by the Poor Law Commissioners to acknowledge the receipt of your Letter of the 20th Ultimo transmitting to them a copy of a communication from the Colonial Land and Emigration Commissioners respecting the proceedings of the Board of Directors and Guardians of the Parish of St. Mary-le-bone, relative to the Emigration of certain females now chargeable to that Parish; and I am to state to you, for the information of the Marquis of Normanby, that the Poor Law Commissioners have made enquiry on the subject, the result of which will be made known to His Lordship, by the accompanying copy of the correspondence which has taken place between the Commissioners and the Board of Directors and Guardians of the Poor of Saint Mary-le-bone.

I have, &c.,

JAMES COODE, Assist. Secy.
1841.
30 April.

The Poor Law Commissioners to Mr. T. Thorne.

Emigration of Female Paupers to Australia.

Sir,


The Poor Law Commissioners transmit to you an Extract from a Report of the Colonial Land and Emigration Commissioners, which has been forwarded to them by the Marquess of Normanby.

The Commissioners request that you will lay the enclosed extract before the Directors and Guardians of the Parish of St. Mary-le-bone, and furnish the Commissioners with any remarks which the Directors and Guardians may desire to make in reference to the Statements contained in it.

The Commissioners likewise request that you will furnish them with a Copy of the Report, which appears from the accounts in the Times of the proceedings at the Meeting of the Directors and Guardians on the 19th Inst, to have been read to the Board on that day.

The Commissioners further desire to point out to the attention of the Directors and Guardians that, according to Sec. 62 of the Poor Law Amendment Act, monies paid out of the Poor Rates of any Parish for defraying the expenses of the Emigration of poor persons, having settlements in such Parish, are to be applied under and according to such Rules, Orders, and regulations as the Poor Law Commissioners shall in that behalf direct: the Commissioners are not aware that any other general Statute authorizes the application of any portion of the Poor Rates to the emigration of poor persons, and the Commissioners do not find that the Local Acts of the Parish of Saint Marylebone contain any provision relating to the subject.

Signed by order of the Board,

E. CHADWICK, Secretary.

[Sub-enclosure No. 3.]

Mr. T. Thorne to Mr. E. Chadwick.

Emigration of Females.

Sir,

St. Marylebone Workhouse, 2nd April, 1841.

I have to acknowledge the receipt of a Communication from the Poor Law Commissioners, together with an extract from a Communication made by the Commissioners for the Colonies relative to the Emigration of Females to Australia, and to inform you that the same was laid before the Board of Directors and Guardians at their Meeting held this day, that the Board came to a Resolution thereupon, which, if confirmed at the next Meeting on Friday next, will be duly forwarded to the Poor Law Commissioners.

I am, &c.

THOS. THORNE, Secretary.

[Sub-enclosure No. 4.]

Proceedings of Board of Directors.

St. Marylebone, 16 April, 1841. At the Board of Directors and Guardians of the Poor.

Present, Wm. Low, Esq., in the Chair.

Read a Communication from the Poor Law Commissioners, also an extract from a Communication made by the Colonial Land and Emigration Commissioners relative to the Emigration of ten females to Australia, whereupon was Resolved

That this Board, as an Act of Courtesy, direct their Secretary to inform the Poor Law Commissioners that the Report of a Committee recommending the sending out ten females to Australia has not been adopted by this Board.

Extracted:—THOS. THORNE, Secretary.

Sir George Gipps to Lord John Russell.

(Despatch No. 103, per ship Honduras; acknowledged by Lord Stanley, 22nd October, 1841.)

My Lord,

Government House, 30th April, 1841.

At the request of Capt. Maconochie, I transmit to Your Lordship a copy of a complaint which has been addressed to him by a Prisoner at Norfolk Island, named John Hannon, respecting a Trunk his property, alleged to have been detained by the Keeper of Newgate Prison.
I beg to add the following extract from the letter addressed to me by Captn. Maconochie on this subject:—

"I feel it a duty also to add that a great many other Prisoners here complain of having had property to a small extent each, taken from them in their Home Prisons, and retained when they were transferred. None of these cases are such as it appears to me now possible to investigate; but a caution on this subject to the Superior Authorities of the Home Prisons would be, I think, very desirable. A sense of injury thus improperly inflicted on them, in the outset of their career as Prisoners, indisposes the men afterwards to become honest. They fancy themselves thus countenanced in crime by those who have been over them; even a good deal of pains would be well bestowed in preventing so injurious an effect."

I have, &c.,

GEO. GIPPS.

[Enclosure.]

[A copy of this complaint will be found in a volume in series III.]
1841.
1 May.

Proposed concessions re bounty on emigrants per ship Adam Lodge.

into force, and it is now too late for the inquiries necessary to issuing the Certificates required by those Regulations. We do not feel that it lies within our authority to dispense with Rules of which the enforcement has been enjoined upon us by Her Majesty's Government, but we have little doubt that Lord John Russell will consider it proper that relief shd. be afforded under the circumstances of the present case; and we would suggest that a despatch should be addressed to the Governor, conveying his Lordship's sanction for dealing with the Passengers by this Ship, as if she had sailed before the new Regulations came into operation. If this course meets with his Lordship's approbation, we would request to receive the Dispatch that we may forward it to Messrs. Byrnes to be conveyed to the Colony by the "Adam Lodge."

We have, &c.

T. FREDERICK ELLIOT.
EDWARD E. VILLIERS.

[Sub-enclosure No. 1.]

MR. J. HENRY TO MR. S. WALCOTT.

Sir, General Emigration Office, Liverpool, 27 April, 1841.

I have the honor to acknowledge the receipt of your Letter of yesterday's date enclosing one from Mr. Byrnes herewith returned, relative to the "Adam Lodge," and beg to state in reply that I have reason to believe that the causes assigned for the ship not being in a more forward condition are substantially correct; she was in the first place longer in the Grooving Dock than was anticipated, and after coming out was unable to obtain a berth for some time.

I am, &c,

JNO. HENRY.

[Sub-enclosure No. 2.]

EXTRACT of a Letter from Mr. P. W. Byrnes, dated Liverpool, 23rd April, 1841.

"I take leave to trouble you on the subject of the ship Adam Lodge now preparing to embark passengers under the regulations of the Colonial Government for Sydney, N.S.W. Until within the last few days, I expected to have had the vessel ready to sail before the 30th Inst.; but, owing to the repairs the vessel has been undergoing, occupying a longer time than was represented to me, and afterwards the vessel being detained several days in Dock, before a loading Berth could be procured, I now find it impossible to despatch her before the 8th of May. The Certificates of character, age, etc., of the Passengers were all obtained under the expectation that the Vessel would not come within the new regulations; and it is now almost impossible to obtain others without detaining the ship and Passengers for that purpose."

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 104; per ship Honduras.)

My Lord,

Government House, 1st May, 1841.

I have herewith the honor to transmit to Your Lordship a Copy of a Report, which has been made to me by Capt. Maconochie on the conclusion of the first year's trial of his system of management at Norfolk Island. I have, &c.

Geo. GIPPS.

[Enclosure.]

[A copy of this report, dated 20th March, 1841, will be found in a volume in series III.]
RUSSELL TO GIPPS.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.
(Despatch No. 257, per ship Florentia.)

Sir, Downing Street, 2 May, 1841.

I have to acknowledge the receipt of your Dispatch of Acceptance of the 12th of October last, No. 154, explaining the Circumstances under which Four Acts were received at this office unaccompanied by any Communication from yourself.

I consider that you have satisfactorily answered the imputed neglect in not reporting on the Acts in question.

I am, &c.,
J. RUSSELL.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.
(Despatch No. 105, per ship Honduras; acknowledged by lord Stanley, 2nd November, 1841.)

My Lord, Government House, 2nd May, 1841.

With reference to my Despatches marked in the margin,* Transmission of rules of practice for supreme court.

I have the honor to forward herewith some Additional Rules of Practice, which have been promulgated by the Judges of the Supreme Court of this Colony; and which, agreeably to the terms of the 9th Geo. IV, C. 83, S. 16, and of the Local ordinance, 4th Vict., No. 22, S. 24, must be submitted for Her Majesty's approval.

I have, &c.,
GEO. GIPPS.

[Enclosures.]

[Copies of these rules will be found in a volume in series III.]

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.
(Despatch No. 258, per ship Florentia.)

Sir, Downing Street, 3 May, 1841.

Having communicated with the Lords Commissioners of the Treasury on the subject of the creation of the office of Harbour Master at Port Phillip, as reported in your Despatch No. 156 of the 14th Octr. last, I have to convey to you the sanction of H.M. Government of that appointment, with a Salary attached to it of £250 per annum.

I approve of your nomination of Mr. C. M. Lewis* to that office.

I am, &c.,
J. RUSSELL.

* Marginal note.—No. 44, 7th Feb'y., 1841; No. 83, 29th March, 1841.
1841. 4 May.

Transmission of papers re claim of J. Williamson.

Memorial of J. Williamson.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.

(Despatch No. 259, per ship Florentia.)

Downing Street, 4 May, 1841.

Sir, James Williamson, a Discharged Soldier residing at Maitland, New South Wales, a Memorial stating that he commuted his Pension and emigrated with the understanding that he would, on his arrival in the Colony, be provided with employment and a Grant of Land, but which the Colonial Government were unable to grant him in consequence of the repeal of the regulation under which such advantages were extended to Discharged Soldiers.

I transmit Copies of a Correspondence between this Department and the Office of the Secretary at War on this subject.

You will inform the Memorialist that, under the circumstances stated by the Secretary at War, it is not in my power to afford him any relief.

I am, &c.,

J. RUSSELL.

[Enclosure No. 1.]

The humble Memorial of James Williamson, a discharged soldier residing at Maitland in New South Wales.

To The Right Honorable The Secretary of State for the Colonies, etc., etc., etc.

Sheweth,

That Your Lordship's Memorialist was formerly a private in Her Majesty's 6th Regiment of Dragoons, commanded by Sir William Lumley, and, on the 27th August, 1828, was admitted an outpensioner of Her Majesty's Royal Hospital at Chelsea, having served in the Army for twenty three years and seven months, with a pension of one shilling per diem.

That in the year 1834 a report was circulated that Pensioners emigrating to the Australian Colonies would receive every encouragement and assistance from, and would be provided with employment and a Grant of Land on their arrival in the Colony by the Government; and Your Memorialist, having a wife and three children (in common with many other pensioners), consented to sail to New South Wales in the hope and expectation of gaining an independence for his family.

Your Memorialist was accordingly shipped on board the Ship Hibernia, which Vessel was burned at Sea and Your Memorialist narrowly escaped in a boat, losing however the whole of his property, his wife and his children. Your Memorialist was picked up by the Ship Isabella and was forwarded from Rio by Hobart Town to Sydney in New South Wales.

On his arrival at Sydney, Your Memorialist was informed that his Pension was forfeited by the terms of his Emigrating, but that the Sum of £4 6s. 11d. (which with £15 advanced in England and his passage money amounted to £65) was due to him and he might then receive it.

Being entirely destitute, Your Memorialist was glad to accept the small sum offered to him, and a small sum was also raised by subscription to provide him with the necessaries he lost in the
Hibernia. This sum, however, could not last long; and Your Memorialist found it difficult to obtain employment. The Governor could not employ him, neither could he give any grant of Land, the sole inducement to Your Memorialist leaving his home and friends; and lastly his Pension for life was gone for a passage to a strange country and £19 6s. 11d., almost the whole of which was lost by fire.

Your Memorialist has applied by letter to the Colonial Govt, and to the Commander in Chief of the forces in the Colony and by Petition to the Home Govt. The first two applications were fruitless, Your Memorialist receiving for answer that they had no power to relieve. The last Your Memorialist fears failed in reaching its destination.

Your Lordship's Memorialist humbly begs to call your Lordship's attention to the Regulation, by which Soldiers discharged in the Colony are allowed Grants of Land besides their Pensions; and Your Memorialist humbly hopes that Land will surely be given to those whose pensions are stopped. It was under the representation that he would be provided with employment and Land by the Govt, that Your Memorialist left a comfortable home and a certain provision for life, and Your Memorialist confides too strongly in the justice of Her Majesty's Government to suppose that when put in possession of the facts Your Memorialist has ventured to state, that Her Majesty will leave Her Old Servants in helpless poverty in their old age.

Your Memorialist prays Your Lordship will be pleased to bring his case under the notice of Her Most Gracious Majesty, and procure for Your Memorialist some compensation for his past services since he has been deprived of his Pension.

And Your Memorialist as in duty bound will ever pray.

[Unsigned.]

[Enclosure No. 2.]

UNDER SECRETARY STEPHEN TO MR. L. SULIVAN.

Sir, Downing Street, 5th April, 1841.

I am directed by Lord John Russell to transmit to you Copy of a Memorial, which has been addressed to his Lordship by James Williamson, stating that he commuted his pension and Emigrated to New South Wales with the understanding that he would, on his arrival in the Colony, be provided with employment and a grant of Land, but which the Colonial Government were unable to grant him in consequence of the repeal of the Regulation under which such advantages were extended to discharged soldiers; and I am to request that you will move the Secretary at War to cause Lord John Russell to be furnished with any information relative to the case of James Williamson, which it may be in his power to afford.

I have, &c.,

Jas. Stephen.

[Enclosure No. 3.]

MR. L. SULIVAN TO UNDER SECRETARY STEPHEN.

Sir, War Office, 15th April, 1841.

In reply to your letter of the 5th Instant, I am directed to acquaint you that James Williams, formerly of the 6th Dragoons, of pension by was permitted to commute his Pension in November, 1832, a Loan J. Williamson.
of £20 having been granted to him by the Commissioners of Emi­
gration, but that the commutation was allowed without any promise
having been given to him of a Grant of Land or of employment
in the Colony.

I have, &c.,

L. SULIVAN.

5 May.

Transmission
of memorial
from Sir T. M.
Brisbane.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.

(Despatch No. 260, per ship Florentia; acknowledged by
Sir George Gipps, 23rd January, 1842.)

Sir, Downing Street, 5 May, 1841.

With reference to your Dispatch No. 170 of the 22d Sep­
tember, 1838, I transmit to you herewith a Copy of a further
Memorial from Lt. Genl. Sir T. Makdougall Brisbane, praying
that his former Grant of 10,000 acres of Land in New South
Wales may be relieved from the Charge of Quit Rent, and that
an additional Grant of like extent may be made to him; and I
have to request that you will report to me whether there is any
thing set forth in the inclosed Memorial, which would lead you
to alter the opinion expressed in your Dispatch before referred
to in regard to the claims of Sir Thomas Brisbane.

I am, &c.,

J. RUSSELL.

[Enclosure.]

Memorial of Sir
T. M. Brisbane
re land grants.

The Memorial of Lieutenant General Sir Thomas Makdougall
Brisbane, of Brisbane and Makerstown, Baronet, G.C.B., etc.
To The Right Honble. Lord John Russell, Secretary of State for
the Colonies.

In the month of January, 1840, the Memorialist had the honor of
addressing an application to your Lordship, respecting a Grant of
Land made to him in New South Wales, in answer to which Your
Lordship directed Mr. Vernon Smith to intimate that, for certain
specific objections which he stated, the Claims of the Memorialist
could not then be complied with. While the Memorialist regrets
the trouble he has already occasioned to Your Lordship, he begs
leave respectfully to bring the matter once more under your Lord­
ship's consideration. This he has been urgently advised to do, in
consequence of having since ascertained, and being now able to
state, additional facts and circumstances, which, he feels assured,
are sufficient to induce your Lordship to come to a different and
more favorable conclusion in regard to the Case.

The objections, stated in the letter of Mr. Vernon Smith to the
Memorialist's right to the Reserve of 10,000 acres under Lord
Bathurst's letter, are: 1st. The delay which took place in the selec­
tion of the first 10,000 acres; 2nd. The Non Improvement and Sale of
the land after it was so selected; and 3rd. The present uncultivated
state of the first grant. These Objections, which are founded
on the Report of the present Governor of the Colony, dated 22nd
Octr., 1838, will now be alluded to in their order.
First, as to the delay in selecting the Land; shortly after receiving Lord Bathurst's letter in the end of the 1826, the Memorialist, in fulfillment of the conditions therein expressed, executed a Power of Attorney to Mr. Peter Murdoch of this Country, who at the time intended to proceed to New South Wales, authorizing him to act on his arrival there, as his agent in reference to the Grant. Mr. Murdoch, however, after having set out, changed his mind, and, instead of remaining in New South Wales, proceeded to and settled in Van Diemen's Land, and was thus prevented from taking any steps towards selection of the first 10,000 acres.

A new Power of Attorney was thereupon executed in favor of Doctor Donald Macleod, who appears to have settled in the Colony early in the year 1828. In a letter from this Gentleman to the Memorialist of this date, he says: "No offer whatever has been made" (i.e., by the Govt.) "to afford me assistance in selecting; and I do not urge them, as I wish to gain time in hopes Port Macquarie may be thrown open. It is the only place to the North likely at all to answer, and, being the first to choose, a good piece of Land can easily be secured. Mr. Dawson has been kind enough to look out for me, as he has been a good deal in the Bush, and knows the whole Country well; but he is of opinion that 10,000 acres could not be got worth having, any where in the Surveyed Districts."

On the newly discovered River, the Manning, there is a tract of good land, not yet occupied, but they will not permit people to go there on the plea of its being within fifty miles of a Penal Establishment. If there is any good land, I shall hear of it, and immediately lay a claim to it in your name."

In other Letters, Doctor Macleod explains at length the various steps taken by him in conjunction with others for the purpose of obtaining a selection of the 10,000 acres, and the difficulties which stood in the way of his doing so. He did not, however, continue long in the Colony, having removed to India, before he was enabled to make a Selection of the Land.

Mr. Francis Stephens, a Son of one of the Judges, upon Dr. Macleod's removal to India, obtained from that Gentleman, pursuant to the power of Attorney granted to him, authority to act as Agent for the Memorialist in the Colony. In a Letter from Mr. Stephens of this date, he says: "The Doctor has not furnished me with any particular instructions how to act, as he stated that he expected Mr. Murdoch would bring out every necessary authority and information. In the meantime, however, I thought it advisable to apply to the Colonial Government to know whether any step remained to be done to perfect the grant to which you are entitled. After some delay, I was officially told that Doctor Macleod had hitherto taken no steps on the subject. I have since applied a second time to know precisely the situation in which your claim stood, as I was fearful lest any neglect on the part of your Agents might, under the strict letter of the Land Regulations, forfeit your Right. To this communication I have received no reply, notwithstanding my request for one in order to communicate it to you by the present opportunity. On Mr. Murdoch's arrival, however, I hope there will be no further difficulty in the way. In the meantime, I will do on your account whatever may be needful."
In consequence of the applications by Mr. Stephen to the Colonial Government, the following Letter was at length addressed to the Memorialist in this Country:

"Colonial Secretary's Office, Sydney, New South Wales, 20th August, 1830.

"Sir,

"I have the honor, by direction of His Excellency Govr. Darling, to inform you that, in pursuance of instructions which have been received from the Secretary of State, authorising your obtaining a grant of Land in this Colony, and on an application recently made by Mr. Francis Stephen, who has produced a Power of Attorney from your Agent Dr. Macleod, appointing him to act in that Gentleman's absence and on his part in all matters relating to the land so authorised, Mr. Francis Stephen has been empowered to select Ten thousand Acres on your behalf.

"I have further the honor to inform you that, in compliance with the instructions referred to, directions have been given to reserve an equal quantity of Land adjoining that above authorised to be selected, in order to its being transferred to you as an additional grant when the terms on which the original grant is to be made, as mentioned in Mr. Hay, the Under Secretary of State's letter to you of 14th August, 1826, shall be complied with.

"I have the honor to be, &c.

"ALEXANDER MCLEAY."

From the delay on the part of the Colonial Govt, in replying to the applications of Mr. Stephen, while he was on the spot to select the Land, that Gentleman had not an opportunity to make the selection when the permission to do so was actually granted to him, as he then removed to Van Diemen's Land having obtained an appointment there.

The Memorialist accordingly in August, 1830, and prior to the receipt of Mr. McLeay's Letter, executed a new power of Attorney in favor of Mr. John Furlong. This Gentleman made considerable progress towards making the selection, but was prevented by death from actually obtaining it; But his Son, Mr. Willm. Furlong, followed out the steps taken by his Father for the selection of the land; and it will be seen from the following Letter addressed to him, and now in the possession of the Memorialist, that, in the year 1832, he had actually made a selection.

"Surveyor General's Office, Sydney, 4th Decr., 1832.

"Sir,

"In attention to your Letter of the 28th Novr., 1832, selecting Ten thousand acres of Land for Sir Thos. Brisbane at a place called Cunningham plains, about 8 miles west of the Burrawa River, I have to inform you that selections beyond the banks of the Burrawa River cannot be furnished, the same being beyond the intended limits of the Colony, and that it will therefore be necessary for you to select within the limits open for selection.

"I have the honor to be, &c.

"T. L. MITCHELL, S.G."

Several Letters subsequently passed between the Surveyor General and Mr. Furlong as to the situation and Boundaries of the Selection till April, 1833, when it was actually made in the Upper
District of Hunter’s River, being just six and a half years from
the date of the original order by Lord Bathurst, but only 2½ years
from the date of the Intimation by the Colonial Govt, that the
Memorialist’s Agent was empowered to make the selection.

These delays were no doubt considerable; but, from what has
been stated, it is submitted that the consequence of them cannot
fairly be charged against the Memorialist, seeing that every exer-
cition was made by him, in his having nominated no fewer than five
successive Individuals for the purpose of obtaining regular pos-
session of and managing the Grant. Unless, indeed, the Memorialist
had anticipated the success of the application to Lord Bathurst
by having Managers ready to proceed directly to the Colony the
moment he received his Lordship’s Letter, considerable delay must,
from the great distance, have been occasioned before the Resident
Agents, whom he was bound to send out could have arrived in the
Colony. This, joined to the fact of there being no specified time
whatever mentioned by Lord Bathurst within which the Land
should be selected, induces him to hold that this was a specific
grant, made for a specific consideration, and not liable, like Or-
dinary Grants, to forfeiture at the termination of seven years. Had
the assignment been made by the Colonial Government immediately
after receiving Lord Bathurst’s directions in 1828, the Memorialist
might, in that case, have been obliged in terms of the Regulations
to have expended a Capital in its improvement equal to half its
value by the end of the following seven years, or incurred for-
feiture. No such assignment, however, was made; and, instead of
the Memorialist’s Agents being enabled to obtain possession of
Land, which Lord Bathurst’s letter intimated he would direct to be
set apart or “assigned” to him, they had to traverse the Country
in search of available tracts, as, from the unusual extent of the
Grant, “10,000 acres could not then be got worth having anywhere
in the Surveyed Districts.” Delay, no doubt, was the consequene,
but then it was attributable, the Memorialist submits, in the first
instance to the Colonial Govt., who, instead of setting apart or
assigning for the Memorialist 10,000 acres and a reserve of an
additional 10,000, as they were as clearly bound to do, as he was
immediately to take possession of and cultivate them, they not
only did nothing in allotting the Land, but only tardily intimated to
the Memorialist, for the 1st time in 1830, that his Agent had been
empowered himself to select what they themselves should have
originally assigned. Although, too, delay was the consequence, the
Memorialist could not be blamed for not selecting Land, which at
that time, instead of a benefit, would have actually proved a burden
to him. In the delay which occurred subsequently, that is between
the end of 1830, when the Memorialist’s agent was for the first time
“empowered” by the Colonial Govt. to make the selection, and
the beginning of 1833, when it was actually selected, Sir George
Gipps says, in his Report before alluded to, that, in 1831, Genl.
Darling appears to have considered that the claim was forfeited by
Non-selection; nevertheless he renewed the permission to select, and
that permission was again renewed by Sir R. Bourke. From these
renewals, whether spontaneous acts of the Govrs. themselves, or
granted in consequence of applications on the part of the Me-
memorialist, it would appear that these respective Govrs. had been
satisfied that the delay, which had taken place, was not of so culpable a character as to warrant forfeiture of the Claim. At all events, if the delay which took place injured any one at all, it must have been the Memorialist; and, when at length the selection was made, without any intimation that the delay had had the effect of altering the terms of Lord Bathurst's original order in reference to the additional 10,000 acres, which were promised to the Memorialist, not on condition of his selecting the first 10,000 acres in the course of two, three, or even ten, or any specified term of years whatever, but merely were or "so soon as the first Grant shall have been brought into full and successful cultivation," and, from the other circumstances before stated, the Memorialist humbly hopes that the plea of delay will not continue to be urged against his now obtaining possession of the second 10,000 acres.

2nd. As to the Non-Improvement and Sale of the land when selected.

First, as to Non-Improvement: When a Grant or purchase was made of arable land, the Owner was obliged, in terms of No. 15 of the Land Regulations of 1826, to expend a Capital equal to half its value by the end of seven years upon its cultivation and improvement. When, again, a Grant or purchase was made of pastoral land, the owner was obliged to expend in stocking it with Sheep or Cattle a Capital equal to half its value within the like time. It may be observed that there is nothing as to this latter practice of Stocking in the Regulations of 1826, nor in those of 1827. In those dated 20th April, 1828, however, it is mentioned in No. 14, which rules as to persons getting an Increase or Extension of Grant, as follows:—"actual Outlay of Capital in the Improvement of the Land, either by Buildings, Enclosures, Draining or clearing, or in the importation of Cattle or Sheep of improved breeds to be depastured on it, will form the criterion, by which the decision of the Govt. will be made," i.e., in allowing the additional Land. This corroborates and confirms a practice, which prevailed for long before and at the date of the above Regulations, of holding the Stocking of a pastoral Grant equivalent to the cultivation of an arable one.

Now, the first 10,000 acres selected for the Memorialist composed a tract of Land not generally or indeed almost to any extent susceptible of cultivation, but for purposes purely pastoral. And accordingly it was from the time of selection and still is stocked with sheep and cattle, to an extent at least fully equivalent to the Capital required to be expended by the Regulations of 1826; and this, therefore, obviates the objection, urged in Mr. Smith's letter, that "nothing was done for the improvement of the Land."

Second, as to the Sale: The Memorialist, through his Agents in the Colony, managed the Grant from the period of selection in 1833 down to 1838, when he was induced from the trouble necessarily occasioned in the management of a territory at such a distance, which had hitherto yielded him no return whatever, as well as from other circumstances, to dispose of the same to the late Mr. George Galbraith of New South Wales, who latterly took some charge of the Land. Of the Memorialist's right to dispose of the land, there could be no doubt. Such sales, indeed, are quite common and
never challenged. If the Crown had any objections to the Sale, these must be held to be removed Hornologation, as the title to the Land was given in 1836 by the Colonial Govt. to Mr. Wentworth, who purchased from Mr. Galbraith, without any objection whatever. It will thus be observed that another objection, urged in Mr. Smith’s letter, of the Land being sold at once on selection, is likewise obviated by the fact that it was retained and managed by the Memorialist for upwards of three years.

3rd. As to the last objection stated by Mr. Smith, which is that it was stipulated that the further Grant of 10,000 acres should not be made until the first had been brought into full and successful cultivation, it is answered that, although the stipulation has not been literally performed by the cropping of the land, yet its equivalent, as already mentioned, has been made in the Stocking of the Land with Sheep and Cattle. Had an arable Grant been taken, cultivation by cropping, etc., would of course have been necessary; but, as the Land selected was pastoral, cultivation could not follow, and sufficient Stocking was all that was requisite. This will account for and explain the remark made by Sir Geo. Gipps that, if he is rightly informed, the Land is still in a state of nature.

Having thus noticed all the special objections stated in Mr. Smith’s letter to the Memorialist’s obtaining the second Grant of 10,000 acres, the Memorialist still now take the further liberty of calling your Lordship’s attention to a few additional observations which occur in reference to his right to the Reserve.

1. Lord Bathurst stated that he would direct “that a farther grant of 10,000 acres adjoining the other property may be reserved with a view to your obtaining that addition,” which the Memorialist considers to be an existing and binding obligation, fettered merely with the condition that the actual possession shall commence at a certain period, namely, “so soon as the first grant shall have been brought into full and successful cultivation.” The Letter of 1830 from the Colonial Govt., before quoted, is also to the same effect, namely, “when the terms on which the original Grant, etc., shall be complied with.”

The Memorialist, therefore, humbly submits that, with reference to the nature of the Land selected, and the purposes to which it has been applied, he has, by the sufficient stocking with sheep and Cattle, performed the condition in Lord Bathurst’s letter as to cultivation, and that, at all events, if it should not be so considered by Your Lordship, the Memorialist is still willing to do what may be deemed requisite for the full performance of that condition to enable him to obtain the Reserve.

It will be afterwards shewn that the Sum, which the Memorialist has derived from the first Grant, is very trifling compared with the heavy Expense incurred by the Memorialist connected with the Governorship of the Colony, as stated in his former Memorial to your Lordship, and to which Lord Bathurst expressly alluded as inducing him to make the Grant originally. The Memorialist, therefore, humbly submits that the consideration, which then weighed with his Lordship, is still subsisting, and that his Memorial of Sir T. M. Brisbane re land grants.
Successor should perfect the Grant by allowing the additional 10,000 acres. At any rate, it will not be denied that the Memorialist has not benefited by the Grant to such an extent as Lord Bathurst evidently intended he should do, and that this circumstance, viewed in connection with the exertions which the Memorialist used to make the most of the land in the interval, should induce your Lordship to regard the Claim for indemnification now as favorably, if indeed not much more so than Lord Bathurst did on the first occasion.

The Memorialist shall now conclude with a short statement of the advantage, which he has derived from the first 10,000 acres.

As already stated, the Memorialist sold the first 10,000 acres to Mr. Galbraith in 1836, after their having been retained and managed by his Agents for three years. The price, according to the Missive of Agreement, was “to be five shillings per acre, if the grant be free of Quit Rent; but, if it be subject to a Quit Rent, a deduction is to be made from said price of the value of the Quit Rent calculated at twenty years’ purchase of the amount thereof.” Very soon after this purchase, Mr. Galbraith sold the land to Mr. W. C. Wentworth, in whose name the grant from the Crown was issued. Mr. Galbraith having died in 1837 before paying the price of the Land, it was only last month, after much difficulty and delay attending the finding out and communicating with his Representatives in the Colony, that the Memorialist was enabled to bring them to a settlement. From the price of the 10,000 acres, which at 5s. amounted to £2,500, they claimed a deduction of Quit Rent as affecting the Land at the rate of 2d. per acre, at 20 years’ purchase, amounting to £1,666 13s. 4d., leaving only of price £833 6s. 5d., which sum, exclusive of Interest, is the whole return which the first grant has in any way yielded the Memorialist, while on the other hand he has necessarily incurred much expense before obtaining possession of the Land, and also in effecting a Settlement of the price with the Representatives of the purchaser.

It was all along understood by the Memorialist that any Quit Rent, which would be claimed from the Land, was merely or at least comparatively nominal; and, as the Representatives of the purchaser produced no Evidence that the Land was subject to the rate of Quit Rent claimed by them, they have been taken bound to furnish sufficient Evidence of the amount, and also to repay the same, even if the Land is so burdened, in the event of the Memorialists obtaining a grant of the Quit Rent from Government, no Quit Rent having ever yet been exacted from the Owners of the Land.

Upon a review of the whole circumstances as now detailed by the Memorialist, he trusts he has answered and explained to your Lordship’s satisfaction the specific objections which were stated in answer to his last application; and, while he deeply regrets to have to trouble your Lordship with a renewal of it at such length, he at the same time humbly and confidently hopes, that upon reconsideration your Lordship will direct:

That the Memorialist be allowed to select an additional 10,000 acres equal in value to that originally promised him, and also
That the first 10,000 acres sold by the Memorialist shall be relieved of any Quit Rent to Govt., so that he may still be entitled to claim the amount of it either from the Representatives of the Purchaser, or from the present Proprietors.

Makerstown by Kelso, 8th March, 1841.

T. M. BRISBANE.

---

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 108, per ship St. George.)

My Lord,

Government House, 6th May, 1841.

Agreeably to the directions contained in Your Lordship's Circular of the 28th Sept., 1840, I have the honor herewith to return the List of Steam Vessels registered in the Port of Sydney, with the columns filled up as required.

There are no Steam Vessels registered at any Port under this Government, except that of Sydney.

I have, &c.,

GEO. GIPPS.

[Enclosure.

[A copy of this return is not available.]

---

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 109, per ship St. George.)

My Lord,

Government House, 7th May, 1841.

I have the honor to report to Your Lordship that Capt. Stanley, R.N., sailed from Sydney in Her Majesty's Brig "Brito-1mart" for Port Essington on the 4th inst., and that he took with him the "Sesostris," a vessel which was engaged to touch at Port Essington, and deliver supplies for the Settlement on her way to China.

I transmit herewith a Copy of the last Report, which I have received from Capt. MacArthur, the Commandant at Port Essington; it is dated the 2nd Novr., 1840, at which time all was well at the Settlement.

I also enclose a Copy of a Memorandum on Port Essington, which has been transmitted to me by Capt. MacArthur.

Her Majesty's Sloop "Favorite," Capt. Dunlop, is now the H.M. sloop only vessel of War on this Station; and I expect her shortly to arrive at Sydney from New Zealand.

I have, &c.,

GEO. GIPPS.

[Enclosures.

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

---
SIR GEORGE GIPPS TO LORD JOHN RUSSELL.
(Despatch No. 116, per ship St. George.)

My Lord,

Government House, 9th May, 1841.

In my Despatch of the 1st Jany. last, No. 5, I reported to Your Lordship the formation of a Water Police in the Harbour of Sydney, the expence of which is to be defrayed by a tonnage duty on all vessels entering the Port.

Two Police Boats had previously been maintained, one at the expence of the Colony for general purposes, the other at the expence of the British Treasury, on account of Convict services, being expressly intended to prevent the escape of Convicts, for which purpose every vessel is searched before she leaves the harbour.

It being evidently desirable to have the whole of the Water Police under one Head, I caused a Board to assemble, consisting of the Deputy Commissary General and the Superintendent of the Water Police, to report on the best manner of carrying this into effect; and I have the honor to enclose herewith the Report which I have received from the Board.

I beg further to state to Your Lordship that I have directed their Report to be acted upon, as the measure recommended by them will create no additional expence to the Home Government whatsoever, whilst the accounts of the Commissariat will be simplified by adopting it.

I have, &c,

GEO. GIPPS.

(Enclosure.)

MESSRS. MILLER AND BROWNE TO COLONIAL SECRETARY THOMSON.

Sir,
Commissariat Office, Sydney, 2nd April, 1841.

In compliance with your letter of 28th January last, addressed to the Deputy Commissary General requiring our joint report as to some better arrangement than that which has hitherto existed relative to the Boat for preventing the escape of Convicts from the Colony: We have the honor to report, for the Information of His Excellency the Governor, that the recent formation of a Water Police for this Port affords an opportunity of having the duty, alluded to, performed under a better System and a more efficient Superintendance, and we are therefore of opinion that the Boat in question should be incorporated with the Water Police.

By the enclosed Statement, it will be seen that the expense which has hitherto been incurred and defrayed from the Military Chest, on account of the Boat alluded to, amounts to £535 3s. 1d. per annum.

We are therefore of opinion that the whole should be paid and maintained by the Colony, the Military Chest contributing £500 per annum towards the same from the 1st of January, 1841, and to continue during such period as the number of Convicts in the Colony may render it necessary to keep up an establishment for preventing their escape by Sea.
The Rations of the Conductor, the Constables and Crew of the Boat were defrayed from the Military Chest to the 31st December, 1840; but their pay has been issued from that fund to the 31st October only. We therefore beg to suggest that the transfer should be considered as having taken place from the commencement of the present year; and that an account be prepared against the Military Chest of the Pay and other expenses that may be in arrear up to that time.

We have, &c.,

W. MILLER,
D.C.G.
H. H. BROWNE,
Supt. of Water Police.

[Sub-enclosure.

Account of the Annual expense defrayed from the Military Chest on account of the Boat for preventing the escape of Convicts from the Colony.

<table>
<thead>
<tr>
<th>Description</th>
<th>£</th>
<th>s</th>
<th>d</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pay of 1 Conductor at 4s. per diem</td>
<td>78</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>5 Constables &amp;c</td>
<td>205</td>
<td>6</td>
<td>2</td>
</tr>
<tr>
<td>Gratuity to 4 Convicts &amp;d</td>
<td>48</td>
<td>18</td>
<td>4</td>
</tr>
<tr>
<td>Rations for 10 Men, 9d. each</td>
<td>186</td>
<td>17</td>
<td>6</td>
</tr>
<tr>
<td>Coal, Candles, and Oil</td>
<td>7</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Clothing, Stores, Boats and repairs</td>
<td>64</td>
<td>6</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>355</strong></td>
<td><strong>3</strong></td>
<td><strong>1</strong></td>
</tr>
</tbody>
</table>

Commissariat Office, Sydney, 2nd April, 1841.

Lord John Russell to Sir George Gipps.

(Despatch No. 261, per ship Forth.)

Sir,

Downing Street, 11 May, 1841.

I transmit to you, herewith, a copy of a Letter from the Colonial Land Commissioners, with a copy of one from Mr. John Marshall, in which he requests, that seven vessels, which he is about to dispatch to Australia, may be exempted from the operation of the recent Regulations on Bounty. Although Mr. Marshall has afforded in his letter no statement of the grounds on which he assumes the impracticability of complying with those Regulations, I have acquainted the Commissioners that I am prepared in deference to their recommendation, founded as it is on a further communication with Mr. Marshall on the subject, to authorize you to deal with the Passengers proceeding by those of the first four ships named in Mr. Marshall’s letter which are destined for New South Wales, in the same manner as if the new Regulations had not come into effect.

I have not however thought it proper to extend the same Relaxation of the Regulations in the instance of the three other ships.

I have, &c.,

J. Russell.

*Marginal note.—Strathfieldsaye for Pt. Philip; China for Sydney; Forth for Sydney; Forth for Pt. Philip.
1841.
11 May.

[Enclosure.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Colonial Land and Emigration Office,
9 Park St., Westminster, 1st May, 1841.

We have the honor to transmit herewith, for the consideration of Lord John Russell, the Copy of a letter from Mr. Marshall requesting that, under the circumstances therein stated, seven Vessels which he is about to dispatch may be exempted from the operation of the recent Regulations on Bounty.

On this subject Mr. Marshall attended at our Board yesterday, accompanied by a Deputation from the Committee recently formed in the City on Emigration by means of Bounty. We explained that we did not consider it within our own power to dispense with the Rules, of which the enforcement was now committed to us as part of our administrative duties, and that all we could do would be to forward to Lord John Russell any case, with which we might be furnished in writing, for his Lordship's consideration.

The Regulations are actually in force, and duly conformed to by all other parties of whom we have any knowledge; and we could not possibly, on any general grounds, recommend an exception in favor of one Individual. But Mr. Marshall, it will be observed, states that he had formed certain engagements, previously to the issuing of the new Regulations, and that some of those Regulations were irreconcilable with his fulfilling such previous engagements; and, although we regret that Mr. Marshall had not submitted these circumstances until the very day on which the rules came into operation and the week within which four of his ships were to sail, yet the specific ground alleged does appear to us one which we may bring before Lord John Russell as entitled to favorable consideration. We beg leave therefore to submit to his Lordship our opinion that Mr. Marshall's request may with propriety be acceded to, so far as to authorise the Governor to deal with the Passengers by the first four ships named in the enclosed letter in the same manner as if the new regulations had not come into effect.

But there do not appear to us to be sufficient grounds for extending the same instruction to the three ulterior vessels included in the list furnished by Mr. Marshall. We propose to inquire somewhat more specifically into the particular regulations which he finds incompatible with the execution of the engagements he had previously contracted; and, if either to them or to any other of the recent rules sound objections can be shewn, we need scarcely say that we shall be prepared to apply to Lord John Russell for permission to modify them. It is unnecessary to assume, therefore, that it will continue to be impossible for Mr. Marshall to conform with the general regulations on the business in which he is engaged, even on the plea of the respect due to existing arrangements. Postponing then for the present the case of the three later vessels, we confine our recommendation, as above stated, to the four which are enumerated first in order by Mr. Marshall.

We have, &c.,

T. FREDK. ELLIOT.
EDWARD E. VILLIERS.
Mr. John Marshall to Land and Emigration Commissioners.

Gentlemen,

26 Birchin Lane, London, 1st May, 1841.

With reference to the conversation had with you yesterday by the Gentlemen who, with myself, waited upon you, on the subject of the conditions recently promulgated by you touching Bounty Emigration. I now beg to state, in writing the specific request which was then made to you, and to which you expressed your assent and your disposition to submit it with your recommendation for the approval of the Secretary of State. You are fully aware that I regard your conditions as they now stand as impracticable, as extremely harassing and grievous to those engaged in sending out Labour to New South Wales, and as calculated to operate most injuriously on the healthy working of the Bounty System; these are my decided and honest convictions. I confine myself, however, now to the single point that the period allowed by you for bringing them into operation (only one month from their transmission to me) renders it utterly impossible to do so. I am now about despatching ships, the arrangements respecting which were entered into long before I received your proposed conditions, and with reference to which it has been no more possible to attempt complying with them than to overcome any other impossibility.

The ships, to which I allude, are the Strathfieldsaye for Port Phillip; China for Sydney; Forth for Sydney; Forth for Port Phillip; Middlesex for Port Phillip; Lady Kennaway for Sydney; Gilbert Henderson for Sydney.

Of these vessels, the first four are now about leaving the Thames, and the whole of them are to clear out this month; and, as respects these ships, it is impossible, from the nature of the contracts into which I have for some time past entered, to attempt to conduct them under your recent regulations. They are and will all be prepared for the service on which they are bound in entire conformity to the Passengers Act, and I therefore respectfully request, in accordance with the understanding at our interview with you yesterday, that you will be pleased to move the Secretary of State to direct the Governor of New South Wales to order the bounties on the Emigrants by these vessels to be paid in accordance with the Colonial Rules and regulations without reference, as respects them, to the conditions promulgated by you, with which it is impossible for me to attempt in any degree to comply as regards the ships I have named. I do most earnestly hope that these conditions may be reconsidered and so modified as to render conformity to your wishes practicable and consistent with reasonable facilities to those engaged in sending out Emigrants, and the steady copious flow of Labor to New South Wales under the Bounty System. If adhered to as they now stand, I should have no alternative but to retire from the further prosecution of my pursuit by the end of July, which period it will require to enable me to execute the obligations into which I had entered with numerous persons in various parts of these Kingdoms before I received your conditions. I feel that I could not consistently with my own reasonable security and peace of mind attempt to conduct my very responsible business under your conditions, as they now stand. I am however sincerely desirous to attend, with all the respect and deference you can
1841.
11 May.

Request by J. Marshall for relaxation of regulations on vessels with bounty emigrants.

desire, to any reasonable and practicable conditions having for their object the prevention of abuse; and I am ready to afford you every information and cooperation you can desire, which my long and extensive experience may enable me, in the establishment and carrying out of the objects for which the Secretary of State and yourselves desire to provide, and which I regard to be the effectual protection of the public and the healthy and copious supply of useful labor to the Colony under the Bounty System.

In the accomplishment of these objects you will find me ready and desirous to aid by all the means in my power, and I consider that these ends may be effectually attained by regulation which will combine the results you desire to secure with the reasonable protection and encouragement of all persons engaged in sending out Labor under the Bounty System, who shall be found to conduct their business with intelligence and uprightness. I beg to subscribe myself, &c, JOHN MARSHALL.

12 May.

Lord John Russell to Sir George Gipps.
(Despatch No. 262, per ship Florentia.)

Sir, Downing Street, 12 May, 1841.

Having communicated with the Lords Commissioners of the Treasury on the subject of Your Despatch, No. 126 of the 3rd September last, I have to convey to you the sanction of Her Majesty’s Government of the Expenditure and arrangements, provided for in the Estimate of the Commanding Royal Engineers, of Works and Repairs to be executed for the service of the Convict Department in New South Wales for the year 1841-2.

I have, &c,

J. RUSSELL.

13 May.

Lord John Russell to Sir George Gipps.
(Despatch No. 263, per ship Juno.)

Sir, Downing Street, 13 May, 1841.

I have received your Despatch No. 168 of the 25th October last reporting that, in the appropriation act of 1840, the Sum of £300 had been included towards the formation of a Library for the use of the Legislative Body of the Colony.

I have to convey to you the sanction of Her Majesty’s Government of that Expenditure.

In compliance with the wish expressed by you, I have instructed the Colonial Agent, in conjunction with the Librarian of this Office, to report as to the best mode of giving effect to your views with regard to the selection of the Books.

I have, &c,

J. RUSSELL.
LORD JOHN RUSSELL TO SIR GEORGE GIPPS.

(Despatch No. 264, per ship Juno.)

Sir,

Downing Street, 14 May, 1841.

I transmit to you herewith copy of a letter addressed to my Under Secretary by the Director General of the Army Medical Department enclosing copy of a communication from Dr. Thompson, Deputy Inspector General of Hospitals, relative to the arrangement in existence for the supply of medicines, etc., to the Public Servants and different Classes of Free Population in the Colony.

I shall be glad to receive your opinion whether the arrangement as it at present stands in New South Wales is in itself sufficiently satisfactory, or whether it would be for the benefit of the Public Service to introduce those modifications referred to in Dr. Thompson's Report, which he states were approved by Sir Richard Bourke, but which were never carried into effect.

I have suggested to Sir Jas. McGregor that it would be highly desirable if the Deputy Inspector General of Hospitals were instructed to furnish you with copies of any Reports, which he may from time to time transmit to the Head of his Department on which it may be desirable to receive your opinion.

I have, &c.,

J. RUSSELL.

[Enclosure.]

SIR JAMES MCGREGOR TO UNDER SECRETARY STEPHEN.

Sir,

Army Medical Department, 12 February, 1841.

I do myself the honor to transmit for the information and consideration of Lord John Russell the Copy of a Communication received from Dr. Thompson, Deputy Inspector General of Hospitals, regarding the arrangement in existence at Sydney for the supply of Medicines, etc., to the Public Servants and different Classes of free population in that Colony.

I do not see in these arrangements any circumstances which call for any particular observations on my part, as they seem to have been adopted with the knowledge and sanction of the Governor.

I have, &c.,

J. MCGREGOR, Director General.

[Sub-enclosure.]

DEP. INSPECTOR-GENERAL THOMPSON TO SIR JAMES MCGREGOR.

Sir,

23 July, 1840.

I have the honor, in relation to the report called for by your Communication of the 6th of February, 1840, to state:

That, having resided for a Month at Hobart Town previous to my arrival at Sydney, I had an opportunity of becoming acquainted with regulations in force in Van Diemen's Land, and the whole system of Hospital management adopted there. When I subsequently
took charge of the Medical Establishment here. I recommended to His Excellency Sir Richd. Bourke, the then Governor, the adoption of somewhat similar arrangements with those in force in Van Diemen's Land, a Copy of which communication was forwarded to you; and, altho. Sir Richard Bourke approved of the same, he never carried it into effect. In this Paper I recommended that in place of 3s. being paid by Free Persons in the Colonial Hospitals that Residents should only pay 2s. and strangers alone 3s., and further that the Masters of all assigned servants should contribute to the expenses of the Department 5s. per annum for each servant (independent of the 2s. per diem which they paid for the first 30 days of Hospital treatment) as had been the case in Van Diemen's Land for some years previous; and, urging attention to the existing condition in regard to Free Paupers, viz., that they should receive Hospital treatment or advice and Medicines only on the production of a Certificate from a Clergyman or Magistrate of their being incapable of paying for the same.

I had thought that this communication, in which I pressed its adoption by the home Government, rendered any further correspondence unnecessary; but, as this does not appear to be the case, I have now to state:

A. That the Classes, who receive advice and Medicines from the Military Medical Officers gratuitously, are the same as in all the other Colonies, viz.:
   1. The Families and Domestics of Military Officers.
   2ly. The Officers, Families and Domestics of the Ordnance and Commissariat Department.

E. The Classes, who receive Hospital treatment or advice, etc., Medicines as extern Patients from the Colonial Medical Officers, are:
   1. Free Paupers and Aborigines, who either produce an order from the Colonial Secretary, or the Certificate of a Clergyman or Magistrate of their Pauperism.
   2ly. Free Persons, who are admitted into the Hospitals on an Engagement being signed, that three shillings per day will be paid for treatment to the Medical Officer of the Hospital.
   3ly. The constabulary, without charge.
   4ly. The children of the male and Female Orphan Schools. These only receive Medicines gratuitously as the Colonial Surgeons at Liverpool and Paramatta, where those establishments are respectively situated, receive each £100 annually from the Colonial Funds for their services.
   5thly. Prisoners in all the Gaols, the House of Correction, and the Paupers in the Debtors' Gaol at Sydney.
   6thly. Emigrants under Quarantine or while located in the Emigrant Barracks. The expense for Medical Attendance does not now come under the cognizance of the principal Medical Officer, but the medicines supplied are paid for by the Colony at the cost price. For these supplies accounts in Duplicates are rendered Quarterly to the Colonial Secretary and to the Depy. Commissary General, who receives payment from the Colonial Treasury.
   7thly. The Protectors of the Aborigines and Natives at Port Phillip received a first supply of Medicines paid for as those supplied to Emigrants; subsequently they have received occasional
Report by J. V. Thompson re issue of medicines, etc., in colony.

1841.
14 May.

RUSSELL TO GIPPS.

1841.
14 May.

J. V. Thompson

1837.
1837.

Service.

From
Feb. 28
July 9
Feb. 6
April 1
July 4
Dec. 14
Sept. 27
Jan. 1
April 1
Feb. 29
Jan. 1

To
Feb. 28
Sept. 10
1837
March 31
Aug. 1
1838
Dec. 31
1839
March 31
Deer. 31
1840
March 31

Amount.
2 8 6 3½
2 45 9 3½
8 11 4
115 12 3
27 10 4
14 19 4
75 18 10
9 7 10
6 12 11½
106 17 6½
2 10 11½
1 3 8½

Total amount
£ 495 7 11½

2 Vessels under Quarantine.

J. CROFT, Depy. Purveyor and Apothecary to the Forces, 25th July, 1840.
JNO. V. THOMPSON, Depy, Inspr. Genl.
SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 113, per ship St. George; acknowledged by lord Stanley, 4th December, 1841.)

My Lord,

Government House, 14th May, 1841.

In my Despatch No. 139 of the 28th Septt., 1840, on the subject of the progress of discovery and settlement in this Colony, I reported to Your Lordship that a tract of valuable land had recently been explored by the Count Streleski between the Snowy Mountains and the Sea in the South Eastern parts of this Colony; and I have now further to report that increased attention was lately excited to this portion of the Colony by the circumstance of the Steamer “Clonmel” of 700 Tons having been wrecked in the month of Jany. last near “Corner Inlet,” in South Latitude 36° 22', a little to the North of Wilson’s Promontory.

Several parties, as well from Sydney as from Melbourne, visited the wreck; and, in consequence of the confirmation by them of the favorable report of the Country which had been previously made by Count Streleski, an expedition was, about six weeks ago, undertaken by several private gentlemen of Melbourne for the purpose of exploring a portion of it, and of returning, if possible, by land from Corner Inlet to Melbourne.

I have the honor herewith to enclose to Your Lordship an account of the progress of this expedition, drawn up and addressed to Mr. La Trobe by one of the gentlemen engaged in it, Mr. John Orr.

I have further to report to Your Lordship that, on the return of the Expedition to Melbourne, two Special Surveys in the neighbourhood of Corner Inlet were demanded, one by Mr. John Orr, the gentleman above named, the other by Mr. W. Rutledge of Parramatta, an old Settler of this Colony.

The nature of the country, where these Surveys are demanded, is as yet entirely unknown to any person officially connected with this Government. I shall however immediately direct an officer of the Surveyor General’s Department to proceed thither; and, under the recent orders respecting the disposal of Crown Lands, it is of course out of my power to refuse the Special Surveys demanded, even though the land should prove to be as valuable as that near Portland Bay, the sale of which was reported in my Despatch of the 27th Octt., 1840, No. 170.

I shall avail myself of the permission, still allowed to the Local Government, of reserving a site for a Town; though, in
consequence of my so doing, I shall probably be forced to form
Police and other Establishments in the District, which is thus
opened to Location entirely without my concurrence.

I have, &c.,
GEO. GIPPS.

[Enclosure.]

[A copy of this report, dated 27th April, 1841, will be found in
a volume in series V.]

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.
(Despatch No. 265, per ship Florentia.)

Sir, Downing Street, 16 May, 1841.

With reference to previous correspondence* on the subject
of the Deposit of Public Monies in the various Banking Estab­
lishments of New South Wales, I transmit to you herewith, for
your information and guidance, copy of a Letter addressed to
my Under Secretary of State by the Secretary to the Board of
Treasury, in answer to a reference made to the Lords Commis­
ioners on the subject of the refusal of the Lieutenant Governor
of Van Diemen's Land to accede to the application of the Mana­
gers of the "Colonial Bank" to be added to the number of the
Banks in which the Public Balances belonging to the Colonial
Chest are deposited.

In compliance with the suggestions of the Lords Commis­
ioners, I have to desire that in future you will abstain from puWnfdeposits
employing any additional Banks for the Deposit of the Balances
belonging to the Colonial Chest, without having first obtained
the sanction of Her Majesty's Government. I have, &c.,
J. RUSSELL.

[Enclosure.]

MR. C. E. TREVELYAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 7th May, 1841.

In reply to your Letter of the 28th Ulto., enclosing a despatch
from the Lieutenant Governor of Van Diemen's Land reporting the
reasons which had induced him to decline the application of the
Colonial Bank that a portion of the Public Treasure should be
deposited in that Bank, I have it in command from the Lords
Commissioners of Her M.'s Treasury to request you will state to
Lord John Russell that my Lords are of opinion that, under the
circumstances stated by Sir John Franklin, His Excellency exer­
cised a sound discretion in declining to accede to the application
of the Managers of the Colonial Bank to be added to the number of
the Banks in which the public balances belonging to the Colonial
Chest are deposited.

* Note 58.
The attention of my Lords having been called to the inconvenience arising from the number of Banks of Van Diemen’s Land and in New South Wales, in which the balances belonging to the Commissariat Chest are deposited, Instructions were issued in February last to the Officers in charge of the Chests in those Colonies that no New Bank should be employed without special authority from this Board; and my Lords suggest that corresponding Instructions might, with advantage, be issued by Lord John Russell to the Governors of those Colonies, directing them not to employ any additional Banks for the deposit of the balances belonging to the Colonial Chests without first obtaining his Lordship’s sanction. At the period when the sanction of Her Majesty’s Government was given to the employment of Private Banks for the custody of the public balances, it was not contemplated that so many claims would be made to a participation in this employment; and, although it was directed that no undue partiality should be shewn in the selection of the Banks, yet, as the sole object of this arrangement was to promote the public convenience, and as it is of undoubtedly importance to the public Interests that a limitation should be put to the number of Banks to be so employed, the Proprietors of recently established Banks cannot justly complain, if they are not included in the arrangement.

I have to request you will also observe to Lord John Russell that one of the conditions, on which the Commissariat balances were entrusted to the Banks, should allow the same rate of Interest on the public deposits as they allow on similar deposits made by Individuals, in accordance with which the Banks in Van Diemen’s Land have consented to allow 5% per cent. on the balances in question, without making any alteration in the Established rules respecting the periodical publication of the state of their affairs, or in the other securities which have been provided for the safety of the public deposits; and my Lords would suggest for Lord John Russell’s consideration the propriety of issuing Instructions to Sir J. Franklin to require a similar allowance of Interest from the Banks for the balances belonging to the Colonial Chest deposited with them. The demand, which was made on the Van Diemen’s Land Banks to allow 5% per cent. on the Commissariat Chest balances, and which was acceded to by them, was founded on a public notice issued by those Banks stating their readiness to allow Interest, at the rate of 5% per cent., on any sums that might be deposited with them by private individuals.

I have, &c.,

C. E. Trevelyon.

---

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.

(Despatch No. 266, per ship Florentia.)

18 May.

Sir,

Downing Street, 18 May, 1841.

I have received your Despatch No. 189 of the 19th December last, notifying the measures which you had adopted for giving effect to the instructions addressed to you under the Royal Sign Manual, for the division of the Territory of New
South Wales into three separate Districts, and for introducing into the Southernmost District the system of selling Land at the uniform price of £1 an Acre.

I have also received your Despatch No. 192 of the 19th of December last, enclosing a memorandum stating your views on the subject of the disposal of Lands in New South Wales.

I perceive that, acting on the advice of your Council, you had reserved from sale certain portions of Land, pending further instructions from Her Majesty's Government; those Lands being such as had been previously advertised at a higher upset price than £1 per Acre, and all Lands still unsold lying within a distance of five miles from either of the Towns of Melbourne, Geelong, or Portland. Under the circumstances which you have stated, you appear to have exercised a very sound discretion in suspending the sale of the Lands in question, and I fully approve of your having so done.

I have read, with much attention and with considerable interest, the memorandum on the disposal of Lands, which accompanied your Despatch No. 192.

I beg to express my acknowledgement of the clearness and ability with which you have stated your views on that subject. I shall communicate further with the Land and Emigration Commissioners, and will give the question all that consideration which its importance demands. You will then receive further instructions for your guidance on the subject.

I have, &c.,

J. RUSSELL.
other, in the Department of the Surveyor General as follows:—
And they will receive the salaries stated in your Dispatch, vizt.:

Surveyor, Mr. H. C. Rawnsley  ...  £325
(commencing)

Do.  Mr. Henry Wade ...  £325
(commencing)

Assist. Surveyor, Mr. John S. Burke  £200
(commencing)

Do.  Mr. Willm. Shone  ...  £200
(commencing)

Do.  Mr. Fras. McCabe ... £200
(commencing)

Do.  Mr. Thos. White ... £200
(commencing)

Draftsman, Mr. H. R. Labatt ... £150
(commencing)

Do.  Mr. H. W. Marriott ... £150
(commencing)

These Officers will proceed to the Colony with the least possible delay.

I am, &c.,

J. RUSSELL.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.

(Despatch No. 278, per ship Florentia.)

20 May.

Sir, Downing Street, 20 May, 1841.

With reference to my Despatch of the 21st Ultimo, No. 246,
I have to acquaint you that the Queen has been pleased to con­
firm and allow the following Private Acts passed by the Legisla­
tive Council of New South Wales:—

(No. 3) "An Act to simplify proceedings at Law, or in Equity,
by or against the Sydney Banking Company, and for other pur­
poses therein mentioned"; and

(No. 4) "An Act for facilitating proceedings at Law, or in
Equity by or against the Banking Company of Melbourne, called
the 'Port Philip Bank,' and for other purposes therein men­
tioned.”

I have, &c.,

J. RUSSELL.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.

(A circular despatch,* per ship Florentia; acknowledged by
Sir George Gipps, 3rd February, 1842.)

21 May.

Sir, Downing Street, 21 May, 1841.

I have received from Mrs. Stuart of Sydney, New South
Wales, a Letter dated the 4th of November last bringing under
my consideration her claims to a grant of Land in that Colony.

* Note 59.
RUSSELL TO GIPPS.

This communication having been sent to me from the Colony, by the writer, and not having been transmitted through you, I have to desire that you would apply to the writer for a copy of it, and that you would forward that Copy to me, accompanied by such a report as the case may appear to you to require.

I have, &c.,
J. RUSSELL.

---

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.
(Despatch No. 269, per ship Florentia.)

Sir, Downing Street, 21 May, 1841.

I have to acknowledge the receipt of your Despatch No. 180 of the 28th November last, reporting on the subject of a claim preferred by Mr. J. Mudie for an additional Grant of 560 Acres of Land in New South Wales.

I concur with you in opinion that this claim cannot be admitted.

I have, &c.,
J. RUSSELL.

---

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.
(Despatch No. 272, per ship Florentia.)

Sir, Downing Street, 22 May, 1841.

I have to acquaint you that the Revd. Messrs. Vaughan and Heston having been selected by the Revd. Thomas Heptonstall, I have authorized the issue to them of the usual allowance of £150 each for their outfit and passage, as the remaining two Roman Catholic Clergymen of the six, for whom provision was made in the Estimates for New South Wales.

I have, &c.,
J. RUSSELL.

---

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.
(Despatch No. 273, per ship Florentia.)

Sir, Downing Street, 23 May, 1841.

I have received your Despatch No. 186 of the 10th of December last, reporting on the representations contained in a Letter transmitted to you in my Despatch of the 26th of March, 1840, alleging an increase of crime in New South Wales.

I have directed the Writer of that Letter to be informed that I consider the answer which you have made to his charge to be satisfactory and complete.

I have, &c.,
J. RUSSELL.
1841.
24 May.

Order-in-council re duties on imports from British possessions in India.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.
(Despatch No. 274, per ship Florentia.)

Sir, Downing Street, 24 May, 1841.

I transmit to you, herewith, for your information and guidance, an Order passed by Her Majesty in Council on the 8th Instant for reducing or altering the Duties now levied at the Cape of Good Hope, Ceylon, New South Wales, Van Diemen’s Land, Western Australia, Southern Australia and New Zealand, upon articles the produce and manufacture of the British Possessions in India, to the same rates as are now imposed upon similar Articles the produce or manufacture of the United Kingdom or of other British Possessions.

I am, &c.,
J. RUSSELL.

[Enclosure.]

[A copy of this order* is not available.]

25 May.

Increase of salaries in customs department.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.
(Despatch No. 275, per ship Florentia.)

Sir, Downing Street, 25 May, 1841.

Having communicated with the Lords Commissioners of the Treasury on the subject of your Despatch, No. 162 of the 20th of October last, representing the insufficiency of the Salaries of the Clerks in the Customs Department of New South Wales, and suggesting that gratuities for good conduct should be distributed among them, their Lordships have informed me that they have recently had under their revision the Establishment of that Department, and have authorized certain additions to the Salaries of the Clerks, and of some of the other subordinate Officers, respecting which the necessary communications have been made to the Collector at Sydney and to the Colonial Government by the Commissioners of Customs. It will not therefore be necessary that any further steps should be taken with respect to the proposition contained in your Despatch.

I have, &c.,
J. RUSSELL.

26 May.

Despatch acknowledged re A. T. Faunce.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.
(Despatch No. 276, per ship Florentia.)

Sir, Downing Street, 26 May, 1841.

I have received your Despatch of the 16th November, 1840, No. 178, in which you report on a Memorial from Mr. Alured Tasker Faunce, praying to be relieved from certain Damages awarded against him in New South Wales.

* Note 60.
On referring to the former correspondence* in this case, I find that the Report of the Attorney General of New South Wales was under Lord Glenelg's Notice, and was fully considered by him, when his Lordship's decision on the claim of Mr. Faunce was formed, and indeed that his Lordship's judgment was in no inconsiderable degree influenced by that Report. The Memorial from certain Residents in the District of Brisbane, to which Mr. Faunce refers, does not appear to have been seen by Lord Glenelg, but that Memorial does not touch the grounds on which his decision proceeded. Under these circumstances, I must regard the question as one which was determined by my Predecessor with a full knowledge of all the material facts and with such a decision I must decline to interfere.

J. RUSSELL.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.
(Despatch No. 277, per ship Florentia.)

Sir,
Downing Street, 28 May, 1841.

I have to acknowledge the receipt of your Despatch No. 175 of the 5th of November last, reporting the amount of Salaries which you had assigned to the Commissioners appointed by you for enquiring into claims to Grants of Land in New Zealand. And, having communicated on the subject with the Lords Commissioners of the Treasury, I have to convey to you the sanction of Her Majesty's Government for the admission of such expenditure as may be incurred, under the arrangements reported by you, for the investigation of those claims, untill the Commissioners nominated by you shall have received the notification of the abrogation of those Arrangements by the appointment of a Commissioner from this Country.

I have, &c.,
J. RUSSELL.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.
(Despatch No. 278, per ship Carthagena.)

Sir,
Downing Street, 28th May, 1841.

With reference to my Despatch, No. 267 of the 19th Instant, I transmit to you herewith Copies of a Correspondence which has passed between this Department and the Board of Treasury, from which you will perceive that the Surveyors and Draughtsmen, who are about to proceed to New South Wales,

* Note 61.
Transmission of correspondence re passages of surveyors and draftsmen.

Agreements with surveyors and draftsmen.

Opinion in favour of payment of passages for surveyors.

Proposal for payment of passages.

1841. 28 May.

will be provided with passages at the expense of the Colonial Government, on the understanding that the free passage is to supersede any claim, which they might otherwise have, to an allowance of any portion of their respective salaries for any period prior to the actual assumption of their duties in the Colony.

I also transmit, for your information and guidance, copy of a Letter from the Commissioners of Colonial Land and Emigration, covering an Agreement which they were directed to require from each of the Surveyors, as well as from the Draughtsmen, relative to their continuance in their employment for a stipulated period.

I have, &c,

J. RUSSELL.

[Enclosure No. 1.]

UNDER SECRETARY STEPHEN TO MR. C. E. TREVELYAN.

Sir, Downing Street, 13 May, 1841.

I am directed by Lord John Russell to transmit to you, for the consideration of the Lords Commissioners of the Treasury, a Copy of a letter from the Commissrs. of Colonial Land and Emigration, enclosing one from Captain Dawson, in which he recommends that the passage money of the Six Surveyors about to proceed to New South Wales should be paid for them instead of their receiving the usual allowance of half salary during the voyage. Lord John Russell is of opinion that, for the reasons stated by Captn. Dawson, this arrangement should be sanctioned.

Lord John Russell would suggest to my Lords the consideration of some Rule upon this subject, of general applicability to these cases of Colonial appointments with small salaries, where considerable acquirements are expected from a class of men not usually possessed of any Capital.

I am, &c,

J, STEPHEN.

[Sub-enclosure No. 1.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.


We have the honour to enclose a letter, which we have this day received from Captain Dawson, recommending that the Passage Money of the Surveyors now about to proceed to New South Wales should be paid for them instead of their receiving the usual allowance of half salary during the voyage.

We beg leave to submit to Lord John Russell our opinion in favour of this recommendation. The grounds, upon which Captain Dawson has rested it, appears to us sufficient; and, as we believe it is not usual to send out from this Country Officers whose Salaries are so low as those granted to Surveyors, no precedent contrary to usage at the Colonial Department would as we hope be established.

We think, therefore, that it would be desirable that the Rule should be made general in the case of Surveyors who may be appointed to any of the Colonies. And, with respect to the six Individuals in question, should Lord John Russell grant their request, we would authorise the Emigration Agent at the Port of London to make the necessary arrangements for enabling them to proceed in the vessel named by Captn. Dawson.

We have, &c,

T. FERD. ELLIOT,
ROBERT TORRENS,
EDWARD E. VILLIERS.
CAPTAIN DAWSON TO LAND AND EMIGRATION COMMISSIONERS.

Gentlemen,

Having been called upon by Lord John Russell to nominate six persons to serve as Surveyors and Two as Draughtsmen in New South Wales, and to make arrangements for their leaving this Country with all possible dispatch, I beg to address you relative to the allowance of passage as in the case of the Surveyors recently appointed to New Zealand.

I believe it has not been the custom of the Colonial office to give free passages to the Colonies, except in some particular cases, but to grant instead an allowance equal to one half the Salary of the persons going out during the passage, the regular full pay commencing from the date of their arrival in the Colony.

I beg to suggest the following considerations to you, as affording what appear to me strong grounds for the allowance of free passages rather than the half Salary to persons going out in the Capacity of Surveyors and Draughtsmen,

1. The Half Salary is unequal to the cost of the Passage when the Salary is under £350 and the Surveyors' Salaries rarely equal that amount.
2. Persons of this class are seldom possessed of Capital, they live from hand to mouth, and the cost of their outfit alone is in general as much as they can be expected to meet.
3. Being taken from their daily employment and pay, they lose the means of paying for their passage and provisions while on board. It should seem, therefore, equitable that their Salary should commence from the date of sailing from this Country; and, if such an allowance were made it would cover all expenses and leave something in Pocket.
4. But, as they perform no real service during the passage, payment on account of service appears to me less applicable than the payment by Government of the actual cost of the passage which is incurred on account of their service.
5. Lastly, The allowance of a free passage puts nothing into the Surveyor’s Pocket, but provides him merely with food, and the means of Transport to his field of Employment.

I trust that the reasons, which induced you to recommend the passage allowance to the Surveyors proceeding to New Zealand, will weigh equally with you in the present case and that you will now again represent the matter in the proper quarter, giving it the weight of your favourable consideration.

I have, &c.,
ROBT. DAWSON.

I would beg in conclusion to submit the importance of an early decision of this question as regards the gentlemen now going out, as I find that the only vessel capable of affording accommodation to the whole party has already many cabins engaged; and, as she is to sail before the end of this month, an early application to the Agents should appear desirable.

[Enclosure No. 2.]

MR. C. E. TREVELYAN TO UNDER SECRETARY STEPHEN.

Sir,

I have it in Command from the Lords Commissioners of Her Majesty’s Treasury to request you will state to Lord John Russell that, in compliance with the recommendation conveyed in your letter of the 13th Instant, My Lords will not object to give their sanction for the provision, in the manner proposed by the Emigration Commissioners, of a passage at the Expense of the Government of New South Wales for the Surveyors and Draftsmen, who have been selected by Captain Dawson to proceed forthwith to that Settlement, with the understanding that the free passage thus granted to those Persons is to supersede any claim, which they might otherwise have to any allowance of any portion of their respective Salaries for any period prior to the actual assumption of their duties in the Colony, and that due care is taken to secure their remaining a reasonable time in the service of the Colonial Government in consideration of the passage provided for them.

I am, &c.,
C. E. TREVELYAN.
LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Colonial Land and Emigration Office,

Sir,

Lord John Russell having been pleased to appoint Messrs. T. White, W. Shone, H. Wade, J. S. Bourke, F. P. McCabe, and H. C. Rawnsley to be Surveyors in New South Wales, and Messrs. H. R. Labatt and H. W. Marriott to be Draughtsmen to the Surveying Staff in that Colony, We have the honor to acquaint you, for his Lordship's information, that, as in the case of the Surveyors lately appointed for New Zealand, we have required from each of the Gentlemen above mentioned an Agreement to forfeit £100, should he abandon his situation before the expiration of two years from the time of his landing in the Colony.

We now enclose the original Agreements with a view to their being forwarded to the Governor.

We have, &c.,

T.T.

[Sub-enclosure.

MEMORANDUM OF AGREEMENT.

I, THOMAS WHITE, of the City of Canterbury, Esquire, lately appointed one of the Surveyors for the Colony of New South Wales, do hereby for myself, my heirs, executors, administrators and assigns, covenant and agree with the Governor or Officer for the time being administering the Government of New South Wales that, in consideration of receiving at the public expense a free cabin passage to the said Colony, I will remain in the public service there as Surveyor for the full term of two years from the date of my landing in the said Colony, and will during such time faithfully and to the best of my ability perform all such duties connected with my appointment as may be lawfully required of me, and further that, in case I shall relinquish my present appointment before the expiration of such period of two years, or fail during such time duly to perform any duties as aforesaid, I will forfeit to the Treasury of the Colony the sum of One hundred pounds (£100).

In Witness whereof, I have hereunto set my hand, this eighteenth day of May, One thousand, eight hundred and forty one.

THOMAS WHITE.

Signed by the above named Thomas White in the presence of:—HENRY W. MAR­RIOTT; JOHN J. LEWIS.

[Similar agreements were attached, signed by:—William Shone of Galway; Henry Wade of Dublin; John S. Burke of Wakefield, Yorkshire; Francis P. McCabe of Nassau St., Soho Square, London; Henry C. Rawnsley of St. John's Wood, Middlesex; Henry William Marriott of Bayswater, Middlesex; and Hugh Roland Labatt of Dublin.]

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 117, per ship Sarah Charlotte; acknowledged by lord Stanley, 26th October, 1841.)

My Lord,

Government House, 28th May, 1841.

I have the honor herewith to forward to Your Lordship an application from Sir James Dowling, Chief Justice of this Colony, for Leave of Absence to visit England.

As Sir James Dowling has been thirteen years in the Colony, I cannot but feel disposed to recommend his application to the favorable consideration of Your Lordship; but it would be contrary to my duty to do so, without advertising to the contents of the Despatch, which I had recently the honor to receive from
Your Lordship, dated the 6th Octr., 1840, No. 159, or without further remarking that, though the office of Chief Justice may be very adequately filled by Mr. Justice Burton during the absence of Sir James Dowling, I shall have great difficulty in finding any person to act as a Puisne Judge in the place of Mr. Burton; and that I can certainly find no one who will do so, without receiving the full salary of a Judge, so that there will necessarily be an additional charge created of £1,000 per annum, if the Chief Justice be allowed, as is usual, half salary during his absence.

In a separate Despatch, I have the honor to forward copies of a correspondence, which I have had with the Chief Justice, respecting the mode in which the duties of his Office can be performed during his absence.

1841.
25 May.

GEORGE GIPPS.

[Enclosure.]

SIR JAMES DOWLING TO SIR GEORGE GIPPS.

Sir,

New South Wales, 21 May, 1841.

Aware that the most weighty reasons ought always to exist for permitting the absence from his post, of the Chief Justice of the Colony, it is with reluctance that I Submit for the consideration of the Right Honorable the Secretary of State an application for the indulgence of a Short retirement to Europe from my Judicial labours.

After above thirteen years of incessant Judicial labour, never once relaxed, I might reasonably hope that this favor would be extended to me on the ground of private affairs alone; of which there are many in England, and amongst others the introduction into life of two of my children, now requiring my attention and presence. And, at the close of this year, I should in any event have made my application on these grounds only. The present State of my health however, and the late very Serious illness with which I have been visited, impel me to Seek the privilege of retirement at this earlier period, and on grounds of a more Serious character.

In consequence of the then great encrease of law business, the Home Government in 1827 thought it necessary to add a third Judge to the strength of the Supreme Court, and upon myself was conferred the honor of the appointment. Since the date, however, of my arrival, the Judicial labours have been annually increasing in every branch of our jurisdiction without any addition to the number of the Judges, and I may venture to say that the business of the Court has now from various causes encreased tenfold.

But, from the commencement of my career, my share of Judicial labour has by no means been a proportionate one. On my arrival in the Colony, I found the health both of Chief Justice Forbes and the late Mr. Justice Stephen so infirm that nearly two thirds of the Court duties necessarily devolved on my shoulders, a State of things which lasted almost Five years.

For at least ten months in every year the Judges are incessantly employed in the Public Service. Occasionally I have...
Suffered in health from these unremitting exertions in a highly ener-
vating climate, which contributes in no Small degree to the usual
ill effects of So Sedentary and Anxious an occupation. Yet hitherto
I have performed all my labours without intermission. Your Ex-
cellency is aware, however, that, at the close of the last Term, I
became So Seriously ill that, by eminent Medical advice, I was
prohibited on the 1st instant for a period of three months thence-
forward from all public duty whatever.

Although I indulge a hope that, at the expiration of that time,
I may be able to resume active labour, yet, at the age of 53, I can-
ot expect without a further respite to endure for any long con-
tinuance the accustomed calls upon me. At present my constitu-
tion is so far unbroken that I require only a Short repose; and
this with change of climate would, I trust, enable me to continue
a useful Servant to the public for Some years longer. But I have
before my eyes the misfortune of my late learned predecessor,
whose constitution became wholly destroyed by postponing his
visit to Europe, till relaxation came too late, and he retired from
office, although in the prime of life, in a hopeless State of
decrepitude.

Under these circumstances, apart from any desire to revisit
England from mere family considerations, remembering that I
have domestic ties, deeply interested in the prolongation of my
life, I feel it incumbent on me respectfully to Submit my case to
the favorable consideration of Her Majesty's Minister, in requesting
permission to return to England for a period of 18 months. At the
Same time I will add that, although this my request Shall be
complied with, yet if I eventually find my health So fully re-
established as to render my absence and proposed change of climate
unnecessary, I shall certainly not avail myself of the indulgence.

Permit me to hope that Your excellency will, under the circum-
stances here referred to, feel it possible to transmit this letter for
the consideration of the Right Honorable the Secretary of State,
with the great advantage of Your recommendation, and Support.

I have, &c,

JAMES DOWLING.

Sir George Gipps to Lord John Russell.

(My Lord,

Government House, 28th May, 1841.

With reference to my Despatch of this day's date, No. 117,
transmitting an application for Leave of Absence from the Chief
Justice of this Colony, I have the honor to forward herewith a
copy of a Confidential letter, which I addressed to His Honor
respecting the performance of his duties during his absence,
as well as a copy of his reply.

In bringing these letters before Your Lordship, I feel it only
necessary to ask attention to the passage, wherein I have re-
marked that there is no one in the Colony, whom I could feel
perfectly satisfied to place on the Bench, Mr. Plunkett being
absent and Mr. Therry engaged in the performance of the duties
of Attorney General. On a former occasion moreover, each of these gentlemen declined accepting a temporary seat on the Bench, as reported in my Despatch of the 9th March, 1839, No. 46.

I have, &c,

GEO. GIPPS.

[Enclosure No. 1.]

SIR GEORGE GIPPS TO SIR JAMES DOWLING.

(Confidential.)

Government House,

My dear Sir James,

Sydney, 23rd May, 1841.

I will transmit your application for Leave of Absence to England by the first opportunity, and will recommend it to the favorable consideration of the Secretary of State, as far as I can feel justified in so doing, after having received from His Lordship a Copy of the letter,* which was addressed by Mr. Vernon Smith to your Brother on the 6th Octr. last. When Lady Dowling called at Government House about a fortnight ago, I informed her that a Copy of this letter had been sent to me.

If you have made any project in your own mind for the performance of your duties during your absence, I should be obliged to you to Communicate it to me; indeed I ought perhaps to call for it officially; but, in a matter which is necessarily one of some delicacy, I rather prefer a Confidential Communication. There scarcely appears to me, I must say, any one here whom I could with satisfaction to myself place (even temporarily) on the Bench, except Mr. Therry; and he cannot, I fear until the return of Mr. Plunkett, be spared from the duties he is now performing of Attorney General.

Believe me, etc.,

GEO. GIPPS.

[Enclosing No. 2.]

SIR JAMES DOWLING TO SIR GEORGE GIPPS.

(Confidential.)

My dear Sir George,

Broughton Lodge, 24th May, 1841.

I have to acknowledge the receipt of your Confidential Note of yesterday's date.

I feel grateful for your kind promise to forward and recommend, as far as you can be justified in doing so, my application for Leave of Absence to England, notwithstanding Mr. V. Smith's letter to my Brother of the 6th Oct. last.

On the Subject of that letter, I must relieve myself from the supposition of any want of candour in the matter, by assuring you that the application to Lord John Russell was entirely without my authority. It was solely a thought of his own, arising from brotherly zeal. The answer was such as I must have anticipated, had I Sanctioned the proceeding.

In reply to the tenor of your note, I must confess that I had not formed any distinct project in my own mind for the performance of my duties during my absence, inasmuch as I could not anticipate with certainty the sanction of my wishes, and the Sense of the Secretary of State thereon could not be known here until after the lapse of at least 12 or 15 months. In the interval, circumstances

* Note 62.
might arise quite upsetting any present project for such an event; and therefore I could scarcely think of the matter until I saw my way more clearly.

Assuming that I were now in possession of authority to go home, and that Your Excellency were called upon to make immediate provision for the contingency, the only difficulty I apprehend would be to arrange for the duties of the Office of second Puisne Judge.

The Office of Acting Chief Justice would devolve upon the present Senior Puisne, on the principle and subject to the rule laid down officially in the correspondence* which took place on the occasion of Sir Francis Forbes going home on leave in 1836. To this correspondence which is of record, I would beg to call your attention.

The temporary vacancy in the Office of Puisne Judge would, according to the rule which I believe prevails at home, he offered to the Attorney General for the time being; and, if Mr. Plunkett were on the Spot, he would be entitled to the refusal.

If Mr. Therry could not be spared (as Your Excellency intimates that he could not), then you would be left to choose from the gentlemen next in seniority of five years' standing at the Bar in the United Kingdom, and now practicing in the Colony.

Mr. a'Beckett, as holding the Office of Solicitor General, subject to the approbation of the Crown, would I presume be regarded as fairly standing first on the list. He is now of 12 years' Standing, and I must own that I should have entire confidence in his good sense, discretion, and ability. He has had a good deal of practice, and his general bearing would, I think, render him acceptable to the Profession and to the Public, a point always worthy of consideration.

Mr. Forster would, in point of legal acquirements, make an excellent Judge; but that gentleman unfortunately labours under the disadvantage of not having been called to the Bar at home, a qualification which, from the spirit of the Charter of Justice, would seem to be indispensable; but, even if there were not this obstacle, I doubt whether he would relinquish his extensive practice upon the uncertainty of the tenure of a Seat of the Bench.

Mr. Kerr has been regularly bred to the English Bar, and I think he would be more likely to accept a temporary appointment than any other gentleman. I should have confidence in his good sense, steadiness and legal attainments.

Mr. W. M. Manning is an estimable young man, and would I think discharge the duties creditably; but I cannot persuade myself of the seemliness of placing him on the Bench, so long as his Father holds the important Office of Registrar of the Court.

There was so much of heartscalding on the recent occasion when (under very peculiar circumstances) recourse was had to a Foreign Bar, that I should not like again to encounter the odium of a similar proceeding, although I have outlived it, and the gentleman chosen has so admirably verified my anticipation of his fitness. Unless the whole of the Sydney Bar were exhausted, or every man should be deemed so utterly unfit for the temporary post that there was no alternative, I should forbear resorting to other resources.

It certainly is most desirable to have on the Bench a man untinged by local feeling or party bias, and who has at the same time Colonial experience.

* Note 63.