RUSSELL TO GIPPS.

I have the honor to report in reply that I am aware of no objection whatever to the appointment of Mr. Gaden.

Mr. Gaden has been resident in Sydney about a year.

I have, &c.,
GEO. GIPPS.

LORD JOHN RUSSELL to SIR GEORGE GIPPS.
(Despatch No. 341, per ship Carthagena.)

Sir, Downing Street, 24 August, 1841.

With reference to your dispatch, No. 67 of the 13 of March last, I transmit to you, herewith, for your information and guidance, Copies of a Correspondence between my Under Secretary and the Secretary to the Board of Treasury on the subject of the payment in New South Wales of a Pension granted to Mrs. Sarah Weston by the East India Company.

I am, &c,,
J. RUSSELL.

[Enclosure No. 1.]

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

Sir, Downing Street, 3 August, 1841.

I am directed by Lord John Russell to transmit to you, for the consideration of the Lords Commrs. of the Treasury, copies of a correspondence which has passed between his Lordship and the Governor of New South Wales on the subject of the payment in that Colony of a Pension granted to Mrs. Sarah Weston by the East India Company.

Their Lordships will perceive that the Deputy Commissary General being restricted by his Instructions from paying any Pension without the Special Order of the Treasury, Sir George Gipps has been under the necessity of directing the payment of the Pension in the first instance out of the Funds of the Colony.

I am to request that you would move The Lords Commissioners to state whether they would prefer that the payment in question should be effected through the Commissariat officer, or through the Colonial Treasury.

I am, &c.,
J. STEPHEN.

[Enclosure No. 2.]

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

Sir, Treasury Chambers, 18 August, 1841.

I am commanded by the Lords Commissioners of Her Majesty's Treasury to acquaint you, for the information of Lord John Russell with reference to your letter of the 3rd Instant, that my Lords have instructed the Officer in charge of the Commissariat in New South Wales to issue to Mrs. Sarah Weston the Pension of 9d. a day granted to her by the East India Company.

I am, &c.,
C. E. TREVELYAN.
SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 163, per ship Giraffe; acknowledged by lord Stanley, 18th April, 1842.)

My Lord,

Government House, 24th Augt., 1841.

I had the honor, on the 21st July last, to receive Your Lordship's Despatch, No. 198 of the 9th Feb'y., 1841, conveying to me instructions to remove Mr. Pinnock from the office of Agent for Immigration in this Colony; and I have to report that I forthwith proceeded to carry Your Lordship's instructions into effect by removing Mr. Pinnock, and appointing Mr. Francis Merewether to act in his stead.

I have further to report that, on the 7th Augt., a few days only after I had publicly notified the appointment of Mr. Merewether, I received by the ship "Burhampooter" Your Lordship's further Despatch No. 206 of the 24th Feb'y., directing me to appoint a Naval Surgeon to the situation, which had become vacant by Mr. Pinnock's removal; and I have very respectfully to lay before Your Lordship the reasons, which have induced me, for the present, to defer acting on the instructions conveyed in this latter Despatch.

The removal of Mr. Pinnock caused a considerable sensation in the Colony, Mr. Pinnock being generally considered a useful and trustworthy servant of the Public, and it being known that his removal had been effected by the representations of the Commissioners of Land and Emigration, whose proceedings in many respects have been extremely distasteful to the Public of New South Wales.

Mr. Pinnock's removal having been noticed in the Legislative Council, a motion was made by Sir John Jamison that a request should be preferred to me by the Council to make his case the subject of investigation by a Committee of the Council, on the ground that Mr. Pinnock had been dismissed on account of the evidence which he had given before the Council; on my intimating that I could not accede to such a request, the motion was not pressed; but, in the course of the discussion which grew out of it, every unofficial Member made a point of expressly declaring his regret at the removal of Mr. Pinnock, and of condemning the proceedings of the Commissioners, who, it was contended, sought not only to force upon the Colony a system of Emigration less efficient and more expensive than that which is now in operation, but also to secure the appointment at Sydney of an Agent, who should be afraid to place his appointment in jeopardy by freely and faithfully expressing his opinions.

After these occurrences in Council, it appeared to me that a bad effect would have been produced in the Public mind, if I
had immediately displaced Mr. Merewether, who is a highly esteemed Civilian, in order to make room for a Naval Surgeon; and I trust Your Lordship will not disapprove of my having refrained from so doing.

I beg leave on this occasion to state to Your Lordship my entire acquiescence in the opinion expressed by Your Lordship that the controversy, in respect to the merits or demerits of the Bounty system, has been conducted with somewhat too much of warmth; and I may be permitted I hope to add that I have always been cautious (as my Despatches will shew) of advocating too strongly the Bounty system, from an apprehension that, though it may go on well for a time, it may ultimately lead to inconvenience or even to disaster.

I feel bound, at the same time, by a sense of justice to state to Your Lordship that it is in my opinion impossible to deny that, up to the present time, the Bounty system has acted more beneficially to the Colony than the Government system; also that there was, until very lately, throughout the Colony a remarkable concurrence of opinion in favor of the Bounty system; and that whatever difference of opinion has latterly arisen has been occasioned by the agitation of the question, whether or not it brought more Catholics to the Country than the Government system.

In conclusion, I beg to add that, though I immediately acted on Your Lordship’s instructions for the removal of Mr. Pinnock, I thought it right to intimate to him that I would receive and forward to Your Lordship any statement in defence of his conduct, that he might think it proper to draw up.

Mr. Pinnock is, I believe, now engaged in drawing up such a statement.

I have, &c.,

GEO. GIPPS.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.

(Despatch No. 342, per ship Carthagena.)

Sir,

Downing Street, 25th August, 1841.

I have to acquaint you that the Queen, having by Order in Council of 12th August, 1841, Ordered that Mates on the Royal Navy shall rank with Ensigns in the Army, and Mates of three years’ standing with Lieutenants in the Army, Her Majesty's Government have recognized the Claims of those Officers to the same Advantages in the acquisition of Land in the Australian Colonies and in Ceylon which are enjoyed by Subalterns in the Army under the Regulations of August, 1838.

I have, &c.,

J. RUSSELL.
Despatch acknowledged.

Acts confirmed.

Reference of acts to committee of privy council for trade;

to commissioners of treasury;

to Queen's advocate;

to committee of general assembly of church of Scotland;

and to inspectors of prisons.

**Marginal note.—Nos. 25, 26, 27, 28, 29, 3 Victoria; Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 4 Victoria.**
With regard to the Act No. 8 to prohibit the Natives from having fire arms or Ammunition in their possession without the permission of a Magistrate, I am of opinion that to deprive them of arms, which they have become possessed of by lawful means, would establish a wide and unfair distinction between them and their White brethren. Whatever evil might arise from their use would be far inferior to the utter alienation and suspicion that must arise from such a distinction. Continual Wars to take away fire-arms would be the result of attempts on the part of the Civil Powers to enforce such a Law. For these reasons Her Majesty has been pleased to disallow that Act.

You have been already informed, by my Dispatch of the 17th of April last, No. 242, that the Queen has been pleased to confirm and allow the Act 3 Victoria, No. 28, extending to New Zealand the Laws of New South Wales, and applying the same in the administration of Justice therein.

The Act No. 2, for enabling the officers of H.M.'s Ordnance to hold property in the Colony for Military purposes, etc., and the Act No. 6, to consolidate and amend the Laws relating to Actions against persons absent from the Colony, have been confirmed and allowed by Her Majesty, as notified to you in my Dispatches of the 8th of February and the 5th of March last.

On the subject of the Act No. 7, to empower the Governor of New South Wales to appoint Commissioners to examine into claims to Land in New Zealand, I must refer you to my Dispatch No. 241 of the 16th of April last.

The Act No. 20, for applying certain Sums arising from the Revenue of New South Wales to the service thereof for the year 1841, and for appropriating the said Revenue, and the Act No. 26, for ascertaining the number of the Inhabitants of the Colony in 1841, are under the consideration of H.M.'s Government.

In my Dispatch No. 304 of the 8th Ulitmo, I explained to you the reasons why Her Majesty would abstain for the present from making any order for the confirmation of the Act No. 22, to provide for the more effectual Administration of Justice in New South Wales.

The only Act, remaining to be noticed in the series which you have submitted, is No. 28, An Act to provide for the Trial by Jury in Civil and Criminal Cases in the Circuit and other Courts, to be holden in the Colony of New South Wales and its
Sir George Gipps to Lord John Russell.

(Despatch No. 164, per ship Giraffe; acknowledged by Lord Stanley, 5th August, 1842.)

My Lord,

Government House, 26th Augt., 1841.

I have the honor herewith to forward to Your Lordship the Annual Report of the Committee of the Legislative Council of this Colony on Immigration for the year 1841.

The Report was formally taken into consideration by the whole Council on the 25th inst.; and I enclose Copies of two Resolutions of the Council, which was passed on that occasion.

The first Resolution simply adopts and confirms the Report of the Committee; the second repeats the pledge, already given by the Council, to make good to the very utmost of its power any deficiency, that may arise in the local funds to meet the engagements, into which the Government, acting on the former Reports of the Council, has entered in order to ensure to the Colony a copious influx of Emigrants from the United Kingdom.

My Despatch of the 31st Jany., 1841, No. 29, will have informed Your Lordship of the exact nature of those engagements, and of the possibility of our not being able, without anticipating the resources of future years, to meet the whole expenses of the rapidly increasing Immigration, which is now being directed to our Shores.

The almost total cessation of Land Sales, consequent on the Commercial distress of the Colony, has now rendered the probability of our being obliged to borrow money greater than it was when the Despatch alluded to was written.

Under these circumstances, I beg again very respectfully to solicit attention to my Despatches of the 17th July and 12th Augt., 1841, Nos. 138 and 154, wherein I requested repayment.
of the sums advanced by this Government to the Colonies of New Zealand and South Australia; also to my Despatch No. 91 of the 11th April, 1841, in which I begged I might be periodically informed of what sums may be received by the Agent of the Colony in England for Lands sold by the Commissioners of Colonial Land and Emigration in London; and lastly I would venture again to bring under Your Lordship's consideration the request, contained in my Despatch No. 157 of the 22nd Nov., 1839, that, in the event of any actual deficiency in our funds, I might be allowed to look for temporary relief to the Military Chest, in the same way that the Military Chest has repeatedly received assistance from the Colonial Treasury during the course of the last seven years.

I have &c.

Geo. Gipps.

[Enclosures.]

[Copies of these papers were printed in the "Votes and Proceedings" of the legislative council.]

Lord John Russell to Sir George Gipps.

(Despatch No. 344, per ship Carthagena.)

Sir, Downing Street, 27 August, 1841.

I have to acknowledge the receipt of your Dispatch No. 64 of the 6th of March last, transmitting Copy of a Government Notice, respecting Special Surveys in the District of Port Phillip, which you had caused to be issued, and which were rendered necessary by the arrival of Mr. Dendy with an Order for a Special Survey.

Having consulted the Commissioners of Colonial Land and Emigration on the subject, I have to convey to you my approval of the Regulations established by that Notice, which appear to be very proper, and such as in no way contravene the letter of the Special Land Order, or of the intention with which it was framed.

I am, &c.,

J. Russell.

[Enclosure.]


"In answer to the further inquiry contained in your letter of the 19th Ultimo, as to whether there are any other persons who have obtained Orders for special Surveys, we have the honour to state..."
Abolition of orders for special surveys.
Deficient information when framing regulations.
Objections to right of pre-emption for squatters.

**1841. 27 Aug.**

that Mr. Dendy is the only individual to whom one has been issued. And the system, as Lord John Russell is aware, has for some time past been abolished. This fact may perhaps render it unnecessary that we should dwell at any length upon the anticipations formed in the Colony of the effect which the system would have produced upon the authorized occupiers of Crown Lands. It may be right however to mention that, when the Regulations altering the mode of Sale were framed, although it was known that Settlements in the neighbourhood of Port Phillip had been effected, yet there was no reason to suppose that the Country throughout the District had been extensively occupied by persons holding what are denominated "Squatting Licenses," granted by the Government at Sydney. Since that period, full information has been received with respect to that Class of Settlers, and their claim to consideration under any system of Sale has been fully recognized.

"In one important respect indeed, it has been recommended that a right should be conferred on them to which the Governor would appear to consider them as scarcely entitled. We allude to the pre-emption of the Lands they occupy. By the correspondence inclosed in your Letter of July 29th, we observe that Sir George Gipps objects to granting to them this right, first on the ground that they have never been led to expect it, and next that pre-emption implies a right of occupation until the period of Sale.

"Upon the first point however, we would remark that it does not appear to have been customary in the Colony of New South Wales to disturb the Licensed occupiers by exposing their lands to Sale, and consequently indifference may generally have been felt as to the right in question. In Sir George Gipps' Dispatch of 28th September, 1840, it is stated that it is a long established Regulation of the Government that no Lands can be sold beyond the limits of the Counties, or what are called the Boundaries of Location. It is, however, probably not intended that this system should be maintained; and, if the combined mode of Sale by putting up Lands to Auction in the first place, and, if unsold, then leaving them for Sale at a fixed price, be adopted, much of the land now occupied by Squatters would doubtless become claimable by any parties who chose to purchase them. Pre-emption, therefore, to those who are in actual occupation of the Land, and who have perhaps improved it, would be equitable in itself, and in no way injurious to the Revenue, while it would at the same time remove from the minds of the parties a feeling of insecurity as to their tenure, which must impair their efforts to render their undertaking profitable.

"As regards the second objection, altho' it be true that pre-emption may to a certain extent be considered to imply a right of occupation until the period of sale, the consequence would not necessarily follow that it was objectionable to grant the privilege. It might be argued, we conceive, that, so long as it should not be thought expedient to put up the occupied Land to Sale, it would appear comparatively unimportant in whose favor, provided all necessary stipulations were complied with, the License of occupation was granted."
“We retain, therefore, our opinion in favour of granting this form and amount of protection to the persons who under the authority of the government are in occupation of the Crown Lands. But we entirely agree with Sir George Gipps in considering that, as it is injudicious to render this description of possession too advantageous to the parties benefitting by it, and thereby to indispose them to the purchase of the Land, it would be not expedient to confer upon them the right of claiming compensation for improvements which they may have effected during the period of their occupation.

“Having, however, in our Letter of July 17 offered such suggestions as occurred to us on the detail of the arrangements, which it might be desirable to make for the benefit of the parties in question, it may perhaps be unnecessary that we should now pursue the subject further.”

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 165, per ship Giraffe.)

My Lord,


I had the honor, on the 21st July last, to receive Your Lordship’s Despatch No. 172 of the 12th Novr., 1840, repeating Receipt of the instructions formerly given to me to remove Captn. Maconochie from the Superintendence of Norfolk Island, whenever it shall appear to me that the good of the Public service may require such a measure; and I have to report to Your Lordship that, by the first opportunity which occurred after the receipt of that despatch, I transmitted a copy of it to Captn. Maconochie.

I caused at the same time a letter to be written to Captn. Maconochie by the Colonial Secretary, of which, as it contains my opinions of the present state of Norfolk Island, I transmit hereewith a Copy to Your Lordship.

These opinions may however be briefly summed up by saying that, though the time does not appear to me to be arrived at which I should be justified in declaring that Captn. Maconochie’s system of management has failed, I doubt whether he will be ever able himself to work it out, as the nonfulfilment of the expectations, which he has encouraged the Prisoners to entertain, must tend I fear greatly to diminish his influence over them.

In the Colonial Secretary’s letter to Captn. Maconochie, the reasons are alluded to, which have as yet prevented my carrying into effect Your Lordship’s orders for the removal from Norfolk Island of the men on the old Establishment, or the doubly convicted offenders, who have been sent thither from New South Wales; but, on this subject, I shall shortly have occasion again to address Your Lordship.

I have, &c.,

GEO. GIPPS.
1841.
27 Aug.

Transmission of despatches to A. Maconochie.

Fixed period for convicts prior to indulgences.

Inability to fulfil indulgences under system of marks.

[Enclosure.]

COLONIAL SECRETARY THOMSON TO SUPERINTENDENT AT NORFOLK ISLAND.

Colonial Secretary's Office,
Sir, Sydney, 20th August, 1841.

I am directed by His Excellency the Governor to transmit to you the accompanying Copy of the Secretary of State's Despatch, No. 172 of the 12th November, 1840; and, in order to make the true meaning of it apparent, to transmit to you also a copy of His Excellency's Despatch of the 27th June, 1840, to which it is an answer.

You will perceive by these Despatches that the Secretary of State has receded in no degree from the Instructions originally given by Lord Normanby in respect to the endurance by every Prisoner of a fixed period of punishment, before he can be admitted to the benefit of a Milder or reformable system; but has on the contrary directed that all Prisoners may be removed from your management, who have more than three years to serve, before, under the ordinary regulations, they can obtain Tickets of Leave.

You will further perceive that, under these instructions, it is out of your or His Excellency's power to fulfil the promises whether of partial or entire freedom, which His Excellency fears have been made by you to many men under your Command on their accumulating the number of marks assigned to them by you as the price of such freedom or indulgence; whilst it is out of His Excellency's power to fulfil the expectations which those men have been led to form. He cannot look without some degree of apprehension on the consequences which may arise from the disappointment of them; and, as one of these consequences, He is led to fear that you will be so much damaged in the estimation of the Convicts themselves as to be unable to carry on your own system with any prospect of a successful issue.

His Excellency is extremely unwilling to take any step that may have the effect of prematurely declaring your system of management to have been a failure. And believing, as he does, that much of your Theory is founded on sound principles, He has resolved to take on himself the responsibility of remaining inactive for a time sufficient to allow of His receiving a further communication from you; and He accordingly has to request that you will, without loss of time, report to Him what prospects there may be, in your own opinion, of your henceforth carrying on your system at Norfolk Island with success.

In requiring you to report on this very important subject, His Excellency feels it necessary to press the following considerations upon your most earnest attention:—

1st. That Her Majesty's Government has shown no disposition to repeal or alter the Law, which prohibits Governors of Penal Colonies from granting Tickets of Leave or Exemptions from Labour to Convicts, until they shall have undergone the periods of punishment, specified in the Act of Parliament, 2 and 3 William the IV, Ch. 62.

2nd. That it is consequently as much out of His Excellency's power, as it is out of your own, to fulfil the expectations which He fears have been held out to some men at Norfolk Island of obtaining indulgences at an earlier period; the utmost that His
Excellency can do being to recommend a very limited Number of
persons for Tickets of Leave to the Secretary of State, and to wait
for the signification of Her Majesty's pleasure on each case so
submitted.

3rd. That, under the recent decision of the Secretary of State,
if your system be persevered in, the whole of the prisoners on the
old Establishment at Norfolk Island, and a large proportion of
those on the New Establishment, must be removed either to New
South Wales or Van Diemen's Land.

4th. That, when this removal shall have been effected, the number
of Prisoners left under your Charge will be so small, as hardly
to justify the Expense of the Establishment necessary for their
maintenance and discipline, and will also be insufficient to main­
tain the Cultivation of the Island.

5th. That no Prisoners are to be expected at Norfolk Island
direct from England; unless some may hereafter be sent, who have
worked out a portion of their sentence in the Hulks.

6th. That the only other places from whence convicts can be
sent to Norfolk Island are New South Wales and Van Diemen's
Land.

7th. That no order has been given by the Secretary of State to
supply any from Van Dieman's Land, and that His Excellency has
no power to give such an order.

8th. That His Excellency could not supply convicts in any number
from New South Wales by taking them from Private Service, and
that, as such a measure would in the present dearth of labour be
a highly unpopular one, He should most unwillingly resort to it,
except for the attainment of some object of very paramount
importance.

9th. That the removal of the old or doubly convicted Prisoners
from Norfolk Island has hitherto been delayed in consequence of
there being no place to which His Excellency can send them; and
that, even if the Lieutenant Governor of Van Diemen's Land should
now consent to receive them (which he formerly objected to), they
could only be removed at a considerable expense and after no
inconsiderable delay.

10th. That the expense of removing them will have been entirely
incurred in vain, if your system should ultimately fail of Success,
or the further prosecution of your Experiments be prohibited.

His Excellency is induced to press, in a particular manner, these
difficulties and Embarrassments, with which the Government is
now beset, have arisen out of your falling to give due attention
to the position in which you were placed when you first went to
Norfolk Island.

Had you duly considered the position in which you then stood,
you would have seen the necessity of maintaining the distinction
which you were so plainly directed to observe, between the old
Establishment and the New one; and, if you had only looked
to the Act of Parliament above referred to, and to the Instruc­
tions of the Secretary of State, you would have been cautious
of raising expectations which it was doubtful (to say the very
least) whether it would ever be in your power to fulfill.

The errors, which you have thus committed, appear to His Excel­
Iency to have been the consequence of your own too sanguine tem­
perament, and of your looking too lightly on the difficulties which
were before you.
Deeply impressed with the truth of your own principles, and
elated, it is not unreasonable to suppose, with the Notice which
your writings had attracted in England, you appear to His Excel­
lency to have set to work with the idea that everything was to
give way before you.

Deep-rooted feelings or convictions, especially those of the In­
habitants of this Colony, were to be set aside as idle prejudices,
and even the safety of New South Wales endangered. Old Estab­
lished Regulations, whether of this Government, of the Ordnance,
or of the Treasury, were to be overruled as well as the orders of
the Secretary of State; and Acts of the Imperial Parliament, no
less than those of the Legislature of New South Wales, altered
or repealed in order to make way for your System.

I have, &c,

E. DEAS THOMSON.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.

(Despatch No. 345, per ship Carthagena.)

Sir,

Downing Street, 28 August, 1841.

I have to acknowledge the receipt of your Despatch,
No. 53 of the 23rd of February last, reporting the arrival at
Port Phillip of a Settler named Dendy, bearing the first Order
which had been received in the Colony for a Special Survey, and
stating the Conditions under which you had directed the Super­
intendent at Port Phillip to permit that Survey to proceed.

I have also received your Dispatch of the 24th of February,
No. 54, in connection with the same subject, enclosing Copies of
a Correspondence with Mr. Latrobe respecting the manner in
which the Licensed Occupiers of Crown Lands, commonly called
Squatters, in the District of Port Phillip are likely to be affected
by the recent Regulations for the disposal of Land.

It appears from the former of these Dispatches that three
conditions were to be imposed upon Mr. Dendy in the selection
of his Land: 1st. That, if he select Surveyed Land, he can only
choose out of those which have been advertised for sale or
declared open to selection; 2nd. That he can select no Land
within five miles of the three Principal Towns; and 3rd. That,
if he select unsurveyed Lands, they must be taken subject to the
Regulations, which may be established for Special Surveys. On
referring to a Copy of the Special Land Order issued to Mr.
Dendy, I find that the first and third of those conditions are
strictly in accordance with the Terms of the Order, and that it
was consequently proper to impose them. With regard to the
exception of the Suburban Allotments mentioned in the second
Condition, I am of opinion that the Lands in question, having
from their vicinity to Towns acquired a value which was not
known in this country at the time when the change was ordered in the mode of Sale, have been very properly excluded from Sale at the fixed price. A Regulation to this effect had been made public in the Colony before Mr. Dendy’s arrival; and the Order, which he held, gave him no rights in respect to Surveyed Lands which were not possessed by the purchasers of a single Section.

I transmit to you an Extract of so much of a Report from the Transmission Commissioners of Colonial Land and Emigration as relates to the effect which the system of Special Surveys would produce upon the authorized occupiers of Crown Lands.

I am, &c.,
J. Russell.

[Enclosure.]

EXTRACT of a Letter to Mr. Stephen from the Colonial Land and Emigration Commissioners, 6 August, 1841.

[This was a copy of the enclosure to the despatch, dated 27th August, 1841, and numbered 344; see page 387.]

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 166, per ship Giraffe.)

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

I have herewith the honor to forward to Your Lordship a Copy of a letter from Capt. Maconochie dated the 2nd July, 1841, and written in reply to one which I caused to be addressed to him, with Copies of Your Lordship’s Despatch No. 147 of the 10th Sept., 1840, and its several enclosures; which latter contained observations on Capt. Maconochie’s system by the Home Inspectors of Prisons, the Governor of Parkhurst Prison, and Captain Montagu, the Colonial Secretary of Van Diemen’s Land.

I transmit Capt. Maconochie’s letter to Your Lordship, because it appears to me to contain some shrewd observations on the systems which are now in force at Parkhurst and in Van Diemen’s Land; but I have not thought it right to transmit with it the “Memoirs of Lawrence Frayne,” partly because of their great length, but principally because I scarcely think I ought in any degree to give the stamp of official authority, to what I must for the most part consider a mass of libellous accusation against various officers, who have held situations of trust under this Government.

I have, &c.,
Geo. Gipps.

[Enclosure.]

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

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.
(Despatch No. 346, per ship Carthagena.)

Sir,
Downing Street, 29 August, 1841.

I have the honor to acquaint you that Her Majesty has been graciously pleased to confirm and allow the Act passed in the last Session of the Legislative Council of New South Wales for appropriating the Revenue of the Colony for 1841, and which was transmitted with your dispatch of the 28 December last, No. 199.

I am, &c.,
J. EUSSELL.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.
(Despatch No. 167, per ship Giraffe; acknowledged by lord Stanley, 16th April, 1842.)

My Lord,
Government House, 29th Augt., 1841.

In my Despatch No. 27 of the 24th Feby., 1840, I reported to Your Lordship that I had appointed Mr. Charles Ormsby, formerly a Chief Constable in Ireland, to be assistant Superintendent of Norfolk Island, in order that he might assist Capt'n. Maconochie in the management of the men on the old Establishment of that Island; and this appointment was, amongst others, approved by Your Lordship's Despatch, No. 125 of the 8th Augt., 1840.

From this situation however, Mr. Ormsby was transferred by Capt'n. Maconochie to that of Superintendent of Agriculture in the month of March, 1840, when a vacancy occurred in this latter situation by the death of Mr. McLean.

I have now to report to Your Lordship that, by the last vessel from Norfolk Island, Mr. Ormsby returned to Sydney, being suspended by Capt'n. Maconochie in consequence of a charge having been preferred against him of a very extraordinary nature.

The charge was that he had instigated two convicts, named Flynn and Granger, to steal or destroy Sheep, in order to bring discredit upon another Convict named Cohen, who had by Capt'n Maconochie been reinstated in the chief charge of the Flocks on the Island, contrary to his (Mr. Ormsby's) wishes.

The charge was investigated by a Board of Officers, partly Civil and partly Military, appointed for that purpose by Capt'n. Maconochie; these Officers were not called on to pronounce any opinion as to the guilt or innocence of Mr. Ormsby, but simply to collect evidence on which Capt'n. Maconochie should himself form an opinion; but, notwithstanding this, each Member of the
GIPPS TO RUSSELL.

Board did, in a manner that I must certainly consider irregular, give to Mr. Ormsby a separate, written and private opinion, acquitting Mr. Ormsby altogether, and stating the charge against him to have been the result of a conspiracy to get him removed from the Island.

Captn. Maconochie, in giving his judgment on Mr. Ormsby's case, came also to the conclusion that there was no legal or sufficient evidence against him; but nevertheless Captn. Maconochie has recorded his opinion that Mr. Ormsby was morally guilty of some portion or modification of the charge, or that, at any rate, the men who destroyed the sheep, if not directly instigated by Mr. Ormsby, were prompted to steal and destroy them by a knowledge of Mr. Ormsby's feelings and a desire to gratify them.

The men, Flynn and Granger, who brought these charges against Mr. Ormsby, as well as several others supposed to be more or less engaged in the conspiracy, were subsequently tried in the Police Court of the Settlement before Captn. Maconochie and another Magistrate (Mr. Curtis), who happened to be at Norfolk Island on a visit, and subsequently several more were tried on various charges growing out of these extraordinary proceedings; but nothing on any of these trials was elicited to throw any further light on Mr. Ormsby's case; and in fact the whole of the proceedings, including those before the Board of Inquiry, are marked with such opposite statements and such disgusting cross swearing or perjury, as to render it extremely difficult, if not impossible, to come to any definite conclusion, even on the most prominent matters of fact in the case.

The documents are so voluminous (two reams of foolscap paper having, as Captn. Maconochie says, been expended in the investigation) that it would be needless, I think, to burden this Despatch with copies of the whole of them; I transmit therefore only a Copy of Captain Maconochie's Judgment in Mr. Ormsby's case, and a Copy of the letter, which by my direction was written to Captn. Maconochie on the subject of it.

By this letter, Your Lordship will perceive that, though I cannot adopt Captn. Maconochie's opinion of the moral guilt of Mr. Ormsby, I have not judged it expedient to send him back to Norfolk Island.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

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

(Despatch No. 347, per ship Carthagena.)

Downing Street, 30 August, 1841.

I have to acknowledge the receipt of your dispatch of the 1st of February last, No. 32, in which you bring under my consideration two subjects.

First, the opening of the Northern District of the Colony, and Secondly, the question of the expediency of having three separate Land Funds in one and the same Colony.

I referred your dispatch to the Commrs. of Colonial Land and Emigration, and I transmit to you a Copy of their Report.

With regard to the question of the mode of selling land on the opening of the Northern or Moreton Bay District, I must refer you to the Royal Instructions for the future Sale of Lands which accompanied my dispatch of the 21st instant.

On the question of keeping separate Accounts of the Land Funds of the three Districts of the Colony, I adopt the opinion of the Commrs. that there appears to be no sufficient ground for disturbing the arrangement with regard to the management of those Funds, which at present exist.

J. EUSSELL.

[Enclosure.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Colonial Land and Emigration Office,

Sir, 9 Park Street, Westminster, 21st July, 1841.

In obedience to the directions contained in your Letter of the 13th Inst., we have considered Sir George Gipps' Despatch therein enclosed on the subject of the mode of selling Lands to be adopted at Moreton Bay, and of the expediency of keeping separate accounts of the Land Funds in the Three districts of New South Wales.

It is unnecessary for me to enter into the arguments which Sir George Gipps has again adduced against the system of a fixed price for Land. In our Letter of the 17th Instant, we have had the honour of submitting to Lord John Russell our entire assent to the mixed mode of Sale recommended* by the Committee of the House of Commons. The practice of exposing all lands to Public competition before they are made liable to sale at the fixed price, and leaving to the discretion of the Governor the quantity to be so put up at the periodical Sales, will we hope sufficiently prevent the loss to the Public Revenue which there seems to have been ground for apprehending, if the Sale by fixed price had been exclusively adopted. We have much pleasure therefore in thinking that this system, if Lord John Russell should think fit to sanction it, will prove satisfactory to Sir George Gipps whose opinions, from the

* Note 72.
ability with which they are enforced and from his local knowledge, are entitled to the greatest weight.

We have next to advert to the opinion, urged in the Despatch under our consideration, against the expediency of keeping separate accounts of the Land Funds of the Districts of the Colony.

The general principle, which we think it is of advantage to adopt, is that the Sale of Waste Lands in one large Division of the Colony is to be taken as a test of the want of labour in that division, and that, unless labour is conveyed there by means of the purchase-money, the land will not be sold. This rule appears to us justly applicable to Port Phillip, which has in so great a degree already acquired the character of a Distinct Colony. There is a local though subordinate Government established there, and all the machinery necessary for the collection and custody of the Land Revenue. The demand for labour is also not less urgent than in the other Australian Settlements. We, therefore, do not see any ground for disturbing the arrangement already made for employing that proportion of the Land Funds of Sydney and Port Phillip, which is set apart for Emigration, in conveying labour to the District which has furnished the Fund.

As regards Moreton Bay, however, if our recommendation be adopted of granting the Northern Boundary of the Sydney District which has been asked for by the Council of New South Wales, the Districts likely to be occupied under the name of Moreton Bay will, for some time to come, be inconsiderable in extent, and remaining directly under the authority of the Government at Sydney. We think, therefore, that, until it has extended to the Northward and been placed on a footing in respect to Government resembling Port Phillip, it will be expedient to leave it to the discretion of the Governor to determine the extent of the land fund which shall be employed in conveying labour exclusively to the District.

We have, &c,

T. FREDK. ELLIOT.
EDWARD E. VILLIERS.

LORD JOHN RUSSELL TO SIR GEORGE GIPPS.

(Despatch No. 348, per ship Carthagena: acknowledged by Sir George Gipps, 3rd February, 1842.)

Sir,

Downing Street, 31 August, 1841.

I transmit to you, herewith, the Copy of a representation which I have received from the Revd. Dr. Polding on the subject of a demand, which he states has been made by the Local Government at the solicitation of the Bishop of Australia, for the surrender of that portion of a Building* in the Town of Sydney which had been used for many years as a School Room for Catholic Children.

I have to request that you will furnish me with a Report on this subject.

I am, &c,

J. RUSSELL.

* Note 73.
1841.
31 Aug.

Protest against resumption of rooms used as R.C. school.

Transmission of letter from Revd. J. Allan.

Complaint re non-payment of salary.

1841.
31 Aug.

RIGHT REV. J. B. POLDING TO LORD JOHN RUSSELL.
Sablomire Hotel,

Leicester Square, 27 Augt., 1841.

By the communication from the Revd. Mr. Murphy of Sydney, I am informed that a surrender of the Lower part of the old Court House, granted by the Government nearly ten years ago, and used ever since as a School Room for Catholic Children, has been demanded at the solicitation of the Right Reverend Dr. Broughton: as the necessary consequence of such a proceeding will be the destruction of this School, the largest in Sydney, consisting of upwards of three hundred children, I consider myself required to implore Your Lordship's protection, and to request your Lordship's interference if necessary in order that this Room (divided by a Partition at the expense of Government into two apartments for Boys and Girls) may be used for its present purpose, at least, until another place for their accommodation shall be supplied.

I have, &c,

J. B. POLDING.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 108, per ship Giraffe; acknowledged by lord Stanley, 3rd August, 1842.)

My Lord,

Government House, 31st Augt., 1841.

I have the honor herewith to forward to Your Lordship a sealed letter from the Revd. Jas. Allan, late Presbyterian Minister of the Town of Parramatta in this Colony.

Mr. Allan having forwarded to me a Copy of his letter, I learn that the object of it is to complain to Your Lordship of his salary having been withheld by me, in consequence of his being removed from his Cure by the Synod of New South Wales.

I beg to explain to Your Lordship that I have declined to go into the question of the legality or illegality of the proceedings of the Synod in removing Mr. Allan, the Government neither exercising nor claiming to exercise any authority over the Synod in Spiritual matters; but that, as a regulation of the Government, founded on the Law of the Colony (7th Wm. IV, No. 3, S. 6) provides that no Clergyman shall receive a salary, unless the Head of the Church or Denomination, to which he belongs, sign a Certificate of his having properly performed his duties, I have declined to pay the Revd. Mr. Allan any salary, solely because the Moderator of the Synod will not certify in his favor.

The Town of Parramatta does not contain a sufficient number of Presbyterians to authorize the payment of more than one Minister; and the Minister is paid, who is certified by the Moderator of the Synod to have performed his duties. I have, &c,

GEO. GIPPS.

[Enclosure.]

[A copy of this letter is not available.]
RUSSELL TO GIPPS.

191x633

Lord John Russell to Sir George Gipps.

(Despatch No. 349, per ship Carthagena; acknowledged by Sir George Gipps, 21st August, 1842.)

Sir, Downing Street, 1 September, 1841.

With reference to my dispatch No. 314 of the 24 of July last, I transmit to you, herewith, a further communication which I have received from Dr. Douglass on the subject of his claim to Land in New South Wales.

I am, &c.,

J. Russell.

[Enclosure.]

Dr. H. G. Douglass to Lord John Russell.

My Lord, 28th August, 1841.

In consequence of the desire expressed by Your Lordship yesterday to Captain Rous, He has written a Letter to me, a copy of which I have the honor to forward to your Lordship, Thus affording additional testimony (if it were necessary) of my occupancy of my Grant at Narigo.

I understand, My Lord, that, altho' Sir George Gipps expressly says in his Despatch to Your Lordship, "Let Dr. Douglass produce his authority to take possession and his Claim will be immediately acknowledged"; And, altho' I have produced that authority from the Most competent person, the late Governor, yet another ground appears now to be taken, namely, "that a hundred others are in similar circumstances, and therefore there is a difficulty in opening any one of these Cases." Is it my Lord advanced, because injuries have been many and great, they should not be redressed! Surely such Doctrines cannot be put forth by so enlightened a Statesman as Your Lordship. I am certain there is some misapprehension in what passed yesterday as regards that objection. But, my Lord, I stand upon the right and justice of my own case. I know nothing of the merits of other cases. It has been further advanced that I should have taken care before I left the Colony that the necessary forms were complied with; the authority was extant in Mr. Oxley's Office; Mr. Oxley wrote to Mr. Hoddle, the Assistant Surveyor, to lay down the lines in a rough way, which Mr. Hoddle did; And, if the Record of this authority is not to be found in the Surveyor General's Department, it has been mislaid by Mr. Oxley or made away with to gratify private malevolence towards me.

That I had authority from the competent authority, to select and occupy this Land at "Narigo"; That I did so select and occupy it, is proved. And, until I received Mr. Goffing's letter last year, I conceived My Agent had been in constant possession of it from the expiration of Mr. Wentworth's Lease. My Lord, I can conceive no Answer to all this, but the restitution of my property. That the Colonial Department or the Colonial Government, taking an advantage against an Individual of the negligence or impropriety of their own Officers, may make their right to his injury if not ruin is I hope scarcely possible; but, should it be the case, a grosser act of injustice will be sought for in vain even in the teeming page of Colonial Injuries.

I have, &c.,

Henry D. Douglass.
HISTORICAL RECORDS OF AUSTRALIA.

[Sub-enclosure.]

Captain Rous to Dr. H. G. Douglass.
28 Chapel Street,

My Dear Sir,

I have every reason to recollect the circumstances of your holding and occupying the Estate of "Narigo," because the only journey I made to the Interior was with you in the early part of 1828 to the Cow pasture, and from thence to visit your Grant and livestock at Narigo, in which vicinity, owing to the beauty and fertility of the Soil, I selected 2,560 Acres for Myself.

I remain, &c,

H. J. Rous.

Lord John Russell to Sir George Gipps.
(Despatch No. 351, per ship Carthagena.)

Sir,

Downing Street, 1 September, 1841.

With reference to my dispatch No. 343 of the 26 ultimo, I have to acquaint you that Her Majesty has been graciously pleased to confirm and allow the Act, passed by the Governor and Council of New South Wales on the 23d of Sept., 1840, entitled, "An Act to remove Doubts as to the validity of certain Marriages held and solemnized within the Colony of New South Wales by Ministers of the Congregational or Independent and Baptist denominations, and to regulate the registration of certain Marriages Births or Baptisms and Burials."

I am, &c,

J. Russell.

Sir George Gipps to Lord John Russell.
(Despatch No. 169, per ship Giraffe.)

My Lord,

Government House, 2nd September, 1841.

I have the honor to forward herewith the Annual Estimate, prepared by Lt. Coll. Barney of the Royal Engineers, of Works and Repairs required for Convict services in this Colony and its Dependency Norfolk Island, in the year 1842-3.

The amount of this Estimate is less than what similar estimates have been in former years; and the only item in it, which seems to require explanation from me, is the one which stands first in order, namely, a New Barrack for Prisoners at Cockatoo Island.

The uses, to which Cockatoo Island has lately been applied, were detailed in my Despatch of the 8th July, 1839, No. 102; and as, by the Despatches from Your Lordship of the 6th July, 1840, No. 96, and 16th March, 1841, No. 223, I have been directed to discontinue Transportation to Norfolk Island, I now propose
to confine at Cockatoo Island the great majority of the class of Prisoners formerly sent to Norfolk Island; and, with the con­currence of the Lieut. Governor of Van Diemen's Land, to send to a Penal Station in that Colony such offenders, but such only as on account of their known characters and connexions it might be deemed unsafe to keep, except in close confinement, in New South Wales. This course of proceeding is strictly in accordance with the instructions contained in Your Lordship's Des­patch, No. 96 of the 6th July, 1840, Cockatoo Island being only substituted for Goat Island, which is now quite unfit for the purposes contemplated by Your Lordship, as there is on it a large Magazine of Gun Powder.

On the subject of the discontinuance of transportation from this Colony to Norfolk Island, and of the disposal of Prisoners who are convicted of second transportable offences in New South Wales, I shall shortly have occasion to report more fully to Your Lordship, a Bill being now before the Legislative Council to facilitate the arrangements, which are necessary in order to carry into effect the orders which I have received from Your Lordship.

Two Demands of Stores accompany Coll. Barney's Estimate; and I have to request that they may both be supplied in the usual manner through the Board of Ordnance. One of these Demands ought to have been supplied for the current year.

I have, &c,
Geo. Gipps.

[Enclosures.]
[These estimates have been omitted.]
I invite the one at your hands; and I venture to assure you that you may on all occasions rely on receiving the other at mine.

STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.

(A circular despatch, per ship Maitland.)

Sir, Downing Street, 6th September, 1841.

I have the honor to transmit to you for your information three Copies of a Convention of Commerce and Navigation between Great Britain and the Hanse Towns, of which the Ratifications were exchanged on the 28th ulto., and I am to direct you to take such steps as may be necessary for carrying the provisions of this Convention into effect, in the Colony under your Government.

STANLEY.

[Enclosure.]

This was the convention signed at London, 3rd August, 1841.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 172, per ship Giraffe.)

My Lord, Government House, 7th Septt, 1841.

With reference to my Despatch No. 108 of the 6th May last, I have the honor herewith to forward a Return of Steam Vessels registered in the Port of Sydney, in the amended form required by a Memorandum from Your Lordship's office, dated the 25th March, 1841.

GEO. GIPPS.

[Enclosure.]

[A copy of this return is not available.]

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 173, per ship Giraffe.)

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

I have the honor herewith to forward to Your Lordship Returns of the Census of this Colony, taken in the present year under the Act of Council, 4th Vict., No. 26.

I also enclose a copy of the Census, taken in the year 1836, by which Your Lordship will perceive that the Population of the Colony has increased in five years from 77,096 to 130,856.

GEO. GIPPS.

[Enclosures.]

[These returns were published in the "Government Gazette."
SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 174, per ship Giraffe.)

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

Agreeably to the instructions contained in Your Lordship's Circular Despatch of the 18th Jany., 1841, I have the honor herewith to furnish Returns, shewing that up to the present time no Vessels have been brought for adjudication before the Court of Vice Admiralty in this Colony for having been engaged in the African Slave Trade.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

[Copies of these returns are not available.]

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 175, per ship Giraffe; acknowledged by Lord Stanley, 29th July, 1842.)


In my Despatch of the 31st Jany. last, No. 29, I reported to Your Lordship the extent, to which this Government had entered into engagements for the payment of Bounties on Emigrants brought to the Colony by Private individuals; and I also in the same Despatch pointed out to Your Lordship that, since the commencement of the month of Decr. in 1840, care had been taken to enter into no absolute engagements, but to stipulate in every case that the Bounties should be contingent on the state of our finances and on the ability of the Government to pay them.

I have now further to report that I caused, on the 11th inst., a Notice issued notification to be made to all the parties concerned, that it is probable the Government may not be able to pay Bounties, where they have been promised conditionally only; and that, any rate, none can be paid, until all the demands, to which the Government is liable on account of unconditional promises, shall be satisfied.

This notification I have made very reluctantly, but, for the following reasons, I considered that it was required of me.

1st. Because a much more rapid Immigration into the Colony is now taking effect than was expected only a few months ago;

2ndly. That our Land Sales had greatly fallen off, in consequence of the Commercial distress which has prevailed in the Colony during the last year; and,

3rdly. That a very decided opinion against the contracting of Loans for the support of Emigration has been expressed by Your
Lordship in some recent Despatches to myself, as well as in documents laid by Your Lordship before Parliament.

I cannot but be aware that the notice, which I have now given, may have the effect of checking Immigration in a greater degree than is required by the state of our finances, in which case dissatisfaction will in all probability be produced in the Colony; and I am consequently induced to submit to Your Lordship that some measures are much wanted to regulate the supply of Emigrants, not so much to the demand which exists for them, as to our ability to pay for them.

In my Despatch, No. 129 of the 9th Sept., 1840, I suggested to Your Lordship that the Land and Emigration Commissioners should watch the progress of the Bounty system, and, in the event of the annual supply under it falling short of 10,000 Souls, that they should resort to Government Emigration to make up the deficiency; the opposite evil of a redundant supply was not, when I wrote that Despatch, within my contemplation; therefore I did not propose any measure for checking it; but the reason, which suggested the one measure, might equally suggest the other; and I would at any rate beg leave to submit to Your Lordship that, in future years, it may be equally desirable to check a redundant as to make good a deficient supply.

A well regulated Immigration of from 8,000 to 10,000 Souls is what I consider essential for the prosperity of the Colony, and what I believe also we shall be able to pay for.

The general tenor of my Despatches on financial subjects, as well as particular passages which it is scarcely necessary to refer to, will I trust sufficiently have proved to Your Lordship that, far from having any desire to encumber the Colony with a Loan, I have constantly been disinclined to the raising of one; I have nevertheless always admitted that, from the very fluctuating nature of the funds out of which Emigration is supported, those funds may in some years be insufficient to meet the expense of such an Immigration as the Colony requires; and I have considered that, in the event of such being the case, it would not be improvident to anticipate our resources to an extent not exceeding the net average produce of one year of our Land Sales, and which may safely, I think, be taken at £100,000.

The Immigration of the present year will, I trust, go far to remove the complaints, which have of late been so general in the Colony of the want of Labour; and, though in attaining so desirable object some inconvenience ensue, I do not think we should shrink from encountering it.
GIPPS TO RUSSELL.

Having still about £150,000 in hand applicable to Immigration, besides £40,000 due to the Colony from Her Majesty’s Government on account of New Zealand, I do not anticipate any immediate deficiency; and I shall not fail to report fully, and frequently, to Your Lordship, on everything connected with the important subjects of Emigration and Finance.

I have, &c.,

Geo. Gipps.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(My Lord,


Though my last Separate Despatch, reporting on the state of the Colony, was dated only the 17th July last, I shall proceed again to address Your Lordship on the same subject, as I consider that, in the present condition of our affairs, Your Lordship may desire to receive frequent communications from me.

I lament to have to report that the Commercial distress and general want of money in the Colony continues unabated; that many mercantile failures have occurred; and that still more are to be expected, as well as Insolvencies amongst our Settlers.

From a system indeed of nearly unbounded credit, the transition has been sudden to an almost total denial of it; and consequently persons, who can no longer get accommodation at the Banks, are obliged to dispose of such property as they may be possessed of at very depreciated prices.

Owing perhaps to its having been the only ready money dealer in the Colony, the Government has not as yet participated in the distress; nor do I indeed apprehend any failure in our ordinary resources greater than what we may easily be able to provide against.

In our extraordinary resources, on the other hand, or our Land Sales, there will certainly be a large falling off from what was the produce of last year; and consequently we may experience possibly some difficulty in meeting the very heavy engagements, which we are under for the payment of Bounties on Immigration. The Council however, and indeed the whole Colony, is deeply pledged to support the Government in any measures that may be necessary for the support of Public credit; and I shall not fail to make timely reports to Your Lordship of any expedients that I may resort to.

In my last Separate Despatch, I stated to Your Lordship that the project for the introduction of Coolies into the Colony
1841.
13 Sept.

Proposed introduction of Indian coolies.

I am happy now to be able to report that the project found hardly any support in the Council, and that it may be considered, for the present at least, as set aside, if not abandoned.

The news of the Division* in the House of Commons on Mr. Groate’s motion in April last respecting the Police and Gaols of the Colony reached us a few days ago; and I am happy in being able to think that it will act advantageously for my Government, so far, that is to say, as at least to settle men’s minds on the subject, and to lead them to look to the way, in which the expenses may by possibility be diminished, rather than to continue in the hope so long indulged in that the Home Government would be ultimately forced to take upon itself a part of them.

The pecuniary distress now existing, though it may reduce many men to poverty, who but lately were esteemed rich, is not I think of a character ultimately to affect the prosperity of the Colony; and I am happy to say there is nothing else of a discouraging nature in the aspect of our affairs.

The very rapid Immigration now taking place is fast reducing the hitherto exorbitant price of Labour; and I greatly hope that the complaints, which have of late years been so constant, of the want of Laborers will shortly be less loud in the Colony.

The Session of the Legislative Council has been a very easy one; and, as the Appropriation Bill has now passed, it would be fast drawing to a close, were it not that the Commercial distress has produced a call for a Bankrupt Law, which, when it was proposed to them last year, the Merchants declared they did not want.

On the rising of the Council, it is my intention to visit Port Phillip.

I am most happy to have received from Your Lordship an order for the discontinuance of Special Surveys.

The contraction of credit and consequent scarcity of money in the Colony has had, I am happy to say, at least the good effect of limiting very considerably the demand for Surveys of this nature, only seven having been demanded; whereas, if the regulation, which sanctioned them, had been in force during the speculative times of last year, I have no doubt that four or five times that number would have been applied for.

I have, &c.,

GEO. GIPPS.

*Note 74.
Sir George Gipps to Lord John Russell.

(Despatch No. 176, per ship Giraffe; acknowledged by Lord Stanley, 5th May, 1842.)

My Lord,

Government House, 14th Sept., 1841.

I have the honor to forward herewith the Blue Book for the year 1840; and, in consequence of the paragraph in Your Lordship's Despatch, No. 240 of the 10th April, 1841, drawing my attention to the standing order, which requires that the Blue Book should be accompanied with a general report on the political state of the Colony, I have the honor to forward such a report herewith.

I have, &c.,

Geo. Gipps.

[Enclosure No. 1.]

[This was a copy of the "blue book."]

[Enclosure No. 2.]


Constitution and form of Government.

The Colony of New South Wales, not possessing a Representative Assembly, comes into the class of those which are called Crown Colonies, though, on account of its having, until lately, been a place of transportation for offenders from the United Kingdom, there are many peculiarities in its constitution and form of Government, as well as in the domestic condition of its inhabitants, not to be met with elsewhere.

The Constitution of the Colony is regulated by an Act of Parliament (9th Geo. IV, C. 83), which, though passed in 1828 for eight years only, has by successive renewals been kept in operation to the present time.

The power of Legislating for the wants of the Colony resides in the Governor and a Council of fourteen Members, all named by the Crown and removable at pleasure. Of these Members, seven are Officers of the Government, and the remainder gentlemen of the Colony.

The Governor presides in this Council, and, since the commencement of the Session of 1838, its sittings have been open to the Public. The powers of the Council were considerably extended in the year 1840 by the 2d and 3d Vict., C. 70.

The Colony being one exclusively of British origin, the Laws of England are in force in it as far as they can be applied; and no Law, except British Law, exists in the Territory, or rather British Law modified in many cases by Local Enactments.

Executive Authority.

The Chief Executive Authority resides in the Governor, who, in Executive cases of difficulty, is aided by an Executive Council, which Council has also obliged in a great number of mere formal acts to consult.

The Chief Officer and organ of the Government is the Colonial Secretary.
Administration of Justice.

The Supreme Court of Sydney is composed of three Judges, and they exercise jurisdiction in every branch of Law or Equity. One of the Judges (at present the Chief Justice) is specially appointed to hear, in the first instance, all suits in Equity; another, by an arrangement amongst themselves, generally takes all the Insolvent or Bankrupt cases; and the Chief Justice is, by special Commission, a Judge of Vice Admiralty.

Circuit Courts are held in three different places, namely, Bathurst, Berrima and Maitland; and, in the District of Port Phillip, there is a Resident Judge, who is of equal rank with the Puisne Judges of the Supreme Court, and exercises all the powers of that Court within his District.

The Jury Laws are now assimilated to those of England; but, in the early days of the Colony, Juries were composed of Military or Naval Officers; and Military Juries were not entirely abolished until the year 1830; (Local Act of the Governor and Council, 3d Vict., No. 11).

The power, however, is still retained of trying, with the consent of the parties, all Civil actions by a Judge and two Assessors, a mode of trial which generally gives great satisfaction, and is much used in the Colony.

Quarter Sessions are established in Sydney, and in six different places* in the Country. The Chairman, though annually elected by the Magistrates, is a salaried officer of the Government.

The powers of these Courts are the same as in England, as also is the method of proceeding in them, with the sole exception, that persons actually serving in the Colony under sentence of Transportation are tried without a Jury.

All Crimes throughout the Colony are prosecuted on the information of the Attorney General, though, in the Courts of Quarter Sessions, a power is lodged in an officer, called the Crown Prosecutor, to file informations in the Attorney General’s name; and the same power, in respect to all Courts held within the District of Port Phillip, is held by another officer, called the Crown Prosecutor of that District.

There are no Grand Juries in the Colony, the Attorney General performing in fact the functions of a Grand Jury.

Courts of Request, in which sums to the amount of £10 may be recovered, are established in Sydney and in all the principal places in the Colony.

The Magistrates of the Colony, whether acting singly or in Petty Sessions, have, in respect to the Population in general, the same powers as in England; and an additional jurisdiction over Convicts, under a Local Act (3d Wm. IV. No. 3) which extends to the infliction of fifty lashes by a single Magistrate, and of one hundred by two or more acting in Petty Sessions.

Besides the ordinary or unpaid Magistrates, there are also numerous stipendiary Justices, called Police Magistrates, who act in their respective Districts as the Agents of Government.

In the unsettled parts of the Colony, or in the Districts beyond what are called the Boundaries of Location, these Stipendiary

* Marginal note.—Bathurst; Maitland; Windsor; Campbell Town; Parramatta; Berrima.
Magistrates are called Crown Commissioners, or more properly Commissioners of Crown Lands, and their chief duties are to exercise a control over the very numerous grazing establishments, which have been formed in these districts under Licences from the Government, and to prevent collisions between the men in charge of such Establishments and the Aborigines of the Country. These Commissioners also collect the fees payable on the Government Licences, as well as a small assessment on Cattle and Sheep, authorized by an Act of the Colonial Legislature, 2d Vict., No. 27.

Departments of Government.

The Chief Departments of Government are those of the Colonial Secretary, Treasurer, Auditor and Surveyor General, all of which are under the immediate control of the Governor.

The Customs Department is also a principal one, but is not so immediately or entirely under the Governor's control.

The other Departments of Government are those of Public Works, Post Office, Port or Harbour Master, Storekeeper, Government Printing Establishment, etc.

The Heads and other officers of all the Departments are generally efficient; but the Executive Government labours under some disadvantage in respect to the services of its Officers, which it would not be proper in a report of this sort entirely to overlook.

Many of the older Officers of Government are either proprietors of land, or of flocks and herds in the Colony, the care of which naturally occupies a part of their attention; and those, who may not yet have possessions of this nature, look forward to the time when they may acquire them.

The very high rent of houses in Sydney causes many of the Officers of Government to live in the Country at an inconvenient distance from their offices; and, until very lately, the subordinate places in most of our Public Offices were filled by men, who only held them, until they could find some more lucrative employment or engage in some speculation, such as that of Sheep farming, more congenial to their tastes. The late influx however of respectable Immigrants, and of young men of education, is fast removing this latter inconvenience.

The Convict Department is not, strictly speaking, a Colonial one; for, though entirely under the control of the Government, the expense of it is defrayed by the British Treasury.

The Police and Gaols of the Colony were formerly considered branches of the Convict Establishment; but, since 1834, the whole expense of their maintenance has been thrown upon the Local Government.

Ecclesiastical Establishment.

The Ecclesiastical Establishments of the Colony are supported out of the general funds of the Government. All denominations of Christians are equally entitled to the assistance of the state, a perfect religious equality having been established by an Act of Council, passed in the year 1836 (6 Wm. IV, No. 3).

The demands on the Public funds for salaries under this Act have proved to be burthensome; but, in other respects, its operation has been salutary, and it has given general satisfaction in the Colony.
Under the same Act, assistance is afforded out of the public funds of the Colony towards the erection of places of Worship. The aid, however, given by the Government, can never exceed £1,000; and it is necessary in every case that an equal sum be furnished by private donation.

Education.

No system of general Education for the poorer classes has been established, the attempt made to introduce the Irish, and subsequently the British and Foreign system, not having proved successful. At present the Public Schools are for the most part under the management of the Clergy of different denominations, assistance being rendered by the Government equally to all.

The orphan Schools, at which about 350 children are supported, are the only ones under the entire control of the Government.

Moral and Social condition of the People.

A rapid improvement in the Social and Moral condition of the People is very evidently taking place. The old distinction between Free Settlers, and persons who have been Convicts or are of Convict Origin, is still preserved, but the virulence, with which it was formerly marked, is very happily subsiding.

The ordinary proprieties of Society are observed amongst the better portion of the population of New South Wales, in as great and perhaps in a greater degree than amongst persons of the same class elsewhere. The fear indeed of being suspected of the taint of Convictism operates in a wholesome manner as a restraint upon those who are free from it.

Amongst the lower orders, however, and a large proportion of the emancipated class, libertinism, it must be confessed, of every description exists in spite of the most stringent of Laws, and what must certainly be considered an efficient and watchful Police.

Drunkenness, the fruitful parent of every species of Crime, is still the prevailing vice of the Colony.

In Sydney, the security of property is perhaps as great and public decency as well preserved as in most Sea Port Towns in England; but, in the Country, and especially in wild and thinly populated Districts, Robberies and crimes of violence prevail, all of which are comprehended under the Colonial term of Bushranging.

Public and Private Wealth.

No new Community (unaided by the accidents of War) has perhaps ever made such rapid progress in private and public wealth as the Colony of New South Wales.

That this has been mainly the effect of Convict Labour is hardly to be disputed; but something is also owing to the Climate and accessible nature of the Country, there being perhaps no part of the world, in which valuable produce and particularly wool can be obtained at so small an outlay of Capital and Labour as in New South Wales.

The same peculiarities of Climate and of Soil, that is to say, the dryness of the one and the general poverty of the other, may however probably render it difficult for any part of Australia ever to support a dense Population.

During the latter part of the year 1840, a considerable degree of Commercial depression, the consequence of excessive speculation,
prevailed in the Colony; and this, following so soon after the discontinuance of Transportation, may, it is to be feared, lead to serious results, though on the nature of them it would be as yet premature to speculate.

Immigration.

Since the discontinuance of transportation, a very rapid Immigration into the Colony has been carried on from the United Kingdom. The produce of the sale of wild lands is appropriated to this purpose, after deducting the expenses of their Survey and Sale, and of expenses incurred on account of the Aborigines, the original possessors of the lands. The number of immigrants introduced at the cost of the Colony in the year 1840 was 6,697, and the expenses incurred on their account £116,929 11s. 5d.

Harbours.

The Coast of New South Wales abounds with admirable Harbours, amongst which, Sydney or Port Jackson, stands undoubtedly preeminent.

In Navigable Rivers however, the Colony is sadly deficient, there being not one as yet discovered navigable even for Boats to a greater distance than 30 or 40 miles, measured in a direct line from the Sea Coast.

Finances and Taxation.

It is not too much perhaps to say that, in no part of the World, is so large a revenue raised from so small a population or by so small an amount of Taxation as in New South Wales.

The population of the Colony during the year 1840 did not much exceed (if it at all exceeded) 120,000 Souls; and the gross revenue, including that derived from the sale of Crown Lands was £651,487 1s. 4d. Exclusive of the sale of land it was £335,048 9s.

The possession of this large revenue undoubtedly makes the Government strong; but, on the other hand, it causes every person to look to the Government for everything, and consequently no species of district or municipal administration by Local Authorities, possessing Local funds, has yet been established.

The demands on the Government, however, have of late become so enormous for Public Works, Roads, Buildings, Churches, Schools, etc., and especially for the maintenance of the Police and Gaols of the Colony, that the Revenue, large as it undoubtedly is, has proved unequal to the expenditure, and new means must therefore be resorted to in order to provide for the wants of different districts out of other funds.

Two very important Acts were brought forward in the last Session of the Local Legislature for this purpose, but they have not yet passed into Laws; One of them was for the creation of Municipal Corporations, the other for making provision, by means of Local Assessment, for the maintenance of the Highways, Public Buildings, Police, Gaols, etc., of every District.

The chief Taxes in the Colony are the following:—

Spirits; Tobacco; Advalorem duties of from 5 to 15 per cent. on all articles not the produce or manufacture of the United Kingdom; Auction Duties; Licences for Public Houses; Licences to occupy Crown Lands.

The duties on Spirits alone produced, in the year 1840, the sum of £144,639 4s. 7d.; and those on Tobacco, £38,888.

Government House, Sydney, 14th Sept., 1841.

GEO. GIPPS.
HISTORICAL RECORDS OF AUSTRALIA.

1841.
15 Sept.

LORD STANLEY TO SIR GEORGE GIPPS.
(A circular despatch, per ship Maitland.)

Sir,
Downing Street, 15th September, 1841.

I transmit to you herewith for your information and guidance copies of a correspondence between this Department and the Office of the Committee of Privy Council for Trade, on the subject of an Act passed by the Governor and Council of Western Australia, intituled, "An Act to provide more suitable remedies in case of Seamen, deserting from the Merchant Service in the Colony."

I have to desire that you will conform in the Colony under your Government, to the suggestions which have been made by the Lords of the Committee of Privy Council for Trade, in respect to that Act.

I have, &c.,
STANLEY.

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

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 1, per ship Maitland; acknowledged by Sir George Gipps, 6th October, 1842.)

Sir,
Downing Street, 16th September, 1841.

The Lords Commrs. of the Treasury having intimated to me that they have authorized an advance to the Agent General for New South Wales on account of the Colonial Government to the amount of £5,000, I have to request that you will take the necessary measures for the repayment of that Sum without delay into the Military Chest.

I am, &c.,
STANLEY.

SIR GEORGE GIPPS TO LORD JOHN EUSSELL.
(Despatch No. 177, per ship Giraffe; acknowledged by Lord Stanley, 18th April, 1842.)

My Lord,
Government House, 16th Septr., 1841.

In my Despatch No. 163 of the 24th Augt. last, I reported to Your Lordship that I had, agreeably to Your Lordship's instructions, removed Mr. Pinnock from the office of Agent for Immigration in this Colony; but that, at the same time, I had expressed to Mr. Pinnock my readiness to forward to Your Lordship any statement which he might desire to make in his defence.

I have now the honor accordingly to forward a Copy of the statement, which has been drawn up and delivered to me by Mr. Pinnock.
From it Your Lordship will perceive that I caused Mr. Pinnock to be furnished with copies of all the documents, connected with the charges preferred against him by the Colonial Land and Emigration Commissioners, in order that he might be able to make his defence.

I have, &c.,

Geo. Gipps.

[Enclosure.]

[A copy of this statement is not available.]

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 178, per ship Giraffe; acknowledged by Lord Stanley, 18th April, 1842.)

My Lord,

Having, with my Despatch of this day's date No. 177, transmitted to Your Lordship Mr. Pinnock's reply to the charges preferred against him by the Colonial Land and Emigration Commissioners, I have now to report to Your Lordship the manner in which I have discharged an aright gentleman.

In so doing however it is necessary that I should first speak of Mr. Merewether, the whom I (as reported in my Despatch of the 24th Augt. last, No. 163) selected, subject to Your Lordship's pleasure, to succeed Mr. Pinnock.

Mr. Merewether is a young man of good ability and education, being a graduate of Oxford. On his coming to New South Wales about three years ago, he obtained employment in the Colonial Treasury, and was soon afterwards placed by the Treasurer in the very responsible and confidential situation of Receiving Clerk of all monies paid into the Treasury; he also acted as joint Colonial Treasurer with another person, during a part of the Treasurer's (Mr. Riddell's) late absence from the Colony.

Having heard from various quarters favorable reports of Mr. Merewether, I was glad of an opportunity to place him in a better situation than that which he occupied in the Treasury, where his salary was only £200 a year; and I accordingly, on the creation of the office of Deputy Registrar at Port Phillip, appointed him Deputy Registrar, subject to Your Lordship's approval, as reported in my Despatch of the 24th March, 1841, No. 78: Mr. Merewether's departure however for Port Phillip was delayed, on account of the absence from the Colony of the Treasurer, Mr. Riddell; and very shortly after Mr. Riddell's return, just indeed as Mr. Merewether was about to proceed to Port Phillip, I received Your Lordship's order to remove Mr. Pinnock.
Of all persons within my reach, Mr. Merewether appeared to me the most eligible to replace Mr. Pinnock; and, by his appointment, a situation was moreover made vacant, to which I could appoint Mr. Pinnock, provided he should so far clear himself of blame as to enable me to feel justified, under the discretion which was left to me by Your Lordship, in placing him in it.

Without pronouncing an uncalled for opinion in the case between Mr. Pinnock and the Commissioners, I feel it due to him to say that Mr. Pinnock generally performed his duties to my satisfaction during the three years he held office in the Colony; and that, though his deportment has not altogether been faultless, and that I could adduce instances of what must be considered imprudence on his part, he has been of late circumspect in his conduct, and he is certainly efficient as a Public Officer.

The salary, which he received as Agent for Immigration, was £500 per annum, that of Deputy Registrar of Port Phillip is £450; Mr. Pinnock will therefore lose by the change £50 per annum, besides having been for more than two months deprived altogether of pay or emolument in the very expensive Town of Sydney.

Under all these circumstances, I temporarily placed Mr. Pinnock in the situation of Deputy Registrar at Port Phillip; and I have respectfully to submit to Your Lordship that he may be continued in it, in the event, that is to say, of Mr. Merewether being confirmed as Agent for Immigration.

Mr. Pinnock will at Port Phillip be subordinate to, and strictly under the control of the Resident Judge, in fact he will be an Officer of the Judge’s Court.

I have, &c.,

Geo. GIPPS.

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LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 2, per ship Maitland.)

Sir,

Downing Street, 21 September, 1841.

With reference to Lord John Russell’s Dispatch, No. 302 of the 6th of July last, I transmit to you herewith Copies of a further Correspondence with the Revd. Dr. Polding, from which you will perceive that I have authorized the issue of Full Salary to that Gentleman and to Dr. Ullathorne during their absence from New South Wales, having been induced to do so from the consideration that the Instructions on the subject were ambiguous, and that both Dr. Polding and yourself appear to have put the same construction on them. You have already been informed that the particular portion of the Book of Instructions referred
to as applicable to this case would require some modification in order to prevent a recurrence of the misconception, into which you had been led. I beg to add that in similar cases full Salary will not in future be allowed.

I am, &c.,

STANLEY.

[Enclosure No. 1.]

RIGHT REV'D. J. B. POLDING TO UNDER SECRETARY VERNON SMITH.

Sir,

35 Golden Square, 31 August, 1841.

I have the honour to solicit your attention to an application made by the very Revd. Dr. Ullathorne on my part for the allowance of my Stipend in full during the period of my Leave of Absence from New South Wales. This allowance and the application for it are grounded upon the following Regulation issued by H.M. Colonial Office.

"Leave of Absence to the higher Orders of Clergy in the Colonies must be restricted within the limit of what may be deemed absolutely necessary since H.M. Government do not consider it advisable to place them on half Salary during their absence."

In the answer to a former application, it was observed that this regulation is inaccurately expressed and is intended for the West Indies only. I beg leave most respectfully to suggest that the expressions in the Regulation are clear; the Regulation itself unlimited by any excepting clause; the motive on which the Regulation is established generally applicable to all the Colonies; that this Regulation has been sent out from the Colonial Office to the Governor of New South Wales for his guidance; and that it has been applied to my case. Not entertaining a doubt on the subject, I took the more expensive route of proceeding to England via South America as no Ship was to sail from Sydney for many weeks, that I might leave the Colony at an earlier period and return sooner. I beg leave further to submit that an explanation of the cases, in which the above Regulation is to be acted upon, may justly determine future allowances, but to give that explanation a retrospective power, to restrict the general sense it bears, and in which with perfect good faith it was understood, may be deemed a hardship. I hope therefore the Right Honorable Secretary for the Colonies will favourably consider the circumstances, under which the application is made, particularly as by granting it no greater expense will be incurred, no Individual in the Colony receiving any part of my Salary as is usually the case where Leave of Absence is given.

I have, &c.,

J. B. POLDING.

[Enclosure No. 2.]

UNDER SECRETARY HOPE TO RIGHT REV'D. J. B. POLDING.

Sir,

Downing Street, 21st September, 1841.

I am directed by Lord Stanley to acquaint you that he has Full salary had under his consideration the letter which you had addressed to Mr. Vernon Smith under date of the 31st Ultimo, relative to your claim, and that of the Revd. Dr. Ullathorne to full salary during your absence from the Colony of New South Wales.

Lord Stanley has also communicated on the subject with Lord John Russell, and with his Lordship's concurrence has authorized the Colonial Agent to issue to you full Salary during the period
of your Leave of absence. Lord Stanley has been induced to do so from the consideration that the Instructions to the Governor of New South Wales were ambiguous, and that both Sir George Gipps and yourself appear to have put the same construction on them. Sir George Gipps has been informed that in similar cases full Salary must not in future be allowed.

G. W. Hope.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 181, per ship Giraffe; acknowledged by Lord Stanley, 21st April, 1842.)

My Lord,

Government House, 21st Sept., 1841.

I have the honor to lay before Your Lordship a Resolution, which, on the motion of the Lord Bishop of Australia, was adopted by the Legislative Council of this Colony on the 15th instant:

Resolved,

“That this Council has learned with much regret that, under an arrangement entered into with the Government of Ireland, free passages to this Colony have been provided for Crown Witnesses in Criminal cases, who were privy to the criminal acts deposed to by them, and, being impressed with a sense of the injury which the character and interests of the Colony are likely to sustain from such a practice, respectfully requests His Excellency the Governor to submit to the Right Honourable the Secretary of State for the Colonies the anxious desire of this Council, that no such arrangement should henceforth be allowed in any system of Emigration to this Colony, which may be carried on under the sanction of Her Majesty’s Government.”

I should explain to Your Lordship that a previous Resolution, in the following terms, had been adopted by the Council, also on the motion of the Bishop on the 8th of the present month; Resolved,

“That His Excellency the Governor be respectfully requested to lay before the Council copies of a letter from the Colonial Secretary of this Colony to the Agent General for Emigration on the subject of certain parties, to whom a free passage was allowed in the Emigrant ship ‘China’ in 1839, and of any correspondence relating to that subject, which may have taken place between the Departments of Government in England and Ireland, with the enclosures therein referred to.”

The Bishop of Australia, in bringing these motions before the Council, stated that he acted in a manner ex officio as Chairman of the Committee on Immigration, and at the request of some of the Members who composed that Committee.
Agreeably to the request of the Council, I laid upon their Table such of the documents transmitted to me with Your Lordship's Despatch No. 188 of the 9th Feby., 1841, as appeared to me to contain the information sought for; and it was on these Papers, of which a List is in the margin,* that the Resolution passed on the 15th instant was founded.

In support of his motion on the 15th inst., the Bishop of Australia went very minutely into the evidence, which, according to the Newspapers of the day, was produced in 1839 on the trial of two men named Walsh and Hickey for the murder of Messrs. Cooper and Wheyland, Magistrates of the County of Tipperary; and His Lordship established, apparently to the satisfaction of the Council, that, although, as stated by Captn. Nangle, some mistake occurred on board the Emigrant ship in ascribing to Patrick Ryan evidence, which had been given by John Ryan Patrick, it still appeared by their own evidence that both Patrick Ryan and Catherine Sweeney were privy to the murder, and that, in appearing as Witnesses for the Crown, they were not actuated by any horror or detestation of the deed.

The wife and family of Patrick Ryan were sent out in the Government Emigrant ship “China” at the expense of the Land fund of New South Wales; and the sum of £90 was lodged for them by Mr. O’Brien, the Surgeon of the Ship, in the Savings Bank of the Colony, being, as there seems good reason to suppose, a portion of the reward of £300, offered by the Government for the conviction of the Murderers.

Patrick Ryan himself did not accompany his family; but it seems clearly to have been intended that he should follow them. Whether Catherine Sweeney has been sent to the Colony or not is uncertain; but, from the following question having been put by the late Mr. Drummond to Captn. Nangle, it was argued by the Bishop that she evidently might have come, had she been inclined to Emigrate. Mr. Drummond asked,

“What is become of Catherine Sweeney? does she wish to Emigrate?”

Your Lordship will have no difficulty in perceiving that these proceedings in the Legislative Council have been occasioned by the fact becoming generally known in the Colony that one of the charges, on which Mr. Pinnock had been removed from office, was that he had made an exaggerated statement of the Ryans' case to the Government. In the course of the debate which ensued on

the Bishop's motion, a strong feeling was expressed by several Members of the Council that Mr. Pinnock would have failed in his duty, if he had neglected to bring under the notice of the Government the suspicions respecting the Ryans, which had been excited on board the Emigrant ship; and I must avow to Your Lordship that I fully concur in this opinion.

Mr. Pinnock certainly seems to me to have been incautious in saying that the statements, made to him by a Passenger or some Passengers in the "China," had been corroborated by Mr. O'Brien, instead of saying, as he justly and properly I think might have said, that the suspicions against the Ryans were strengthened by the fact of Mr. O'Brien's having lodged for them the sum of £90 in the Savings Bank; but I feel it only an act of justice to Mr. Pinnock to submit to Your Lordship that, in this business of the Ryans, no further blame should be imputed to him.

Being on this occasion anxious to convey correctly to Your Lordship the sense of what was stated by the Bishop of Australia in Council on the 15th Instt., I requested His Lordship to assist me in so doing; and, having received in reply a letter from the Bishop, containing the substance of his speech, I think it right to transmit a Copy of this letter to Your Lordship; and accordingly enclose it herewith.

I have, &c.,

Geo. Gipps.

[Enclosure.]

[A copy of this letter, dated 20th September, 1841, is not available.]

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 182, per ship Amelia.)

My Lord, Government House, 23rd Sept., 1841.

I have the honor to forward herewith a Copy of a letter, which has been addressed to the Secretary of this Colony by Dr. Udny, offering to bring adult emigrants to the Colony at £16 per head, which is £3 lower than the Bounty now paid on them.

In conversing with Dr. Udny on the subject, I do not find that any Company, such as that alluded to in his letter, has yet been formed; but, as I have long considered it reasonable that some portion of the expence of removing Emigrants from England to New South Wales should be defrayed out of other funds than those of the Colony, I think it right to bring Dr. Udny's proposal under Your Lordship's notice.

Dr. Udny not being in a condition to guarantee the introduction of any specified number of persons, I have entered into no
GIPPS TO RUSSELL.

engagement with him; but, considering that Your Lordship may probably be induced to sanction some arrangement with Dr. Udnev or the parties with whom he may be associated, I take the liberty of suggesting that, in such case, a period should be fixed, within which the Emigrants should leave England, and that such period should not exceed three or at most six months from the day on which the engagement for paying Bounty on them may be made; also that this Government should be informed immediately on the completion of any such agreement.

As Dr. Udnev is about to proceed to England by way of Valparaiso, he will be the bearer of a Duplicate of this Despatch.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

DR. UDNY TO COLONIAL SECRETARY THOMSON.

Sir, Sydney, 20 September, 1841.

I have to acknowledge the receipt of your favour of the 6th Instant, and I have now to say that I will, with a company of gentlemen whose object is not profit, carry out whatever number of immigrants the Colony may require in future for the sum of Sixteen Pounds per head; and I pledge myself in as good a manner as at present, and the immigrants shall be of a much superior class.

We do not ask any interference with parties who are already licensed, nor any pledge except to pay when it shall be convenient for any we may import, until the Governor is perfectly at liberty in every point of view to grant us licence, after he is satisfied of the superiority of the parties we send, and the style in which they are sent; and then we will only expect payment from time to time as most convenient after delivery. We will also deliver at any required point of the coast of the Colony. Our object is to relieve the Mother Country and to benefit this Colony, from its advanced state and fine climate better adapted to give enjoyment to the poor than any other Colony of the Crown. From personal experience, I can attest that as many as required can be obtained for £20, they finding their families, or £25 being more than is paid in England, with the disadvantages of climate, cold and changeable as it is, I offered to Mr. Marshall to carry to his ships some of the forty thousand starving highlanders, and as many as were qualified for a free passage of the lowlanders; his obligation to his Irish Agents prevented him accepting the offer; when the most important of them deserted him, he asked me to obtain English for him in the Midland counties as complaints were received by him of the excess of Irish sent. I filled 540 Certificates in three months (about 1,100 persons) after rejecting about 10,000 on account of their health, families, trades, age or character, but his engagements in Ireland prevented his receiving more than 50 each ship; there is therefore no want of English and Scots, if they had opportunity and I may add justice.

As I leave in a day or two for England by Valparaiso, please address me as under at your own convenience, stating if HIs Excellency will, in one year after the delivery of any immigrants perfectly approved of, pay at the rate of Sixteen Pounds each adult.
1841.
23 Sept.

24 Sept.

Refusal of compensation for B. Urch.

Any information I can communicate on emigration (having had extensive experience) before I leave, I will be most happy to give and I have the honor to be

Your most obedient,

J. UDNY, M.D.
as present at Mr. Pearson’s, Marble Mason, Pitt Street. Address in England—

DR. UDNY, Miss Udny’s, Miss Cooke’s School, Kirkdale, near Liverpool.

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LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 3, per ship Maitland.)

Sir, Downing Street, 24 September, 1841.

I have to acknowledge the receipt of your Dispatch of the 17th of April last, No. 95, reporting on a claim preferred by Mr. Benjamin Urch, late Sergt. 73rd Regiment, to compensation for the loss of a House in Sydney, which was taken down for the purpose of making improvements in that Town.

You will acquaint the Applicant that, having considered the result of the enquiries which Lord John Russell directed to be made into his Case, I must decline to enter upon the subject.

I am, &c.,

STANLEY.

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SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 183, per ship Amelia.)


I had the honor on the 16th Decr. last to receive Your Lordship’s Despatch of the 8th Augt., 1840, No. 124, enclosing a copy of a letter from the Secretary of the Treasury to Mr. Stephen, dated the 5th Augt., 1840, respecting the delay in the transmission of accounts from New South Wales to the Board of Audit, and requiring a further report from me on some matters of arrangement, in respect to which a difference of opinion had arisen between the Treasurer and Auditor of this Colony.

The Treasurer (Mr. Riddell) was, when I received this Despatch, absent from the Colony on Leave, and did not return to it until the month of July last; and the Auditor (Mr. Lithgow), being very shortly afterwards taken seriously ill, was for some weeks absent from his duty; consequently it has not been in my power to reply earlier to Your Lordship’s Despatch above mentioned.

I have now however the satisfaction to report that the difference of opinion between the Treasurer and Auditor has been
settled on the principles laid down in Mr. Trevelyan's letter; and also that I am assured by both these officers that the accounts from the Colony will henceforth be transmitted punctually and in due time to the Board of Audit.

I have, &c.,

Geo. Gipps.

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LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 4, per ship Maitland; acknowledged by Sir George Gipps, 17th November, 1842.)

Sir,

Downing Street, 25 September, 1841.

You were informed by Lord John Russell's Despatch of the 26th Ultimo that the Act passed by the Legislative Council of New South Wales in the Session of 1840 for the regulation of Gaols and Prisons in the Colony had been referred for the opinion of the Inspectors of Gaols in England whether there was any sufficient reason why Her Majesty should not be advised to confirm and allow it.

I now transmit to you the inclosed Copies of a Letter from the Under Secretary of the Home Department, and of a Report of the Inspectors of Prisons on the Act in question.

You will suggest to the Legislative Council of the Colony the Amendments recommended in that Report. Until the result of that recommendation is known, Her Majesty's decision on the Act will be suspended.


I am, &c.,

STANLEY.

[Enclosure.]

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

Sir,

Whitehall, 9th Sept., 1841.

I am directed by Secretary Sir Jas. Graham to transmit to you, to be laid before Lord Stanley with reference to your Letter of report, of the 31st Ult., the enclosed report of the Inspectors of Prisons of the Act (herewith returned to you) passed by the Legislature of N. S. Wales for the regulation of the Prisons in that Colony.

I am, &c.,

S. M. Phillipps.

[Sub-enclosure.]

INSPECTORS OF PRISONS TO MR. S. M. PHILLIPPS.

Sir,

Raymond Buildings, 6th Sept., 1841.

We beg to acknowledge the receipt of your Letter dated the 2d Instant, transmitting by direction of the Secretary of State an Extract of a Despatch from the Governor of N. S. Wales, with an Act passed by the Legislature for the regulation of the Prisons of that Colony; and desiring our opinion whether there is any sufficient reason why H.M. should not be advised to confirm this Act.
In regard to the 5th Sec. of the proposed Act, We beg to observe that, although it is true as stated in the Extract of the Governor's Despatch that the Prisons in England are under the control of Local authorities, yet their regulations must receive the sanction of the Sec. of State before they can be legally enforced. Nevertheless, in framing the Gaol Acts in England, the Legislature considered it indispensable that certain Rules should, for their importance and general application, be made statutory. We therefore submit that the same course should be adopted with reference to the proposed Act for N. S. Wales, and that the rules contained in the 4 Geo. IV. Cap. 64, S. 10, and in the 2d and 3d Vic., C. 56, Sec. 6, be inserted therein with such modifications as local circumstances may render necessary.

In respect to the 7th Section, We are of opinion that a Report on the general condition of each Prison, founded upon the Reports of the Visiting Justices and Keeper, Chaplain and Surgeon of the Prison, should be made annually at a stated time to the Secretary of State agreeably to the practice observed in this Country under the provisions of the 4th Geo. 4, C. 64, Sec. 24, accompanied by a copy of the Regulations then in force.

With reference to the 10th Section of the proposed Act, we observe that it is not provided that no cell shall be used for separate confinement until its fitness shall have been certified by a competent authority, as is enacted by the 2d and 3d Vict., C. 56, S. 4. We therefore submit that this section be amended by substituting the following for the words after the word "provided" in line 10.

"Provided always that no cell shall be used for the separate confinement of any Prisoner, which is not of such a size, and lighted, warmed, ventilated, and fitted up in such a manner as may be required by a due regard to health, and furnished with the means of enabling the Prisoner to communicate at any time with an officer of the Prison; and that no Cell shall be used for such separate confinement until its fitness in these several particulars shall have been certified by two Magistrates and a Surgeon, appointed for that purpose by the Governor; And every Prisoner so confined shall have the means of taking Air and Exercise at such times as shall be deemed necessary by the Surgeon."

We beg further to suggest that the provisions of the 4th Geo. IV, c. 64, s. 28-30-31, and 2d and 3d Vict., c. 56, s. 15, as to the appointment and duties of a chaplain, and of the 4th Geo. IV, c. 64, s. 33, as regards the appointment and duties of a Surgeon to each Prison be adopted, as far as circumstances may render practicable.

It also appears to be desirable that the provisions of the 5th Geo. IV, c. 53, s. 16 and 17, regulating the employment of Prisoners before Trial, should be adopted.

We submit whether it may not be desirable, in order to assist the Colonial Govt. in framing Regulations for the Prisons, to transmit some Copies of the official code of Prison Rules to the Governor of New South Wales.

We return the Enclosure of your Letter.

We have, &c.,

WM. CRAWFORD,
WHITWORTH RUSSELL.
Inspectors of Prisons.
SIR GEORGE GIPPS TO LORD JOHN RUSSELL.
(Despatch No. 184, per ship Amelia.)
With reference to my Despatch No. 91 of the 11th April, 1841, requesting that periodical Returns might be furnished to this Government of sums received on its account by the Agent of the Colony in London, I beg now to report that no accounts whatever have been received by the Auditor General from Mr. Barnard, later than the 31st Decr., 1839. I have, &c.,
GEO. GIPPS.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.
(Despatch No. 185, per ship Amelia.)
My Lord, Government House, 26th Sept., 1841.
With reference to my Despatch No. 140 of the 19th July last, I have the honor herewith to forward the Report which has been addressed to me by Mr. La Trobe on the proposals for the improvement of the Aborigines made by Mr. Wedge.
I have, &c.,
GEO. GIPPS.

[Enclosure.]
[A copy of this report, dated 28th August, 1841, will be found in a volume in series III.]

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.
(Despatch No. 186, per ship Amelia.)
My Lord, Government House, 26th Sept., 1841.
With reference to my Despatches of the 19th and 25th July last, Nos. 140 and 145, and in reply to the several Despatches named in the margin,* I have the honor herewith to forward a Port Phillip Copy of a letter from Mr. La Trobe, with his Reports on various collisions which have taken place between the Settlers and the aborigines in the Port Phillip District. I have, &c.,
GEO. GIPPS.

[Enclosure.]
[A copy of this letter, dated 28th August, 1841, will be found in a volume in series III.]

* Marginal note.—No. 138, 1st Sept., 1840; No. 180, 15th Decr., 1840; No. 184, 29th Decr., 1840; No. 202, 20th Feb., 1841.
1841.
27 Sept.

Allowance of acts re duties on spirits, etc., imported; and on spirits distilled in colony.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 5, per ship Maitland.)

Sir,
Downing Street, 27 September, 1841.
With reference to my Predecessor's Dispatch of the 26th Ulto., No. 343, I have the honour to acquaint you that Her Majesty has been pleased to confirm and allow the following Acts passed by the Legislative Council of New South Wales in the Session of 1840.

No. 11. "An Act for increasing the Duties on Spirits, Wine and other Goods and Merchandize imported into the Colony of New South Wales and its Dependencies."
And No. 16. "An Act to increase the Duty on Spirits distilled in New South Wales and its Dependencies."

I am, &c.,
STANLEY.

28 Sept.

Despatch acknowledged.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 6, per ship Maitland.)

Sir,
Downing Street, 28 September, 1841.
I have the honour to acknowledge the receipt of your Dispatch of the 27th of March last, No. 81, enclosing Copy of a Letter addressed to the Superintendent of Port Phillip by Mr. Bolden, a Settler in that District, on the subject of the New Land Regulations.

The recent arrangements with regard to the future Sale of Land in New South Wales, which were communicated to you in my Predecessor's Dispatch of the 1st Ultimo, render any answer to your Dispatch unnecessary.

I am, &c.,
STANLEY.

28 Sept.

Despatch acknowledged.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 7, per ship Maitland.)

Sir,
Downing Street, 28 September, 1841.
I have to acknowledge the receipt of your Dispatch of the 25th of March last, No. 79, forwarding a Letter from Mr. W. A'Beckett, who had been appointed by you acting Solicitor General during the absence from the Colony of Mr. Plunkett, the Attorney General, in which he applies to be confirmed in that Office.

I beg to refer you to my Predecessor's Dispatch of the 13th Ultimo, No. 331, as having disposed for the present of the question of appointing a new Solicitor General.
SIR GEORGE GIPPS TO LORD JOHN RUSSELL.
(Despatch No. 192, per ship Amelia.)
My Lord, Government House, 28th Sept., 1841.
I had the honor on the 28th ulto. to receive Your Lordship's Dispatch, No. 201 of the 18th Febry., 1841, directing me to discontinue the granting of what are called special surveys in New South Wales; and I have to report that I lost no time in carrying Your Lordship's instructions into effect by the issue of a Public Notice in the Gazette of this Colony.
I have, &c.,
GEO. GIPPS.

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

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.
(Despatch No. 193, per ship Amelia.)
My Lord, Government House, 28th Sept., 1841.
With reference to the correspondence which has taken place, respecting a retiring allowance to Mr. Anderson, late Colonial Surgeon on the Convict Establishment of New South Wales, and particularly to Your Lordship's Despatch of the 31st March, 1841, No. 232, I have now the honor to forward a Certificate from the Principal Medical Officer of the Colony of the inability of Mr. Anderson further to perform the duties required of him, and that his inability arises from bodily infirmity.
I have, &c.,
GEO. GIPPS.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.
(Despatch No. 194, per ship Amelia.)
My Lord, Government House, 28th Sept., 1841.
At the request of Mr. La Trobe, I have the honor to transmit the enclosed Papers (in original) to Your Lordship.
They have reference to an application made to Your Lordship by Mr. James Croke, now Crown Prosecutor at Port Phillip, to be appointed either a Judge or Attorney General in that District of New South Wales.
In transmitting these documents, I feel it a public duty, though it is undoubtedly a painful one, to state explicitly to Your Lordship that I can by no means recommend Mr. Croke for any appointment in the Colony of greater importance than that which he now holds.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

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

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 195, per ship Amelia.)

My Lord, Government House, 29th Septr., 1841.

I have the honor to report to Your Lordship that, the ordinary business before the Legislative Council being concluded, I yesterday adjourned the Council to the 28th Decr. next, by which time other important business will probably call for its reassembly.

Ten Public and two Private Acts have been passed, and will be submitted in the usual manner for Her Majesty's approval.

The Session has, I am happy to say, been an easy and a satisfactory one.

I have, &c.,

GEO. GIPPS.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 8, per ship Maitland.)

Sir, Downing Street, 1st October, 1841.

I have had under my consideration your Dispatch, No. 18 of the 19th of January last, reporting the re-investigation of the charges brought against Mr. Mitchell in the year 1837, which resulted in the removal of that Gentleman from his office of Surgeon on the Convict Establishment at New South Wales.

Your Dispatch, and its Inclosures, was referred for the consideration and Report of the Director General of the Army Medical Board; and I concur in the opinion, which Sir James McGregor has expressed, that it would not be for the good of Her Majesty's service that Mr. Mitchell should be permanently re-instated in his Office. I approve of your proposal that Mr. Mitchell should be re-instated for one day, and then be allowed to retire from the Service.

I am, &c.,

STANLEY.
SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 198, per ship Amelia; acknowledged by
lord Stanley, 11th June, 1842.)

My Lord,

Government House, 1st Octr., 1841.

Your Lordship is, I believe, aware that there are in this Colony a number of Establishments called Convict Hospitals, the whole expenses of which were, until lately, defrayed by the Home Government; and that the principal expense of them is still so defrayed, though a charge is made against the Local Government of 1s. 9d. a day for every Patient, not a Convict, treated in them.

The places, at which these Hospitals are established, are the following:

<table>
<thead>
<tr>
<th>Location</th>
<th>Distance from Sydney</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sydney</td>
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<tr>
<td>Parramatta</td>
<td>15 Miles</td>
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<td>Liverpool</td>
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<td>Windsor</td>
<td>35 Miles</td>
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<tr>
<td>Newcastle</td>
<td>60 Miles</td>
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<tr>
<td>Bathurst</td>
<td>120 Miles</td>
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<tr>
<td>Goulburn</td>
<td>140 Miles</td>
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<tr>
<td>Port Macquarie</td>
<td>200 Miles</td>
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</table>

As the time seems to me to be arrived, when the Home Government may reasonably expect to be relieved from the expense of maintaining some of these Establishments, I have given notice of my intention (subject to Your Lordship's approval) speedily to discontinue the Hospitals at Windsor, Bathurst and Goulburn.

As it is however extremely desirable that some establishments should be still maintained in these places for the gratuitous treatment of sick and indigent persons, I have proposed to the Magistrates of the different Districts the formation of Institutions of the nature of County Hospitals in England, to be supported either by voluntary subscription or Local rates, with probably some assistance from the Government; and, in so doing, I have promised to endeavour to procure from Her Majesty's Government a transfer of the existing Hospital Buildings and of such land as may be attached to them to the Trustees, who may be appointed to manage the new Institutions.

I beg to point out to Your Lordship that, in making such a transfer, the Government will only be acting in conformity with a long established principle, namely, that, when a charge previously borne by the Mother Country is transferred to the Colony (as in the case of Police and Gaols), the buildings connected with the charge shall be transferred with it.
The Hospital buildings may, I conceive, unquestionably be sold by the Home Government; but the sums produced by their sale would be but trifling, whilst the selling of them would be considered illiberal, and I have little doubt would render impossible the establishment of such Institutions as those which I have spoken of.

I enclose a letter from the Commanding Engineer in the Colony (Lieut. Colonel Barney), respecting these Buildings, accompanied with Plans of each of them.

In connexion with this subject, I beg leave to refer to the correspondence,* which took place respecting the South Wing of the General Hospital at Sydney, and to state that, though I received Your Lordship's authority to convey this Wing to the Managers of the Sydney Dispensary in order to facilitate in Sydney the formation of an Hospital for Paupers, the present occupation of this Wing of the building as a Storehouse, and the probability which still exists of its being claimed by the Board of Ordnance, have operated in such a manner as entirely to frustrate the benevolent intentions of Your Lordship; and that there appears no probability at present that the People of Sydney will ever derive benefit from the favorable way in which their application was entertained by Your Lordship.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

[Copy of this letter is not available.]

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 9, per ship Maitland.)

Sir, Downing Street, 2 October, 1841.

I have received a Petition addressed to Her Majesty by several of the Inhabitants of the District of Port Phillip, praying that the Province of Australia Felix may be formed into a separate Government.

I beg that you will acquaint the Petitioners that I have laid their Petition before the Queen, and that Her Majesty has been pleased to receive it very graciously.

I am, &c.,

STANLEY.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 199, per ship Amelia; acknowledged by lord Stanley, 16th May, 1842.)


Recurring to the subject of Finance and to the necessity which has been so often urged upon me by Your Lordship of exercising economy in the expenditure of this Government, and more particularly repeated in Your Lordship’s Dispatch, No. 199 of the 10th Feb., last, I think it right to lay before Your Lordship a Copy of a letter, which, previous to the receipt of that Despatch, I had caused to be written to Mr. La Trobe, on the subject of expenditure for Public Works in his District, as well as a Copy of the answer to the same, which I have received from Mr. La Trobe.

I beg to assure Your Lordship that I have not, in forwarding these papers, the remotest intention of either openly or covertly making a charge of extravagance against Mr. La Trobe.

I, on the contrary, anxiously avail myself of this opportunity to express to Your Lordship how cordially and entirely Mr. La Trobe has carried out all my views within the limits of his District, and the very high sense I entertain of his merits as a Public officer; my sole object is to shew to Your Lordship that, whilst I have on the one hand been ever anxious to satisfy the reasonable demands of the District, I have on the other (uninfluenced by the loud and reproachful clamour raised against me for my parsimony) resisted such demands as appeared to me excessive.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

[Copies of these letters, dated 31st July and 9th September, 1841, will be found in a volume in series III.]

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 200, per ship Amelia.)

My Lord, Government House, 4th Octr., 1841.

I have had the honor to receive Your Lordship’s Despatch of the 3rd March, 1841, No. 213, requiring me to furnish any information in my power, respecting Victor Barland, a Frenchman who came to New South Wales in the year 1831 with the late Governor of the Colony, Sir Richard Bourke, in the capacity of Cook.

In reply, I have the honor to inform Your Lordship that Victor Barland was drowned in the month of April, 1835, by
falling overboard, whilst proceeding in a Sloop called the "Mermaid" from Sydney to the River Hawkesbury.

I enclose a Copy of the Inquest, which was held on his body, covered by a letter from the Attorney General, in which it is certified that, although the deceased is called at the Inquest Victor Bernard, there is no doubt whatever of his being the person Victor Barland, who came to New South Wales with Sir Richard Bourke.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

ATTORNEY-GENERAL THERRY TO COLONIAL SECRETARY THOMSON.

Sir,

Attorney General's Office, 24th September, 1841.

In compliance with His Excellency's directions, I have the honor to transmit an authenticated Copy of the proceedings at the Coroner's Inquest held in 1835 by Mr. Horne of Windsor on the body of Victor Barland (a Frenchman), who was drowned in the Hawkesbury.

The discrepancy in the name Bernard for Barland is immaterial, as there can be no doubt that the Inquest refers to the Individual about whom inquiry has been made. This trivial error may be accounted for by his being a foreigner, and by the circumstance also of his having been a short time in the District of Windsor before the fatal accident occurred. I have, &c.,

R. THERRY, Atty. Genl.

[Sub-enclosure.]

INQUEST ON BODY OF VICTOR BARLAND.

An Inquisition indented, taken for Our Sovereign Lord the King, at the residence of Mr. Thomas Crawford, Lower Portland Head, in the County of Cumberland, the first day of May in the Fifth Year of the Reign of Our Sovereign Lord, William the Fourth, by the Grace of God of the United Kingdom of Great Britain and Ireland, King, defender of the Faith, before John Howe, one of the Coroners of Our Said Lord the King, for the Said County, on view of the body of Victor Bernard then and there lying dead, upon the Oath of the following good and lawful men of the Said Territory named below.

Thomas Wm. Penton, foreman; Solomon Wiseman; Thomas Wiseman; Robert Johnstone; David White; Anthony Shaw; Thos. Green; Jas. Harvey; Thos. Darcy; Thos. Smith; Jas. Ascough; Michael Tobin; duly chosen, and who, being then and there Sworn and charged to enquire for Our Said Lord the King when, where, how and after what manner the Said Victor Barnard came to his death, do upon their Oath Say: That the Said Victor Barnard, on the Afternoon of Wednesday the twenty ninth day of April last, being then on his passage from Sydney to the Hawkesbury on board
the Mermaid Sloop between Sydney Heads and Broken Bay, he the
said Victor Barnard accidentally fell overboard and was drowned.

In Witness whereof as well the Said Coroner as the Jurors
aforesaid have to this Inquisition put their hands and
Seals the day and Year and at the Place first above-
mentioned.

JOHN HOWE, CORONER.

THOMAS WM. PENTON.

SOLOMON WISEMAN.

THOS. WISEMAN.

ROBERT JOHNSTONE.

DAVID X WHITE.

ANTHONY SHAW.

JAS. x HARVEY.

mark.

mark.

mark.

mark.

mark.

EVIDENCE taken on an Inquest holden at the residence of Mr.
Crawford, Lower Portland Head, the 1st day of May, 1835,
on view of the body of Victor Barnard.

JAS. x DARCY.

mark.

THOS. x SMITH.

mark.

JAS. x ARCOUGH.

JAS. x ASCOUGH.

MICH. x TOBIN.

Sworn before me the 1st of May, 1835._JOHN HOWE, CORONER.

Mr. ALEXR. BOOKS, being duly Sworn, deposeth, that he left Syd-
ney in the Mermaid Sloop on Wednesday last; they cleared Sydney
Heads about ½ past 1 O'clock and bore away for Broken Bay, and,
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1841.
4 Oct.

Inquest on body of V. Barland.

when about 1½ miles from the South Head (about 4 o'clock). Deponent heard a plunge and the Master immediately said the man is overboard; the Sloop was running fast and Deponent saw the man astern of the Vessel; the Square Mainsail was put down, and every exertion was made to put the sloop about. She was put about several times before the body could be hooked. Deponent thinks it was ¾ of an hour before the body was got on board.

Deponent hooked the Watch chain of the Deceased, which broke; he then hooked him under the arm, when a lad held him by the fingers until Deponent got better hold and he was brought on board; the Mermaid then stood on for Broken Bay and up the Bay to the River Hawkesbury; they made near to Mr. Wiseman's the following morning's tide; the Boat was sent forward to Mr. Wiseman's to inform him thereof; When the Vessel got outside the Heads, the Master wanted the Deceased to go down below, but he said No, he had been at sea before.

ALEXR. BOOKS.

Sworn before me the 1st of May, 1835.—JOHN HOWE, Coroner.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 12, per ship Maitland; acknowledged by Sir George Gipps, 4th December, 1842.)

5 Oct.

Despatch acknowledged.

Sir,

Downing Street, 5 October, 1841.

I have received your Dispatch, No. 90 of the 9th of April last, enclosing Copies of a Letter from the Revd. J. Docker, and of a Report from Mr. Robinson, the Chief Protector of Aborigines, relative to some Collisions with the Natives in the Vicinity of the Ovens River.

I regret that I cannot concur in the opinion, which you have expressed, that the Report of Mr. Robinson is satisfactory. Contrasting the account of the Aborigines given by Mr. Docker with those given by Mr. Mackay, and the different terms on which those Gentlemen appear to be with them in the same vicinity, I cannot divest myself of the apprehension that the fault in this case lies with the Colonists rather than with the Natives. It was natural that conduct so harsh and intemperate as that of the Messrs. Mackay should be signally visited on them, and probably also on wholly unoffending persons, by a race of uninstructed and ignorant Savages.

At the same time, the case of Mr. Docker affords a most satisfactory instance of Natives entering into permanent service with White men, and working, as they appear to do, steadily for Wages.

I should wish to receive your opinion whether the Settlement at the Ovens River is of sufficient importance to justify the Appointment of a Subordinate Agent there as Protector of Aborigines. You will also take such steps as you may judge necessary or practicable, with reference to the homicide of the Native
“Micky,” which, from Mr. Mackay’s own account, appears to have been utterly indefensible. How far it may be practicable to institute successfully any proceedings against him for that act, it is of course impossible for me to judge; but, as the matter is represented in his own report, the case appears to me to call for such proceedings.

I entirely approve of your having recalled Benjamin Reid, and deprived him of his Ticket of Leave, altho’ it is difficult to say that he was the greatest offender in the Party. I am, &c.,

STANLEY.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 201, per ship Amelia; acknowledged by lord Stanley, 19th May, 1842.)

My Lord,

Government House, 5th Octr., 1841.

I have the honor to forward herewith a Copy of a letter, addressed by the Collector of Customs of this Colony to the Colonial Secretary, representing that a new First Clerk has been sent out from England, though the former one has not been removed or in any other way disposed of.

As I have not considered it proper to burthen the Colony with the payment of two first clerks, I beg leave to submit the matter for Your Lordship’s consideration.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

MR. J. GIBBES TO COLONIAL SECRETARY THOMSON.

Sir, Customs, Sydney, 28 September, 1841.

Mr. Thomas King having been appointed by the Lords of the Treasury to the office of First Clerk at this Port and no instructions having been received in respect to Mr. Peter Stewart, who was also appointed to the same office by Their Lordships in 1838, I beg to know in what way I am to act in respect to the Salaries of these Gentlemen.

By a letter from the Secretary of the Board of Customs, dated the 13 April last, enquiry is made respecting the health of Mr. Stewart (who had been sick absent for some time in 1840) designating him as First Clerk. By another letter from the Board, dated the 17 of the same month (copy of which was furnished to the Governor from England), it was stated that the salaries of the Clerks were increased, and that a First and a Sixth Clerk would be sent out, at which time however the Commissioners were aware that Five Clerks were employed and paid; and, in six weeks after the first mentioned letter of Mr. Scovell, the notification of Mr. King’s appointment (copy of which is enclosed) was written. It is not usual in this Department to supersede or put back any person without some cause; and, as Mr. Stewart has committed no offence, I apprehend he cannot be displaced from his position of First Clerk or the advantages attached to it, unless by Promotion or Superannuation; for, to say nothing in regard to Mr. Stewart himself,
such a measure would be most unjust to the Second clerk (and of course all below him), as he would not only be removed a step farther from the chance of Promotion to the first seat, but would be kept on the old rate of Salary, after he had for a short time been in receipt of the increased rate.

I therefore conceive that, until Instructions are received from home, Mr. Stewart should receive his full Salary, although he may yield up his seat to Mr. King, and that the other Clerks should enjoy the advantage of the rise in the Salaries, but having no person in the sixth seat.

I have, &c.,

J. GIBBES, Collector.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(My Lord, Government House, 6th Octr., 1841.)

My Lord,

I have the honor herewith to forward a Copy of an application from Mr. George Starbuck, a Native of the United States, to be admitted to the privileges of a free Denizen in this Colony; and, as he has been favorably recommended to me by persons of respectability residing in Sydney, as well as by the American Consul (Mr. Williams), I have respectfully to request that I may be furnished with Your Lordship's authority to issue to him Letters of Denization, under the Local Act of this Colony, 9th Geo. IV, No. 6.

I have, &c.,

GEO. GIPPS.

[Enclosure.]
LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 13, per ship Maitland; acknowledged by Sir George Gipps, 22nd April, 1842.)

Sir,
Downing Street, 7 October, 1841.

I transmit to you, herewith, a copy of a Letter from Mr. John Bruce, making enquiry respecting certain Landed Property in New South Wales left by the late Dr. William Balmain; and I have to request that you will furnish me with any information, you may be able to obtain, relative to the disposal of that Property.

I am, &c.,
STANLEY.

[Enclosure.]

MR. J. BRUCE TO LORD STANLEY.

May it please your Lordship, Pertholme, 20 Sept., 1841.

As a party holding a contingent interest in the estate of Dr. William Balmain, deceased Surgeon in His Majesty's service in the Colony of New South Wales, your Lordship, I trust, will excuse me for seeking information on the following points:—

Do the records of the Colonial Office contain any record of Lands held by Dr. William Balmain near Sydney about 40 years ago? It has been brought to my knowledge that several tracts of Land called the Balmain Estate were advertised for sale in the Sydney Papers about the close of 1839. Has the Department under the direction of your Lordship the means of saying whether these Lands were sold? Might I request to be informed of the time that must elapse in the Colony before Lands unclaimed by Legal heirs can be sold, and whether Lands thus situated may be sold for the non payment of taxes, and whether they can be recovered, if alienated in either way.

I am, &c.,
London, 20 Sept. J. BRUCE.

I have reason to know that the above is all true.

L. OLIPHANT, J.P.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 14, per ship Maitland.)

Sir,
Downing Street, 8 October, 1841.

You were informed by my Predecessor's Dispatches of the 22nd of May and 19th of August last that the Revd. Messrs. Vaughan and Wall were about to proceed to New South Wales as Roman Catholic Clergymen. I have now to acquaint you that I have authorized the issue of the usual allowance of £150 for outfit and passage to the Revd. Messrs. Burke and McCarthy, who have been substituted by Dr. Polding for Messrs. Vaughan and Wall who have declined proceeding to the Colony.

I am, &c.,
STANLEY.

* Note 75.
Submission of private acts for Hunter river steam navigation company; and for Mutual fire insurance association.

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

I have the honor to forward herewith, for the Gracious allowance of Her Majesty, Two Private Acts passed in the present Session of the Legislative Council:

5th Vict. — "An Act for facilitating proceedings by and against the Hunter’s River Steam Navigation Company, and for other purposes therein mentioned."

This Act is similar to the Acts usually passed in this Colony to allow companies to sue and be sued in the name of one of their Officers.

The Company is not incorporated, nor are the Members of it released from individual responsibility.

The 2nd Clause of the Act prevents the Company from engaging in the Discount of Bills, or in any way in the business of Banking.

5th Vict. — "An Act to enable the Members of an Association, called the Mutual Fire Insurance Association, to sue and be sued in the name of the Chairman of the said Association for the time being, and for other purposes therein mentioned."

This Act somewhat differs from the nature of those usually passed in the Colony for the establishment of Trading Companies, as the Company itself is different.

It is formed on the principles of a Benefit Society, and the object, held in view in the formation of it, is to enable the Company to carry on the business of Insurance against loss by Fire, without the necessity of having a large subscribed capital.

To dispense with such a Capital is, I consider, desirable, as far as it can safely be done, because, there being no public funds or securities in the Colony, there is no method of employing such a Capital, except in discounting Bills; and the extent, to which discounts* have been carried in the Colony, is universally allowed to be one of the chief causes of the depression, under which the Commercial interests in it are now labouring.

The 8th Rule, appended to and forming part of the Act, provides for the supply of funds, which it is hoped will be sufficient to enable the Company to meet the demands upon them for losses by fire, without being under the necessity of calling for frequent contributions from the Members of the Association. But, when these funds are insufficient, calls must be made on the Members in the manner pointed out in the 8th Clause of the Act.

* Note 76.
The 2nd Clause of the Act prohibits the Company from engaging in any way in the business of Banking.

As these Acts do not come in force until allowed by Her Majesty, I have respectfully to request that Her Majesty's pleasure may be taken on them as early as convenient.

I have, &c,
GEO. GIPPS.

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LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 15, per ship Maitland.)

Sir,
Downing Street, 10 October, 1841.

The Schedule of Appointments to Public Offices and Payments of a Special nature in New South Wales for the Quarter ended the 31st December, 1840, which accompanied your Dispatch of the 17th of January last, having been referred for the consideration of the Lords Commissioners of the Treasury, I have received a communication from that Board stating that the Commissioners of Audit have been directed to admit these Charges, with the exception of the Salary of £800 per annum to the Master in Equity, and the several payments on account of New Zealand, upon which the Lords of the Treasury reserve their decision until they shall have received further explanations on the subject.

I am, &c,
STANLEY.

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SIR GEORGE GIPPS TO LORD JOHN RUSSELL.
(Despatch No. 205, per ship Amelia; acknowledged by lord Stanley, 28th May, 1842.)

My Lord,
Government House, 10th Oct., 1841.

I have the honor to forward herewith, for Her Majesty's Submission of act for amendment of act re punishment of female offenders.

Most Gracious Approval, an Act of the Governor and Council of this Colony, intituled, "An Act to repeal so much of an Act, intituled 'An Act to abolish the transportation of Female Convicts, and to provide for the more effectual punishment of female offenders, within the Colony of New South Wales,' as authorizes the confinement of any female offender in a dark Cell."

I have the honor to report that this Act has been passed in pursuance of the instructions conveyed to me in Your Lordship's Despatch No. 137 of the 31st Augt., 1840, written at the suggestion of the Home Inspectors of Prisons, who object to the confinement, under any circumstances, of women in dark cells.

I beg to assure Your Lordship that I have no desire to enter into a controversy with the Inspectors on the propriety of
imprisonment in dark cells, either for men or women, nor is there any leaning in my mind in favor of dark cells over light and airy ones; I consider it, however, due to myself to lay before Your Lordship the reasons, which induced me, in the Act of 1839, to introduce as a punishment for women, confinement in cells of this nature; they are as follows:—

Confinement in the Prison called the Female Factory at Parramatta is the ordinary condition of women serving under sentences of transportation in New South Wales; and, before I left England, I was directed to take measures for placing a portion at least of these women in separate confinement.

In pursuance of these instructions, I immediately, on my arrival in the Colony, caused a range of Cells to be erected, which does not consist, as is erroneously supposed by the Inspectors, of 72 cells of narrow dimensions, but, as these gentlemen might have seen by the Plans then before them, of 36 cells of the dimensions approved by themselves, light and airy, and, of the 36 other Cells, which, though they are only of half the dimensions of the former, were airy and wholesome, even before light was admitted to them.

The Cells of the larger size were intended for the separate confinement of women of notoriously bad conduct, or women who were habitually troublesome in the Factory; and I never doubted my power to order such women into separate confinement, even though they might not have been convicted of any offence in the Colony.

For the punishment of women, who might have been convicted of a fresh offence, the smaller (dark) cells were intended; and, when it is considered that separate confinement is the highest punishment which can now be inflicted on women, who, having originally come to New South Wales as Convicts, may have been subsequently convicted in the Colony of any crime short of murder, it seemed to me necessary to devise some species of confinement, which should differ in degree from that which I was in the habit of subjecting women to, of my own sole authority, for breaches merely of discipline or irregular behaviour in the Factory.

Openings having now however been made in these Cells to admit the light, and imprisonment in dark cells being declared illegal, the Judges of the Colony have no longer the power to punish a woman convicted before them of any second offence (short of murder) in a severer degree than I formerly considered I had the power to punish women, who had committed no second transportable offence, but had been guilty only of habitual irregularity in the Factory; in fact the power of the Judges is not so
great as that, which I formerly exercised, for, under the altered form of the Act, they can now only sentence a woman to confinement in a light cell for 60 days in a year, in three portions of 20 days each, whereas I formerly considered that I had the power of placing a woman in a similar cell (which is in fact no cell at all, but only a small comfortable room) for an indefinite period.

In order therefore to preserve some distinction in punishments, I have considered it right to discontinue the practice of placing women in separate cells for mere irregularity of conduct; and in future, whenever it is necessary to separate ill-conducted women from the rest, they will be placed, not separately, but two or three together in a cell, Books and Needlework or other employment being of course afforded them.

With respect to the other recommendations contained in the letter from the Inspectors of Prisons, I must beg leave to observe that the Inspectors do not appear to have borne in mind the immense masses of Prisoners, which we have to deal with in this Colony, and the intolerable expense which would be occasioned by building a separate, light and airy apartment for each.

I will only observe that, in the Female Prison, respecting which I have been writing, there are at present very nearly 900 women and 400 children; and that, in the New Gaol (on the separate system) at Darlinghurst near Sydney, which, though not yet half finished, has cost the Colony upwards of £50,000, it is found necessary to place occasionally as many as six Prisoners in the space or Cell that was intended for one.

A full report on the Female Factory was transmitted to Your Lordship in my Despatch of the 1st Octt., 1840, No. 142, and I shall shortly do myself the honor to forward another in continuation of it.

I have, &c.,

Geo. Gipps.

[Enclosures.]

[These were copies of the supplement to the "Government Gazette," dated 7th December, 1839, and of the act of council, 5 Vict., No. 3.]

Sir George Gipps to Lord John Russell.

(Despatch No. 206, per ship Amelia; acknowledged by lord Stanley, 14th July, 1842.)


I have the honor herewith to forward, for the Gracious Transmission of approval of Her Majesty, an Act of the Governor and Legislative Council of this Colony, intituled,
"An Act to amend, and to extend to Port Phillip an Act, intituled 'An Act to consolidate and amend the Law relating to the Savings Bank of New South Wales.'"

The object of this Act is the establishment of a Savings Bank in the Port Phillip District, similar to (though distinct from) that which exists in Sydney; in reporting on it, however, it is necessary that I should reply to Your Lordship's Despatch No. 163 of the 12th Oct., 1840, wherein I was directed to propose to the Legislative Council certain amendments in an Act passed by the Council in 1839, 3rd Vict., No. 12, for the regulation of the Sydney Savings Bank, those alterations having been suggested by Mr. Tidd Pratt, in a letter, of which a copy accompanied Your Lordship's Despatch.

Having communicated Mr. Tidd Pratt's suggestions, and Your Lordship's instructions to the Attorney General, I received in reply from that Officer a Paper containing "observations," of which a Copy is enclosed marked A, and, having made the same communication to the Vice President and Trustees of the Bank, I received from them in reply the documents, of which I also enclose copies marked B 1 and B 2.

I next laid the whole of these documents, as well as Your Lordship's Despatch and Mr. Tidd Pratt's letter, before a Committee of the Legislative Council, and the Report of this Committee I further enclose, marked C.

These several documents will I trust sufficiently explain to Your Lordship the reasons why the alterations, recommended by Mr. Pratt in the Act of 1839, have not been carried into effect.

An important amendment however, calculated greatly to increase the security of the Bank and to obviate Mr. Tidd Pratt's objections, has been introduced into the Act of the present year.

The "Rest" or Security Fund of the Bank is, by the 5th Clause of the Act, greatly increased. It formerly, by the 3rd Vict., No. 12, S. 14, was only £400, but is now gradually to be increased, until it amount to one-twentieth of the whole sum deposited; and reckoning the deposits only at their present amount, £160,000, will of course in a few years increase to £8,000.

I trust that the present Act may, on Your Lordship's recommendation, be Graciously allowed by Her Majesty.

I have, &c,
GEO. GIPPS.

[Enclosure No. 1.]

[This was a copy of the act of council, 5 Vict., No. 5.]

[Enclosures Nos. 2 and 3.]

[These papers were printed in the "Votes and Proceedings" of the legislative council.]
GIPPS TO RUSSELL.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.
(Despatch No. 207, per ship Amelia.)

My Lord,


I have the honor herewith to forward to Your Lordship an Act, passed in the present Session of the Legislative Council of this Colony, authorizing the Governor to detain for one year, within the Colony of New South Wales, offenders sentenced to Transportation, who would otherwise, under the Law of the Colony, be sent to Norfolk Island, they being persons who, having come originally to the Colony as Convicts, have been convicted of transportable offences in it.

This Act has been passed, in order to carry into effect the directions contained in Your Lordship's Despatches named in the margin, for discontinuing the Transportation of Criminals from this Colony to Norfolk Island, and for reserving that Island as a place of transportation for offenders from England under the management of Captain Maconochie.

In explanation of the reasons why this Act has not been passed sooner, and why it is now passed only for a year, I beg to report as follows to Your Lordship.

The suggestion, contained in Your Lordship's Despatch of the 6th July, 1840, that persons, convicted of second offences in New South Wales, might be confined on Goat Island or at some other place within the Colony, excited much apprehension amongst the Colonists.

It was generally maintained that no place of sufficient security could be found within the Colony for the safe custody of men, who are for the most part of very desperate character; and that objection to Goat Island in particular was an unfit one for them, being within a mile of Sydney, and already occupied by a Magazine of Gun powder.

I had, moreover, not only to provide for the men who might thenceforward be convicted of second offences in New South Wales, but also to find a place of safe custody, to which the Prisoners of the same class (about 1,200 in number) already at Norfolk Island might be removed, as otherwise it would be impossible to appropriate that Island exclusively to the men under Capt'n Maconochie's course of training; and it is necessary for me further to point out that, in the concluding paragraph of my Despatch of the 1st March, 1840, No. 33, I had observed that, if the doubly convicted Prisoners were to be removed from Norfolk Island, it seemed to me that they must either be placed in some other Island in the Pacific, or in a Penitentiary of the strictest kind within the limits of New South Wales.

* Marginal note.—No. 96, 6th July, 1840; No. 223, 16th March, 1841.
On more mature consideration however, it occurred to me that one penal station of this nature might suffice for the two Colonies of New South Wales and Van Diemen's Land; and, as the formation of a Penal station at King's Island, in Bass' Straits within the Government of Van Diemen's Land, had been suggested in Your Lordship's Despatch of the 6th July, 1840, I deemed it right to communicate on the subject with the Lieutt. Governor of Van Diemen's Land, before I incurred, or recommended Her Majesty's Government to incur, the expence that must be attendant on the adoption of either of the measures alluded to.

The proposal, which I made to Sir John Franklin for the removal of the doubly convicted Prisoners from Norfolk Island either to King's Island or to any other Penal establishment within his Government, was not however, I regret to say, acceded to, nor did Sir John Franklin favor the project of having only one Penal station for both Colonies, unless some new locality could be selected for it beyond the present limits of his Government, such for instance, as Auckland Island, which lies in South Latitude 51°, and Longitude 166° East.

For the reasons which I have thus stated, the instructions, which I had received from Your Lordship, for discontinuing transportation from New South Wales to Norfolk Island remained unexecuted, when I received (on the 7th Augt. last) Your Lordship's Despatch No. 223 of the 16th March, 1841, repeating the same orders.

The position, in which I found myself then placed, was as follows:

The Law of the Colony (3rd Wm. IV, No. 3) required me to send all doubly convicted offenders to Norfolk Island; but, by Your Lordship's instructions, I was forbidden to do so; the Law could only be altered by an Act of Council, which I knew the Council would be disinclined to pass unless indeed the men could be sent to Van Diemen's Land, where however the Lieutt. Governor refused to receive them.

Under these circumstances, I have procured from the Legislative Council the Act now submitted for Her Majesty's approval, authorizing me to detain in the Colony for one year the men who would otherwise be sent to Norfolk Island, in order to afford time for the receipt of the decision of Her Majesty's Government as to the ultimate disposal of them.

The spot where I intend to detain them is Cockatoo Island, which I consider the place of greatest security within the Colony, not actually a Prison. Some account of this Island, and the purposes to which it has been lately applied, was given in my Despatch of the 8th July, 1839, No. 102.
STANLEY TO GIPPS.

The number of men transported in each of the last three years from New South Wales to Norfolk Island was about 280; but the number to be disposed of in 1842 will not, I hope, much exceed 200, and will naturally decrease in each succeeding year.

If I could be permitted to send one fourth or even one-fifth of them to a penal station, either in Van Diemen’s Land or elsewhere, I think the remainder might safely be kept on Cockatoo Island; and I should, I think, have little difficulty in obtaining from the Council in such case a renewal of the present Act; but, unless I have the power to send away from New South Wales men of known desperate character, and those who may have formed dangerous connexions in the Colony, I greatly fear that no precautions, I can adopt, will ensure their safe custody, or remove the apprehensions of the Colonists.

The principal object of this Despatch is therefore to solicit from Your Lordship an authority such as is necessary to enable me to remove them.

On other important matters connected with Norfolk Island, and especially in relation to the instructions respecting it, contained in Your Lordship’s Despatch of the 12th Novr., 1840, No. 172, I shall shortly again have occasion to address myself to Your Lordship.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

[This was a copy of the act of council, 5 Vict., No. 8.]

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 16, per ship London.)

Sir,

Downing Street, 14 October, 1841.

My Predecessor, in his Dispatch No. 307 of the 16th July, expressed to you in strong terms the disapprobation which he felt of the measures which you had taken in respect of Bounty Orders for Immigration into the Colony under your charge. It is with very sincere regret that, at the commencement of my official Correspondence with a Gentleman whose zeal and ability in the discharge of his public duties have been generally so conspicuous, I am compelled to adopt to the full extent the language of censure which Lord John Russell felt himself under the necessity of using, and to take steps which may appear to weaken your personal authority in the Colony over which you preside. But the dangers to the welfare of that Colony, arising out of the improvident Course, which you have allowed yourself to pursue, in disregard of positive Instructions, are so serious and so imminent as to supersede all other considerations, and to compel me

1841.
13 Oct.

Regret at necessity for removal of desperate convicts from colony.

14 Oct.

Necessity for removal of desperate convicts from colony.
to resort, as I am assured my Predecessor would have resorted, to the most decided measures to arrest or mitigate the impending evils.

I am not now about to enter into the discussion of the comparative merits of the two systems of conducting Emigration from this Country to the Australian Colonies, which may be denominated respectively the "Government Emigration System" and the "Bounty System." One principle is common to both of them, namely, that the surplus revenue of the Land Fund, after deducting such charges as it may be thought right to impose upon it, should be applied, under proper authority, to the importation into New South Wales of Emigrants of the Labouring Class, accompanied by their Families.

The System originated with Sir Richard Bourke; and, on the 23rd of March, 1837, the following Instructions were conveyed to him:

"I have to request that, in furtherance of the proposal contained in the inclosed Letter, you will, at the commencement of each Financial year, transmit to the Secretary of State a Statement of the Balance, if any, of the Fund applicable to Emigration remaining unexpended at the close of the preceding year, together with an estimate of the probable amount of the Funds to be derived from the Sale of Crown Lands within the Colony, and applicable to the same service during the ensuing Year. You will consider yourself at liberty to appropriate One Third of this Sum to the payment of Bounties on Emigrants introduced by Private Settlers in the terms of your Government Notice of the 28th of October, 1835; and the remaining Two thirds will be expended under the directions of the Chief Agent for Emigration in this Country. You will at the same time transmit to me a detailed statement of the Expenditure during the preceding year of the One Third, which will have been appropriated on the terms of the notice to which I have referred."

It does not appear that the Estimates required by these Instructions, and upon which the whole scheme was founded, have ever been furnished; and there have, consequently, been no fixed data upon which the Division of the Emigration Funds between the two Systems could be effected. But in the meantime the Bounty System materially altered its character. Upon the recommendation of the Committee of Legislative Council, the Scale of Bounties was increased, and they were made as nearly as possible equal to the actual Passage Money. Proprietors and Settlers, moreover, did not nominate and select the Emigrants, but the real practice soon became that the Correspondent of

* Note 77.
some extensive Ship-Owner in England applied at Sydney for large Orders without any particular proprietor requiring the labour, and the Ship-owner then sent out the numbers sanctioned, trusting to the general fitness of the people for enabling him to obtain the Bounty. Nevertheless, as originally intended, the two Systems, the one under the management in this Country of the Government Emigration Agent, the other under that of private Individuals and Ship-owners, remained in operation together until the end of the Year 1839. The numbers, who were conveyed to the Colony in that time, and the expense of their conveyance, appears to have been as follows.

<table>
<thead>
<tr>
<th>Year</th>
<th>No. Sent out by Home Government</th>
<th>Expense</th>
<th>No. Arrived in Colony on Bounty</th>
<th>Expense</th>
</tr>
</thead>
<tbody>
<tr>
<td>1837</td>
<td>2,688</td>
<td>£43,341</td>
<td>742</td>
<td>£8,585</td>
</tr>
<tr>
<td>1838</td>
<td>6,463</td>
<td>£122,318</td>
<td>1,622</td>
<td>£22,398</td>
</tr>
<tr>
<td>1839</td>
<td>4,096</td>
<td>£89,414</td>
<td>2,814</td>
<td>£43,020</td>
</tr>
</tbody>
</table>

I have already stated that it is not my intention to enter into the comparative merits of the two Systems, which have been largely discussed here and in the Colony during the last three Years, the Colonial Authorities giving the preference on the score of cheapness to the Bounty System, but wholly overlooking, or disregarding, not only the division of the Funds directed by Lord Glenelg, but also the still more important question how far the available funds are able to meet the charges thus imposed upon them. An attention to the positive Instructions of my Predecessors on this subject would have enabled you to avoid much of the serious inconvenience, to which I am about to advert.

In the year 1840, altho' no official Report had been received from the local Government of the number for whose Importation upon Bounty Orders had been issued, it was obvious from the Advertisements of the Bounty Agents in this Country that a great extension had suddenly been given to this species of Emigration; and prudence required that an entire stop should be put to the Emigration managed by Government Officers. The Commissioners of Land and Emigration, in the Report which mentioned this circumstance, pointed out some evils with which they considered the Bounty System might be attended, but, in deference to the opinions entertained in its favour by the Colonial Authorities, abstained from any positive recommendation until the large Experiment then commencing should have been tried.

Subsequently to the receipt of this Report, Lord John Russell informed you, in his Dispatch of the 7th of October last, No. 160, that this description of Public Emigration must in future be
carried on under the Superintendence of the Board of Emigration, and directed that all parties obtaining Orders for the introduction of Labourers on Bounty should put themselves in Communication with the Commissioners, whose duty it would be, by themselves or by their Agents, to inspect and communicate with the Emigrants, as well as ascertain that all the necessary arrangements for their safety, health and comfort during the voyage had been made. The Commissioners were further instructed to state what would be the necessary steps for carrying Lord John Russell's intentions into effect. In proposing the Plan thus called for, reference was necessarily made to the evils and abuses, which had been found to exist, or which were likely to arise from the circumstance that numbers of inexperienced persons were now entering into the Trade. In their letter to Mr. Stephen of the 16th Novr., 1840, the Commissioners mentioned two instances which had recently occurred of improper Conduct on the part of Bounty Agents in their dealings with Parties whom they engaged to convey to the Colony. The Commrs. were then directed to issue the following Notice in the Gazette:—


"WHEREAS it has been made to appear to the Commissioners of Colonial Land and Emigration, and by their report to H.M.'s Government, that abuses have arisen in certain cases of Vessels fitted out or advertised for the conveyance of Emigrants to New South Wales on Bounties to be received by the Local Government, now, in pursuance and by authority of instructions from H.M.'s Secretary of State for the Colonies, the Commissioners do hereby give notice to all whom it may concern that, if Emigrants shall hereafter be removed from this Kingdom to New South Wales by persons who hold orders for Bounties on the introduction of Labourers or others into that Colony, it will be necessary, in order to entitle the claimants to receive such Bounties, that they should obtain from the Officers acting under the Orders of H.M.'s Commissioners for Land and Emigration at the Ports from which the Emigrant Vessels may respectively sail, Certificates, addressed to the Governor of New South Wales, to the effect that the Emigrants are fit and proper persons to be removed at the public expense, and that they are about to proceed 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 so to emigrate; and that all Contracts made with the Emigrants have been duly carried out; and further that the Vessels in which the emigrants are about to sail are in every respect sound and sea-worthy and properly manned, and provided with all things requisite for the
maintenance, health and necessary comfort of the Emigrants during the Voyage; which Certificates, on due proof being made of these facts, the various Emigration Agents before mentioned will be prepared to issue on application at their respective Offices.

"By Order of the Board,

"S. WALCOTT, Secretary."

In this state of things, my Predecessor received your Public Dispatch No. 29 of the 31st of January, and your Dispatch marked "Confidential" of the 1st of February, 1841, and addressed to you that of the 16th of July, No. 307.

In that Dispatch, Lord John Russell adverts to your expectation that a great portion of these Orders would be ineffectual, because it would be impossible to execute them within the prescribed period of two Years. And, while I am compelled to say that I concur with him in thinking that this supposed fact greatly enhanced the improvidence of the measure, I regret to add that experience has proved how great was the miscalculation under which you were induced to take so extraordinary a step.

Upon ascertaining that Bounty Orders had been issued by you amounting upon the lowest assumption to not less than £979,562, while, upon the largest possible estimates, the Land Revenue applicable to the purpose of Emigration could not be expected to amount in the two Years to the sum of £600,000 (and this is probably an extravagant assumption), Lord John Russell took immediate steps to diminish the pressure which he foresaw must fall upon the Colony. He immediately called upon the Commissioners to furnish any information, which they might be able to obtain as to the number of persons already sent out to the Colony on the Bounty Orders outstanding and in force on the 31st of December, 1840, and also as to the number of such Orders as might still be in the hands of parties in this Country, and were likely soon to be acted on. The Commissioners were also directed to report, as far as the information in their possession would admit, whether it might be possible to reduce within any definite limits that species of Emigration, and, if so, to what extent that reduction would be made, and in what manner it could most conveniently be effected. Having received from the Commissioners a Report, of which a copy is inclosed, Lord John Russell directed the issue by them of a Notice of which I also inclose a Copy.

Notwithstanding these precautions, it appears, by a subsequent statement from the Commissioners which is inclosed, that 18,439 persons had sailed before the 1st of September, and were calculated to arrive in the Colony before the end of 1841, and that, in the single month immediately preceding that date,
1841. 14 Oct.

Restrictions on bounty emigration to be enforced.

Estimates of expenditure on bounty emigrants.

Estimates re available revenue.

Instructions re issue of bounty orders.

10,794 Applicants had passed their Office, of whom it is probable that no great number, if any, can have been included amongst the departures previous to the 1st of September. I shall direct measures to be taken for the purpose of enforcing to the fullest extent the restrictions imposed by my Predecessor; and, immediately after the first of November, I shall furnish you with as exact an account as can be obtained of the total charge imposed upon the Revenues of New South Wales in consequence of the Emigration of this Year. In the meanwhile, the charge for the number of persons expected to arrive in 1841, taking it at the rate of actual cost in 1840, would appear to be upwards of £314,000; if the whole of the Certificates shall be acted upon before November, there will accrue a further demand for more than £170,000 in the first two Months of 1842; and out of 71,815 people, for whom Orders were estimated by you to be outstanding on the 31st December, 1840, a number of 41,082 will still remain to be accounted for, whose conveyance would cost, at the rate of cost in 1840, £663,645. This is the nearest calculation, which it has been practicable to form, because, from the manner in which many of the Bounty Orders appear to be given, authorizing the export of so many “families,” it is impossible to estimate with precision the charge which may devolve in consequence on the Colonial Funds. But, assuming the general correctness of that Estimate, the probable deficiency of the present year appears to be not less than £114,000, and a very large proportion of the available Land Revenue of the next Year is liable to be anticipated in the first two Months, while you have sanctioned further outstanding claims upon that Year’s Revenue to the amount just stated of not less than £660,000. Here I must draw your serious attention to the inclosed letter from the Treasury, pointing out that, from so much of the threatened embarrassments as cannot be averted, the resources of the Colony, and not those of this Country, must be looked to for the means of extrication.

I am well aware that you did not anticipate such a result of your scheme; but I am not the less bound to take every precaution in my power to protect the Colony, and intending Emigrants from this Country, from the evils consequent upon it; and I have, in the first place, to repeat the “distinct and peremptory instruction” conveyed to you by my Predecessor that you “abstain in future from issuing any Bounty Orders exceeding the net amount of the Land Revenue clearly applicable to that purpose during the next succeeding year.” I have also to direct your invariable adherence to a Rule laid down by him that a
Duplicate of every Order issued be transmitted to H.M.'s Govt., the form of which must be carefully prepared by your Legal Advisers, and I have to add that no Order, which is not framed in accordance with these Forms, nor any of which a Duplicate shall not have been received by the Land and Emigration Commissrs. will receive their Certificate, nor be allowed by Her Majesty's Government.

I shall have to address you in a separate Dispatch upon the Abuses which appear to have prevailed in reference to the disposal of Bounty Orders. In my present Dispatch, I apply myself to immediate measures to obviate pressing evils.

In the present circumstances of the funds applicable to the purposes of Emigration, I cannot take upon myself absolutely to sanction the validity of Orders issued prior to January, 1841, and not yet presented to the Land and Emigration Commissrs.; nor will I enter into any undertaking to guarantee the payment of the Sums, to which the Holders of such Orders may lay claim; but, during the period for which they are granted, they certainly have an equitable claim to precedence over all others; and you will, therefore, cause it to be publicly known in the Colony, as I shall cause it to be made known in this Country that no Orders, issued subsequently to the 1st July, 1841, will be allowed or deemed valid by H.M.'s Government; and I shall hold you personally responsible for any issue of money in virtue of any such Order. It is also my intention to give public notice that no Emigration on Bounty Orders will be sanctioned by Her Majesty's Government previous to the 1st of August next. By that time, I hope to be in possession of Accounts from you subsequent to the period of the arrival of the latest of the Emigrants, who may leave this Country in the present year. Immediately on the receipt of this Dispatch, you will furnish me with an accurate account of the number of Emigrants who may have arrived under the Bounty orders outstanding on the 31st December, 1840, of the expense incurred thereby, and of the Land Revenue which shall have accrued in the year applicable to the purposes of Emigration. You will also furnish me with as accurate an estimate as you can form of the probable revenue of the succeeding Year. You will furnish a continuation of the same account and Estimate, so soon as all the Emigrant Ships, which you shall have been led to expect, shall have arrived in the Colony. But under no circumstances will you consider yourself authorized to issue Bounty Orders for the admission of any Emigrants until you shall receive from me distinct instructions to that effect.
I need not say that I look with great anxiety, not only to the derangement of the public funds of the Colony arising out of the excessive Immigration of this year, but also to the consequences to themselves and to the Community of the sudden influx of so unprecedented a number of Immigrants as have been sailing during the last few Months. I shall rejoice to hear that the consequences of this sudden increase of the Population are less serious than I anticipate; but I shall expect the fullest and most accurate account of the manner in which these Immigrants are disposed of; and, for the future, the most rigid adherence to those Instructions which may have been conveyed to you from this Department, whenever I may feel myself justified in sanctioning the issue of Bounty Orders, upon your Authority, for the admission of Emigrants from this Country to New South Wales.

While, in the meantime, I must insist on the strictest attention to the Instructions contained in this Dispatch, I assure you that I have written it with very sincere regret for the tone, which I have been compelled to take, and which has been forced upon me by my deep sense of the imminent dangers to which the credit of the Colony is exposed, and which seem to me to call upon H.M.'s Government for the most prompt and decisive steps to arrest their progress.

I am, &c.

STANLEY.

[Enclosure No. 1.]

[This was a printed copy of the emigration papers, ordered to be printed by the house of commons on the 6th of September, 1841.]

[Enclosure No. 2.]

Regulations.

Colonial Land and Emigration Office,
9 Park Street, Westminster, 31 July, 1841.

The following Regulations have been sanctioned by the Sec. of State:

1st. All orders for Bounty, which are to be acted upon in 1841, are to be sent to this Office before the 1st September next.

2. After the 1st of September next, no certificates of Emigrants will be received at this Office.

3d. No Bounty will be payable in respect of any passenger, who shall leave this Country after the 1st November next.

4thly. All persons, who possess and intend to make use of orders on Bounty, shall produce at this Office on the 1st March, 1842, and in each succeeding year, the authorities under which they act, exhibiting the number for whom they are authorised to look for payment in the Colony.

By order of the Board.

S. WALCOTT, Sec.
LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Colonial Land and Emigration Office, 9 Park St., Westminster, 4 October, 1841.

Sir,

We propose in the present letter to submit, for the information of Lord Stanley, such further intelligence as can at present be attained respecting the progress of the Emigration upon Bounty to New South Wales.

On the 4th of August last, we reported that, of the whole number of persons for whom Bounty Orders were returned by Sir George Gipps as outstanding on the 31st of December, 1840, 15,646 had gone, and that the additional number which the several Agents announced their intention to send before the close of the present year was 13,794, making a Total, in case the Emigration were unchecked, of 29,440. With a view however of limiting these latter numbers, we had been instructed not to receive any certificates of proposed Emigrants for examination at our office after the 1st of September, and further to announce that none could be allowed to sail after the 1st November. The full effect of the measures cannot be ascertained until after the last mentioned date shall have passed. Our only object now is to lay before Lord Stanley such facts as are at present known, with a view of keeping his Lordship possessed of the latest information and of giving an opportunity to convey the same, as will probably be deemed desirable, to the Governor.

Our former statement comprised, as was explained, all persons who at that date were known, or computed, to have sailed so as to arrive in the Colony subsequently to the end of last year; and we can now complete the statement up to the 1st September, an important date, because, making the usual allowance of four months for the passage, the numbers gone up to that period may be considered to constitute the whole numbers who will arrive in the Colony within the year 1841. We find then that the amount of Emigrants on Bounty, who had sailed from all parts of the United Kingdom up to the 1st September, was 19,439; and at the rate of £16 13s. Id. per head, which would appear from the particulars in the Sydney Agents’ Annual Report to have been the actual rate of expense in 1840, the cost would be £314,020 16s. lid.

We have next to report that the number of persons for whom Certificates were forwarded to Our Office in the Month from the 1st of August to the 1st of September, exclusive of those which upon inquiry we rejected, was 10,794. The whole of this number, however, cannot at once be assumed to be necessarily a clear addition to the previous one of 19,439, for the Certificates were reissued from the Office as fast as they were examined and approved; and it is not improbable therefore that some portion, though a small one, of the persons, to whom they belonged, may be included in the number who had actually sailed before the 1st of September. It can also only appear, at the end of the term, whether the whole remaining portion of these 10,794 persons can be despatched in the two months from the 1st of September to the 1st of November. What deduction, if any, will have to be made on these several accounts can only be ascertained after the last Ships have sailed.

The cost of the whole number of 10,794 Emigrants, at the average
Report on progress of emigration under bounty system.

In conclusion, we would beg leave to bring under Lord Stanley's Notice the circumstances that, at the time of Sir George Gipps's Despatch of the 31st of January last, when the numbers who were expected to arrive during the year were stated under 12,000, the Governor nevertheless anticipated difficulty in paying even for their introduction if the division between the Land funds of Port Phillip and Sydney were maintained, inasmuch as the greater number of Immigrants would arrive at the latter place, while the greatest amount of Revenue would accrue at the former; and we would venture to submit the question whether, under the special circumstances of the present exigency, when it will probably be deemed the paramount object to render every resource available to maintaining the credit of the Colony, it might not be advisable to authorize the Governor to waive the distinction in question, and to use indiscriminately all the funds applicable to Emigration, within the limits of his Government, in meeting the unexpected amount of demands for bounty.

We have, &c.,

T. FEED. ELLIOT.

[Enclosure No. 4.]

EDWARD E. VILLIERS.

MR. G. CLERK TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 28th Septr., 1841.

Having submitted to the Lords Commissioners of Her Majesty's Treasury your Letter dated the 28th Ult. on the subject of the introduction into New South Wales of Emigrants under the Bounty System,

I have it in command to acquaint you, for the information of Lord Stanley, that my Lords have learnt with much concern the improvident proceedings of the Governor of New South Wales in issuing Orders for Bounty to an extent so much beyond the means at his disposal for Emigration purposes.

Lord John Russell having already taken such steps as are practicable for arresting the evil, my Lords have no further measures to suggest at present; but, concurring as they do in His Lordship's disclaimer, on the part of Her Majesty's Government, of any responsibility for this proceeding, and of any obligation to ratify the engagement entered into by the Governor, their Lordships are of opinion that the necessity of looking to the resources of the Colony, and not to this Country, for the means of extrication from the embarrassments which, it is to be feared, will result from these proceedings, should be emphatically urged upon the attention of that Functionary.

I am, &c.,

G. CLERK.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 208, per ship Helvellyn; acknowledged by Lord Stanley, 10th August, 1842.)

My Lord,


I have herewith the honor to enclose the Financial Papers for the year 1841-2, in the form in which they are usually transmitted to Your Lordship.
GIPPS TO RUSSELL. 553

Amongst them (at Page 103) is the Annual Appropriation Act, submitted for the Gracious approval of Her Majesty, the Copy of it engrossed on Parchment, being with the other Acts of the Session forwarded by the ship "Amelia" in my Despatch No. 209 of the 16th instant.

At Pages 114 and 115, is a Protest against certain Items in the Appropriation Act by two Members of the Council, Sir John Jamison and Mr. Blaxland, to which it is my duty to draw Your Lordship's attention.

Having, in the Despatches dated and numbered as in the margin, so frequently during the course of the present year, had occasion to address Your Lordship on the subject of the Finances of the Colony, it remains for me now only to explain two of the Items of the proposed expenditure, which have not previously been brought under Your Lordship's notice.

In the Item of Pensions, there is a charge introduced for the first time of £200 a year to Mr. Nicholson, Harbour Master of Sydney, on his retiring from that office.

Mr. Nicholson has held the office of Harbour Master for upwards of 20 years, and is now obliged to resign it, in consequence of infirmities arising out of advanced age and lengthened services.

The pay of Mr. Nicholson was £500 a year; but, as I propose that the salary of his successor shall be only £300 a year, there will be no increase in the charge on the Public, but, on the contrary, an eventual saving of £200 a year.

The appointment of a Water Police Magistrate (reported in my Despatch No. 5 of the 1st Jan., 1841) has rendered the situation of Harbour Master one of less importance than it formerly was; and I shall have no difficulty in finding a person competent to perform all the duties of it for £300 a year.

The Pension of £200 a year to Mr. Nicholson was agreed to unanimously by the Council, and I enclose a Medical Certificate of his unfitness for further active service.

I have only to add that Mr. Nicholson is a Master in the Royal Navy of the year 1812, and that I believe, on ceasing to hold a Civil appointment under this Government, he will be entitled to resume his half pay of 6s. per diem.

At Page 87, under the head of Miscellaneous services, the sum of £3,000 is introduced for Furniture for the New Government House, now nearly completed at Sydney.

* Note 79.

This is introduced in conformity with the regulation contained in Sect. 6, Par. 1, at Page 12, of the Book of Regulations of the 30th March, 1837, and, considering the size and number of the Public rooms in the New House, must be considered, I think, very reasonable.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

[These papers were printed in the "Votes and Proceedings" of the legislative council.]

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SIR GEORGE GIPPS TO LORD JOHN RUSSELL.

(Despatch No. 209, per ship Amelia; acknowledged by lord Stanley, 26th May, 1842.)

My Lord,

Government House, 16th Oct., 1841.

I beg leave to forward herewith for Your Lordship's consideration, and the Gracious approval of Her Majesty, such of the Acts passed in the present Session of the Legislative Council of this Colony, as have not already been brought separately under your Lordship's consideration.

5th Vict., No. 1.—"An Act to continue and amend for five years an Act, intituled 'An Act further to restrain the unauthorized occupation of Crown Lands, and to provide the means of defraying the expense of a Border Police.'"

The object of this Act is to continue for a further period of five years the Crown Lands Act 2nd Vict., No. 27, which was passed in the year 1839, and the allowance of which by Her Majesty was communicated to me by Your Lordship's Despatch, No. 23, of the 26th Octr., 1839.

Some additions are also made in this Act to the original enactments of the 2nd Vict., No. 27; but they are only of minor importance, and solely adopted for Local convenience.

5th Vict., No. 2.—"An Act to amend An Act, intituled 'An Act to authorize the establishment of Markets in certain Towns in the Colony of New South Wales, and for the appointment of Commissioners to manage the same.'"

The sole object of this Act is to authorize the appointment of a separate Market for any portion or section of a Town, which may be so situated as to require one.

It was introduced for the accommodation of the People of Maitland, a Town which consists of two portions, respectively called East and West Maitland.

5th Vict., No. 3.—"An Act to repeal so much of An Act, intituled 'An Act to abolish the transportation of female Convicts,
and to provide for the more effectual punishment of female offenders within the Colony of New South Wales,' as authorizes the confinement of any female offender in a dark Cell."

This Act has already been reported on in my Despatch No. 205 of the 10th instant.

5th Vict., No. 4—"An Act to make further provision for the trial of cases in the Circuit Courts of New South Wales, and to amend in certain respects the Act providing for trial by Jury in such Courts."

This Act is for the most part of a technical nature, and was introduced, on the application of the Judges, to supply some deficiencies in the Act of last year, 4th Vict., No. 22, submitted to Your Lordship with my Despatch No. 3 of the 1st Jan., 1841.

The only clause of importance in it is the last, which authorizes the appointment of additional Sheriffs.

I am pressed by the Judges to make appointments of this nature, but have not yet done so on account of the expense which they must occasion. If however Attornies be appointed, as is recommended by the Judges, the salaries allowed to them may be very small.

5th Vict., No. 5—"An Act to amend, and to extend to Port Phillip, An Act intituled 'An Act to consolidate and amend the Laws relating to the Savings Bank of New South Wales.'"

This Act has already been reported on in my Despatch No. 206 of the 12th instant.

5th Vict., No. 6—"An Act to prohibit shooting for sport, pleasure, or profit, on Sunday."

This Act was passed in order to put down a practice, which has lately become very general in the neighbourhood of Sydney, of Shooting on a Sunday. During its progress through the Council, an endeavour was made to convert it into a Sunday's observance Bill; but the majority of the Council was opposed to such a measure, and I gave it myself no encouragement.

5th Vict., No. 7—"An Act for applying certain sums arising from the Revenue receivable in New South Wales to the service thereof for the year 1842, and for further appropriating the said Revenue."

This Act is separately submitted with the Financial Papers of the year, and in the usual manner.

5th Vict., No. 8—"An Act to authorize the Governor of New South Wales to detain at hard labour any male offender, under a second sentence or order of transportation."

This Act is separately reported on in my Despatch No. 207 of the 13th instant.
6th Vict., No. 9.—"An Act for the further amendment of the Law, and for the better advancement of Justice."

This Act was introduced and passed entirely on the recommendation of the Judges.

The first fourteen Clauses of it are (like the Act No. 4, already herein reported on) supplementary to the Act of last year, 4th Vict., No. 22, by which Circuit Courts were established and a separate Jurisdiction created for the District of Port Phillip.

The remaining Clauses for the most part simply adopt amendments in the Law, which have been made of late years in England; and the Section in the Act of Parliament, from which each amendment is adopted, is in every respect referred to in the margin of the adopting Act.

The 31st Clause however, authorizing the sale by the Sheriff of Equities of redemption, is altogether a new enactment; but in a Colony where (as in New South Wales) land can be taken in execution for debt (after Judgment), it appears to me to be a necessary and a proper one. Before the passing of this Clause, though an unincumbered estate might be taken in execution for debt (after Judgment), it appears to me to be a necessary and a proper one. Before the passing of this Clause, though an unincumbered estate might be taken in execution for debt, a Mortgage (for any sum however small) acted as a protection in favor of the Mortgagor against Execution by the Sheriff.

The 33rd, 34th, 35th, 36th and 37th Clauses relate to Insolvencies and, in the present acknowledgedly imperfect state of our Insolvent Laws, are I trust calculated to produce good results. On the subject of the Insolvent Laws, I had occasion to address Your Lordship in my Despatch No. 1 of the 1st Jan., 1841; and, as the Merchants of Sydney appear now desirous to have the measure, which was generally objected to in 1840, I shall shortly again have occasion to revert to the subject.

The 23rd Clause may perhaps require some explanation, as it authorizes the Court, in particular cases, to allow interest as high as 12 per cent. per annum. The power has been introduced in order to defeat a practice, which has lately I regret to say obtained to some extent in Sydney. The current rate of Interest in Sydney is 10 per cent., that allowed by the Court only 8; it has therefore become a matter of calculation among unscrupulous debtors, whether money may not be gained by resisting payment of an acknowledged debt, until it be enforced by a Judgment of the Court; the question being, whether the difference (2 per cent.) on the amount due for the time gained by the delay be greater or less than the cost of an undefended Action.
5th Vict., No. 10.—"An Act to facilitate proceedings by and against the Proprietors of a certain Joint Stock Company, lately carrying on business in Sydney in the Colony of New South Wales, under the name style or firm, of the 'Australian Auction Company,' and for other purposes therein mentioned."

Early in the year 1840, an Auction Company was formed in Sydney, and an application made to me for an Act of Council to enable the Members of it to sue and be sued in the name of their Chairman. Such an Act however, being strongly objected to by the Attorney General on the ground that the Company would interfere with private enterprise, and was otherwise unnecessary and improper, I took the advice on the subject of my Executive Council; and, as the Council concurred in the objections of the Attorney General, no Act on the subject was passed.

The Company however proceeded and, owing as it alleged to great mismanagement, speedily became so embarrassed that the Managers of it were under the necessity of applying to me for relief. It was then represented to me that the Company was desirous entirely to give up business, and had paid all demands against it, by which nearly the whole of its subscribed capital was absorbed; and that, though the Company had very large debts due to it, these debts could not be collected from the inability of the Company to sue in a Court of Justice.

I then consented to introduce a Bill to enable the Company to collect its debts and wind up its concerns, and the present Act was accordingly passed, the duration of it being limited to two years.

It was passed as a public Act, as otherwise the necessity of waiting for the Queen's approval, before it could be acted upon, would have entirely rendered it useless.

The Private Acts of the Session were transmitted with my Despatch of the 9th inst., No. 204. I have, &c,

GEO. GIPPS.
1841. 18 Oct.

Success of sale of land by auction dependent on discretion of governor.

supplementary to the Royal Instructions; upon which I proceed to offer for your guidance such observations as have occurred to me upon an examination of the Report. The recommendations are numbered for the convenience of reference.

1. Much, if not the whole, of the success of the plan of Sale by Auction must depend upon the judgment of the Governor of the Colony, upon whom will devolve the responsibility of bringing a stock of Land into the market. It will be necessary for him carefully to watch the capability of Colonists to purchase and occupy; and on the one hand neither so far to stint the supply as unnaturally and exorbitantly to raise the price, and afford ground for well-founded complaints on the part of new Settlers of the impossibility of procuring Land, nor, on the other, to expose to Sale at one time such vast Tracts of Land as to render competition merely nominal, and to lead to a scattered occupation of the most favorable spots at the minimum upset price. Of the two extremes, however, the latter is clearly that which is open to the least objection; because it will be desirable that after every periodical Sale certain portions of Land should remain undisposed of for the benefit of new comers, who may thus be enabled at once to obtain possession at a fixed price of Surveyed, although probably inferior Lots; But what I apprehend to have been the intention of the Committee* of the House of Commons (and it is one in which I entirely concur) was that you should be directed to carry on your Surveys continuously, keeping the Survey always well ahead of the demand for Land, and that, although the Surveys may be going on simultaneously in different Districts, yet that within each of those Districts such portion, as you should be prepared to bring into the market, should be brought in in one uninterrupted block, divided of course, for the purpose of Sale, into such Allotments, subject to your general Instructions, as you may think necessary or advisable. The Land unsold by Auction will remain for Sale until again put up (subject to the exceptions hereafter noticed) at the minimum or upset price. In the meantime, the Survey, and the offer to auction of the district, will proceed regularly and continuously until the whole shall have been brought into the market.

The 2nd and 3rd Recommendations of the Commissioners are embodied in the Royal Instructions transmitted to you by my Predecessor.

4. It will probably become my duty in the course of the next Session of Parliament to submit a measure for the Regulation of the Sale of Land in the Australian Colonies generally; and in that measure the question of the minimum price of Land in various localities will, of course, be anxiously considered. It

*Note 80.
will probably be deemed right, on this head, to leave a considerable discretionary power with the Governor, controlled by the Superior Authority of Her Majesty in Council. It will, in all probability, be found expedient that, in different Districts of the same Colony, in reference to average fertility of Soil or local advantages, different upset prices should prevail; and for the present I am content to leave in your hands the discretion of assigning to each District, as you may deem it right to bring it into the market, such a minimum price as, upon the report of competent Surveyors, you may judge the average Land within it to be fairly worth, not however in any case lower than the amount of 12s. per Acre; and accompanying that permission with a strong expression of my opinion that, in the majority of cases, 20s. may fairly and safely be assigned. In the Port Phillip District, you will not consider yourself authorized to reduce the upset price below 20s.; and, in speaking of that District, you will understand me to include the whole of the Land bounded by a Line drawn from Cape Howe along the South West Boundary of the Maneroo District to the Head of the Murray, and thence along the Murray to the frontier of South Australia.

5. You will not fail to observe that, where the value of Land has been, as it were, artificially raised by the imposition of a Minimum price, great injustice would be done to purchasers were that minimum, when once fixed, to be afterwards arbitrarily lowered with reference to Land of equal quality, and in the same or an adjoining locality. You will, therefore, be particularly cautious not to lower the upset price of Land, once fixed, unless upon the most obvious necessity. It is possible that cases may arise in which the refuse Lands of a district may only be salable at a reduction of the original price; but even in this case, unless under very peculiar circumstances, it will be better to allow them to remain unoccupied until the cultivation of the neighbouring Lands brings up their value, than to break through the rule by lowering the upset price; and under no circumstances will you be justified in lowering it below the amount fixed by Act of Parliament, or by such Orders in Council as Her Majesty may be advised from time to time to issue.

6. On this head, I am disposed to adopt the suggestions of the Land and Emigration Commissioners, with the exception of the latter part of their third suggestion, which could not be carried into effect consistently with the Royal Instructions with which you have been recently furnished. In case you should desire to bring into the market Lands under depasturing License, you must do so either by declining to renew the license, or by putting...
them up to Auction, with due notice to the holders of the License, at the expiration of each year; but Lands so held should continue salable by Auction, and by Auction only.

7. The case suggested by the Commissioners is one that may but perhaps is not very likely to occur. Still it may be right to provide against it; and I am of opinion that in such cases the fixed price of the Land should be taken to be \( \frac{1}{7} \) of the Sum bid, or in other words, the sum bid minus the forfeited deposit of 10 per cent.; but that this price should only be affixed until the next Auction, when it should again be brought into the market at the usual upset price.

8. It is unnecessary for me at present to enter upon the discussion of the last point raised by the Commissioners, since, in the interval between the present period and the time when I may be enabled to bring the subject under the consideration of Parliament, it is not my intention to give you any Instructions to raise the price of Land at present established for the Colony of New South Wales. At the same time you will, from what I have before stated, consider yourself authorized, in bringing any new districts into the market, to raise the price to such an amount as you may think it may fairly bear, and, judging from what has taken place in South Australia, in Port Phillip and in New Zealand, I have little doubt that in the yet unsold Districts of the Colony the imposition of a considerably higher price, at least up to 20s. an Acre, would not check the purchase of Land; and, if not, would tend of course materially to increase the amount realized for the Land Fund, on the extension and application of which at this juncture so much of the prosperity of New South Wales may probably depend.

I am, &c.,

STANLEY.

[Enclosure.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.


Understanding that the Committee* of the House of Commons on South Australia would be likely to turn its attention to some of the general questions connected with the Disposal of Land, we thought it would be the most convenient course to suspend, until the result of their inquiries, our reply to your letter of the 19th May last, enclosing two Dispatches from Sir George Gipps, the one (No. 189) reporting the measures which he had adopted for dividing New South Wales into Three Districts, and Establishing in the Southernmost of them the system of selling Land at an uniform price of £1 per acre, the other (No. 192) containing a Memorandum in favour of the method of sale by Auction.

* Note 89.
The question between these two modes of disposing of Lands is obviously, as we had occasion to remark in a report dated on the 12th May last, not only one of much importance in itself, but also one upon which there is room for difference of opinion amongst persons possessed of the best means of judging. On this point, we can do little more than repeat the observations made in our report above referred to. Only a short time previously to the communication of the present dispatches from the Governor of New South Wales, we received, in your letter of the 31st March, a dispatch from the Lieutenant-Governor of Van Diemen's Land, in which, grounding his views on the experience he and his Council had had of the practical evils attendant upon Auction, he strongly recommended a recourse to the Plan of selling Land at a fixed price of 20s. per acre. Experience also led Sir James Stirling, as appears in his former official Reports on Western Australia, to the conclusion that there were evils tending to the discouragement of Purchasers, inseparable from an exclusive system of Auction.

Again in Canada, where experience on the subject is extensive and has been accumulating during a long period, Lord Sydenham has thought it necessary to abolish Auction in the Sale of Public Lands, and to offer them at a fixed price. And in Nova Scotia the House of Assembly has recently passed a Resolution "That the system of selling Public Lands at Auction ought to be modified or abolished."

On the other hand, Sir George Gipps in the Dispatches now before us, founding his views on observation in the Colony of New South Wales, where sales of Land have of late years been carried to so great an extent, expresses himself warmly and with much ability in preference of the method of Auction; and in this opinion, he seems no more than to concur with the general sentiments of the leading authorities under his Government.

The preceding review will sufficiently shew the difference of opinion, which has existed amongst authorities entitled to the highest consideration. In recommending, at the outset of our duties in this Commission, the adoption of the Plan of a fixed price, we proceeded in great measure on the universally prevalent complaints of the delays and uncertainties, and even Frauds, connected with the system of Auction. These were not evils that only suggested themselves speculatively, as likely to adhere to that mode of sale, but they were a frequent subject of representation by actual Settlers and Emigrants; and there appeared to be a general desire that an attempt should be made to remedy them by a recourse to a fixed price. Sir George Gipps, however, now expresses his opinion that the same inconveniences must still be felt under that method of Sale, and in fact that they are more or less inseparable from the condition of newly arrived Settlers. And, while we cannot say that we assent to all the arguments which have been employed on the subject, it is unnecessary for us to dwell upon the points of difference or agreement. For, before we had had an opportunity of perusing these Dispatches, we had already, in our letter of the 12th of May last, remarked that, amidst the conflict of opinions, perhaps the Plan might be deemed the best, could such a one be found, which would to a certain degree combine the advantages of both methods of proceeding in the Sale of Land; and we suggested for the purpose the course of exposing successively all the

STANLEY TO GIPPS. 561

1811.
12 Oct.

Opinions re
sale of lands
by fixed price
and by auction.

Reasons for
recommendation
of sales at
fixed price.

Modifications
proposed.
waste Lands of the Colony, when Surveyed, to Public Competition, and then leaving the unsold portion of them for sale at the Upset as a fixed price.

This view has now been confirmed by the high authority of the Committee of the House of Commons on the Affairs of South Australia, and we believe that, if carried into execution under salutary Regulations of detail, it would meet the main considerations urged with so much force by the Governor of New South Wales. Instead, therefore, of entering more minutely into his Dispatches, We shall perhaps better employ the remainder of this communication in submitting to Lord John Russell such remarks as have occurred to us upon that part of the South Australian Committee’s Report, which relates to the subject of Land.

The principal recommendations of the Committee are:

1st. That all Lands should be exposed to auction at an upset price, but that, if not bought, they should be open to absolute purchase, during the intervals between the Periodical Public Sales, at the same price at which they had previously been offered to competition.

2ndly. That from this Rule should be partially excepted Pasture Lands under License, which should not be sold except by consent of the occupier, at any other than the Public Sales by auction, nor perhaps then without due warning to the occupier.

3rdly. That Lands bought in blocks of not less than 20,000 acres should also be excepted, subject, however, to never being sold at less than the minimum upset price of the Colony.

4thly. That the minimum price, at which Land might be sold, should be raised considerably above the present amount of £1 per acre.

In the general principle of the first of the above recommendations, we have already shewn that we concur; And we subscribe also to the second and the Third, merely proposing to add to the former of the two some Regulations calculated to render its operation more complete. We shall proceed, therefore, now to state the suggestions of detail we have to offer in respect of the execution of these several recommendations of the Committee.

First At page xiv. it is said. “as fast as each District is surveyed and divided into sections, the Land contained within it should be submitted to Public Competition.” We do not suppose it to be meant by this that the whole of a given District, however large, must be exposed to Sale in one day when the Survey is finished, but it may not be superfluous to guard against that misconstruction. It is assumed in the Report that Lands of any Special advantages will attract competition and fetch their value; but this evidently could not be if the extent, offered to Sale at once, exceed altogether the means of Colonial Capitalists. Within five miles of the two Towns of Melbourne and Geelong alone, the unsold Lands have been estimated by three Officers of the New South Wales Government at upwards of a Million of Money. By this must be meant the possible value at some future period. It could not of course be supposed that, if put up to sale in one day, this Million could have been bid and paid in New South Wales. We conceive, therefore, that it should not be understood as imperative on the Governor to expose to sale the whole of a New District, however large, at the first periodical Sale, but that he should guide himself by the rule of taking care always to have a large stock on hand,
as it were, of Country Lands, which had been put up at Auction, and which therefore would be purchaseable without Public Competition.

Secondly. We would submit that Lands within the Site of large Towns should be excepted from the general rule of falling under a fixed price, and should never admit of being sold otherwise than by Auction.

Thirdly. Seeing, from Sir George Gipps's Dispatch No. 189 of Proposals re Town lands of the 19th December, 1840, the very high value which Land situated within five miles of large Towns will bear, and considering that these are of a kind which it would be obviously unreasonable that every new comer should expect to be able to obtain at the usual price of ordinary rural Lots, we are inclined to think it would be the simplest and best Rule that, in cases which the Governor in his discretion should consider fitting, such Lands should be distinguished under the name of Suburban Allotments, or some other appropriate designation, and like the Town Lands should not be sold in any other manner than by Auction. The Governor would have no difficulty in providing for a plain definition of the Lands to fall within this Rule, as, for example, Lands within a radius of five miles from the Site or intended site of the Market Place or of the Church.

The upset price for this and the class of Lands noticed in the preceding paragraph should be named in each case according to the discretion of the Governor.

Fourthly. If Town and Suburban allotments were thus excepted, only country Lands would remain, over which it would be reasonable and fair that, in the manner designed by the Report, a price representing the average value should for the most part prevail as a virtually fixed price. The Report judiciously recommends (page xiv) that in all cases the Governor should have a wide discretionary power. But, as the General Rule, we conceive that it would be desirable that the great mass of the Country Lands should be set up at one price, and afterwards become saleable at the same as a fixed price.

Fifthly. We suppose it to be meant by the present Report, but would suggest that it might be well to express it more decidedly, that the upset price, at which Land has failed to sell, will not become fixed for ever, but that the price may be raised at any subsequent date, provided it be not done on the occasion of any actual offer, and so again at any future period until eventually sold.

Sixthly. Upon the subject of persons holding Pasture Licenses, we think that some considerable additions of detail may be necessary in order to carry out the spirit of the Committee's views.

The Wool Growers of Australia, depasturing their flocks on License, are a body of vital importance, whose pursuits should be exposed to no needless interruptions and uncertainties. Their Licenses, We believe, are annual, and they ought to be secured for a corresponding period; or, if in any cases the Licences are not at present annual, it would appear desirable that they should be made so hereafter. We would suggest then, first, that Lands under Licenses should never admit of being sold except at the expiration of the year; Secondly, If applied for, they should be put up at the first periodical Sales of the year, but upon condition that
HISTORICAL RECORDS OF AUSTRALIA.

1841.
18 Oct.

Proposals re lands held under pasture licenses; and re lands on which deposit at auction is forfeited.

Criticism of proposal for raising upset price.

time had been given for a month's previous notice from the Government to the Occupier; and also that, if sold, a definite period should be allowed afterwards (provided a proportionate part of the yearly charge on account of License, etc., be paid) for the occupier to find a new Run, and remove his flocks. The Governor could best decide what should be named as the general period, but We should suppose not less than one month nor more than three. Thirdly, it might happen that, without the Lands being applied for, the Government might wish to add them to their stock of Land standing at a fixed price. This case might be met either by declining to renew the License, or by setting up the Licensed Land to auction as above, and, if not sold then, by considering that it should be open to Parties to purchase it at the upset price at the expiration of any future year, subject to the same Rules as above upon previous notice, and a subsequent period of grace, and, with the further condition, in this case, though not applicable to Auction, that the Occupier should have a right of preemption. The conditions thus suggested may seem more numerous than could be wished; but we do not feel that any favor would be consistent either with fairness to Individuals, who pay an annual Rent to Government, or with Justice to the best interests of these great Pastoral Colonies.

Seventhly. The case of Lands, of which the price may have been raised by bidding but the Deposit forfeited afterwards, will require to be provided for. It would not suffice to say that the price, which had been bid though not made good, should become the fixed price, for this would enable a neighbouring Proprietor to run up the price of adjacent Lands, then forfeit his Ten per cent. deposit, and exclude all chance of other purchasers. On the other hand to say that such Lands should become purchaseable at the original upset price, would open the door to another fraud. A party, who desired certain Land, might know that another party wished the same, and meant honestly to bid a good sum for it. The plan of the first person would be to run up the Land to a price at which the bona fide Competitor could not rise upon his bidding, then he would only have to forfeit his deposit of Ten Per Cent., and buy the Land next morning at the lowest upset price. The best rule would probably be that, if Land had under any circumstances been raised above the upset price, but the purchase not completed, it should never admit of being sold until it had been again exposed to Auction.

Having submitted these Remarks on the first three of the recommendations, as we have cited them, of the South Australian Committee, there remains a fourth, in which, with great deference, but in the discharge of the duty entrusted to us, we are bound to say we cannot feel the same agreement; we mean the recommendation that the upset price should be at once raised in South Australia and the other Australian Colonies.

It must be remembered that the fixed price hitherto has been a maximum as well as a minimum; and moreover that it applied to all Lands whatever except large Towns, whereas the upset price will now be in the first instance a minimum, subject to be increased by Competition; and further, if the suggestion we have above thrown out be adopted, the usual upset price will apply only to average Lands situated in the Country. There are obviously, therefore, many reasons for raising a really fixed price, which would not
equally apply to an upset price as above described; and, while this Commission recommended so far back as the 26 of November last that the former should be increased in the case of Port Phillip, we cannot take the same view as to the latter.

The Committee indeed advert to the possibility, by means of a high price, of “maintaining in a newly settled Colony the same system of combination of labour and division of employment, which prevails in older Societies” (xvii), and they state their opinion that the price “should be progressively increased until the object of establishing a due proportion between the supply and demand for labour, and between the Population and the Extent of Territory occupied by it shall have been accomplished.”

But even supposing that a very high price of Land were in other respects adequate by itself to effect this object, we must observe that the extent, to which the price can be raised, has limits beyond which no authority will avail. Just as the Smuggler places a limit beyond which the Duties of Customs cannot be increased, so the Squatter would defeat an indefinite increase of the price of Land. For, as soon as the consideration demanded by Government for granting a Title became extravagant, persons would prefer the course of taking land without a title and bearing the risk.

It appears to us that, as to the possible effect of a low price in withdrawing persons from labouring for hire in the Colony, there may be some misapprehension as to the state of facts. In North America, where Lots were of small size, and their value was to be realized by force of human labour only, it is not questioned that too great a facility of acquiring Land withdrew large numbers from the class of labourers. But, in the Australian Colonies, where Land requires to be in large quantities for the principal use to which it is turned, and where also the profit to be derived from it depends not upon mere human toil, but upon the acquisition and rearing of Stock requiring a considerable further outlay of Capital, it may well be doubted whether the same effect is to be apprehended. We certainly do not remember to have seen it mentioned in any official accounts from these Colonies that Land has been acquired by persons in the condition and with the means of labourers, and Sir George Gipps, in the Memorandum which forms one of the Papers now under consideration, mentions “that it is rarely advantageous in any part of Australia for a newly arrived Emigrant to become a Proprietor of land unless his Capital is considerable.” This would seem to imply that the temptation held out by Land to people of small means is not very considerable.

The truth perhaps is that various other causes, besides the price of Land, must govern the usual rate of wages. It is, we believe, generally understood that, where the Capital which can be profitably used in employing labour is very large in proportion to the number of Labourers that can be obtained, wages will be high, and this will continue equally true, whatever might be the existing Land Regulations. We fear, therefore, that, if we were to undertake progressively to increase the price of Land, until labour should be abundant and employment as much divided as in old countries, we might possibly extinguish the Land Sales, before we should have reduced wages; that we might seriously diminish the resources for providing the great staple of the Australian Settlements, and perhaps have engendered an extensive system of unauthorized squatting.
1841.
18 Oct.

Delay in raising minimum price recommended.

We feel the force of this apprehension the more when we advert to the opinion of the Committee that, after once a minimum price has been declared, it ought not to admit of being lowered except by an Act of the British Parliament.

The foregoing are the reasons upon which we would submit that there are hardly sufficient data in this Country for immediately raising the Minimum price of Land in the Australian Colonies, and that, instead of acting at once upon the recommendation of the Committee to that effect, it might be more prudent to require a Report on the subject from the several Governors of the Settlements to which the measure would apply.

We have now submitted such Remarks as have been suggested to us by the important dispatches, referred to us from Sir George Gipps, on the manner of disposing of Land, and by the Report of the South Australian Committee, so far as it relates to the same subject. We have described the measures, which will meet, we hope, to a great extent the main end of the considerations urged in the former; and, with regard to the latter, we have pointed out the Regulations which appear to us expedient for carrying out the spirit of most of the committee's recommendations, while we have explained the reasons for which we apprehend that the execution of one of them had better be suspended until further information. It will only remain for us now to await Lord John Russell's Instructions upon such alterations as may be determined on in the manner of disposing of Lands in the Australian Colonies.

We have, &c.,

T. FREDK. ELLIOT.
E. E. VILLES.

24 Oct.

Despatch acknowledged.

Conditions imposed re Lutheran mission at Moreton bay.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 21, per ship London.)

Sir,

Downing Street, 24 October, 1841.

I have received your Dispatch, No. 88 of the 5th of April last, containing a Report with regard to the progress of the German or Lutheran Mission at Moreton Bay.

I perceive that, when, on the application of the Revd. Dr. Lang, H.M. Government consented to grant the Allowance for the Outfit and passage of the Clergymen proceeding to the Colony to undertake that Mission, it was on the express condition that the grant of such assistance was not to be considered as pledging the Government in any degree to contribute to its future support. The Report, which you have now transmitted, does not afford much prospect of the success of the undertaking; and it appears to me to be a matter well worthy of the consideration of the Local Government whether, under such circumstances, the aid afforded to the Mission should not be withdrawn.

I am, &c.,

STANLEY.
STANLEY TO GIPPS.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 22, per ship London.)

Sir,

Downing Street, 25 October, 1841.

You were informed by My Predecessor, in his Dispatch No. 343 of the 26th of August last, that the following Acts, passed by the Legislative Council of New South Wales in the Session of 1840,

No. 13, "To provide for the periodical publication of the liabilities and assets of Banks in New South Wales and its Dependencies, and the Registration of the name of the Proprietors thereof;"

And No. 19, "To regulate the payment of the Duties of Customs in Her Majesty's Dominions in the Island of New Zealand," had been referred to the Lords of the Treasury for their opinion, whether those Acts could be properly submitted to The Queen for confirmation.

In compliance with their Lordships' suggestions, I have to direct that you will recommend to the Legislative Council of Your Government the following amendment of the Act No. 13, vizt., That the exception, contained in the 8th Clause in favor of the limited liability conferred by Royal Charter, should be extended to Letters Patent as well as Charters in order that the power of Her Majesty of granting the privileges of limited liability by Letters Patent under the Act, 1 Vic., Cap. 73, may not be diminished or restrained.

Until the result of that recommendation is known, Her Majesty's decision on the Act will be suspended.

Her Majesty has been pleased to confirm and allow the Act No. 19.

In signifying their opinion as to the propriety of submitting this Act for the Royal Allowance, the Lords Commissioners of the Treasury have observed that the apprehension, expressed in your Dispatch of the 23d July, 1840, in regard to the question whether Oil, caught by American Ships but cured within Her Majesty's Territories in New Zealand, would not acquire the character of British caught oil and be admissible as such in this Country, appears to be unfounded; inasmuch as the 46th Section of the Act 3d and 4 Will. 4, Cap. 52, provided that, in order to entitle parties to enter Oil, etc., as of British Colonial taking, a Certificate must be produced that the same is the produce of Fish or Creatures living in the Sea taken wholly by British Vessels owned and navigated according to Law.

I have, &c.,

STANLEY.
1841.
26 Oct.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 23, per ship London.)

Sir,
Downing Street, 26 October, 1841.

I have received your Dispatch of the 28th of May, No. 117, forwarding an application which had been made to you by Sir James Dowling, the Chief Justice of New South Wales, for Leave of Absence for a period of 18 Months. I have also had under my consideration your Dispatch of the same date marked "Separate," from which I learn that there is no Gentleman in the Colony whom you could feel satisfaction in appointing to the performance of the duties of the Office of Chief Justice during such absence. You state, moreover, that no one could be found who would undertake those duties without receiving the full Salary of a Judge, which would necessarily create an additional Charge of £1,000 per annum.

Under these circumstances, I must request that you will acquaint Sir James Dowling that I cannot sanction the Leave of Absence for which he has applied, unless it shall be in your power to make a perfectly satisfactory arrangement for filling up the temporary vacancy on the Bench, without subjecting the Public to any additional Charge.

I am, &c.

STANLEY.

27 Oct.

Despatch acknowledged.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 24, per ship London.)

Sir,
Downing Street, 27th Octr., 1841.

I have to acknowledge the receipt of your Despatch No. 77 of the 23d of March last, transmitting Copies of the Proceedings of the Executive Council in the investigation of the Charges, brought by Mr. H. C. Wilson, late First Police Magistrate of Sydney, against the Officers attached to that Dept.

As Mr. Wilson declined to prosecute the Enquiry he provoked, and as he made no representation impugning the fairness of the Enquiry or controverting the conclusions established by it, and as they are not impugned or controverted by any other person, I do not consider myself obliged to resume the investigation; but, in deference to the unanimous and uncontradicted opinion of yourself and of the Executive Council, I adopt those conclusions. And I do this the more readily because the case ranges over a period of twelve years, and embraces topics so numerous and minute as to be hardly intelligible, except by those who, with the advantage of exact local knowledge, conducted the Enquiry and attended at the Examination of the Witnesses.

I have, &c.

STANLEY.
STANLEY TO GIPPS.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 26, per ship London.)

Sir, Downing Street, 29 October, 1841.

I have received your Dispatch of the 6th of June last, Approval of No. 120, transmitting Copy of a Letter which you had received from the Superintendent of Port Phillip, enquiring whether Land, set apart for the use of the Aborigines, can be demanded by the Holder of an Order for a Special Survey, together with a Copy of your reply declaring that no Land so set apart shall be included in a Special Survey.

I approve of the answer which you returned to Mr. Latrobe's enquiry. On the general subject of Special Surveys, it is only necessary for me to refer you to the Royal Instructions which you would receive with my Predecessor's Dispatch of the 1st of August last.

I am, &c.,

STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 27, per ship London.)

Sir, Downing Street, 29 October, 1841.

I have to acknowledge the receipt of your Dispatch of Refusal of the 3d June last, No. 119, forwarding a Memorial from Mr. David L. Waugh, praying that he may be allowed compensation by an Allotment of Land or otherwise for a loss sustained by an attack on his Sheep Station from the Aborigines.

I approve of the reasons which you have assigned for declining a compliance with a similar application, which you received from Mr. Waugh; and I have to request that you will acquaint the Memorialist that I cannot admit his claim to compensation.

I have, &c.,

STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch per ship Honduras; acknowledged by Sir George Gips, 25th July, 1842.)

Sir, Downing Street, 30 October, 1841.

I have received from Mr. Francis Flanagan of Pargago Claim by Flat, St. Vincent, New South Wales, a Memorial bringing under my consideration his claim to an additional Grant of Land in that Colony.

This communication having been sent to me from the Colony by the writer, and not having been transmitted through you, I
1841. 30 Oct.

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.,

STANLEY.

SIR GEORGE GIPPS TO LORD JOHN RUSSELL.
(Despatch No. 211, per ship Australia; acknowledged by Lord Stanley, 6th June, 1842.)

31 Oct.


I am sorry to have to report to Your Lordship, the death of Mr. Thomas Macquoid, Sheriff of this Colony; and I regret still more to add that he died by his own hand, having shot himself through the head with a pistol on the morning of the 12th instant.

The Verdict of the Jury, assembled by the Coroner to hold an Inquest on his body, was that he had destroyed himself in a fit of temporary insanity.

As pecuniary embarrassments were known to have led Mr. Macquoid to the commission of this rash act, I lost no time in appointing two officers to report on the state of his accounts with the Government; a Copy of the Report made to me by them is enclosed herewith, and by it Your Lordship will perceive that the amount, due by him at the time of his death to the Government, was £951 7s. 1d.; but, as proper measures have been taken for the recovery of this sum by the Law officers of the Crown, no loss whatever will be occasioned by his death to the Government.

I am informed however, I regret to say, that Mr. Macquoid had in his hands at the time of his decease, monies to the amount of about £2,400, belonging to Suitors in the Court, that is to say, monies levied in pursuance of Writs directed to him by the Judges; and, as these Suitors will come in, I believe, only as concurrent creditors, it is expected that they may be losers, though to what amount cannot yet be ascertained.

By the Rules of Court, established for the regulation of his Office, the Sheriff was not required to pay money into Court, until the Return day named in the Writ; and, as the Levies were frequently made by him before the Return day, it followed that he frequently had (as at the time of his death) monies belonging to Suitors in his hands.

With these matters however, the Executive Government had no concern.

Mr. Macquoid was appointed Sheriff of New South Wales in June, 1828, and his appointment notified to the Governor of the
GIPPS TO RUSSELL.

Colony by a Despatch from Sir George Murray of the 27th of that month, No. 11.

The duties of the Office of Sheriff were however defined in a previous Despatch from Lord Bathurst to Sir Thomas Brisbane of the 22nd Jan., 1824, No. 6, and by the 11th, 12th and 13th articles of the Charter of Justice, dated the 13th Octt. in the 4th year of the Reign of King George the 4th (1823).

By the instructions contained in the Despatch above mentioned of the 22nd Jan., 1824, the Sheriff was required to give security in the Supreme Court to the amount of £1,000; but no such security appears ever to have been entered into; and the only record that can be traced on the subject is a letter from the Colonial Secretary (Mr. Macleay), dated the 8th April, 1829, to Mr. Macquoid, informing him that it was required of him.

The sudden and unexpected death of Mr. Macquoid rendered it of course necessary for me to appoint some person (subject to Her Majesty's approval) to do the duty of Sheriff; I consequently offered the situation successively to Mr. Charles Winddeyer and Mr. John Ryan Brenan, Police Magistrates of Sydney; but each of these gentlemen declined it on the ground of the extreme responsibility and risk of the office.

I then applied to the Chief Justice to recommend to me a proper person, and on his recommendation I have appointed to act as Sheriff, until Her Majesty's pleasure shall be known, Mr. William Hustler, a Barrister, who has for the last two years practiced in the Supreme Court, though of course he cannot do so, whilst acting as Sheriff.

The salary of Mr. Macquoid was £1,000 a year, without fees or other allowances, except 40s. per diem for travelling expenses when absent from Sydney on duty. This salary Mr. Hustler will receive; and, should it not be in your Lordship's power to confirm him in the office, I venture to hope that any person, appointed to supersede him, may be allowed pay, only from the day on which he may enter on his duties; and I beg leave to refer to the concluding paragraph of Sir George Murray's Despatch of the 27th June, 1828, to shew that such was the case when Mr. Macquoid was appointed.

Mr. Hustler has given security, with one sufficient surety, for the performance of his duty in the sum of £1,000 as directed in Lord Bathurst's Despatch above referred to.

In conclusion, I beg to state that, since my attention has by the death of Mr. Macquoid been drawn to the office of Sheriff, I
am strongly of opinion that either an Act of Council is required to regulate the office, or some additional Rules of Court; and that I propose to communicate with their Honors the Judges on the subject.

I have, &c.,

Geo. Gipps.

[Enclosure.]

Report of a Board appointed by directions conveyed in the Letter of the Honorable the Colonial Secretary, dated 12 October, 1841, to examine into and report on the state of the Accounts of the late Thomas Macquoid, Esqr., Sheriff.

The Board having attended at the Sheriff's office, called upon the late Under Sheriff, Mr. C. Prout, to produce to them an account of all Fees collected under the direction of the late Mr. Macquoid from the 1st September to 12th October, the date of his decease, it having appeared that the Fees collected up to 31st August last, immediately preceding, had already been paid into the Colonial Treasury.

Mr. Prout accordingly furnished us with a statement of Fees collected within this period, including Postage and Stationery for Writs, from 26th July, amounting to Six hundred and twelve pounds, nineteen shillings, which, he informed us, had been carefully made up from the Cash Book of Fees received in the usual manner, and which he considered to be the correct amount of Fees payable into the Colonial Treasury by Mr. Macquoid at the time of his decease. The correctness of this statement we have no reason to doubt. On enquiring into the state of the account of monies advanced him for defraying the Contingent Expenses of his Department, we found that the balance in his hands, remaining unadjusted on the Treasurer's Books on 30 September last, was six hundred and fifty Pounds, four pence. Out of this sum, from Vouchers and accounts produced to us, we found that payments to the amount of three hundred and eleven Pounds twelve shillings have been made under his direction for expenses of an ordinary nature, which when brought forward and placed in Warrant, as it is intended should forthwith be done, will reduce the Balance on this account to three hundred and thirty eight Pounds eight shillings and four pence.

These being the only accounts of the late Mr. Macquoid with the Government, we consider his Debt to the same, at the time of his death, to have been:

For Fees and Collections not paid into the Treasury, Six hundred and twelve pounds nineteen shillings.

Balance in his hands of Sums advanced him to liquidate Contingent Expenses, Three hundred and thirty eight pounds, eight shillings and four pence.

Making in all the Sum of Nine hundred and Fifty one Pounds, seven shillings and four pence.

These accounts, we considered it unnecessary to inquire into the amount of Fees due to the Sheriff's office by attorneys of the Court, as this would have required a considerable time; and as these can be equally readily recovered by Mr. Macquoid's Successor in office.

Wm. Lithgow.

Wm. MacPherson.

Sydney, New South Wales. 13th October, 1841.
LORD STANLEY TO SIR GEORGE GIPPS.
(A circular despatch, per ship Honduras.)

Sir,
Downing Street, 1st November, 1841.

My attention has been called to the inconvenience resulting from the practice, which has hitherto been adopted by the Auditors in the several Colonies, of corresponding directly with the Commissioners of Audit in this Country, without the intervention of the Head of the Local Government.

Having brought the subject under the consideration of the Lords Commissioners of the Treasury, I transmit to you, herewith, for your information and guidance, Copy of a Report addressed to that Board by the Commissioners of Audit; and, with their Lordships' concurrence, I have to direct you to instruct the Auditor of the Colony under your charge that he make it a rule in future to transmit, through you, such Reports as he may from time to time have to make to the Audit Board, in order that you may have an opportunity of adding any Explanations which you may judge necessary, and may, in many cases, save the necessity of a further reference to the Colony.

I have, &c.,
STANLEY.

[Enclosure.]

[This was a printed report, dated "Audit Office, October, 1841." ]

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 28, per ship Honduras.)

Sir,
Downing Street, 1 November, 1841.

I have received your Dispatch No. 83 of the 29 March Despatch last, enclosing, in compliance with the Instructions of Lord Glenelg, reports from the Chief Trustee and from Mr. Justice Willis on the operation of the Rules of practice of the Supreme Court of New South Wales.

I perceive that a difference of opinion exists between the Chief Justice and Mr. Willis on the subject of these Rules, the former approving and the latter in some respects disapproving of them; while no opinion has been given by the other two Judges of the Court.

I shall therefore abstain from taking the Queen's Pleasure in regard to the disposal of those Rules until I shall have received the Reports of all the four Judges regarding them.

With respect to the point of Law raised by Mr. Willis as to the power of the framers of the Rules of Court to alter or amend
1841.

1 Nov.

Decision re power of judges to alter rules of court.

them in any respects after they shall have been sent home for Her Majesty's sanction, I consider it quite needless for me to enquire whether Mr. Willis's opinion may be well or ill founded. The Judges of the Colony must in the first instance be the Interpreters of the Law of the Colony. If they hold (as manifestly the majority of them do) that Rules of Court, awaiting the Royal decision, are alterable pending that decision, they will give effect to the alterations. If they err in doing so, it is not for the Executive Government to correct the error. It is corrigible only by the judicial Committee of the Privy Council on the appeal of some Suitor aggrieved by it. In that manner, I would leave the debate to be adjusted if necessary.

I have, &c,

STANLEY.

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2 Nov.

Report required re working of rules of practice.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 29, per ship Honduras.)

Sir, Downing Street, 2 November, 1841.

I have received Your Dispatch No. 105 of the 2d of May last, forwarding certain additional Rules of practice, which have been promulgated by the Judges of the Supreme Court of New South Wales.

I should wish to receive a Report from the Judges of the Court of their opinions of the Working of these Rules after they shall have been a year in operation; and I shall then be prepared to take The Queen's Pleasure with regard to the disposal of them.

I have, &c,

STANLEY.

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SIR GEORGE GIPPS TO LORD JOHN RUSSELL.
(Despatch No. 212, per ship Australia; acknowledged by lord Stanley, 29th July, 1842.)

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

In the series of Despatches named in the margin,* written during the present year on the subjects of Emigration and Finance, I have endeavoured to place before Your Lordship a correct view of all the proceedings of this Government in respect to these important matters; and, in my two Despatches especially of the 13th Septt. (marked No. 175 and Separate), I pointed out the probability that Emigrants may arrive, in the course of the

next few months, faster than, on account of the great diminu-
tion which has taken place in our Land Sales, we may be able
to pay for them.

I now enclose a Return of the Immigrants landed in the
Colony (including Port Phillip), since the commencement of the
present year, and of the Bounties and other expenses, already
paid or now due upon them, by which Your Lordship will per-
ceive that, including authorized gratuities and quarantine ex-
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The great drain upon our resources occasioned by these ex-
pences has so reduced the funds in our Treasury that, after pay-
ment of all that is now due, and reserving only a reasonable sum
for other services, I cannot reckon on having more than about
£40,000 applicable to the further purposes of Immigration, in
addition to the sum of about £48,000 owing to us on account of
New Zealand, and even this latter sum is not available until I
receive authority to draw for it on the Lords of the Treasury.

Immigration in the mean time continues to go on very rapidly,
and it is impossible for me to calculate with any degree of cer-
tainty on the sum, which may be required during the next few
months to meet the expenses of it, it being, as I have had occa-
sion formerly to observe to Your Lordship, the real inconveni-
ence of the Bounty system that, whilst we are bound to pay for
all Emigrants that may arrive, we have no certainty whatsoever
whether they will arrive or not.

Deeply impressed as I am with the extreme importance of
Immigration to this Colony, I feel still so sensibly the incon-
venience of encumbering the Government with any considerable
amount of debt that I consider it my duty to invite Your Lord-
ship’s interference for the purpose of preventing too extensive
an Emigration from England to this Colony during the year 1842.

Where parties may have made arrangements for sending out
Emigrants, or incurred expenses on the faith of unconditional
promises made by this Government, I consider we are in honor
bound to receive the Emigrants, and pay the Bounties that may
be due on them; but, without any breach of faith, I think Your
Lordship’s authority may be interposed in such a manner as to
limit the Emigration of 1842 to an amount that it may not be
inconvenient to us to have to meet.
In my Despatch of the 13th Sept. last, No. 175, I stated that an Immigration of from 8,000 to 10,000 Souls per annum would be about what we might require, and be able to pay for; but the continued depression of all the monied Interests in the Colony, and the consequent decrease in our Land Revenue, now causes me to think that the Emigration of 1842 ought not to exceed, even if it amount to half that number.

It is my duty next to place before Your Lordship the course, which I propose to adopt in order to meet the expenses of Immigration during the period which must elapse, before I can receive any further instructions from Your Lordship.

The raising of a moderate Loan for the purpose of maintaining Immigration has always been in the contemplation of the Government and Legislature of this Colony, and has often been brought under the consideration of Her Majesty's Government, especially in my Despatches of the 31st Oct., 1838, No. 177, and the 22nd Nov., 1839, No. 157; and, in the latter of these Despatches, a plan for the raising of a Loan was detailed, which, though it has never been authorized, was not objected to either by Your Lordship or the Lords of the Treasury.

Following up so much of the plan as it may be in my power to adopt, I propose to issue Debentures in sums of £100 each in the nature of Exchequer Bills, bearing interest at the rate of 0/4d. per diem (about six per cent. per annum), and to make the Bills, and Interest accruing on them, payable in London through the agency (if it can be obtained) of the Bank of Australasia; and I propose to do this under the sanction of an Act of Council and on the security of the ordinary Revenue of the Colony, as, without the express consent of the Crown, the Council can have no right to pledge in any manner the Land Fund, which is the Revenue of the Crown.

As I have no authority to draw on the Lords of the Treasury or on the Commissariat Chest in the Colony even for the money due to us on account of New Zealand, it is not my intention to resort to either of these measures; but I trust I may express a confident hope that the Debentures, issued by me, may be taken up, and paid off by the Lords of the Treasury to the extent of the debt owing to us (about £43,000) on account of New Zealand; and that such further guarantee may be given on account of the Land Fund of the Colony, as may enable us, in as short a time as possible, to reduce the interest on our Debentures from 6 per cent. to 4.

For the reasons already given, it is not in my power to estimate the extent to which it may be necessary to issue these Debentures; but, by the help of the document which I enclose,
it will not be difficult in England to make an approximate calculation of it.

The Commissioners of Emigration are regularly informed of all ships leaving England with Emigrants, as also of the number of Emigrants they carry; the Bounties therefore on all the vessels, which are not included in the List sent herewith, may easily be estimated; and if, from the amount of these Bounties, the sum of about £40,000 be deducted, the remainder will be the sum for which I may be under the necessity of issuing Debentures. As for instance, supposing the number of ships which may have left the United Kingdom, since those named in the List, to be 30, and the average number of Emigrants (men, Women, and children) in each ship to be 300, the total number will be 9,000, which at £16 per head will be £144,000. And, if from this sum be deducted the £40,000 which we have in hand, the amount, for which Debentures must be issued, will be £104,000; from which again, if the sum of £43,000 be deducted, which is due to us on account of New Zealand, there will remain as a debt the sum only of £61,000; and this debt I have no doubt, even in the present depressed state of the Colony, we shall be able to pay in the course of a year or two.

In conclusion, I have only to request Your Lordship's particular attention to the fact that this debt is to be incurred solely on account of Immigration; and that I shall continue to use my best endeavours to keep the ordinary expenses of the Colony within its ordinary Income, as has been the case for the last two years.

I have, &c.

[Enclosure.]

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 30, per ship Honduras.)

Sir,

With reference to my Predecessor's Dispatch of the 26th of August last, No. 343, I have the honor to acquaint you that the Queen has been pleased to confirm and allow the Act (No. 4) passed by the Legislative Council of New South Wales on the 21st of July, 1840, intituled "An Act to amend an Act intituled 'An Act for the better preservation of the Ports, Harbours, Havens, Roadsteads, Channels, Navigable Creeks and Rivers in New South Wales, and the better regulation of Shipping in the same.'"

With respect to the 5th Section of this Act, which increases the penalty of £10 imposed by the previous Act (3 Will. 4, No. 6)
to £100 upon the Masters of a Vessel for permitting any person to embark on board his Vessel, whose name has not been entered on the List required, it appears to me that this increased penalty is so large that it would be expedient for the Supreme Court to possess a power of reducing it, to meet any circumstances of an extenuating character in the Cases in which it may be recoverable. I have to direct that you will propose to the Legislative Council an Amendment to that effect in the Act.

I have, &c.,

STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 31, per ship Honduras.)

Sir, Downing Street, 4 November, 1841.

With reference to my Predecessor's Dispatch of the 26th of August last, No. 343, I have to acquaint you that Her Majesty has been pleased to confirm and allow the Act (No. 18) passed by the Legislative Council of New South Wales in the Session of 1840, intituled, "An Act to amend an Act to regulate the Temporal Affairs of Presbyterian Churches and Chapels connected with the Church of Scotland in New South Wales."

I transmit, herewith, an extract of a Minute of the Committee of the General Assembly of the Church of Scotland expressive of their satisfaction with that Enactment.

I am, &c,

STANLEY.

[Enclosure.]

EXTRACT from the Minutes of a Meeting of the Acting Committee of the General Assembly's Committee on Colonial Churches held at Edinburgh upon the sixth day of October, 1841.

Read Letter from the Moderator of the Synod of Australia transmitting, along with other documents connected with the union of the two divisions of the Presbyterian Church in that Colony, copy of an Act, passed by the Governor and Council of New South Wales, "To amend an Act entituled, 'an Act to regulate the Temporal affairs of Presbyterian Churches and Chapels connected with the Church of Scotland in the Colony of New South Wales.'"

Read also a letter from Mr. Vernon Smith, of date 27 August enclosing another copy of the same Act, and requesting the Committee "to state whether in their opinion there is any objection to the confirmation of this Act by Her Majesty."

The Committee direct their Secretary to communicate to the Under Secretary of State for the Colonies their high satisfaction at the Union, which, under the auspices and through the judicious measures adopted by Her Majesty's Government and the Governor of the Colony, has now been so happily accomplished in the Presbyterian Church of Australia, and to acquaint him that, in the

* Note 81.
opinion of this Committee, there is no objection to the confirmation of the Act in question by Her Majesty.

Extracted from the Minutes of the Acting Committee of the General Assembly’s Committee on Colonial Churches on this and the two preceding pages by

W. Young, Secy, to the Colonial Committee.

Sir George Gipps to Lord John Russell.
(Despatch No. 217, per ship Helvellyn.)

My Lord,

Government House, 8th Novr., 1841.

I am sorry to have to report to Your Lordship the death of Sir Francis Forbes, late Chief Justice of this Colony, which event occurred on the 6th instant.

The remains of Sir Francis Forbes were yesterday consigned to the grave in Sydney with every mark of respect and regret from his very numerous friends and the Public in general.

The late Sir Francis Forbes, since his retirement from the Bench, enjoyed a Pension of £700 per annum, which of course ceases by his death.

I have, &c,

Geo. Gipps.

Lord Stanley to Sir George Gipps.
(Despatch No. 32, per ship Honduras; acknowledged by Sir George Gipps, 9th May, 1842.)

Sir,

Downing Street, 10 November, 1841.

I transmit to you herewith the enclosed Copy of a Memorial addressed to me by Mr. William Tribe, requesting my interference in obtaining the liquidation of his claim on Mr. Kinchela for the sum of £56 8s. 6d. on account of goods supplied to that Gentleman in the year 1833.

I have to request that you will call upon Mr. Kinchela for any information he may be able to afford on the subject.

I have, &c,

Stanley.

[Enclosure.]

The Humble Memorial of William Tribe, of 62d Mortimer Street, Cavendish Square, Merchant Tailor.

To the Right Honorable Lord Stanley, M.P., Secretary of State for the Colonial Department, etc., etc., etc.

It is with extreme reluctance Your Memorialist lays the following Case before Your Lordship, both on account of the high Office the Gentleman holds, of whose conduct Your Memorialist has to complain, and also from the fact of Your Memorialist having troubled your Lordship on the same subject in the year 1833; but your Memorialist has tried every means in his power to prevent the step which he is now compelled to resort to as a last resource.
The Gentleman, whose conduct your Memorialist now brings under the notice of Your Lordship, is the Honorable Mr. Justice Kinchela of New South Wales, who, in May, 1830, was introduced to your Memorialist, and, from the respectability of the Gentleman who introduced Mr. Kinchela, your Memorialist had no hesitation in giving him credit on the usual terms; in August of the same year, Mr. Kinchela applied to your Memorialist to fit him out to New South Wales, he being about to be appointed Attorney General for that Colony, which Your Memorialist consented to do, provided the Account was paid in eighteen months, to which Mr. Kinchela assented, and goods were accordingly supplied to the amount of £97 14s.; previous to Mr. Kinchela leaving England he gave directions to your Memorialist to furnish his son, whom he shortly expected from India, with whatever things he might require, which was done by your Memorialist in the following year and thus increased the amount to £136 8s. 6d.

Your Memorialist, not wishing to confine Mr. Kinchela to the strict Letter of his Agreement, sent a Bill to him when on Board Ship drawn at 2 years after date, which Mr. Kinchela refused to accept, saying he should be able to pay by the time agreed on, or at any rate send £50 long before the Bill would become due, which however Your Memorialist regrets to say Mr. Kinchela failed to perform; and, after repeated fruitless applications for payment, Your Memorialist, in November, 1833, applied to Your Lordship; and it was no doubt owing to Your Lordship’s kind interference that Your Memorialist received, in February, 1837, the sum of £80 in part payment. Mr. Kinchela, in his Letter enclosing a Bill for that sum, expressed his warm thanks for the kind forbearance shewn him and promises to send the balance shortly; but Your Lordship will be somewhat surprised to learn that Your Memorialist has not received one farthing from Mr. Kinchela since or even so much as a Letter, though Your Memorialist has repeatedly written to Mr. Kinchela; thus Your Lordship will perceive Mr. Kinchela’s debt has been owing upwards of 11 years; and, unless Your Lordship will kindly interfere in his behalf, Your Memorialist fears it may continue unsettled another 11 years. Your Memorialist will here observe that a Bill was sent out, which was accepted by Mr. Kinchela but afterwards dishonoured; so that Your Memorialist considers himself entitled to interest as well as the principal.

Such is the treatment Your Memorialist has experienced from Mr. Kinchela, treatment which to designate it in the mildest manner is a gross breach of faith; any comment on the foregoing facts Your Memorialist deems superfluous, as they speak for themselves. Your Memorialist therefore confidently leaves his Case in your Lordship’s hands, feeling assured that Your Lordship will grant him that assistance he seeks without which Your Memorialist despairs of ever obtaining a liquidation of his just Claim.

Your Memorialist therefore most humbly prays that Your Lordship will be pleased to take his hard case into your consideration, and direct Mr. Justice Kinchela to pay his demand (£56 8s. 6d. with interest) or adopt such other means for his relief as to your Lordship may seem meet, and Your Memorialist as in duty bound will ever pray.

WM. TRIBE

62d Mortimer Street, Cavendish Square, 4th Novr., 1841.