might not be so far to anticipate the funds applicable to the support of the Pauper Laborers as to provide at once a sufficient sum to defray the cost of their Emigration. In that event, it would appear advisable that all who were forwarded by those means should be sent to New South Wales; First, because the demand for labor there is likely to be steady and effective.

Secondly, because the proximity of Port Philip, and the probable frequency of intercourse between that Port and Adelaide would render the transport cheap; and Thirdly, because it would afford the opportunity to South Australia of liquidating some portion of its debt to New South Wales by the introduction of laborers, and probably therefore in a manner which would be acceptable to the latter Colony. Circular Despatch of enquiry should state the estimate cost of conveyance, and some fixed rate be, if possible, agreed upon beforehand as the payment of the importing Colonies, the Balance if any to be chargeable to South Australia, so as to prevent any complaint or undesirable discussions between the local authorities as to the terms on which the object may ultimately be carried into effect by the Government of South Australia.

When you may have addressed the requisite communication to the Governors of those Colonies, the measure of proposing Emigration to the destitute Labourers should be made officially known in the Colony of South Australia, in order that the employers of Labor who might not wish to see the population of the Colony reduced, the laborers themselves who might not wish to quit the Colony, might have time for making every effort under their respective circumstances to relieve the local Government from the burden now imposed upon it.

Upon receiving sufficient information from the different Colonies, you would of course form your plans according to the nature of the communications made to you. To all able bodied persons without exception, who declared that they were unable to support themselves or to procure employment, you should propose a free passage for themselves and their families to one of the Neighbouring Colonies, where they might make their labor available. Should they refuse it, they would forfeit all claim upon the local Government for support. To such as accepted the offer, a small amount of clothing and any other articles indispensable for an outfit might be furnished, if on strict examination found necessary, tho' probably not to be delivered to them until they had embarked. Steerage passages should be engaged for them in small numbers in trading Vessels, or by chartering the whole ship, as might prove the cheapest, reference being had to the additional cost of maintenance which would be entailed by any delay.

When all these measures had been taken, and the able bodied with their families been thus disposed of, there would still, I fear, remain a certain number more absolutely dependent upon the Government than the others, and at the same time yielding no return in Labor. I allude to the sick and impotent poor, to the widows and deserted women with their families, and to Orphans and deserted children, who appear by the returns to be receiving relief at the public expence.

It is by no means the wish of the Government that, in respect of such persons, any unnecessary harshness should be used by abruptly terminating a system of public charity, which has grown up under the sanction and authority of the Local Government. At
1842.
2 Aug.

Instructions to disposal of unemployed immigrants of labouring classes in South Australia.

the same time, it must be borne in mind that even the ground of the alleged contract made with intending Emigrants in this Country, insufficient as it was to justify the long continued maintenance of able bodied laborers and their families, can in no way apply to the classes of persons just mentioned, to whom not the most distant reference was ever made in any terms or proposal published in this Country, upon which they may have been induced to emigrate. They are consequently no more entitled to relief from the Government in South Australia than the corresponding classes in other British Colonies from their respective Governments. I can only direct, in respect to them, that they should, as soon as may be consistent with safety and humanity, be thrown upon their own resources, and above all upon those nearest relatives, if it be discovered that they have any such upon whom the natural obligation to support them rests. Every means should be used for ascertaining this latter fact of the existence of such connexions, and of the means which they may possess for relieving their necessities. It is perhaps needless to mention that others of the same class for the future upon no pretence become a charge upon the Public Funds.

When all these measures shall have been taken for the disposal of the persons now deriving their subsistence from the Government, it will be desirable to announce that the public obligation, which is supposed to exist in South Australia to find employment for the destitute, has entirely ceased. Nearly two years have now elapsed since any Emigrant has been sent from this Country to South Australia and there is no reasonable doubt that, when any superabundance of labor, should it even now really exist, shall have been cleared off, ample employment may be procured by the honest and industrious; while the continuance of any indefinite obligation, which it has been proved is so liable to misapprehension and abuse, is but to expose the Government to fresh expenses which it cannot bear.

You will accordingly announce that the Local Governments will not receive any further applications for maintenance and employment from persons representing themselves to be in a destitute condition.

I shall forthwith communicate a copy of this Despatch to the Governors of the other Colonies referred to in it, in order that they may be prepared to enter into communication with you, and to make arrangements at once for the reception of the Emigrants, without the delay of waiting for an intimation from you of the contemplated arrangements.

I have, &c.

STANLEY.

P.S.—Since writing the above Despatch, I have received your Despatch No. 21 of the 22nd of Feb. last, and I think it right to apprise you that there is nothing in that communication, which has altered my view of the question.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 158, per ship Hamlet.)

Sir,

Downing Street, 2nd August, 1842.

With reference to your Despatch No. 233 of the 18th December last, and to my reply, No. 138 of the 18th Ultimo, I transmit to you, herewith, a Supplementary Commission under
the Great Seal Empowering you to exercise the Royal Prerogative of Pardon in the case of Criminals who may hereafter be convicted of Treason and Wilful Murder.  

I have, &c.,  

STANLEY.

[Enclosure.]

[A copy of this commission is not available.]

SIR GEORGE GIPPS TO LORD STANLEY.  

(Despatch No. 138, per ship Honduras; acknowledged by lord Stanley, 15th February, 1843.)

My Lord, Government House, 2nd Augt., 1842.  

In my Despatch of the 1st Octt., 1841, No. 198, I informed Your Lordship of my intention speedily to reduce some of the Hospitals, which in this Colony have been established at different times for the Medical treatment of Convicts; and I have now further to report that the Hospitals at Goulburn and Windsor have accordingly been reduced, and the lands and buildings (subject to Your Lordship's approval) offered to the Inhabitants provided they will take into their own hands the management of the Hospitals, and conduct them on the principles on which similar establishments are generally conducted in England.  

At Goulburn, a Committee of Management has been established; and I hope funds sufficient for the maintenance of the Hospital will be obtained; at Windsor, I regret to say that an equal degree of public spirit has not yet manifested itself.  

I have further to report that Stores and Furniture have been delivered over with the Buildings at Goulburn, which according to the enclosed Return from the officers of Ordnance in this Colony, are valued at £22 17s. 7d.; also Surgical Instruments or Utensils, valued by the Deputy Inspector General of Hospitals at £91 14s. 11d.  

These Stores, Utensils and Instruments are so essential to the Establishment, that I have not hesitated to promise that they shall be gratuitously given to the new Committee of management; as however they are the property of Her Majesty's Home and not of the Colonial Government, I propose to take a Vote from the Local Legislature for the two sums above mentioned, and pay them into the Military Chest, should Your Lordship consider it proper for payment to be demanded. I shall not however take any further steps in the matter, until I am honored with Your Lordship's commands.  

I beg further to report that measures are now in progress for the reduction of the Hospital at Bathurst.  

I have, &c.,  

GEO. GIPPS.
180 HISTORICAL RECORDS OF AUSTRALIA.

[Enclosure.]

Memo. of the Value of Bedsteads, Bedding and Stores, remaining at the Convict Hospital at Goulburn.

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimated Value at Invoice prices</td>
<td>£186</td>
</tr>
<tr>
<td>Proposed Reduction</td>
<td></td>
</tr>
<tr>
<td>From use, 20 per cent.</td>
<td>£37</td>
</tr>
<tr>
<td>Expense of removal to Sydney 7 dray</td>
<td>£126</td>
</tr>
<tr>
<td>Loads at £18</td>
<td></td>
</tr>
<tr>
<td></td>
<td>163</td>
</tr>
</tbody>
</table>

£22 17 7

RICH. ROGERS, Storekeeper.

Office of Ordnance, Sydney, 26th May, 1842.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 159, per ship Hamlet.)

Sir, Downing Street, 3 August, 1842.

I have to acknowledge the receipt of your Despatch No. 168 of the 31st of August last, forwarding a Letter addressed to my Predecessor by the Reverend James Allan, late Presbyterian Minister of the Town of Parramatta, complaining of his Salary having been withheld by you in consequence of his being removed from his Cure by the Synod of New South Wales.

I transmit to you, herewith, for your information and guidance the Copies of a Correspondence, which has passed on this subject between my Under Secretary and the Secretary to the Colonial Committee of the Church of Scotland, from which you will perceive that the course adopted by you in this Case meets with the approval of Her Majesty's Government, and with the cordial concurrence of the Committee of the General Assembly.

I have, &c,

STANLEY.

[Enclosure No. 1.]

UNDER SECRETARY HOPE TO MR. W. YOUNG.

Sir, Downing Street, 28 April, 1842.

I am directed by Lord Stanley to transmit to you, to be laid before the Colonial Committee of the General Assembly of the Church of Scotland, the enclosed Copy of a Dispatch from the Governor of New South Wales, with a representation from the Revd. James Allan, late Presbyterian Minister of the Town of Parramatta.

The object of Mr. Allan's representation is to complain of his Salary being withheld, in consequence of his having been removed from his cure by the Synod of New South Wales. It also appears that the Governor Sir G. Gipps, without assuming to judge the question of the legality or illegality of the proceedings of Synod in removing Mr. Allan, felt it necessary in this case to adhere to the general regulation founded on the Law of the Colony, which
provides that no Clergyman shall receive a Salary, unless the Head of the Church or Denomination, to which he belongs, shall sign a Certificate of his having properly performed his duties, and that he declined to pay any Salary to Mr. Allan, solely because the Moderator of the Synod would not certify in his favor.

Lord Stanley perceives that Mr. Allan was about to appeal to the General Assembly; but he thinks it right to forward the accompanying Dispatch for the consideration of the Committee. His Lordship would be glad to be favored with their judgment in the case, as between the conflicting claims of the two Ministers.

It appears to Lord Stanley that the Governor was right in the course which he took, and he wishes it to be clearly understood that only one Salary can be granted in this case.

I have, &c.,

G. W. Hope.

[Enclosure No. 2.]

MR. W. YOUNG TO UNDER SECRETARY HOPE.

Str.

Edinbro., 20th July, 1842.

I have been directed by the Colonial Committee of the General Assembly to transmit an Extract from their last Report submitted to and approved of by the General Assembly.

This Extract contains the views of the Colonial Committee and of the General Assembly on the different documents transmitted by you on the 28th of April and 10th of June last.

I have, &c.,

WM. Young,

Secretary to the Colonial Committee.

P.S.—The documents transmitted on 10th June are herewith returned.

[Sub-enclosure.]

EXTRACT from the Report of the General Assembly of the Church of Scotland's Committee on Colonial Churches.

Your Committee are gratified to be able to report that the restoration of union in the Church of New South Wales has been followed by the revival of a spirit of zealous activity for the extension of the Church and the promotion of the important objects, to which it is the peculiar privilege and duty of a Church of Christ to attend, although some of the embers lighted during the former unhappy period of discord are as yet not wholly extinguished. To one subject of dispute the attention of the committee has been called by a Memorial, addressed to them by the trustees, and a large body of the Members of one of the Churches in the Colony, and by a reference from Her Majesty's Secretary of State for the Colonies, in regard to the course adopted by the Governor of the Colony in the matter.

It appears that, during the late division in the Church, the separating Ministers established two of their number at two stations, Paramatta and Maitland, where Ministers in connection with the Presbytery of New South Wales had previously been settled, and were in possession of the usual allowances and accommodations provided by Government. The result was that, when the Presbytery and the separating Ministers were united and constituted into the present Synod of Australia, there were two Ministers and two Congregations respectively in each of these places, while the circumstances were not such as to warrant the continuance
of both, or to entitle both to the Government stipend. In these circumstances, the Synod of Australia adopted the resolution of removing all the four ministers to other and separate stations, in which of course they would all retain the Government stipends, and of allowing other Ministers to be called to the charge of the members of the Presbyterian Church at Paramatta and Maitland. The Committee, not having the means of knowing minutely the whole circumstances in which this measure was adopted or might be justified, do not pronounce any opinion upon the merits of an Act, which was unquestionably within the province and competency of the Supreme Court of the Presbyterian Church of the Colony. Having been called upon, however, by Her Majesty's Government to consider a question arising out of this Act of the Synod, they have given an opinion on that question, for the determination of which the materials before them were sufficient. One of the four Ministers referred to, the Revd. Mr. Allan of Paramatta, who was the Minister originally settled there by the Presbytery, has refused to submit to the sentence of the Synod in this matter, and has been supported in this course by, as the Committee are informed, the great of his Congregation. In consequence, the Moderator of the Synod has withheld the certificate to enable him to draw the Government stipend required by the recent Church Act of the Colony, which was lately allowed by Her Majesty's Government, after communicating with the Committee, who expressed their approval of it. The Governor having thereupon withheld his salary, Mr. Allan remonstrated on the ground that, as he alleged, the Act of the Synod was contrary to the laws and constitution of the Church of Scotland. The Governor, as stated by him in a despatch to the Secretary for the Colonies, "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." On this, Mr. Allan presented to the Governor, for transmission to the Secretary of State for the Colonies, a letter complaining of the conduct of the Governor to overrule the Governor's decision, and to confirm him in his salary, on the ground already noticed of the alleged illegality of the sentence of the Synod. This letter, with various accompanying documents and the Governor's despatch, have been transmitted by Lord Stanley, Her Majesty's Secretary of State, for the consideration of the Committee, accompanied by an expression of his Lordship's own opinion "that the Governor was right in the course which he took."

In accordance with the principles which regulated the conduct of the Committee during the recent disputes in the Church of the Colony, and which received the approbation of the assembly, they have on this occasion also done what lay in their power to support the authority and independence of the constituted Judicatory of the Colonial Church; and, irrespective of the merits of the question decided by the Synod, which is matter for the exclusive cognizance of that Judicatory, they have communicated to Her Majesty's Secretary of State their cordial concurrence in the course adopted by the Governor, and approved of by his Lordship.

The Committee trust with confidence that their steady perseverance in the line of conduct, which has ever regulated their proceedings in regard to such matters, and which was attended with such
happy results on the occasion of the former resistance to the authority of the constituted Judicatory of the Church of this Colony, will meet, as it did before, the approbation of the General assembly; and they also fondly trust that Mr. Allan, receiving no countenance in his resistance to the authority of the supreme tribunal of the Church to which he belongs, will return to his obedience, and whatever may be his individual opinion as to the sentence pronounced by the synod, or his feelings as to the hardship which he may in consequence suffer, will cease to perpetuate discord, and give rise to schism by maintaining a position inconsistent with his duty as a Minister of the Church, and with his vows of submission to the ecclesiastical authority of the judicatures to which he is subject.

Extracted by WM. YOUNG, Secretary.

---

STANLEY TO GIPPS.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 160, per ship Hamlet.)

Sir, Downing Street, 4th August, 1842.

I have received your Dispatch, No. 27 of the 7 of February last, enclosing a Copy of a Report, which had been made to you by Captain Maconochie of the progress of his System at Norfolk Island to the conclusion of the Year 1841, and of the prospects which he considered he had of the success of his system.

I should be most anxious that you should have an opportunity of satisfying yourself, as you proposed, by visiting Norfolk Island, in regard to the alleged defects and assumed merits of Captain Maconochie’s system. The extreme doubt attaching to it, the long period which elapses between the receipt of Communications and the events to which they refer, and the inconvenience attending the disturbance of an experiment in progress on so large a scale, have made me hesitate in at once sending out to you any definite instructions on the subject, and have served to point out to me the necessity of relying very much on the judgment of local Authorities. I should place much greater confidence in the Reports, which I am led to expect from you after a personal inspection of the place than in those of Captain Maconochie, however faithfully he may endeavour to describe the operation of his system.

I concur with you in thinking that the objections to the simultaneous operation of two different systems in Norfolk Island are less than those which oppose themselves to the transfer of the doubly Convicted Prisoners to a new Establishment before any provision has been made for their ultimate disposal. That point, and indeed the whole question of Convict Discipline, will receive during the approaching recess the very serious consideration of myself and the Secretary of State for the Home Department.

I am, &c.,

STANLEY.
Proposed surrender of school house by R.C. community.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 161, per ship Hamlet.)

Sir,

Downing Street, 4th August, 1842.

I have received your Despatch No. 28 of the 8 February last, in which you report on the subject of a complaint made to my Predecessor by the Revd. Dr. Polding that, at the demand of the Bishop of Australia, the Roman Catholic Community had been called on to surrender a portion of a Building in Sydney, which they had occupied for many years as a School House.

As far as I am able to form a judgment on the question from your Report, the Correspondence accompanying which is in rather an imperfect form, it appears to me that the arrangement, which you propose, is reasonable, altho' I am of opinion that the 1st January, 1844, instead of the 1st January, 1845, would be a sufficiently distant period to fix for the vacation of the Building by the Roman Catholics.

It appears to me also to be desirable to set at rest the question of Title to the Building so as to free the Local Government from any further difficulty, and this object might be the more easily effected, if a Grant were made from the local Treasury to the Roman Catholic Community towards the erection of a School House.

I have, &c.

STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 162, per ship Hamlet; acknowledged by Sir George Gipps, 20th January, 1843.)

Sir,

Downing Street, 5 August, 1842.

I transmit to you herewith Copies of a Correspondence with Mr. P. L. Campbell, relative to his Claim to leave of absence with Half the Salary of the Office of Police Magistrate at Parramatta; and I have to request that you will communicate to me such observations as you may have to make upon the subject.

I should have been glad to have been enabled to decide at once on the merits of this claim without the delay of a reference to the Colony.

I have, &c.

STANLEY.

[Enclosure No. 1.]

MR. P. L. CAMPBELL TO LORD STANLEY.

My Lord,
Junior United Service Club, 11th July, 1842.

Having left Sydney with the permission of Sir George Gipps, in consequence of a protracted and very dangerous illness, I beg to report my arrival in England to your Lordship.
In reply to my application to the Governor for Leave from the office of Police Magistrate at Parramatta and visiting Justice of the Female Factory, with half Salary during my absence, The Colonial Secretary informed me "that His Excellency regretted very much, it was not in his power to grant me half salary during the period of my proposed absence, as Police Magistrates did not fall within the class of officers, to whom it was usual to give Extended Leave of absence."

Police Magistrates are not excluded from the advantages accorded to Civil Officers by the General Instructions of Her Majesty, and Mr. Bradley a Junior Clerk in a Public office, whom Sir George Gipps allowed to proceed to England, obtained half Salary under the direction of the Secretary of State, to whom the question was referred. I therefore requested His Excellency "to submit my case also to the Secretary of State and so enable me to obtain the decision of His Lordship on my arrival in London."

Presuming that Sir George Gipps has accordingly brought my case under your Lordship's notice, and taking into consideration that my health and constitution have yielded beneath a zealous discharge of Public duties abroad for thirteen years, I trust Your Lordship will allow my Leave to extend to May next, and direct the payment to me in London, of my Half Salary (£200 a year) from the 1st May, 1841, the date up to which I received any Salary in New South Wales.

I have, &c.,

P. LAURENZ CAMPBELL.

[Sub-enclosure.]

CERTIFICATE from the Medical Officers in New South Wales.

We the undersigned do hereby certify that P. Laurentz Campbell, Esquire, has been under our professional charge, in consequence of a severe and protracted affection of the Liver, from which his recovery has only been exceedingly partial, and accompanied by frequent and alarming relapses. We are now of opinion that it is indispensably necessary that he should without delay undertake a Sea voyage, in as much as we conceive that it will only be, by the joint influence of a change of Climate, an entire cessation from the discharge of all public duties, and a Sea voyage, that his recovery can with any degree of certainty be calculated upon.

CHARLES NICHOLSON, M.D.
SYDNEY, 3RD MAY, 1841.

JOHN DOBIE, Surgeon, Royal Navy.

CERTIFICATE from the Medical Officers at the Cape of Good Hope.

We, the undersigned, do hereby certify that P. Laurentz Campbell, Esqr., has been under our professional charge for the last three months, during which period he has suffered from functional derangement of the Liver and Severe spasmodic affection. He has not benefitted at all by his stay at the Cape, and his relapses are now becoming more frequent, accompanied by increasing Emaciation and debility. Under these circumstances, we are decidedly of opinion, that an immediate removal to England is indispensable for the restoration of his health.

JOHN FORREST, M.D., Surgeon, 75th Regt.
CAPE TOWN, 6TH APRIL, 1842.

A. BICKERSTETH, Colonial Surgeon.

[Enclosure No. 2.]

UNDER SECRETARY HOPE TO MR. P. L. CAMPBELL.

Sir,

I am directed by Lord Stanley to acknowledge the receipt of your Letter of the 11th Instant reporting your arrival on Leave of Absence from your office of Police Magistrate at Parramatta, New South Wales, and stating that, before quitting the Colony.
you had requested the Governor to submit to his Lordship an
application which you had made to him, and which he had declined
to comply with, for permission to draw half Salary during your
Leave.

Lord Stanley desires me to acquaint you, in reply, that no Report
on the subject has as yet been received from Sir George Gipps and
that, in the absence of such a report, it will not be in his Lordship's
power to authorize the issue to you of the Half Salary, or to Grant
the Extension of Leave, for which you apply.

I have, &c.,
G. W. Hope.

[Enclosure No. 3.]

MR. P. L. CAMPBELL TO LORD STANLEY.

My Lord,

Junior United Service Club, 23rd July, 1842.

I have had the honor to receive a Letter from Mr. Hope,
informs me that your Lordship could not authorize the issue of
Half Salary to me, no report of my permission to leave Sydney
having been received from Sir George Gipps; fully satisfied that
such report had been transmitted, I endeavoured to trespass as
little as possible on Your Lordship's time, and therefore in my last
communication I entered but briefly on the subject.

The Printed Instructions give the Governors the power of grant­
ing leave to any of the Officers of their Government, the only class
of Persons about whom there is any qualification are the Clergy.
Sir George Gipps, however, did not think proper to establish a pre­
cedent in the case of Police Magistrates, and therefore declined
granting me formal leave with Half Salary, but informed me that
I should stand in the position I had done since I ceased to act as
Police Magistrate (while acting Colonial Treasurer), retaining my
claim to re-enter on my functions whenever my health permitted me
to do so. And, as I find that Sir George Gipps has not addressed
Your Lordship, I think it right to apprise you that the Person, at
present acting in my office, is in receipt of the full salary thereof,
although I offered to provide a perfectly Eligible Substitute to act
for me on the usual moiety.

The Instructions of Lord Bathurst set forth that all communi­
cations to the Secretary of State are to be transmitted through the
Governor; but, should he not forward them, they are to be made
direct for the Secretary of State's decision. Your Lordship will
perceive that I distinctly requested Sir George Gipps to forward my
case in the usual manner; and, as he has failed to do so, I can only
appeal to Your Lordship's sense of Justice, whether I have not
done all in my power to bring this matter properly under Your
Lordship's notice.

I do not at all wish to conceal from your Lordship, that I am not
on terms of friendship* with Sir George Gipps, although that cannot
affect the question of a Police Magistrate's claims to enjoy equal
privileges with other officers of the Service to which he belongs;
and I cannot conceive, however unfavorably His Excellency may
have thought proper to look upon me, that he would intentionally
adopt so indirect a mode of inflicting an injury, as that of with­
holding his report with a view to exclude me from the benefit of
your Lordship's decision.

* Note 18.
I admit my Lord that my case is a novel one, and that your Lordship may naturally look for some proof of my having left the Colony without having forfeited my claim to consideration as a Civil Officer; and I confess that I must have embarked even had Sir George Gipps refused to sanction my departure; but, suppose for a moment that I had so left the Colony, I still retained my right to appeal to Your Lordship's ultimate decision, and it was therefore equally the duty of the Governor, especially as I had requested a reference to Your Lordship, long ere this to have forwarded all the Papers for your consideration.

I can only repeat that the Grounds, upon which His Excellency founded his refusal, were those which I have stated, and which I answered at the time in the following terms:

"Upon what grounds, it has been determined that Police Magistrates are not of the class of officers, to whom shall be extended the General Regulations of the Service, with regard to leave of Absence, I am altogether unaware, but I beg to submit that to exclude them from the right of claiming it is to degrade them below the level to which they are entitled by their position in Society, and which the Interests of the Service and of the Public indispensably require them to retain.

"If it be that Police Magistrates are commonly appointed in the Colony and are therefore supposed to have less occasion to leave it than officers sent out from England, I would beg to point out that, even if this be a sufficient reason, when leave is requested on account of Private affairs, it is totally inapplicable in the case of ill health; and, with regard to myself, I beg to state that I was removed to a Regiment for the purpose of joining Sir Richard Bourke in New South Wales; that on my arrival I was appointed to the Staff, my duties being however purely of a Civil character and in the service of the Colony; had I retained that appointment, I should have returned with His Excellency to England at the expense of the Public; and, when I accepted at his hands the office of Police Magistrate, I certainly had no reason to believe that I was considered as thereby forfeiting any privilege which I had previously enjoyed, or as lowering myself in any way in the Queen's Service.

"It is scarcely necessary to detail the numerous instances of persons not strictly in the Civil service, obtaining leave of absence with Half Salary from the Colony; at that moment Dr. Polding and Dr. Ullathorne (Roman Catholic Clergymen) and Mr. Keane (of the Church of England) were also absent. The Revd. Dr. Lang had been granted leave three several times, although he failed to obtain Salary more than twice. There were many instances also in the case of Government Surveyors, and Mr. Bradley, a Clerk in the Supreme Court Office, was allowed by Sir George Gipps to proceed to England, and obtained his Half Salary under the personal Sanction of the Secretary of State, to whom the question was referred.

"These several representations and precedents will, I trust, be deemed by His Excellency sufficient to justify his so far reconsidering the claims of the Police Magistrates, as to submit my case and the papers connected with it to the Right Honble. The Secretary of State for the Colonies, and so enable me to obtain the decision of His Lordship without further reference to this Colony on my arrival in London."
1842.
5 Aug.
Detailed statement of claim by P. L. Campbell.

As the matter now stands, I can only entreat your Lordship to consider and decide upon my case upon its own merits, which after a perusal of my Medical Certificates will reduce itself simply to this:

That I as an officer in the Army relinquished my profession for the Civil Service of a Colony, having served that Colony with zeal and (as the accompanying testimonials will shew) with credit for upwards of seven years; my constitution became so impaired that my only alternative was to forfeit my life or to proceed to Sea, and with the sanction of the Governor I adopted the former course.

Under these circumstances, and considering the enormous expense which I have necessarily incurred, I sincerely trust that Your Lordship will be pleased to order the issue to me of my Half Salary, from May, 1841, until May, 1843.

P. LAURENTZ CAMPBELL.

Testimony by Sir R. Bourke to services of P. L. Campbell.

[Sub-enclosure.]

SIR RICHARD BOURKE TO MR. P. L. CAMPBELL.

Dear Sir,

Wilton Street, 21st July, 1842.

I received yesterday your Letter, informing me of your intention to apply for a Public Employment in this Country, and requesting from me a testimonial of your general fitness for office, and of your conduct whilst discharging the duties of the Executive Police, with which I entrusted you during my Government in New South Wales.

I consider it due to the public Service that I should not withhold on this occasion the expression of the very favorable opinion I entertain of the manner in which you filled the office of Police Magistrate, first at Maitland, and subsequently at Parramatta.

I had ample reason for commending, on several occasions and in very strong terms, the activity and skill with which you repressed crime, and preserved tranquility, whilst you obtained for yourself general respect and good will by the perfect impartiality with which you administered the Laws. I have no hesitation in saying that I considered you particularly well qualified for the duties of the Executive Police.

I may add here that, at an early period of your life when I administered the Government of the Cape of Good Hope, I employed you as my private Secretary, and was fully satisfied with your zeal and assiduity; and the good opinion I then formed of your official ability, led me afterwards to employ you whilst an extra aide de Camp, in the Private Secretary's Office, until an opportunity offered of advancing you to a Police Magistracy.

I am, &c,

RICHARD BOURKE.

[Enclosure No. 4.]

UNDER SECRETARY STEPHEN TO MR. P. L. CAMPBELL.

Sir,

Downing Street, 4th August, 1842.

I am directed by Lord Stanley to acknowledge the receipt of your letter of the 23rd Ultimo, and to acquaint you in reply that his Lordship will refer the whole Correspondence to the Governor of New South Wales and will call for a report on your claim; but that, without such report, his Lordship can take no step in the case.
Lord Stanley gathers, from the correspondence now before him, that Sir George Gipps had refused your application for formal leave of absence with half salary, on the ground that such application was opposed to the principle on which stipendiary magistrates hold their offices in the Colony, and had appointed another Gentleman to perform the duties of your Office on full Salary. Lord Stanley cannot admit the claim, which you advance, to be allowed to provide what you considered a perfectly eligible substitute to act for you during your absence on half the Salary of the Office; nor can the Public be called on to pay two officers at the same time on account of one Service.

I have &c.,

JAMES STEPHEN.

---

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 163, per ship Hamlet.)

Sir,

Downing Street, 5 August, 1842.

On the receipt of your Despatch No. 9 of the 20th of January last, reporting the reasons which had induced you to defer the repayment into the Military Chest of New South Wales of the sum of £5,000 advanced by the Board of Treasury to the Agent on account of that Colony, I called upon Mr. Barnard to state the circumstances under which that advance was applied for, and I transmit to you, herewith, a copy of the reply which has been received from that Officer. I have also been in communication with the Lords Commissioners of the Treasury on this subject.

In the explanation of the grounds upon which you had deferred the repayment, it would appear that you consider that the Advance in question, and the order for the repayment thereof in the Colony were made on the sole authority of the Agent General.

As however the fact of the advance was communicated to you by the Secretary of State, with Instructions to repay the amount to the Commissariat Chest, you were not in any respect justified in deferring the repayment thereof, whatever explanations on the subject you might have thought it necessary to require from the Agent General for the Colony.

The Advances to the Colonial Agent from Funds in this Country are made for the convenience of the Colony, and to save it from the expense which would attend the previous transmission of the necessary Funds from New South Wales; and Her Majesty's Government cannot consent to continue that accommodation except upon the condition of the prompt repayment in the Colony of every advance, as soon as it is reported.

In reference to the observations contained in your despatch, it is necessary that you should be apprized that due precautions

---

1842.
5 Aug.

Reasons for refusal of half salary.

---

Repayment deferred to military chest.

---

Papers transmitted.

---

Censure for deferring repayments.

---

Reasons and conditions for advances to colonial agent.
are taken by the Lords Commissioners of Audit to ascertain the state of the Balances in the Agent's hands, before any advance is made to him on account of the Colony, and the Balances of the payments made to him on account of Land orders on the Colony, issued by the Land and Emigration Commissioners, are invested in Exchequer Bills under their Lordships' orders until required for Emigration Expenditure; and, as Sums derived from that Source are applicable to Emigration Expenditure only, the Agent General is precluded by his Instructions from applying the same to the general purposes of the Colony without specific authority from Her Majesty's Government.

You will consider the foregoing observations as equally applicable to the omission on your part to direct the repayment of the further advance of Five thousand pounds which was notified to you by my Predecessor on the 16th September last, and which appears to have been likewise withheld on the ground of want of some further information respecting the Application of the money by the Agent General of the Colony.

I have, &c.,

STANLEY.

[Enclosure.]

MR. E. BARNARD TO UNDER SECRETARY STEPHEN.

Sir, 5 Cannon Row, 11 July, 1842.

I have the honor to acknowledge the receipt of your letter of the 1st instant, transmitting to me the Copy of a Despatch from the Governor of New South Wales, and requesting me to report to Lord Stanley the circumstances under which the advance of Five thousand Pounds, issued to me by the Board of Treasury in the month of May, 1841, was applied for for the service of that Government.

In reply I transmit herewith the Copy of the letter which I addressed to the Secretary to the Board of Treasury, sending a statement of the services for which this advance was required: and, with reference to the part of Sir George Gipps' Despatch which refers to the circumstances of the advance having been applied for, when I had in my hands a larger sum on account of the Land and Emigration Commissioners, I beg to enclose the copy of a letter which I addressed to Mr. Trevelyan, suggesting that it would be much more convenient to apply the Balance in hand on account of the Sales of Land to the general purposes of the Colony; and I also transmit a copy of Mr. Trevelyan's reply, stating that their Lordships could not concur in my suggestion.

I have, &c.,

EDWD. BARNARD.

[Sub-enclosure No. 1.]

MR. E. BARNARD TO MR. C. E. TREVELYAN.

Sir,

No. 2 Parliament St., 18 May, 1841.

Referring to my letter to you of the 1st Aug. last, I have the honor to transmit to you, for the information of the Lords Comrs. of Her Majesty's Treasury, a statement showing that the sum of Ten thousand pounds is required on account of the current services of the Government of New South Wales.
You will perceive that my account with the Colonial Government is now overpaid £5,285.

This arises principally from advances made by me for Emigration services, for which I did not think it necessary to apply to the Treasury, as I had a considerable balance in my hands arising from Deposits made here on account of the purchase of Land, under the Regulations of the Land and Emigration Commissioners.

I have now an apparent balance on the Emigration account of £7,612, but from which the overpayment for New South Wales must be deducted; and, as various claims on the Colony remain unliquidated, I have to request that you will move the Lords Commissioners of Her Majesty's Treasury to give directions that a Warrant be prepared for the issue to me of the sum of £10,000, and that I may be allowed to receive immediately £5,000 on account, and the remaining £5,000 at a future period whenever the same may be required.

I have, &c.,

EDW. BARNARD.

[Annexure.]

STATEMENT of New South Wales Agency.

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Balance overpaid 31 Dec., 1840, on the general account of the Colony</td>
<td>£1,465</td>
</tr>
<tr>
<td>Advanced for Emigration Services</td>
<td>£4,650</td>
</tr>
<tr>
<td>Paid between 1 Jan. and 18 May, 1841</td>
<td>£635</td>
</tr>
<tr>
<td>Deduct—</td>
<td></td>
</tr>
<tr>
<td>Incidental receipt</td>
<td>£25</td>
</tr>
<tr>
<td>Balance overpaid</td>
<td>£5,260</td>
</tr>
</tbody>
</table>

Estimate of Payments to be made.

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stationery Office, for Stationery furnished in the Decr. Quarter, 1839</td>
<td>£324</td>
</tr>
<tr>
<td>Ordnance Department for Clothing and Accoutrements furnished for the Mounted and Border Police for the year ending 31 March, 1840</td>
<td>£675</td>
</tr>
<tr>
<td>Ditto for Railway Bars, etc., furnished in 1839 for the use of the Colonial Works</td>
<td>£1,367</td>
</tr>
<tr>
<td>Pensions and Salaries</td>
<td>£1,000</td>
</tr>
<tr>
<td>Incidental Payments, sar</td>
<td>£374</td>
</tr>
<tr>
<td>Total</td>
<td>£4,740</td>
</tr>
</tbody>
</table>

Balance to be provided for                  | £10,000      |

Note.—The Balance in hand on account of other Colonies are as follows:—

<table>
<thead>
<tr>
<th>Colony</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cape of Good Hope</td>
<td>£5278</td>
</tr>
<tr>
<td>Malta</td>
<td>£781</td>
</tr>
<tr>
<td>St. Helena</td>
<td>£75</td>
</tr>
<tr>
<td>Swan River</td>
<td>£439</td>
</tr>
</tbody>
</table>

which balances do not exceed the amount which will be required for the current Services of the respective Colonies. EDWARD BARNARD,

Agent Genl. for Crown Colonies.

No. 2 Parliament St., 18 May, 1841.

[Sub-enclosure No. 2.]

MR. F. BARNARD TO MR. C. E. TREVELYAN.

Sir,

I have the honor to transmit to you herewith the copy of a letter, which I have received from the Secretary to the Colonial Land and Emigration Commiss., enclosing an extract of a letter from the Secretary to the Comms. for auditing the Public Accounts, expressing an opinion that all balances of the deposits for the purchase of Land not required for the estimated exigencies of the service should be immediately invested in Exchequer Bills, and acquainting me that it is the intention of the Commissioners in future to issue their Warrant for investment immediately on receiving my notification of the deposit of any money; and Mr. Walcott, at the same time transmit to me a Warrant for the purpose of such an amount of Exchequer Bills as, at the present rate of Premium, I may be able to purchase with the balance now in my hands, amounting to the sum of £9,192 4s. 4d.

In submitting these letters for the information of the Lords Commissioners of Her Majesty's Treasury, it is necessary that you should be apprised that the balance in my hands on this account is not sufficient to enable me to comply with
this Instruction; for, advances having been made from the Funds of New South Wales on account of Emigration services during the years 1840 and 1841 to the extent of £4,415, to which must be added £850, being the amount of a Warrant which I have this day received for the payment of that sum to Mr. Walcott. A further advance from the funds of New S. Wales, the account of that Colony will be overpaid, if this money is to be invested, as proposed by the Commrs. of Land and Emigration, and I shall not have any funds to defray the current claims on the Colony.

I would also beg to suggest to you that, until the Balance in hand on account of the Sales of Land is required to defray the passage of Emigrants to New South Wales, it would be much more convenient to apply the amount to the general purposes of the Colony, as well as to Emigration services, instead of making frequent Requisitions for advances from the Lords Commissrs. of the Treasury; and, with reference to the concluding Instruction in Mr. Walcott's letter that every payment made to me is to be immediately invested in Exchequer Bills, and that sales are to be made to meet each demand which the Commissrs. of Land and Emigration may make upon me by their Warrants, that such a course would be attended with great obstruction to the Business of the Office without any apparent corresponding advantage.

I have therefore the honor to request that you will lay this letter before the Lords Commissioners of Her Majesty's Treasury, for their Lordships' consideration and decision.

I have, &c.,
E. BARNARD.

[Sub-enclosure No. 3.]

MR. C. E. TREVELYAN TO MR. E. BARNARD.

Sir, Treasury Chambers, 13 August, 1841.

With reference to your letter of the 26th June last relative to the investment of the balances of deposits for the purchase of Land in the Colonies, I have it in command from the Lords Commissrs. of Her Majesty's Treasury to acquaint you that, having communicated with the Commissrs. of Audit and the Land and Emigration Commrs. on the subject, my Lords are of opinion that, with regard to the investment in Exchequer Bills of the balances now in your hands of the Deposits for the purchase of Land, the amount of the advances from the general Funds of New South Wales should be repaid, and therefore be deducted from the amount of the Balances before any such investment be made.

Their Lordships cannot concur in your suggestion that the Money deposited for the sale of Land should be used for the general purposes of the Colony, until it may be wanted to defray the passage of Emigrants; but, in order to obviate the inconveniences which you anticipate, as the consequence of the immediate investment of every payment made to you on account of deposits for the purchase of Lands and the sales of Exchequer Bills, on the occasion of every demand which the Commissrs. may have to make upon you, their Lordships have instructed the Commrs. to leave a Cash Balance in your hands equivalent to the probable amount of Emigration expenditure for a period of from three to six months, and to direct the investment of the Balance only which may remain after providing for such Expenditure.

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

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 164, per ship Hamlet.)

Sir,
Downing Street, 5th August, 1842.

I have received your Despatch of the 20th August last No. 164, in which you forward the report of the Committee of the Legislative Council of New South Wales on Immigration for the year 1841.

Having communicated that Despatch and its Enclosure to the Colonial Land and Emigration Commissioners, I transmit to you herewith, for your information, a Copy of the observations which they have furnished on the subject of it.
The general question of the Funds available for Emigration has been fully adverted to in my recent Communications, and I do not perceive that your Despatch, now under acknowledgment, requires any further special observations.

I have however to acquaint you that, if the present opportunity should be taken of selling the Land in the Neighbourhood of the late Convict Settlement of Moreton Bay, Her Majesty's Government are prepared to sanction a simultaneous Sale of the large quantity of Stock belonging to the Government, which is pastured in that Neighbourhood. The proceeds of that Sale would of course be carried to the Credit of the Military Chest.

I have, &c.,

STANLEY.

[Enclosure.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Colonial Land and Emigration Office,

9 Park St., Westminster, 7 May, 1842.

With reference to your Letter of the 20th Ulto. enclosing a copy of the Report of the Committee of Legislative Council of New South Wales on Immigration for the year 1841, we have the honor to state for Lord Stanley's information that we have duly perused and considered the contents of this Document.

We do not find that there are at the present moment any practical questions on which it is necessary that we should submit any remarks to Lord Stanley with reference to this Report. We will merely state in general terms that, with regard to the mode in which Emigrants should be sent out by the aid of Public funds, we entirely agree with the Council in thinking that the sole object to be arrived at is the promotion of that method or of that Combination of methods, which may be found most conducive on the whole to the welfare of the Emigrants and of the Colony.

In regard to the kind of persons who may be with benefit admitted into the number of free Emigrants, we shall not fail to bear in mind, on any future occasion in which we may have to act upon the subject, the additional information supplied by the Committee of Council in their present report.

Upon the important question of encouraging the Immigration of Hill Coolies, it has been very gratifying to us to observe the firm, and as we believe the sound conclusion of the Committee, notwithstanding the force of the temporary motives that might have been felt to expend upon this object some part of the Public Funds available for obtaining a supply of Labor.

With reference to the nature and the extent of our Superintendence of the Emigration upon Bounty, we have had much pleasure in perceiving that our course of action has accorded with the opinions expressed by the Committee. A right was reserved to our Board of ascertaining that persons going out by the aid of Public Funds were not induced to Emigrate by misrepresentations; and we made use of the power to prevent the circulation on behalf of any one Colony of tracts or advertizements containing passages in
disparagement of others; but we in no case caused the institution of inquiries among individual Emigrants in the nature of those, which the Committee of Council justly point out would be so little suited to practical purposes, and might be attended with so much inconvenience. We have never interfered with applicants for a free Passage upon the ground of personal unfitness under the Colonial Regulations, but we think it desirable that the Certificates to the character of the Emigrants, and to the correctness of the Statements which they make respecting themselves, should continue to be examined at this Office, first, because we have means of examining into their authenticity, which could not be possessed by a Board sitting in the Colony, and next because experience has proved that our Inspection is useful in detecting forgeries. No evils on the other hand, so far as we are aware, have resulted from these Documents being submitted to us. Amongst the 18,000 Emigrants who left the United Kingdom last year under our general supervision, whilst there are several cases in which we have the satisfaction of believing that we interposed with advantage to the Passengers, and to the place for which they were destined, we are not aware of one instance in which a complaint was preferred of our having interfered unduly or with harshness; nor can we call to mind any case in which it could be alleged that the interference was to the detriment of the Colony to which the Emigrants were going.

We have only to add, with reference to the concluding passage of the Committee’s report, that the question of the Religious Creed of intending Emigrants is one which is never raised at our Board; and that we fear that the Ports of the United Kingdom, which the Committee indicate as desirable Ports of Embarkation, would not be found well suited to the filling up and despatching of large Emigrant Ships. But, as the question does not at the present time arise in a practical form, it would probably be superfluous that we should enter into any detailed explanation of the subject in this Communication.

We ought not perhaps to conclude, without drawing your attention to the Circumstance, that, in his Despatch enclosing the Report, Sir Geo. Gipps again adverts to the question of the repayment of the advances made from New South Wales to the Colonies of New Zealand and South Australia, and also expresses his hope that, in the event of any actual deficiency, he may be allowed to look for relief to the Military Chest.

In answer to Sir George Gipps’s request for information on the Sales effected by this Board, we have the honor to state that the former enquiry, to which Sir Geo. Gipps refers, was not forwarded to our Board. The Agent of the Colony in London has been cognizant of any Sales that were made, and Returns of them were sent to Mr. La Trobe at Port Phillip, in which District the Lands sold have been almost exclusively situated. We now beg to transmit, for the Governor’s information, a return of all Sales from the beginning. The Public has not shewn much disposition to effect purchases in this Country of Colonial Lands; but, at any time at which further Sales may take place, we shall not fail to take measures for duly apprising the Colonial Government.

We have, &c,

T. FREDK. ELLIOT,

EDWD. E. VILLIERS.
GIPPS TO STANLEY.

[Sub-enclosure.]

RETURN shewing the quantity of Land in New South Wales, for the purchase of which money has been deposited to the Account of the Colonial Land and Emigration Commissioners in England, with the date of Deposit, the name of the purchasers, the price per Acre, the District in which such Lands were situated and the total amount realized.

<table>
<thead>
<tr>
<th>Date</th>
<th>Name of Purchaser</th>
<th>District</th>
<th>No. of Acres</th>
<th>Price per Acre</th>
<th>Amount</th>
<th>Credit for the amt. deposited to be given in any purchase effected in the Colony.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1840</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Apr. 15</td>
<td>Barker</td>
<td>Pt. Phillip</td>
<td>5,120</td>
<td>£1</td>
<td>5,120</td>
<td></td>
</tr>
<tr>
<td>May 20</td>
<td>Child</td>
<td>N. S. Wales</td>
<td>640</td>
<td>1</td>
<td>640</td>
<td></td>
</tr>
<tr>
<td>Aug. 29</td>
<td>Dendy</td>
<td>Pt. Phillip</td>
<td>640</td>
<td>1</td>
<td>640</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Wood</td>
<td>do</td>
<td>640</td>
<td>1</td>
<td>640</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Officer</td>
<td>do</td>
<td>330</td>
<td>1</td>
<td>330</td>
<td></td>
</tr>
<tr>
<td>Oct. 19</td>
<td>Mackenzie</td>
<td>do</td>
<td>320</td>
<td>1</td>
<td>320</td>
<td></td>
</tr>
<tr>
<td>Nov. 19</td>
<td>Bunbury</td>
<td>do</td>
<td>320</td>
<td>1</td>
<td>320</td>
<td></td>
</tr>
<tr>
<td>1841</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jany. 14</td>
<td>Goldsmith</td>
<td>do</td>
<td>330</td>
<td>1</td>
<td>330</td>
<td></td>
</tr>
<tr>
<td>Feb. 5</td>
<td>Lindsay</td>
<td>do</td>
<td>330</td>
<td>1</td>
<td>330</td>
<td></td>
</tr>
<tr>
<td>April 27</td>
<td>Paynes</td>
<td>do</td>
<td>330</td>
<td>1</td>
<td>330</td>
<td></td>
</tr>
<tr>
<td>June 4</td>
<td>Campion</td>
<td>do</td>
<td>330</td>
<td>1</td>
<td>330</td>
<td></td>
</tr>
<tr>
<td>Dec. 19</td>
<td>Spencer</td>
<td>do</td>
<td>200</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total amount realized £9,760.
Total number of acres 8,960, exclusive of the number purchased by Mr. Barker, Mr. Child, and Mr. Spencer, after their arrival by virtue of their respective Deposits.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatches No. 139, per ship Honduras.)

My Lord,

Government House, 5th Augt., 1842.

With reference to Lord J. Russell's Despatch, No. 312 of the 21st July, 1841, and the prior correspondence which had taken place on the subject of the proposed incorporation of the Towns of Sydney and Melbourne, I have the honor to report to Your Lordship that the Corporation Bill of Sydney passed on the 20th ulto., though without considerable opposition. The Bill to incorporate the Town of Melbourne has also been read a second time, and will pass without further difficulty.

I regret however to say that the Bill, which I introduced for the purpose of providing by local assessments for a portion of the expenses of Police and Public Works in each District of the Colony, was thrown out on the second reading.

The Corporation Acts will shortly be forwarded by me in the usual manner for the gracious allowance of Her Majesty.

I have, &c.,

GEO. GIPPS.
1842.
8 Aug.

Transmission of estimates for 1843.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 140, per ship Honduras.)

My Lord,

Government House, 8th August, 1842.

I have the honor to forward herewith a Copy of the Estimates for the year 1843, which I presented on the 26th Ulto. to the Legislative Council of this Colony, together with a Copy of the Financial Minute which accompanied them.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 165, per ship Hamlet; acknowledged by Sir George Gipps, 27th January, 1843.)

Sir,

Downing Street, 10 August, 1842.

I have received your Despatch No. 208 of the 15th of October, 1841, with the estimates of Revenue and Expenditure of New South Wales for the year 1842, and a Copy of the annual Act for the appropriation of the Local Revenue. Her Majesty has been pleased to allow and confirm that Act.

I have also received your Despatch No. 159, 20 Augt., 1841, in which you report that, on the passing of the Estimates, a Motion was made by one of the unofficial Members of the Council, Mr. James MacArthur, for reducing the items for Police and Gaols by one half of the proposed amount, but that the Motion was lost on a Division; of the Unofficial Members, five having voted in favor of the Motion and two against it.

With reference to that Point, I have to observe that, in the event of the Council withholding the necessary appropriation from the General Revenue Fund for defraying the charge of the Police, or of any other Local Establishment, the only alternatives open to you, until the new Act shall come into full operation, would be either the immediate reduction of the Establishment unprovided for, or, should the Service be one of emergency, the appropriation to the purpose, subject to the subsequent approval of Her Majesty’s Government, of a portion of the Crown Land Fund which might otherwise be applicable to the promotion of Immigration or remain at the disposal of the Legislative Authority in aid of the General Revenue.

Under the head of Pensions, there is a new charge of £200 a year to Mr. Nicholson on his retiring from the office of Harbour Master at Sydney; the arrangement under which that Pension has been assigned to Mr. Nicholson arises in some degree out of the appointment of a Water Police Magistrate under a recent Act of the Local Legislature.
That Act is still under the consideration of the Lords of the Committee of Privy Council for Trade to whom it was referred, and, when I shall have received their Lordships’ opinion in regard to the general provisions of the Act, shall be better prepared to address you further on the subject of the appointment created by it, and the arrangement under which Mr. Nicholson retired from the service.

In the meantime however, Her Majesty’s Government consider the exercise by Colonial Governments of any discretionary power in granting Pensions or Allowances to Parties retiring from Office, without the specific control and sanction of the superior authority in this Country, to be liable to much objection; and it must be understood that the Allowance of the Appropriation Act does not imply confirmation of the Grant to Mr. Nicholson. You will also furnish in the usual form more explicit information as to Mr. Nicholson’s Age, his Services under the Colonial Government, and his incapacity for further employment, than is afforded by your Dispatch, or the accompanying Certificate.

Her Majesty’s Government do not object to the appropriation of the proceeds of Land Sales or of the other Branches of the Crown Revenue, subject of course to the provisions of the New Land Bill, in the manner proposed in your Minute to the Legislative Council of 6th July; and, adverting to the remarks in that Minute regarding the Expenditure for the Post Office, I would observe that the privilege of Official Franking should be strictly confined to Communications on the Public Service, and that a Penalty should attach to any infraction of such regulation, as may be laid down in that respect.

I have, &c.,

STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.

My Lord,

Government House, 11th Augt., 1842.

I have the honor to receive Your Lordship’s Dispatch No. 66 of the 21st Feby., 1842, enclosing the Copy of one from the Governor of South Australia representing to your Lordship the hostile attitude which had been assumed by the Aborigines in the Neighbourhood of the Murray River about a year ago, and proposing that, in order to guard against a recurrence of acts of outrage and Murder on the line of Communication between Adelaide and Sydney, measures should be taken by the respective Governors of New South Wales and South Australia, to prevent the passage of any parties from one Colony to the other, except under a competent escort to be provided by the Government, but paid for by the parties escorted.
1842.
11 Aug.

Necessity for general repression of hostility of aborigines.

Objections to intervention in special localities.

Policing of road to Port Phillip.

Objections to regulation for travelling stock.

Having been called upon by Your Lordship to express my opinion of the proposal thus made by the Governor of South Australia, I feel bound to state to Your Lordship that, though I entirely concur with the Governor of South Australia in thinking it to be the duty of the Governors of all Her Majesty's Australian Colonies to repress, to the utmost extent of their power, any hostile aggressions either by or on the Aborigines, I can see no reason why this should be done more in one part of this Colony than in another, or upon one line of communication rather than upon all. It certainly happened that, in the course of the year 1841, the collisions near the Murray River were more serious than in any other part of either this Colony or South Australia; but their sanguinary nature was I believe rather to be attributed to accidental than permanent causes; and, in the history of New South Wales, it has rarely happened for any one District to remain in a troubled state a considerable length of time.

It certainly does not appear to me that the intervention of any superior authority is more necessary in respect to the communication between South Australia and New South Wales, than to those between many of the Districts lying wholly within the Territory of New South Wales, as for instance between the Districts on Rivers falling into the Darling (and ultimately into the Murray), and the Districts of the River Clarence or Moreton Bay, between any of the same Districts and the Country of Corner Inlet, otherwise called Gipps' Land, or even between Sydney and Port Phillip. A reference to my Despatches of the year 1838, and especially to the one marked in the margin,* will shew that the Port Phillip Road was, for the first two years after it was opened, extremely unsafe, and that some sanguinary collisions took place on it; but Posts, with Mounted Policemen, having been established at intervals along the road, travelling thenceforth became perfectly safe; and, during the last three years, no aggressions of a serious nature have been committed.

Any general regulation, forbidding persons to move Sheep or Cattle from one part of this Colony to another, without being provided with an escort from Government, would be felt, I can have no hesitation in saying, as a grievous hardship; and it would have, I fear, a very bad effect in leading people habitually to disregard the regulations of Government or even the Law itself.

The necessity of moving Sheep or Cattle (on account of Drought or want of Pasturage) is often most urgent; and, even within the last twelve months, very extensive losses have been sustained in the District of Liverpool Plains (North West of Sydney) from the inability of parties to remove their Stock in

* Marginal note.—No. 115, 21st July, 1838.
sufficient time from a Country suffering under drought. Not less than ten thousand head of horned cattle and thirty thousand sheep are supposed to have perished in this District; yet, so great is the abundance of stock in the Colony, that these losses have only been felt as individual calamities.

I consider it to be quite within my own power to issue an Order, such as Governor Grey did in July, 1841, forbidding communication on any particular line of road except under escort; and, if occasion required it, I should not hesitate to issue such an order, in the same way as I have issued orders that no Squatters shall be Licenced, or allowed to occupy stations, beyond the limits of protection; such special orders can be enforced, whilst general measures prohibiting the removal of cattle could not.

In the course of the year 1841, it was suggested to me by Governor Grey that I should issue an official Notice, informing the Public of the disasters which had befallen some of the parties, travelling overland from New South Wales to South Australia, and warning them that they should not in future attempt to pass from one Colony to the other without being well armed; such notices however it did not seem to me expedient to issue, first, because full information respecting the conflicts on the Murray had already been given to the Public through the ordinary channels of information, and secondly, because I could not but apprehend that any invitation to parties to arm themselves, proceeding from me, would have been construed into a general permission to take the business of defending, and of avenging themselves too, into their own hands.

I have, &c,

GEO. GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 142, per ship Honduras.)

My Lord,

Government House, 15th August, 1842.

With reference to my Despatch respecting Norfolk Island of the 26th May last, No. 97, and especially to the latter part of it, and to the enclosure No. 9, which accompanied it, I have been requested by Capt'n. Maconochie to transmit the enclosed Paper to your Lordship.

The enclosure No. 9, above alluded to, was a Memorandum from Capt'n. Maconochie of the establishment which he thinks will be necessary, whenever he may be fully authorized to carry out his own system at Norfolk Island; and the object of the Paper, which I now forward at his request, is to combat the opinion expressed by me, equally to Capt'n. Maconochie and to your Lordship, that the additions and alterations, which he
proposes, would, exclusive of the charge of maintaining the Convicts, increase the expenditure of the Island by a sum which may be roughly estimated at from £12,000 to £17,000 per annum. I regret to be forced to state that Captn. Maconochie's Paper has not had the effect of altering the opinions which I previously expressed, nor has it worked any greater conviction on the Deputy Commissary General. Having submitted it to the perusal of that Officer, I have received from him a communication on the subject of it, of which I enclose a Copy.

GEO. GIPPS.

[Enclosures.]

[Copies of these papers, dated 20th June and 26th July, 1842, will be found in a volume in series III.]

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 143, per ship Honduras.)

My Lord, Government House, 15th Augt., 1842.

I have the honor to report to Your Lordship that the last arrival from Norfolk Island brought to me official accounts of a desperate attempt made by a party of Prisoners at that Island to capture the Brig "Governor Phillip," the vessel which is employed in keeping up the ordinary communication between the Settlement and Sydney.

There being, as Your Lordship is aware, no harbour at Norfolk Island, vessels, when discharging cargo there, are generally obliged to "lie off and on," as sailors term it, during the night; and the "Governor Phillip" had thus laid off and on, during the whole night between the 20th and the 21st June last, the following being the number of persons then on board:

- The Master and a full crew of Petty Officers and Sailors, in all eighteen persons;
- A Guard of the 96th Regt. consisting of a Serjeant, a Corporal, and nine men, all fully armed;
- And a Party of twelve Prisoners, who had been put on board to assist in unloading the Brig.

Not long after daylight on the morning of the 21st June, the 12 Prisoners, being on deck in a body and preparing to go to work, suddenly turned on the Sentries, pinioned them, and threw them overboard, at the same time severely wounding the Serjeant, and knocking him, as well as another Soldier, into the hold of the vessel. The Mutineers then remained in possession of the Deck for nearly half an hour; but, a charge being made from below, the vessel was recovered, though not until five of the Mutineers had been killed and two wounded, one soldier drowned, and the Serjeant and Corporal each severely wounded.
GIPPS TO STANLEY.

It is perhaps scarcely possible to acquit the Guard of some want of proper precaution; but, when the unexpected nature and extreme audacity of the attempt are considered, the Brig being within sight of and indeed close to the Island, I cannot pronounce any severe censure upon them; and, after recovering from their surprise, the conduct of all, Soldiers as well as Captain and Crew, was such as to merit my entire approbation.

The seven surviving Mutineers are in custody, and will be brought to Sydney to be tried. It was my desire to have sent a special Commission to try them at Norfolk Island under the provisions of the 4th and 5th Wm. IV, C. 65, and the Local Act,* 5th Wm. IV, No. 23; but I regret to say, I could not find a competent person to act at the head of the Commission.

It was certified to me by the Chief Justice that the State of business in the Supreme Court rendered it impossible for any of the three Judges to undertake the duty; and, though under the provisions of the Acts above mentioned, I might have appointed a temporary Judge (being a Barrister of three years standing), I could not find any person to undertake the office, whom I considered properly qualified for it.

A Copy of the official Account of this daring attempt, made to me by Captn. Maconochie, is transmitted herewith; and it is right for me to point out to Your Lordship that all the Prisoners, engaged in it, belonged to the old, or doubly convicted establishment of the Island, there being none of Captn. Maconochie’s own establishment concerned in it. I have, &c.,

GEORGE GIPPS.

[Enclosure.]

[A copy of this letter, dated 23rd June, 1842, will be found in a volume in series III.]

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 144, per ship Honduras.)

My Lord,

Government House, 15th Augt., 1842.

In my Despatch No. 97 of the 26th May last, I reported the measures which I had adopted for carrying into effect the instructions conveyed to me by Lord J. Russell, in respect to the issuing of Tickets of Leave at Norfolk Island; and I have in continuation now to state that I find Captn. Maconochie has issued Tickets to nearly all of the men, who were sent direct from England to Norfolk Island, and that he has put them on the following footing:—

To each man are allowed eleven Marks a day, in lieu of the rations and clothing which he formerly received from the

1842.
15 Aug.

Conduct of military and crew.

Mutineers to be tried at Sydney.

Inability to hold trial at Norfolk Island.

1842. 15 Aug.

Issue of tickets of leave by A. Maconochie.

Conditions imposed by A. Maconochie.

* Note 19.
Government, and these eleven Marks are credited to him, whether he work for the Government or not; and to every man who works for the Government, an additional number is allowed, which may on the average be taken as equal to 25, so that each man on the average, who works for Government, receives 36 Marks a day. Of these 36 Marks, he is expected to put by 10 per diem to accumulate as the price of his entire freedom; and the other 26 he is supposed to spend for his daily maintenance, being allowed to purchase with them food, provisions, or in fact anything that he stands in need of, the Marks forming an Island Currency equal, as nearly as possible, to English pence.

In the Paper which is transmitted with my Despatch of this day's date, No. 142, Captn. Maconochie labours to shew that the introduction of these Marks will not cause any additional expense to the Government. In this reasoning, I have stated however that I cannot concur; and consequently, though I have sanctioned their convertibility on the Island into food or provisions, I have not promised that they shall be ultimately convertible into money, which is a part of Captain Maconochie's project.

Captn. Maconochie's system of Marks may perhaps be best explained by an example.

Let us suppose a Prisoner, after having been two years or more on Norfolk Island, to receive a Ticket of Leave; and that the price, which he is to pay for the further boon of entire freedom and removal from the Island, be at the same time fixed at 5,000 Marks. For every day in the year, whether he work or not, he will be credited 11 marks, and 25 additional for every day that he may work; so that, supposing him to work 300 days in the year, his total receipts in Marks for the year will be 11,515 Marks; it is therefore evident that, by saving somewhat less than half his marks, he may get his entire freedom in a year; and, during the course of the same year, supposing him to save 5,000 Marks, he will have had 6,515 to spend, which, if valued at 1d. each, will amount to £27 2s. 11d.; and, as the cost of a Convict, under ordinary circumstances, at Norfolk Island is about £17 per annum, it follows that the cost of each Ticket of Leave Holder will be £10 per annum more than it was before he received his Ticket.

If however, instead of saving his Marks and obtaining with them his freedom in a year, he spend them idly or in present indulgences, his cost instead of being less to the Government may be more.

Supposing him to work as already stated 300 days in the year, but to save only 2,500 Marks instead of 5,000, he will of course be two years in obtaining his freedom instead of one; during
these two years, he will have received 23,030 Marks, and, having out of them saved only 5,000, he will have spent 18,030, which at the rate of 1d. each will amount to £75 2s. 6d.; and consequently his maintenance will have cost the Government £37 3s. 11d. per Annum instead of £17.

It may of course be said that the Man of supposed inferior character will not earn as many Marks as the man of good character; that he will not work so many days in the year; and that he will be made to forfeit Marks for misconduct; all of which will reduce the cost of his Maintenance; and this undoubtedly will be the case, if the system be well and economically administered; but it is the extreme difficulty of administering it economically, and the very great tendency to profusion in the distribution of Marks already visible, which lead me to conclude that a very considerable increase in the expenditure of the Island must result from it.

The prices, at which Captn. Maconochie proposes to allow or indeed now does allow men to purchase articles from the Government, are the following:—

Pork or Beef, 6 Marks Per lb.; Maize Meal, 3; Tobacco, 24; Sugar, 5;

and as he further proposes that Men, on leaving the Island, shall be allowed to convert any surplus number of Marks they may have into an equal number of pence, it seems to me quite impossible to contend with any shew of reason that Marks will not be Money. The Marks which a man has to accumulate for his Pardon will not be money, but the others unquestionably will.

Captn. Maconochie further proposes to build houses for his indulgences Ticket holders, and to allot them land to cultivate. He also proposes to buy from the men the produce they raise, though at a price considerably lower than that at which he sells to them.

He has issued a number of Breeding Sows to them, charging each Sow by weight at six Marks a pound; and he proposes to buy back Pork from them, when they raise any, at 3d. a pound. This arrangement having been greatly objected to by the Commissariat, a reference was made to me on the subject, and I have given it my opinion that it was within Captn. Maconochie's competency to make the arrangement, and to issue the Sows, though I have reserved my opinion as to the discretion of the measure. The arrangement, as above stated, was for the men to buy in marks, but to sell for money; and consequently some of the men tendered back at 3d. a pound the identical Pigs (or Sows) which they had purchased at six Marks; upon such traffic however, I have placed my veto.
1842.
15 Aug.

Public opinion re issue of tickets of leave.

System to be fairly tested.

Documents transmitted.

So novel an arrangement as the issue of Tickets of Leave at Norfolk Island, and the conversion into small farmers or Cottiers of several hundred Convicts, has created a great sensation in the confined society of the place; and the whole proceeding is condemned and ridiculed, in an almost unqualified manner, by persons accustomed only to the old system of Convict Discipline.

The experiment having been sanctioned by Her Majesty's Government (especially the experiment of allowing the Convicts to spend money) and Captn. Maconochie having not only eagerly adopted it, but appearing also to consider it well adapted to work out his peculiar principles, it is my intention to allow it sufficient time for a fair trial, though I shall feel it my duty to check as far as possible any unnecessary expenditure.

I enclose for Your Lordship's information, the following documents in illustration of Captn. Maconochie's Ticket of Leave system:—

1. Copy of a letter from Captn. Maconochie, explaining the nature of his Mark and Ticket system.
2. Copy of a letter from the Colonial Secretary in reply.
3. Copy of a letter from the Deputy Commissary General, respecting the issue of Pigs and Maize to the Prisoners.
4. Copy of a letter from the Colonial Secretary in reply, and enclosing a copy of the answer returned to Captain Maconochie's letter of the 2nd June, 1842, No. 42/38.
5. Copy of a letter from Captn. Maconochie, enclosing his correspondence on the issue of Pigs, etc., with Mr. Smith, the Deputy Assistant Commissary General.

[Enclosures.]

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

Sir GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 145, per ship Honduras.)

My Lord,

Government House, 15th Augt., 1842.

In describing, in my Despatch of this day's date No. 144, the Tickets of Leave System which has been established by Captn. Maconochie at Norfolk Island, I have incidentally mentioned that a disagreement sprung up between Captn. Maconochie and the Commissariat officer (Mr. Smith) on the subject of the issue by Captn. Maconochie of a number of breeding Sows to the Ticket of Leave Holders. The matter was disposed of by me in the way I have already mentioned in the Despatch referred to; but I have now to report to Your Lordship that Mr. Miller, the Deputy Commissary General and Head of the Department in
GIPPS TO STANLEY.

Sydney, produced to me, in connexion with this subject, a letter from Mr. Smith, of which, on account of the very serious allegations contained in it against Captn. Maconochie, I think it right to forward a copy to Your Lordship.

Mr. Smith's letter is of the class commonly called demiofficial; and it contains a general commentary on the whole of the proceedings which are going on at Norfolk Island.

On my stating to Mr. Miller that I could not be in possession of such information without using it officially, he immediately replied that he was aware I could not, and that he desired the letter to be used officially.

Mr. Smith is an Officer who bears a high character in his Department for regularity and discretion; and he did not go to Norfolk Island in any greater degree prejudiced against Captn. Maconochie's system than persons living in this Community usually are.

Among the gravest of the matters contained in Mr. Smith's letter, is the allegation that a man, who had robbed the Commissariat Store, was allowed to go unpunished; and, as similar reports of the impunity of crime had reached me from other quarters, I thought it right to confer with the Attorney General on the subject; and which I did first personally, and afterwards by letter.

I enclose a Copy of the answer returned to my communication by the Attorney General; and also a Copy of the letter, which was written by my direction, and with the approval of the Attorney General, to Captn. Maconochie. I have, &c,

GEO. GIPPS.

[Enclosures.]

Copies of these letters will be found in a volume in series III.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 146, per ship Honduras; acknowledged by Lord Stanley, 20th April, 1843.)

My Lord,

Government House, 15th Augt., 1842.

Connected with my several Despatches of this day's date on the subject of Norfolk Island, I enclose herewith a Copy of a letter from Lieutt. Colonel Barney, the Commanding Engineer, reporting the great increase in actual, and still more in the projected expenditure in the Department of Public Works at Norfolk Island.

I have, &c,

GEO. GIPPS.

[Enclosure.]

[A copy of this letter, dated 26th July, 1842, will be found in a volume in series III.]
1842, 15 Aug.

Sir George Gipps to Lord Stanley.
(Despatch No. 147, per ship Honduras.)

My Lord,

Government House, 15th Augt., 1842.

In my Despatches of this day's date, numbered as in the margin,* I have brought before Your Lordship numerous details respecting Norfolk Island, which collectively I think must lead to the conclusion that the time is nearly arrived, when it will be proper to remove from the Island the Prisoners, who, during the last two years and a half, have been there placed under the experimental system introduced by Capt'n Maconochie.

Having been empowered by Lord J. Russell's instructions of the 10th Septt. and 12th Novr., 1840, to put a termination to Capt'n Maconochie's experiment, whenever the public good might appear to me to require such an exertion of authority, the contents of some of my Despatches of this day's date may perhaps suggest the enquiry, why I have not ere this acted on the authority thus confided to me; other however of these Despatches will shew, as well as numerous ones which preceded them, that Capt'n Maconochie has never ceased to express himself satisfied with the success of his system, and that he even now states himself to be astonished at his own success, and more than ever convinced of the truth and applicability of his principles. The contrast indeed ever has been, and still continues to be so great, between Capt'n Maconochie's official statements, and the accounts which reach me through other authentic channels, that, even with the utmost allowance for partiality on one side and prejudice on the other, it is difficult to form any definite opinion of the working of Capt'n Maconochie's system, except in so far as the expenditure of the public money is concerned, upon which point it must be allowed that the authority of the Deputy Commissary General is superior to any other.

Feeling it however necessary to give, to the best of my power, a summary account of the present state of the Island, I will do it in the following words:—

The men are all (or nearly all) personally attached to Capt'n Maconochie; he has much influence over them, and they greatly desire to please him, though some will occasionally turn him into ridicule; and, in their communications to their old associates in this Colony, they not unfrequently complain that the least deserving men are most in his confidence.

Punishment is rare on the Island, and hardly ever severe. Attempts are frequently made to produce striking effects on even the worst men, by unexpected acts of leniency, forgiveness, or

* Marginal note.—Nos. 142, 143, 144, 145 and 146.
confident, calculated to awaken and call into play the good feeling implanted in them by nature, but which may long have lain dormant; and such attempts are not unfrequently successful.

Petty crimes however abound, and perhaps are even on the increase.

Acts of overt or combined violence seldom occur; and heinous acts of atrocity, such as the unprovoked infliction on each other of bodily injuries, are less frequent than they formerly were. Unnatural offences it is to be feared are on the increase.

The labour of the Prisoners is turned less to account than it was under the management of former Commandants; consequently the produce of the Island is falling off, and the expence of supplying it with provisions from Sydney rapidly increasing; there is reason to fear too that the timber and firewood of the Island (articles of the highest importance) are diminishing; and the waste of these latter may be expected to become more rapid, now that the Holders of Tickets of Leave are allowed to disperse themselves about the Island.

Task work is generally introduced, but the tasks apparently are light.

Depredations on the growing crops and other property of Government are more general than they formerly were, and will probably increase, in proportion as the livestock increases, which Ticket holders are allowed to have of their own, the feeding of their stock being one of the chief inducements which they have to commit such depredations.

Finally, the Prisoners on the new establishment are quiet and respectful in their demeanour, but idle and listless; those on the old, or doubly convicted establishment uneasy and scheming. No apprehension is entertained, either by Captn. Maconochie or Colonel Hulme (the Military Commandant), of a serious outbreak by either class; and no feelings of fellowship seem to exist between the Soldiers and the Convicts.

The late attempt to take the Government Brig, reported in my Despatch No. 143, was I believe only a solitary act of desperation. The original intention of the parties engaged in it was to seize a small schooner, called the "Coquette," which visited the Island for the purpose of delivering some Commissariat stores or Provisions from Sydney; and it was only in a fit of rage or despair, at seeing themselves disappointed of the prey, which they had expected would prove an easy one, that they turned upon an object altogether beyond their strength. The attempt however may serve to shew, as may some other recent
Doubt re maintenance of establishment.

1842. 15 Aug.

Difficulty of disposal of convicts under system of A. Maconochie.

Intended removal of convicts to Norfolk island.

attempts at escape, that Norfolk Island, notwithstanding the relaxed nature of the discipline to which the Prisoners are now subject, is still a place of very irksome restraint, and that the most desperate means, which seem to hold out the prospect of escape from it, are still caught at as eagerly as ever.

When Capt. Maconochie was sent to Norfolk Island (now two and a half years ago), it was intended by Her Majesty's Government that large additional numbers of Prisoners should be despatched from England to join his establishment, but none such have hitherto been sent, a fact which of itself would seem to indicate that Her Majesty's Government entertain some doubt of the propriety of keeping up his establishment; and such doubt must I think have been suggested by the general tenor of my Despatches, especially by the contents of those of the 27th June, 1840, and 27th Augt., 1841. Moreover Captain Maconochie himself neither seems to desire nor to expect to be continued at Norfolk Island, but, on the contrary, constantly expresses a hope and expectation of being removed to some other locality.

The difficulty of disposing in Van Diemen's Land or elsewhere of the Prisoners, who have been the subjects of his experiments, has hitherto chiefly operated on me as an inducement to keep them at Norfolk Island. To have sent them to Van Diemen's Land, in the condition of ordinary Convicts, would have been grievous to them, and might not perhaps unjustly have been looked on as a breach of promise; whilst on the other hand, to have sent them as Ticket of Leave Holders, would have been to exhibit them to the whole Convict population of Van Diemen's Land in the invidious light of persons, in whose favor the grossest and most undeserved partiality had been practised; and any hasty measure of such a nature might not improbably have produced serious discontent on that Island. By the month of March in 1843, they will however have been three complete years at Norfolk Island, and the greater portion will by that time, or shortly afterwards, have held Island Tickets of Leave for one year; to remove them therefore in a body may not then appear open to the same objections either way. The great majority of them will go as Ticket Holders; and those only in the condition of ordinary Convicts, who, on account of their bad conduct, may be deemed unworthy of any indulgence.

The principal object of this Despatch is therefore to report to your Lordship that, unless I receive in the mean time any directions, rendering a different course of proceeding necessary, it is my intention, in the course of the month of March or April
next, to cause the whole of the Prisoners, who form what is called Captn. Maconochie's new or English establishment, to be removed to Van Diemen's Land.

Several ulterior questions will of course remain, on which I shall hope, with as little delay as possible, to be honored with your Lordship's commands.

Captn. Maconochie will of course not admit that his system has had a fair trial; and it is only just towards him to bear in mind that he always objected to its being tried at Norfolk Island. The old establishment of doubly convicted, which it was impossible to get rid of, has doubtless been a disadvantage to him; and, under any circumstances, there must have been difficulty in carrying on two systems of management, essentially different, on so small a surface as that which Norfolk Island presents. Nevertheless, I cannot but consider that the two establishments might have been kept more separate than they have been; and I see no reason to change the opinion, I long ago entertained, that the error, committed by Captain Maconochie, in putting the two establishments under the same system of management (reported in my Despatch of the 27th June, 1840) was a fatal one, as far as regarded the trial of his system at Norfolk Island, or in any place within the Government of New South Wales.

Though further removed at Norfolk Island from the observation of hostile parties than in any other spot which could have been selected, within the civilized parts of this Government, and consequently more at liberty to pursue his own experiments, unmolested by clamour, so greatly and so justly were the apprehensions of the Colonists of New South Wales excited by this proceeding, that the storm of public opinion reached him, even in the isolated position of Norfolk Island, and deadened the energies of his Agents, even if it did not stir up in them opposition to his plans.

The only communication between Norfolk Island and the rest of the world was kept up through Sydney; and, in Sydney thenceforth, and indeed throughout New South Wales, with very few exceptions, every man was against him; every man derided his system, and nearly every one dreaded the effects of the evil example, which it was supposed would be presented by it to our own Convict population. These were great disadvantages to labour under, and they should be taken into consideration in judging of the effects which Captn. Maconochie has produced. The feeling in fact against him, though not so intense, and far more justifiable, was analogous to that, which a dozen years ago manifested itself in the West Indies against any attempt to ameliorate the condition of Slavery.

SEK. I. VOL. XXII—O
Your Lordship may have observed by my correspondence that some of the principal Officers of this Government are among those, who by Capt'n. Maconochie are charged with having thrown impediments in his way. So long as the remonstrances of these Officers were directed only against Capt'n. Maconochie's habitual disregard of forms, regulations, or what may be styled Departmental observances, I thought it my duty, in a very great degree, to overrule them, considering that, in the very novel and difficult position in which he was placed, all impediments should, as far as possible, be moved out of his way; but the evidence lately brought by the same Officers before me, of a rapidly increasing expenditure, has become so convincing (the good to be derived from it being still as problematical as ever) that the point seems to me to be attained, at which I ought to take a responsibility in another direction on myself.

Whether Capt'n. Maconochie shall still pursue his experiments in another locality is of course a matter for the decision of Her Majesty's Government. If he be permitted to do so, I would strongly advise that it should be neither at Tasman's Peninsula, nor King's Island, nor indeed in the neighbourhood of any of the Penal Colonies, but rather in some older settlement, and in the neighbourhood of a more dense and advanced Society; and this is what I believe he would himself prefer.

I have still to draw your Lordship's attention to the fact that, after the Convicts, whom I propose to send to Van Diemen's Land in March or April next, shall have been removed, there will still remain at Norfolk Island the old establishment of doubly convicted Prisoners, unless indeed I receive in the mean time any instructions from Your Lordship for their removal, in consequence of the various representations which have at different times been made by me respecting them.

There will, however, at any rate remain the question, as to how the Island itself is to be disposed of.

On this subject, the only decided opinion I can offer is that, whilst the Island is admirably adapted to the purposes of a strictly penal Station, it is scarcely adapted to any other.

Whether a place of strict discipline, for doubly convicted or other heinous offenders, will still be required in these regions, distinct from any establishment in Van Diemen's Land, is undoubtedly itself a question; but, when I look at the rapidity with which a British Population is collecting, and British Interests increasing throughout the wide extent of the Australasian Colonies, it seems to me that it might be hasty to conclude that such a place will not be wanted, even assuming, which perhaps...
we may not be justified in doing, that Van Diemen's Land may for an indefinite number of years be exclusively reserved for the purposes to which it is now dedicated.

The small extent of Norfolk Island, its extreme isolation and want of safe anchorage, unfit it (fertile as it is) for any purpose of Colonization, worthy the consideration of Government; and all the labour, which has been expended in bringing portions of it into cultivation and in erecting many very commodious buildings, will of course have been thrown away, if it be abandoned.

Persons might, I doubt not, be found to settle on it, and even to pay a price for its fertile lands; and the Island might be made a place of refreshment for Whalers; but, if the land were sold, the purchasers might expect to be protected, and thus the Island become a burthen on this Government.

That a system of far too great severity once existed at Norfolk Island is now, I believe, fully admitted; but the state, to which it had attained under Major Anderson towards the close of Sir Richard Bourke's Government, and perhaps still more under Major Bunbury in 1839, was not, I am disposed to think, far different from what the condition of such an establishment ought to be; and we might safely trust, I think, to the progress of public opinion and the advancing knowledge of the age, to prevent its ever being again laid open to the reproach of undue severity.

I append to this Despatch a Return of the number of doubly convicted Prisoners on the 1st day of January in each of the last seven years, and the number actually on the Island on the 1st June, 1842; also a Return of the number of Prisoners brought back to New South Wales, since the Local Act, 2d Vict., No. 1, was passed, the object of which Act was explained in my Despatch, No. 22 of the 26th Jan'y., 1839.

I cannot conclude without once again adverting to the difficulties, which I have so frequently in former Despatches alluded to, of disposing of the doubly convicted Prisoners (amounting to upwards of 1,000) still on the Island; or without reminding your Lordship that there must, for a considerable time to come, be a large number of doubly convicted Prisoners annually to be disposed of from New South Wales, notwithstanding that Transportation from Europe to this Colony has ceased.

These considerations lead me, I must avow, to the opinion that the best thing to do with Norfolk Island will be to let it revert to what it was, prior to the year 1840. I have, &c.,

Geo. Gipps.

[Enclosures.]

[Copies of these returns are not available.]
1842.
17 Aug.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 166, per ship Hamlet.)

Sir,

Downing Street, 17 August, 1842.

I have to acknowledge the receipt of your Despatch No. 46 of the 6th March last, forwarding an Application from Mr. Henry Isler, a Native of Switzerland, praying that he may be admitted to the privileges of a Free Denizen.

I am to convey to you Her Majesty's Authority to issue to Mr. Isler Letters of Denization under the Local Act of the Colony, 9 Geo. 4, No. 6.

I have, &c.,

STANLEY.

18 Aug.

Despatch acknowledged.

Decision re claims of Revd. J. Allan.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 167, per ship Hamlet.)

Sir,

Downing Street, 18 August, 1842.

I have to acknowledge the receipt of your Despatch No. 38 of the 20th February last, forwarding a Letter from the Revd. James Allan, a Presbyterian Clergyman of New South Wales, complaining of various proceedings of the Synod of Australia, under which his Appointment has been cancelled.

In reply, it is only necessary for me to refer you to the Despatch which I addressed to you on the 3d Instant, No. 159, stating that the Committee of the General Assembly of the Church of Scotland concurred with me in approving the Proceedings, which, in your Despatch No. 168 of 31st August, 1841, you reported having adopted in Mr. Allan's case.

I have, &c.,

STANLEY.

21 Aug.

Despatch acknowledged.

Further report on claims of H. G. Douglass to land.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 149, per ship Honduras.)

My Lord,

Government House, 21st Augst., 1842.

Recurring to the subject of Dr. Douglass' claims to land in this Colony, and to my Despatches No. 187 of the 13th Decr., 1840, and No. 11 of the 23d Jany., 1842, I have now the honor to acknowledge the receipt of a further Despatch from Lord J. Russell, No. 349 of the 1st Sept., 1841, enclosing a Copy of another letter from Dr. Douglass in support of his claims.

In this letter, Dr. Douglass asserts that his authority to take possession of his Grant, “was extant in Mr. Oxley's (the Sur­veyor General's) Office; that 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 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.”

Mr. Surveyor Hoddle being still in the service of this Government, I have been able to communicate with him on the subject of Dr. Douglass’ letter, though, in consequence of his being employed in the District of Port Phillip and the letter relating to circumstances which occurred fifteen years ago, a considerable delay has taken place in obtaining satisfactory answers to the queries which I have had to put to him.

I forward however herewith Copies of two letters from Mr. Hoddle to the Surveyor General; and Your Lordship will perceive that, in the one dated the 22nd July, 1842, Mr. Hoddle expressly states that, though he went to Narriga in 1827 to measure land for Dr. Douglass and Mr. Galbraith, he had express orders not to put either party into possession.

Mr. Hoddle has no recollection of the dispute which then existed between Dr. Douglass and Mr. Galbraith respecting their boundaries; but that such a dispute did exist is beyond all doubt, a very long correspondence being on record regarding it, as stated in my Despatch of the 13th Decr., 1840. The dispute was moreover brought before Governor Darling by a letter from the Surveyor General (Oxley), from which I formerly extracted the passage most favorable to Dr. Douglass, but of which I now however send a full Copy, accompanied by the Plan alluded to in it, as well as a Copy of the Minute endorsed on it in General Darling’s own writing.

These documents sufficiently prove that which I have always admitted, namely, that Dr. Douglass was in the year 1827 in possession of a considerable tract of land at Narriga; and that, if he had proceeded regularly and properly, he might have secured a legal title to the whole of it; he might, for example, have obtained secure possession, and a legal title to two portions of land, one of 4,000 acres, the other of 5,060 acres, by paying to the Government the price which he had agreed to pay for them; but he left the Colony without paying for them, and consequently he forfeited all claim to either.

In the same way, he might have obtained a secure title to another portion of 2,000 acres, without paying anything, if he had taken the measures, which the regulations of Government then in force required, that is to say, if he had procured a description of these 2,000 acres (separate from the rest) to be entered on the records of the Colony (or in the technical language of the Colony, if he had caused his selection to be recorded), and had
further obtained permission to take possession of the 2,000 acres of land so separately selected, specified, and recorded. These things however he never did; and the fault of not doing them, or seeing that they were done, was entirely his own; it is evident, from Mr. Oxley's report and plan, that there was no recorded distinction between Dr. Douglass' grant, and the other portions of land which he held under promises to pay for them. All his land therefore formed but one holding; and, when he left the Colony, the whole of it was, and I must say, in my opinion, very properly, considered to be abandoned; indeed under the regulations then in force, and which are referred to in my Despatch of the 23rd Jan'y., 1842, any other course of proceeding would evidently have been improper, especially as Dr. Douglass had left the Colony, not only without paying for the land which he had agreed to purchase, but also otherwise in debt to the amount of £363 to the Government.

I think it right to add that, since I last reported on this subject, an entry to the following effect has been accidentally fallen on in a Memorandum book, which appears to have belonged to a Mr. O'Hara, formerly a Clerk in the Survey office in Sydney, but who has been dead many years;

"Dr. Douglass to have 2,000 acres (now a reserve) in a place called Nevella Narragon in the Country of Antrim, by permission of the Surveyor General."

P.O'H.

(PHILIP O'HARA.)

This Memorandum however only goes to prove that which is sufficiently admitted, namely, that Dr. Douglass had permission to obtain 2,000 acres as a Grant; and that he might have got them had he proceeded in a proper Manner.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

[Copies of these papers are not available.]
rule, which prevents Colonial Officers from receiving their Salary due for the last period of their Leave, until their return to the Colony.

I have therefore authorized the Colonial Agent to pay Mr. Keane half Salary during his absence, on his giving sufficient assurance that he is about to resume his duties in New South Wales.

Mr. Barnard has been directed to inform you of the period to which Mr. Keane may receive his half Salary in this Country.

I have, &c.,

STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 170, per ship Hamlet.)

Sir,
Downing Street, 23 August, 1842. 23 Aug.

A question having arisen in the Colony of Van Diemen's Land in regard to the payment to be made for Work performed by Convict Labor, I transmit to you herewith for your information and guidance, as far as may be applicable to your Government, a Copy of an Instruction, which I have, with the concurrence of the Board of Treasury, addressed to the Lieutenant Governor of the Colony in regard to payments to be charged for work performed as well for the Colonial Government as for Individuals at any of the Penal Settlements or Probationary Stations, or by the Marine or any other Establishments connected with the Convict Departments, as are maintained at the expense of the Home Government.

I have, &c.,

STANLEY.

[Enclosure.]

LORD STANLEY TO SIR JOHN FRANKLIN.

Sir, Downing Street, 23rd August, 1842. 23 Aug.

I have received your Despatch No. 6 of the 15th February last, containing an explanation of the Circumstances attending the Construction of a Steam Boat for the Derwent Company by the Government of Van Diemen's Land by Convict Labor.

I have fully considered in communication with the Board of Treasury the explanations which you have given; and, although I do not doubt that you were influenced in the course pursued by you on this occasion by a desire to promote the public good, the transaction in question appears to be open to very grave objection.

The Hull of a Steam Boat was built by the Convicts at the Penal Settlement of Port Arthur in 1838 and 1839, and was transferred to a body of proprietors, who are described, in the letter of the Acting Colonial Secretary to the Assistant Commissary General, dated 6th Octr., 1840, as a "Company of Gentlemen interested in the establishment of a regular conveyance between Hobart Town and New Norfolk."
The Sum charged to the Company was £352 10s. 10d., of which £335 2s. 11d. was for rations of the Convict Shipwrights and Laborers employed, and the remaining £17 7s. 11d. was for Copper bolts, and Iron rods and bars. The value of the rations was calculated according to a rate at that time charged for Convicts in the employ of the local Government, but which was considerably less than their actual cost; and no allowance was made for the other expenses of the Convicts.

The same number of workmen, employed for the same number of days, would have cost, according to the then current rate of wages in the Colony, about £2,500; but, on the other hand, it may be fairly admitted that Convict Labor is not worth so much as free labor. No charge is made for the Superintendence of the Master Shipwright, nor for the value of the timber, which appears to have been cut and prepared by the Convicts.

After the Hull had been so built and transferred, it was fitted up as a Steam Vessel at Hobart Town, at the expense of the Company, and shortly after sold by them to a private individual for about £7,000.

You state that you considered it of importance to give every encouragement to the undertaking; that there was at that time no private Yard at which the Hull could have been properly built; and that you ascertained that the work could be performed by the Convicts at Port Arthur, without detriment to other demands upon the Shipwrights' yard there.

On considering these circumstances, it appears to Her Majesty's Government that the utmost assistance, which you would have been justified in affording to the parties, was to have authorized the construction in the Government Yard by the Artificers and Laborers maintained at the Public expense, and the Sale of it to the Company when built at a fair estimated value, or to have required the Company to pay for the full value of the maintenance of the Convict Artificers and Laborers employed on the work, and for the timber and Stores supplied by the Government Establishment for the purpose at the full market value in the Colony at the time. In either of these cases, the assistances to the undertaking would have been very considerable, and would have fully warranted the Government in requiring the Company to engage for the fulfilment of the object, with a view to it which it was afforded, by running the vessel on the proposed line of communication during some stipulated period.

Although however it would appear that, in the transaction now in question, an undue advantage was taken by the Company of the aid granted by Government at the expense of the Convict Department, it would not probably now be productive of any advantage to direct proceedings to be taken, with a view to the recovery of the full value of the Hull of the vessel from any of the parties concerned. But at the same time, adverting to the justification apparently advanced in your Despatch for the proceeding which you had sanctioned, as well as to the increased number of Convicts likely now to remain at the Public charge at the Probationary and Penal Stations, Her Majesty's Government have considered it advisable that some distinct rules should be laid down in regard to payment for work performed, as well for the Colonial Government as for individuals, at any of the Penal or Probationary Stations, or by the Marine or any other Establishment connected with the Convict Department which are maintained at the expense of the Home Government.
With this view it has been determined that the following regulations should be adopted:

1st. As regards work performed for Individuals.

That it should on all occasions be paid for at rates settled with reference to the Customary charges for similar work done at private establishments by private artificers. That any materials procured by Convict labor, such as timber, stone, and so forth, should be paid for at the ordinary market rates, as well as any other articles, such as iron work, etc., that may be furnished from the Government stores, though it is desirable that any such application of public stores should as far as possible be avoided, and that articles of that description should be procured elsewhere at the expense of the party for whom the work is performed.

2ndly. As regards work performed at these Establishments for the Colonial Government.

The charges for such work should be proportioned to the full expense of maintaining the Convict artificers or labourers employed therein, and the charges for materials consumed or appropriated for the work, should be settled with reference to the same principle, but without in either case including the expenses of superintending, lodging or clothing the Convicts, or of wear and tear of tools, and the value of any article of iron work, etc., which it may be required to furnish from the Convict or ordnance stores, should be charged to the Colonial Governors at the original invoice price, with the addition of 15 per cent. for transport and other expenses.

Payment of all sums, that may be claimable under these regulations, should be uniformly required from private parties immediately on completion of the work, either to the officer in charge of the Establishment by which it has been performed, or direct to the Commissariat chest, and regular periodical adjustments should be made of claims against the Colonial Government; and it would be the duty of the officers in charge of the Commissariat Department to attend to and arrange these adjustments, and to exercise a careful check over the charges against private persons.

In order to this, it will be requisite that the Commissary of accounts shall be furnished, in addition to the Commissariat and ordnance store accounts, with regular returns from the officers in charge of each of the Establishments now in question, or of all work done by the Convicts under their supervision, and with accounts of the receipts and issues of all stores of every description entrusted to their charge or placed at their disposal, and of all materials acquired by convict labor.

You will at the same time understand that the regulations, now proposed, are not intended to interfere with the arrangements under which Convicts, undergoing penal discipline in chain gangs and employed on the Public Roads or works of that description, although for Colonial purposes, are maintained at the expense of the Home Funds, or under which the Colonial Government is chargeable with the full value of the maintenance and clothing of any Convicts retained in the Colonial Service.

The necessary Instructions for carrying these Regulations into effect will be conveyed to the Officers of the Commissariat and Commissariat of Accounts and the Ordnance Stores Department.

I have, &c.,

STANLEY.
HISTORICAL RECORDS OF AUSTRALIA.

1842.
24 Aug.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 171, per ship Hamlet; acknowledged by Sir George Gipps, 13th January, 1843.)

Sir,
Downing Street, 24 August, 1842.

I have received an application from Captain Barnett, R.N., Mayor of Hereford, making enquiry respecting a person named Thomas Deen, who, it is supposed, was transferred from the 28th Regt. to the Mounted Police of New South Wales in June, 1841.

I have to direct that you will furnish me with any information in your power respecting this person.

I have, &c.,

STANLEY.

Despatch acknowledged.

Transmission of reports re printing establishment.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 150, per ship Honduras.)

My Lord,
Government House, 24th Augt., 1842.

I have had the honor to receive Your Lordship's Despatch, No. 69 of the 24th Feby., 1842, wherein I am desired, at the suggestion of the Lords of the Treasury, to report fully on all the circumstances which led to the establishment in this Colony of a Government Printing Press; and also to report annually the expence incurred for the Government Printing, and the charge for which the same might have been executed, according to the terms of the last subsisting Contract.

As the means of affording the information required, I enclose the following Papers:—

1. A Memorandum drawn up by the Colonial Secretary in Jany., 1841, wherein the reasons are set forth, which led to the formation of the Establishment;

2. A Copy of a letter from the Auditor General, shewing the comparative expence of printing for this Government during the three years preceding the establishment of the Government Press, and during the year 1841, the only complete year, in which the Press has been in use.

With respect to the decrease in expence, which appears to have occurred in the year 1840, the last year that the contract system was in force, I should explain that this decrease was occasioned principally by the great difficulty which existed of getting any work done by the Contractor. The proceedings of the Legislative Council, during the greater part of its Session, were retarded on account of the delays of the Printer; and the Government Gazette very seldom made its appearance until a week after the proper day of publication.

During the last and present Sessions of the Council, no delays on the Printer's account have occurred; and the Gazette is
GIPPS TO STANLEY.

published regularly twice a week, whereas, under the Contract system, it was only published once.

On the whole, the convenience to the Government and to the Public, afforded by the establishment of the Printing Press, has been very great indeed; and the reduction in expense by no means inconsiderable.

A letter from the Government Printer is appended to the Auditor General's report, containing further particulars in explanation of the business of his office, and especially in regard to the increase of revenue derived from advertisements, etc.

I have, &c,
GEO. GIPPS.

[Enclosure No. 1.]

PROPOSAL FOR PRINTING ESTABLISHMENT.

In consequence of the great delay and inconvenience which have attended the system of providing Printing for the Colonial Service by Contract, it appears desirable to adopt some other arrangement. At present, from the quantity of Work required, no one Printing Office is capable of performing the whole in any satisfactory way; and it is therefore necessary to divide it among two or more of them. There is more than reason to believe that the Minor Offices have been bought off; and the remainder are engaged in the more lucrative employment of printing Newspapers. The result is that the Contracts amount virtually to a Monopoly; the Government Work becomes a matter of secondary consideration; and it is put aside whenever it interferes with the private concerns of the Contractors. The Government Gazette, notwithstanding every exertion, frequently does not appear until a Week after the proper day of publication; the Council has been often kept sitting for a considerable period, waiting for the printing of Bills and other Papers; and the General Business of the Government has been retarded from the want of proper Forms. In fact, although bound in the usual way with Sureties, the Contractors, through the absence of competition, do not feel themselves obliged to fulfil their engagements, and it is found impossible to compel them.

It is therefore proposed, as the most effective remedy for these several inconveniences, as well as to provide the means of performing the additional work which any modification of the Legislative Council may render necessary, to establish a Printing Office under the exclusive orders and control of the Government.

A portion of the Buildings in Bent Street appropriated to Emigrants on their first arrival will afford a most convenient site for such an Establishment, and may be rendered fit for its immediate reception by the expenditure of about one Hundred Pounds.

A sufficient quantity of Types, Presses, and other Materials for the commencement, may be obtained from Mr. Stokes the present Contractor, and Mr. Jones who is retiring from business; and it is ascertained that, valuing such of the articles as have been in use at the London Invoice prices, and those which are new at 50 per Cent. advance, in order to cover freight, commission and other charges, the price of the whole will not exceed Fourteen Hundred Pounds.
Proposal for establishment of government printing office.

The services of a practical Printer, who has been for some time conducting the largest Printing Establishment in Sydney, including the Government Gazette and the general Contract for Colonial Printing, and who has satisfactory testimonials of capacity and respectability, can be obtained for a Salary of £300 a year, the same that he now receives, and he is willing to engage himself for two years certain.

He will require under him two Free Assistants, one with a Salary of £200 and another of £150 a year; and capable persons can be procured at once on these terms. But it is proposed that the remainder of the Establishment shall consist entirely of Convicts; and it is estimated that about Twenty Men and Boys, only a portion of whom need be Printers, will be sufficient.

The Cost of new Materials, Ink, and other Incidental Expenses will probably amount in future years to about Four Hundred Pounds a year.

The Expenses, immediate and prospective of the proposed Establishment, may therefore be Stated thus, viz.:

**Immediate Expense.**
- Alterations and Repairs of Building £100 0 0
- Purchase of Types and other materials 1,400 0 0
- **Total** £1,500 0 0

**Future Annual Expense.**
- Government Printer, Salary £300 0 0
- Assistant 200 0 0
- Overseer 150 0 0
- Rations and Clothing of 20 Prisoners of the Crown at 1s. 3d. each per diem 456 5 0
- Gratuities to ditto for overhours 200 0 0
- Cost of new materials, Ink, and other Incidental Expenses 400 0 0
- **Total** £1,706 5 0

From this must be deducted about £500, being the estimated amount which will be received for advertisements, and as Subscriptions to the Government Gazette, making the annual Expense of the Establishment about £1,206 5s.

By the annexed Return, obtained from the Auditor General, it appears that the Expense of Printing defrayed from the Treasury of New South Wales in 1838 and 1839 was in 1838, £1,534 12s. 4d.; and in 1839, £2,010 6s. 1d. There is ground therefore for believing that a considerable saving of Money will be effected by the new arrangement, so long as it may be possible to obtain Convict labor, and that, even with free labor, there will be no excess of expense over that which is necessary according to the System by Contract. But it is confidently hoped that, independently of any consideration of expense, the advantages, derived in the economy of time and the accuracy and despatch of Public Business, will be such as fully to justify the measure, and render evident its utility and importance.

1st January, 1841.

N.B.—It has been found possible to conduct the Establishment without the appointment of an Assistant at £200 a year, which is consequently saved on the above Estimate; but the contingencies have somewhat exceeded the amount therein put down.

1st August, 1842.
MR. W. LITHGOW TO COLONIAL SECRETARY THOMSON.

Sir, Audit Office, Sydney, 20th July, 1842.

In compliance with the request contained in your letter of the 13th Instant, No. 418, I have the honor of transmitting herewith, "An Account of the Comparative Expense of the Government of New South Wales, for Printing for three years preceding, and one year subsequent to the Establishment of a Government Printing Press."

In this Account, it is assumed that twenty per Cent. on the original outlay for fitting up the Premises, and providing suitable Presses, Utensils and Printing Materials, will cover the Interest of Capital, as well as the expense of renewing Type, and keeping up the Establishment, an Estimate which is considered to be borne out by the enclosed letter from the Government Printer, in which, it will be perceived he states, that ten per cent. per annum on the Capital expended will be sufficient for providing Printing Ink, Brass Rule, Printers' Furniture and other articles, necessary for keeping the Establishment in a state of efficiency.

I have, &c.,

WM. LITHGOW, Aud. Genl.

[Sub-enclosure No. 1.]

ACCOUNT of the Comparative Expense of the Government of New South Wales, for Printing for three years, preceding (from 1st January, 1838, to 31st December, 1840) and one year subsequent to the establishment of a Government Printing Press (from 1st January to 31st December, 1841).

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount Paid for Printing</th>
</tr>
</thead>
<tbody>
<tr>
<td>1838</td>
<td>1,518 17 10/4</td>
</tr>
<tr>
<td>1839</td>
<td>1,966 17 7</td>
</tr>
<tr>
<td>1840</td>
<td>1,624 9 9</td>
</tr>
</tbody>
</table>

Average Annual Expense of three years ................. 1,703 8 4/2

Expense of the Government Printing Establishment for the year 1841, as per Statements laid before the Legislative Council, viz., Salaries and Contingencies ........................................... 1,624 7 5

Twenty per cent. on £1,913 10s. 1/2d. disbursed in 1841, for Printing Materials, and Expenses of forming the Establishment, being the Estimated charge for Interest on the Outlay and for replacing the Wear of Types and Materials .................. 382 14 0 1

Less The amount collected by the Government Printer, for Advertisements inserted in the Gazette, during the year 1841 ............... 406 17 9

£1,600 3 8 1

WM. LITHGOW, Aud. Genl.

[Sub-enclosure No. 2.]

MR. W. J. ROW TO MR. W. LITHGOW.


With reference to the subject of my conversation with you this morning, respecting the probable annual amount of Expense on the original outlay for wear renewals, etc. and tear of the Printing Materials in this Office, I have made a calculation on that point, and find that (including the new Type authorised by His Excellency the
1842.  
24 Aug.

Increase of revenue and production in printing establishment.

Governor last month) Ten per cent. per annum on the Capital will keep up the efficiency of the Office in every point, and in that amount I also include Stores, such as Printing Ink, Brass Rule, Printers' Furniture, etc.

I beg, whilst on this subject, to request you will be pleased to draw the Governor's attention to two (in my opinion) very important points, viz.:

1st. The great increase of work in my Department, and

2ndly. The increase of its Revenue.

As an illustration of the former, I would respectfully refer him to the Government Gazette, which made as follows:

In 1838 1,155 Pages
1839 1,483 "
1840 1,483 "
1841 1,815 "

being an increase of 278 pages in the year 1841, and also to more than double the Press work in that Publication only, it being now published twice a week, with 750 impressions of each publication, instead of once a week with only 500 impressions, as it was prior to the year 1841.

In proof of the latter statement, I beg to annex an extract from the Quarterly Returns of Revenue, as published in the Government Gazette, as follows:

<table>
<thead>
<tr>
<th>Period</th>
<th>£ s. d.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Collected by the Government Printer from 1st Jan. to 31 Mar., 1842</td>
<td>133 11 10</td>
</tr>
<tr>
<td>Collected from 1st April to 30th June, 1842</td>
<td>188 1 5</td>
</tr>
</tbody>
</table>

Total 321 13 3

being a progressive increase of £85 4s. 6d. on the last half year, which it is more than probable will continue to increase, rather than otherwise.

I have, &c.,

WILLIAM JNO. ROW, Government Printer.

25 Aug.

Transmission of papers re application from W. P. Greene.

MR. LEFROY TO LORD STANLEY.

Committee Room, Saturday morning.

I transmit to you herewith a copy of a communication, which I have received from Mr. Lefroy, M.P., with an application from Lieutt. W. Greene, R.N., to be allowed to receive Credit to the value of £300 in Land on account of a deposit, which he had made in this Country for the purchase of Land, but for which he could not from the peculiar circumstances of the case be allowed the benefit in the Importation of Emigrants.

I also transmit a Report on the case from the Land and Emigration Commissioners, who had previously been in communication with Mr. Greene, and I have to request that you will acquaint him that, although I regret that he should suffer any inconvenience in this transaction, yet that I feel it necessary to adhere to the general regulations and cannot sanction a compliance with his application.

I have, &c.,

STANLEY.

[Enclosure No. 1.]
LORD LORTON TO MR. LEFROY.

My dear Anthony, Rockingham, 27th July, 1842.

I shall be very much obliged to you to call upon Lord Stanley and to lay before him, stating that I shall esteem it as a particular favor if he can attend to Mr. Green's wishes; in great haste to catch the Post. Yours, &c.,

Lorton.

STATEMENT OF CASE OF LIEUTENANT GREENE.

Lieutenant William Pomeroy Greene of the Royal Navy, being obliged from ill health to leave Ireland and give up a valuable Agency, is about to Emigrate with a Wife and seven children to Port Phillip. Mr. Greene has paid into the Office for Emigrants £400, expecting to take Emigrants to that amount, and also to receive Land on his arrival at Port Phillip. After the money had been paid he was informed that the Vessel, which he had engaged for his family and the Emigrants, was not of the class in which Government gave a free passage to Emigrants, and now he is obliged to pay £300 to the Master of the Vessel for taking them. Mr. Greene desires to make an application to Lord Stanley to endeavour to procure from his Lordship a Land Order for the £300 in case the Emigrants are landed safely at Port Philip. He grounds his plea on the circumstance of his having paid the money into the Emigrant Office in total ignorance of an objection being liable to be made to the vessel in which the Emigrants were to sail; and, being bound to the Captain for a certain number of passengers, he is involved in the loss of the above sum, which to a man in his circumstances will be most material.

The Vessel, in which he is going, is the Sarah and will sail in a few days. If Lord Stanley is kind enough to grant the above order for the Land, a Letter with the order enclosed will reach Mr. Greene if directed to Post Office, Plymouth.

Further particulars connected with Mr. Greene's case sent to Lord Stanley by Lord Lorton.

The Ship (Sarah), in which Mr. Greene and his family were to sail, was up to the 1st of July a first class; but, in consequence of not being able to comply with some formalities on Lloyd's Survey coming round, she was degraded. Mr. Greene has paid his £400 for his Land Order, his chief inducement to do so being thereby enabled to get some Emigrants a free passage. The Insurance office has insured the cargo at the same rate as a first class Vessel, which Mr. Greene humbly submits to be a good proof there is no real ground for her degradation in Lloyd's List, to which she would not have been subjected, had she not been prevented Sailing the 1st of July by some accidental and unexpected delay. Mr. Greene feels it a great hardship that the Commissioners should retain his £400 if they feel obliged to adopt any course which deprives him of the advantage, for the sake of which alone he advanced his £400.

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Colonial Land and Emigration office, 9 Park Street, Westminster, 9 August, 1842.

We have the honor to acknowledge your letter of the 5 Instant, forwarding to us, by Lord Stanley's directions, an application from Lieut. W. Greene, R.N., for a Land Order for Three hundred pounds on account of certain Emigrants whom he is taking to New South Wales.

We have the honor to state that we are well aware that Mr. Greene is a settler of respectability, and that we had several interviews with him and his friends on the circumstances that have given rise to the present application, and were anxious to give him every assistance in our power, but that we are compelled to report we do not see any means of assenting to his wishes, without establishing an objectionable precedent.

Mr. Greene deposited Four hundred pounds (£400) for the purchase of Land in New South Wales. He has accordingly received his certificate of the payment of £400 or in other words his Land Order for that amount; and on reaching the Colony he will enjoy...
1842. 23 Aug.  


the benefit of it in the purchase of Land; in short, he will receive back the value of his payment. But he was further entitled to name a corresponding number of laborers for a free passage to be given by our Board, and he was naturally anxious that they should go by the same opportunity with himself. Here again we were prepared to meet his wishes. The first object which is strictly matter of engagement, it is needless to say that we have all along been ready to execute; and we think it due to Land purchases to endeavour to send their Emigrants by the same Vessel as themselves. But we do not bind ourselves to this last object, because for obvious reasons it is necessary that we should reserve to ourselves a control over the fitness of the Ship and the price. In the present case, acting on our usual practice, we had gone so far as to take the preliminary steps for engaging the people's passage by the "Sarah," when we learned that she was no longer within the class of Vessels, by which alone the established rules admit of any Emigrants being taken at the public expense, and not only that she was not within this classification, but that she had been recently removed from it in consequence of the owners declining to undergo the survey which Lloyd's Rules required under the circumstances. We therefore immediately refused to have any dealings for her, unless the proper steps were taken to restore her to her former class.  

We took such steps as we thought gave any chance that the parties might be led to reconsider their determination; although, as Mr. Greene had already concluded an agreement with them on his own behalf, and as the vessel was not to clear under the Passengers Act, we knew that it was not likely any measures of ours would affect their course. We made the attempt however because we thought it our duty, and it did not succeed. We also entered into immediate communication with Mr. Greene to ascertain if his own agreement could not be receded from, and to offer him every assistance and information in our Power. But we found that he had finally bound himself, and moreover that he was quite satisfied on his own part with the fitness of the Vessel.  

Thus we did all we could either to procure a removal of the objection to this ship, or to assist Mr. Greene, had we found that his circumstances admitted of it in availing himself of another opportunity. When neither proved practicable, we do not see that any other proceeding remains open for Mr. Greene's benefit.  

He is aware that he cannot ask for the return of the money, which he has paid into the public Revenue for a specific object that will be duly fulfilled on his reaching the Colony. And he admitted to us, that he could not expect we should agree for the conveyance of Emigrants by a Vessel which our Rules declared to be ineligible. But he now proposes as a third course that, if the passengers arrive safe, he may be allowed, in addition to Land for the Four Hundred pounds which we have mentioned, another credit to the amount of Three hundred pounds for the people whom he will have introduced at his own expense. There is no general Rule that would admit of this; but, even if there were, or if an exception were made in Mr. Greene's favor, still we must observe that, with every association or every Bounty Agent who may have been allowed to take out their own Emigrants, it is an indispensable condition that the ships should be of approved description, otherwise the securities taken would be only against the waste of public money, and not against the hazarding of human life.
While therefore we are very sorry for the inconvenience to which Mr. Greene is exposed, and have no doubt that all his transactions have been of a bona fide character, and that he believed in the fitness of the Vessel he selected for the conveyance of himself as well as his Laborers, we fear that we could not with propriety recommend Lord Stanley to comply with the measure which he has proposed for his relief. We have, &c.,

T. FREDK. ELLIOT.
J. G. SHAW LEFEVRE.

---

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

Sir,

Downing Street, 26th August, 1842.

I have the honor to transmit to you, for publication in the Colony under your Government, a copy of an Order of Her Majesty in Council, establishing a reduced rate of Fees in Appeals heard by the Judicial Committee of the Privy Council, together with the Copy of an Order made by that Committee, transferring the Taxation of Costs from the Masters of Her Majesty's Courts at Westminster to the Clerk of Appeals of the Privy Council Office.

I have, &c.,

STANLEY.

[Enclosure.]

[This order-in-council, dated 11th August, 1842, will be found in a volume in series IV.]

---

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 175, per ship Hamlet.)

Sir,

Downing Street, 26th Augt., 1842.

I have had under my consideration your Despatches of the Numbers and Dates specified in the Margin,* relative to the arrangement of Legal Departments of your Government.

I am not at this moment prepared to intimate to you the decision of Her Majesty's Government in regard to the general arrangements which may be adopted; but I have to acquaint you that I have selected Mr. S. F. Milford, who will be the Bearer of this Despatch, to fill the Office of Master in Equity with the salary, which you proposed to assign to that Office, of £1,000 a year.

I have also to authorize you to offer to Mr. Carter, now acting under your nomination as Master in Equity, the Office of Registrar, which it is intended to separate from the Registrarship of the Supreme Court, with a Salary of £650 a year.

* Marginal note.—No. 4, 1 Jan., 1841; No. 238, 28 Decr., 1841; No. 6, 16 Jan., 1842; No. 7, 16 Jan., 1842.
1842.
26 Aug.
Instructions re appointment of S. F. Milford.

As the Local Act, under which the Office of Master in Equity is revived, authorizes “the Governor of the Colony subject to the approval of Her Majesty to appoint” the person selected to perform the duties of that Office, it will be proper that Mr. Milford should be appointed by you, and the Appointment submitted for Her Majesty’s Approval; Mr. Milford will according to the usual practice receive half Salary from the date of Embarkation.

I shall communicate with you fully on the question of these Legal Arrangements generally at an early opportunity.

I have, &c.,

STANLEY.

27 Aug.
Transmission of letter from judges.

Disputes between judges and J. W. Willis.


Application by J. W. Willis for leave of absence.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 151, per ship Honduras.)

My Lord, Government House, 27th Augt., 1842.

I have the honor herewith to enclose a letter which has been handed to me by the Judges of the Supreme Court of this Colony for transmission to Your Lordship, and an appendix which is attached to it.

Your Lordship will regret, I am sure, to perceive, by these documents, that differences have again arisen between their Honors and Mr. Justice Willis; and I am sorry to have to add that still more serious differences have occurred in a distinct case, which I have been already called on by Mr. Justice Willis to bring under Your Lordship’s notice, though I at present cannot do so, the documents on which Mr. Willis’ case is founded not being yet in my possession.

The latter case is that of a Mr. Carrington, who, having been struck off the Roll of Attorneys by Mr. Justice Willis, appealed to the Judges in Sydney. The Judges admitted his appeal, but Mr. Willis denies that they had power to do so.

The case has led to some most extraordinary proceedings at Port Phillip (especially in the Police Court), in which, I regret to say, Mr. Justice Willis appears to have placed himself in a very undignified position.

Mr. Willis has applied to me for Leave to proceed to England, which I have promised to grant, provided his duties can be satisfactorily performed during his absence without expence to the Government; but I have declined to do so on any other terms, permission to proceed to England on private business having been refused to the Chief Justice by Lord J. Russell’s Despatch, No. 23 of the 26th Octr., 1841.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

[Copies of these papers are not available.]
GIPPS TO STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 177, per ship Hamlet.)

Sir,

Downing Street, 28th August, 1842.

I have to acknowledge the receipt of your Despatch No. 45 of the 4th of March last, forwarding a Letter addressed to me by Mr. Lyon Campbell of the Port Philip District of New South Wales, requesting that, in the event of that District being placed under a separate Government, he may be allowed to offer himself as a Candidate for an Appointment under that Government.

I have noted Mr. La Trobe's recommendation in favor of that Gentleman, but you will now be aware that there is no intention of erecting the Port Philip District into a separate Government.

I have, &c,

STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 176, per ship Hamlet.)

Sir,

Downing Street, 30 August, 1842.

I have to acquaint you that I have extended the Leave of Absence granted to the Reverend Dr. Polding and the Reverend Mr. Gregory for the period of two years from the commencement of their original Leave, but on the understanding that Dr. Polding should receive Half Salary only during the period of his extended Leave; and that, under the circumstances of the case, I have consented to free them from the operation of the general rule, which prevents Colonial Officers from receiving their Salary due for the last period of their Leave, until their return to the Colony.

I have therefore authorized the Colonial Agent to pay to these Gentlemen their Absent Allowance, upon their giving sufficient assurance that they are about to resume their duties in New South Wales.

Mr. Barnard has been directed to inform you of the period to which they may receive Salary in this Country.

I have, &c,

STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 152, per ship Honduras; acknowledged by lord Stanley, 12th May, 1843.)

My Lord,

Government House, 30th Augt., 1842.

I have the honor herewith to forward to Your Lordship, a Memorial which has been addressed to the Lords of the Treasury by Mr. Hutchinson Hothersall Browne, Water Police Magistrate of Port Jackson.
This Memorial arises out of the following circumstances:—

When the Act of Council for establishing a Water Police (4th Vict., No. 17) was passed, and Mr. Browne appointed Water Police Magistrate of Port Jackson under it, as reported in my Despatches, Nos. 1 and 5 of the 1st Jany., 1841, it was deemed proper that he should hold a Deputation from the Customs, in consequence of the peculiar facilities, which the command of the Water Police afforded him for the suppression of Smuggling.

This Deputation was given to him by the Collector of Customs in general terms, and was not specifically confined to the Waters of Port Jackson; but the Collector of Customs insists that, though not specifically confined to the Waters of the Port, it must have been understood as being so confined, because it was given to Mr. Browne in his capacity of Water Police Magistrate, in which capacity he had no jurisdiction beyond the Port, though, in consequence of being included in the general Commission of the Peace, he had as an ordinary Magistrate jurisdiction (as all Magistrates have) throughout the whole of the Territory.

Mr. Browne made a very valuable seizure (by far the most valuable and important ever made in the Colony); but, as it was made at a place called Broken Bay, fourteen miles beyond the Heads of Port Jackson, the Collector declared that he had no right to make the seizure, and, to use the technical language of the Customs, seized over Mr. Browne's head.

The whole matter seems to turn on the question, whether or not Mr. Browne had, under the Deputation which he held, a right to make the seizure. The Deputation was given to him certainly in his capacity of Water Police Magistrate, and addressed to him as such; but, on the other hand, it was general in its nature, no limits whatever, within which it was to be in force, being specified in the instrument.

Both parties consented to leave their dispute to my arbitration; but I declined to act as Arbitrator, first, because I did not feel sufficiently acquainted with the Laws of the Customs to take on myself the office, and, secondly, because I understood that no division of the proceeds of the seizure could be made, until the case had been before the Commissioners of Customs and that any decision, I might give, would be subject to reversal by the Commissioners.

Looking only to the protection of the Revenue, I feel it a duty to state to Your Lordship that I think it very desirable that the Water Police Magistrate should hold a Deputation, and that such Deputation should confer upon him the amplest powers which the Laws of the Customs will admit of.
GIPPS TO STANLEY.

The value of the Spirits, seized by Mr. Browne, is said to be £3,000. They had been shipped in a vessel called the "Fair Barbarian" at Sydney for Manilla, and Bonds were entered into by the Shippers, I believe to the amount of nearly £10,000, that they should not be relanded in New South Wales. These Bonds have been put in suit and of course, if judgment on them be obtained, the value of the seizure will be greatly enhanced.

I have, &c.,
GEO. GIPPS.

[Enclosure.]

[A copy of this memorial is not available.]

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 178, per ship Hamlet.)

Sir,
Downing Street, 1st September, 1842.

With reference to my Despatch No. 116 of the 26th of May last, I have to acquaint you that I have received The Queen's Commands to signify to you Her Majesty's confirmation of and allowance of the Act of the Governor and Council of New South Wales (No. 9 of 1841) entitled "An Act for the further amendment of the Law, and for the better advancement of Justice."

I have, &c.,
STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 153, per ship Honduras; acknowledged by lord Stanley, 27th May, 1843.)

My Lord,
Government House, 1st Septt., 1842.

With reference to my Despatch, No. 111 of the 26th June last, wherein I reported the reasons why no Bounties had been paid on the Emigrants by the ship "Sir Charles Napier," I have the honor to forward herewith the Original Certificates of the persons, on whom Bounty would at any rate have been disallowed, even though the Bounties had not been withheld altogether.

The reasons why these persons would under any circumstances have been ineligible for Bounty, will be gathered from the Report of the Board; and, for facility of reference, an explanation is appended to the Certificates, shewing the reasons for the disallowance of each of them.

I have, &c.,
GEO. GIPPS.
LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 179, per ship Hamlet.)

Sir, Downing Street, 2nd September, 1842.

I transmit to you herewith a copy of an application which I have received from Mr. W. G. Whicker with reference to the purchase of a portion of 20,000 Acres of Land in New South Wales under the provisions of the 15th Section of the Australian Land Sales Act. I also transmit for your information a copy of the reply, which has been returned by my direction to that application.

I have not thought it necessary to furnish you with any specific instruction on a point on which the Act appeared to be so clear.

I have, &c,

STANLEY.

[Enclosure No. 1.]

MR. W. G. WHICKER TO LORD STANLEY.

19 Dorset Street, Portman Square, 27th August, 1842.

My Lord Stanley, and being desirous of purchasing Land there, conjointly with some friends, my attention has been directed to Clause 15 of the Act V and VI of Victoria, Chap. 36, by which I find 20,000 Acres or more can be purchased in one block at not less than 20s. per Acre by private Contract from the Governor of the Colony " on such terms and conditions as to him shall seem meet."

My object in now addressing your Lordship is to thoroughly understand from you, as Her Majesty's Colonial Secretary, if, on my depositing Twenty thousand pounds Sterling in this Country with the Lords of the Treasury, I would be entitled to select for myself on my arrival in the Colony a block of Land, such as is described in the Act of Twenty thousand Acres, and to obtain my title to the same, or if the Governor has it in his power to refuse my right of selection, and oblige me to take the Land in any locality he chooses.

In the event of your Lordship assuring me that I am entitled myself to make the selection, I am ready to enter into a negotiation for the purchase of such a quantity of Land; but, if on the other hand it is your Lordship's opinion that I am to be controlled in my selection by the Governor, I must decline (as every Man would) submitting to such control, as the Governor may oblige me to take land, which both from situation and inferiority of soil is really not worth a shilling Per Acre; and if such is the interpretation of the Act, instead of promoting, it will tend to prevent altogether the private Sale of Land in the Colony, and thus retard its improvement and ultimate prosperity.

I have, &c,

W. GILCHRIST WHICKER.
GIPPS TO STANLEY.

[Enclosure No. 2.]

UNDER SECRETARY STEPHEN TO MR. W. G. WHICKER.

Sir, Downing Street, 2d September, 1842.

I am directed by Lord Stanley to acknowledge the receipt of your Letter of the 27th Ulto. and to acquaint you in reply that, under the provisions of the Act to which you refer, the payment of £20,000 will clearly not entitle you to the purchase of 20,000 Acres of Land in Australia, but that, if you should apply for 20,000 Acres, the Governor is empowered to allow you to purchase the Land by private Contract at a Sum to be fixed by him of not less than 20s. Per Acre.

I am, &c.,

J. STEPHEN.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 154, per ship Lady Raffles.)

My Lord, Government House, 2nd Sept., 1842.

The accompanying Minute of the Executive Council of this Colony will explain to Your Lordship the circumstances under which, with the advice of the Council and for the sake of preserving the credit of the New Zealand Government, I have taken up a Bill for £5,000, drawn by Governor Hobson on the Lords of the Treasury.

The first of the Bills is herewith enclosed; and I have to submit to your Lordship that it may be taken in acquittance of the proposed sum of £5,000, which I was directed by Lord J. Russell’s Despatch of the 2nd June, 1841, No. 281, to pay into the Military Chest, but which payment, for reasons stated in my Despatches dated and numbered as in the margin,* has not yet been made.

I have, &c.,

GEO. GIPPS.

[Enclosure No. 1.]

EXTRACT from Minute No. 20 of the year 1841 of the Proceedings of the Executive Council, dated 25 August, 1841, relative to the negotiation of a Bill drawn by the Governor of New Zealand on the Lords of the Treasury.

PRESENT:—His Excellency the Governor; His Excellency the Commander of the Forces; The Right Rev. the Lord Bishop of Australia; The Honorable the Colonial Secretary; The Honorable the Colonial Treasurer.

The Council having met pursuant to summons, His Excellency the Governor informed them that it had come to his knowledge that Bills to the Amount of Four thousand five hundred pounds, drawn by the Governor of New Zealand on the Bank of Australasia in Sydney, had been dishonored, and were (after having been protested) about to be returned to Auckland, and he requested the advice of the Council as to whether or not it would be proper for him in any way to interfere in order to support the credit of the

* Marginal note.—1842: 20th Jany., No. 9; 4th July, No. 114.
Minute of executive council recommending purchase of bill drawn by W. Hobson.

New Zealand Government, and prevent the serious inconvenience which he had reason to suppose would arise in New Zealand from the return of these Bills.

The circumstances, under which the Bills alluded to had been dishonored by the Bank of Australasia, would be stated to the Council by the Deputy Commissary General.

His Excellency observed that, highly desirable as he considered it to be to support the credit of the New Zealand Government, he felt it right to point out to the Council that, the Land Fund of this Colony being exhausted, he had no funds at his command which he could legally make use of without a vote of the Legislative Council; also that the Debentures issued by this Government in the early part of the present year being still unredeemed, the advance of any money to the Government of New Zealand, instead of the application of it to the paying off of Debentures, must occasion to this Government a direct loss equal to Eight per cent. per annum on the sum advanced for the time it may remain unpaid.

His Excellency at the same time laid before the Council a Despatch No. 57 from the Secretary of State, dated the 24th January, 1842, by which he was directed not to draw on the Lords of the Treasury, without their Lordships' special authority, for the sums which were advanced by their Lordships' own order for the service of New Zealand in the year 1840 and 1841.

The Governor also stated that a short time ago he was informed by Governor Hobson that he had authority to draw on the Lords of the Treasury for Twenty thousand pounds, and that the Bill of Five thousand Pounds now in the hands of the Bank of Australasia was drawn under that authority. This information, however, was contained in a private letter only from Governor Hobson, which His Excellency regretted that he could not then find. It might even have been destroyed, but he shewed it to Mr. Miller at the time he received it.

The Governor further stated that the Government of New South Wales was at the present time indebted to the Lords of the Treasury to the amount of more than Ten thousand pounds, and that he had orders to pay two distinct sums of Five thousand pounds each into the Military Chest.

William Miller, Esqre., Deputy Commissary General, and Charles Falconer, Esqre., Manager of the Bank of Australasia, were then severally called in and examined.

From the statements of these gentlemen, it was evident to the Council that, unless some preventive course were adopted by His Excellency, the Bill for Five thousand pounds drawn by Governor Hobson upon the Lords of the Treasury must either remain unsold, or be negotiated at a Discount of Ten per Cent. at a time when the Deputy Commissary General would expect for his Bills Five per cent. premium; and that, if the Bill were not immediately sold, Bills drawn by the Governor of New Zealand on the Bank of Australasia in Sydney to the amount of Four thousand five hundred pounds dependent on its sale for their payment, and now lying overdue and protested in the Commercial Bank at Sydney, would be returned dishonoured; and that not only the Government of New Zealand would thus be involved in serious embarrassment, but the Bank of New Zealand also, by which these Bills have been honored and accepted.

The evidence of these Gentlemen also removed any doubt which might have been entertained by the Council, as to the accuracy to its full extent of the statement made from recollection by His
Excellency, that Governor Hobson had distinctly stated in a private note that he had authority to draw on the Lords of the Treasury for Twenty thousand pounds.

The Council finding that the Bill was not negotiable solely for want of an official statement of the authority under which it was drawn, and feeling satisfied of the existence of such an authority, and deeming it right therefore to prevent the sale of the Bill on such disadvantageous terms as those proposed, recommended that His Excellency should purchase the Bill at par for transmission to the Lords of the Treasury in partpayment of the sum stated by His Excellency to be due to their Lordships from this Government.

FRANCIS L. S. MEREWETHER,
Clerk of Councils.

[Enclosure A 1 to Minute No. 20 of 1842.]

WILLIAM MILLER, Esquire, Deputy Commissary-General introduced and requested to state the circumstances which had come to his knowledge, respecting certain Bills drawn by the Governor of New Zealand on the Bank of Australasia.

The first information, which I received of the circumstances connected with these Bills, was from a note from His Excellency, enclosing a note from Captain Hobson stating that he had drawn a Bill upon the Lords of the Treasury, and requesting a certificate from me of the rate at which the Bill was sold. The Bill was drawn in favor of the Treasurer of New Zealand, and by him endorsed to the Manager of the Bank of Australasia. The Bill was shewn to me by the Manager of the Bank of Australasia, who at the same time informed me that the Bank had received no certain information that the Bill was drawn under the authority of the Lords of the Treasury, and that they had in consequence declined to receive or negotiate it. He further stated that considerable inconvenience would probably arise, as the Governor of New Zealand had drawn several Bills on the supposition that his Bill on the Lords of the Treasury for £5,000 would have been negotiated here. These Bills were drawn through the Commercial Bank, the Manager of which called upon me in consequence of my name being mentioned in the correspondence, and stated that he had received them through the New Zealand Bank at Auckland to the amount of £4,500. He also stated that the Bills were drawn at 30 days' sight, that they had been noted as not accepted, and that, if not paid at the end of the 30 days, they would be returned protested. The 30 days expired yesterday, when the Managers of the two Banks waited on me to ask my opinion as to the most expedient mode of procedure in the matter. The Bank of Australasia continued to decline having anything to do with the Bill on the Treasury. After some consultation, the Manager of the Commercial Bank stated that he was well aware of the very great difficulties which would be occasioned by the Return of Governor Hobson's Bills unpaid, and that, in order to prevent these difficulties, he would on the part of the Commercial Bank undertake to negotiate the Treasury Bill at a Discount of 10 per cent. The present rate of Exchange is from 3 to 5 per cent. premium. I myself should expect 5 per cent. The reason given by the Manager of the Commercial Bank for offering a Discount of ten per cent. was that, owing to the uncertainty of payment by the Lords of the Treasury, the Bank could not venture to draw against the remittance of it; and that the money must therefore remain unemployed for nearly 12 months, and the loss of Interest during this time would be about equal to what they would gain by the Discount proposed. Upon this ground, the offer appeared fair and reasonable, and I promised to refer it to His Excellency the Governor for his decision.

I have incidentally heard, since the Bills came up, that, if they were returned unpaid, great consternation in New Zealand would be created, their amounts having been paid away to various individuals in New Zealand for labour done, articles purchased, and for the general expenses of the Government; and, if such a sum in dishonoured Bills were returned at one time, the consequences would be very disastrous, as, the Bank having commenced their operations on a paid up Capital of only £2,000, there would be no money in the possession either of the Bank or the Government to pay the amount. They would be totally without funds. I have heard this at various times and from several credible informants, not merely Managers of Banks, but private individuals. I have been made aware that there are Bills drawn by Governor Hobson in the hands of private Individuals as well as those in the Commercial Bank. It is within my knowledge that one Individual holds Bills for £650. This amount is included in the £4,500 which I have before mentioned.

1. Are you aware whether the Bank of New Zealand is in any way responsible for the Bills presented by the Commercial Bank?—The Bills have all passed through
the Bank of New Zealand, and the Commercial Bank here has recourse upon that
Bank. When I say all the Bills, I would correct myself as I am not aware that the
£650, to which I referred, have passed through any Bank.
2. Have you any grounds wherein to form an opinion, whether the Bills would
be paid by the Lords of the Treasury?—I have not.
3. Are you aware whether there is on record any instance of Bills drawn by the
Governor of a regularly constituted Colony being refused by their Lordships?—I
am not possessed of any information as to whether any Bills have been paid or
refused under such circumstances.
4. Are you aware whether there exists any authority from the Treasury per-
mitting Captain Hobson to draw such a Bill?—I am not aware of any such
authority. I have heard from Mr. Duguid, and seen in his hands part of a corre-
spondence regarding an authority said to be held by Governor Hobson to draw on
the Lords of the Treasury; but it is contradictory and unsatisfactory on the point.
5. If the negotiation of this Bill were approved by the Governor of this Colony,
would the intrinsic value of it in a mercantile point of view be thereby increased?—The
approval sought for from the Governor has reference merely to the terms of the
negotiation for the Bill, and such approval would therefore have no effect whatever
on its value. The approval required would fix the value of the Bill at the rate
offered, and it is asked for merely for the purpose of relieving the Bank of Aus-
tralia from the responsibility of negotiating the Bill at a Discount.
6. Do you think then it would be better to accept the terms offered for disposal
of Bill than to decline to receive it to be returned dishonored?—I think it
would be much better. Not only would great inconvenience arise if the Bills were returned
unpaid, but a considerable loss probably not less than £300 would be occasioned in
the way of Interest, re-exchange and other charges of various kinds, and the object
would be defeated after all.
7. On the supposition that the Bill should not be honoured by the Lords of the
Treasury, what consequences might be expected to result?—The Bill would be
returned to the Commercial Bank, and if endorsed without recourse by the Bank of
Australia, the Commercial Bank would have to recover the sum from the Governor
of New Zealand. The re-exchange, in the event of the Bill being so returned from
London, would alone amount to £1,000.
8. Then the pecuniary loss in that case would be more serious than would even
now arise if the Bill were to be dishonored?—The eventual loss would be much
greater and the inconvenience to the New Zealand Government would be postponed
by the Commercial Bank advancing the money in the meantime.
9. What, in your opinion, would be the effect on any future Drafts which you
yourself may have occasion to make upon the Lords of the Treasury, or would it
have any effect?—It would have no effect whatever.
10. Do you recollect having seen a private note from Governor Hobson to Sir
George Gipps, stating that he had an authority to draw upon the Lords of the
Treasury?—I remember it distinctly. I remember remarking that the sum for which
Governor Hobson stated he had authority to draw was Twenty pounds (in words).
He added that the £5,000 then drawn for by him was his second Bill of that amount
and if endorsed without recourse by the Bank of Australasia, the Commercial Bank would have to recover the sum from the Governor of New Zealand. The re-exchange, in the event of the Bill being so returned from London, would alone amount to £1,000.

[Enclosure A 2 to Minute No. 20 of 1842.]
5. Would the Governor's endorsement of the Bill under the advice of this Council be considered a sufficient guarantee?—The Bill being already endorsed, a formal guarantee would be requisite; a simple endorsement would be insufficient.

6. What do you suppose would be the effect of returning the Drafts of Captain Hobson held by the Commercial Bank?—It would be injurious in the extreme. The Governor has in fact no other means of meeting his expenses.

7. On whom would the immediate loss fall?—It would fall ultimately on the Government, but immediately on the New Zealand Bank, which, having drawn upon the Commercial Bank here, would be called upon in the first instance to make good the sum. Drafts of the Treasurer of New Zealand payable to the New Zealand Bank were sent up at the same time with Governor Hobson's Bill upon the Lords of the Treasury, by which it was intended that these Drafts should be met.

8. Do you recollect having seen a private note from Captain Hobson to His Excellency the Governor stating that he was authorised to draw upon the Lords of the Treasury?—I do. It was put into my hands by Mr. Miller at Government House.

9. Did the note state that he had express authority to draw, or merely that it was his intention to draw?—The note stated that he had authority to draw.

---

Lord Stanley to Sir George Gipps.

(Despatch No. 180, per ship Hamlet; acknowledged by Sir George Gipps, 7th February, 1843.)

Sir,
Downing Street, 3rd September, 1842.

I transmit to you, herewith, the Copy of a Letter from the Secretary to the Lords Commissioners of the Treasury, enclosing the Copy of a Report from the Commissioners of Audit, calling their Lordships' attention to the apparent neglect at New South Wales of that part of the instructions to the Governor, which points out the mode in which the Balances in the hands of the Colonial Treasurer are to be verified.

I have to call your particular attention to the Instructions referred to, and to direct that you will furnish me with the explanation required by the concluding Paragraph of the Letter from the Board of Treasury.

I have, &c.,

Stanley.

[Enclosure.]

Mr. C. E. Trevelyan to Under Secretary Stephen.

Sir,
Treasury Chambers, 25th August, 1842.

I am commanded by the Lords Commissioners of Her Majesty's Treasury to transmit to you, in order that it may be submitted for the consideration of Lord Stanley, a copy of a Report from the Commissioners of Audit, dated the 29th Ult., calling their Lordships' attention to the apparent neglect at New South Wales of those Articles in the Instructions to the Governor, which point out the mode in which the Balances in the hands of the Colonial Treasurer are to be verified; and I am to request you will suggest to his Lordship that the attention of the Governor of New South Wales should be called to the Instructions referred to by the Commissioners, and that explanation should be required of the apparent non-compliance with those Instructions, and as to the unsatisfactory nature of the Certificate quoted by the Auditors.

I am, &c.,

C. E. Trevelyan.
1842
3 Sept.

Balances in colonial treasury.

Instructions to examine treasury chest.

Neglect to make examinations.

Certificate re contents of treasury chest.

Transmission of report from Port Essington.

HISTORICAL RECORDS OF AUSTRALIA.

1842.  3 Sept.

Commissioners of Audit to Lords Commissioners of Treasury.

My Lords, Audit Office, 29th July, 1842.

We have the honor to represent to Your Lordships that, upon a cursory inspection of the Accounts of C. D. Riddell, Esq., as Colonial Treasurer in New South Wales for the years 1836, 1837, and 1838, which have been recently received in this Office, we observe that very large Public Balances have been in his hands for the whole period of the Service.

The Balance on 31 Dec., 1836, being £325,231

" " " 1837, " 350,404

" " " " 1838, " 271,871

The Governor is directed by the 50th Article of his Instructions to cause the actual contents of the Treasury Chest to be examined, counted and reported, at least four times in the Year; and, by the 7th Article of the Instructions, he is also directed to order a further similar investigation, without any previous intimation of his intention to do so.

Upon the face of the Accounts however, it appears to us that but one examination into the contents of the Treasury Chest took place within the Three Years referred to, viz., on 17th Feb., 1837, and it is not shewn whether the Treasurer had or had not any previous knowledge of this investigation.

At this time there was reputed to be in the Chest £198,630, besides considerable balances in the local Banks.

We likewise beg leave to draw the attention of your Lordships to the terms of the Report, in which the verification is described in these words: "with regard to the monies in the vault, we satisfied ourselves by inspection and by counting what we considered as necessary, that it now contains in British money, etc., £198,630."

We do not mean to contend that the contents of this Chest may not have been satisfactorily ascertained by other means than actual counting, and the mention of the particular course pursued on this occasion, its not being the usual course, appears to us to have been commendable; but we have nevertheless thought it right to notice the terms of the Certificate.

The monied circumstances of the Colony are now, as we are aware, much altered, and the balance in the hands of the Treasurer much reduced in amount; but, as balances may again accumulate, and as the regulations ought to be strictly adhered to, we beg leave to suggest whether some communication ought not to be made to the Lieutenant Governor of the Colony, referring to the circumstances above mentioned, and desiring to be informed how far the regulations are now observed.

We have, &c.,

H. F. LUTTRELL.
HENRY ARBUTHNOT.
W. L. HERRIES.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 155, per ship Lady Raffles.)

My Lord,

Government House, 3rd Sept., 1842.

With reference to my Despatch No. 80 of the 5th May last, relating to the state of the Settlement at Port Essington, I have now the honor to enclose a copy of a report from Capt'n Macarthur, which, though dated the 3rd Sept., 1841, reached me only on the 7th Augt., 1842.

This report appears to me on the whole satisfactory, and strengthens my opinion that the Settlement should not be abandoned.

Appended to the Report is a Copy of a letter from Mr. George Windsor Earl, giving an account of an excursion made by that gentleman in Her Majesty's Brig "Britomart," to various Islands in the sea of Banda, lying to the north of the Settlement.
GIPPS TO STANLEY.

I have further the honor to enclose a List of Supplies, which, agreeably to the intention expressed in my Despatch of the 5th May, were forwarded to the Settlement by the Schooner "Lynher," which sailed from Sydney on the 21st Augt. last.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

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

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 156, per ship Lady Raffles.)

My Lord, Government House, 4th Sept., 1842.

I have had the honor to receive your Lordship's Despatch No. 54 of the 18th Jany., 1842, enclosing a Memorial from Mr. H. F. White, formerly an Assistant Surveyor in this Colony; and desiring me to report on the complaint made by Mr. White of his not having been allowed an opportunity of proving certain charges, which he preferred against the Police Magistrate of Port Macquarie, and into which I was desired to institute an enquiry by Lord Glenelg's Despatch, No. 196 of the 28th Augt., 1838.

Having, in my despatch to Lord Normanby of the 17th Septt., 1839, No. 128, fully reported on the case between Mr. White and Mr. Gray, and furnished the whole proceedings of the Court of Enquiry, holden at Port Macquarie, in obedience to Lord Glenelg's instructions, it is out of my power to meet Mr. White's complaint in any other way than by positively asserting, and (if necessary) pledging my honor to Your Lordship that Mr. White had every facility of proving his charges, which could have been afforded to him without running the Government into expences which would have been quite unwarrantable, and altogether useless, even to Mr. White.

Mr. White, acting under the advice of a low Attorney, and, as I verily believe, for no other purpose than to give trouble, required to have no less than thirty five Witnesses brought at the expence of Government to Port Macquarie, Many of them from very distant parts of the Colony; and, although 15 of these Witnesses were assembled at Port Macquarie, and the Commissioners of Inquiry had my authority to summon at the expence of Government any other Witnesses whose evidence they might think necessary, Mr. White refused to go into his case; and now has the effrontery to declare that a fair opportunity of proving his charges was not afforded him.
Three years have elapsed, since Mr. White's frivolous and unfounded charges were preferred against Mr. Gray; and I feel it my duty to certify to Your Lordship that my further experience of Mr. Gray has confirmed me in the belief that he is one of the best officers of this Government; so high an opinion indeed have I of his intelligence and of the correctness of his conduct, that I was anxious, on the opening of Moreton Bay, to have the advantage of his services in that Settlement, as chief Agent of the Government; he however, I regret to say for reasons of a private nature, declined the offer which I made to him.

It may be scarcely necessary for me to remind Your Lordship that Mr. White's removal from the Surveyor General's Department was the act, not of myself, but of Colonel Snodgrass, who administered this Government for a short period intervening between the departure of Sir Richard Bourke and my own arrival.

I have no personal knowledge of Mr. White, and no cause whatever to bear illwill towards him; I have moreover stated that his character in the Department of the Surveyor General was good, prior to the contumacy which he exhibited in his difference with Colonel Snodgrass; and I believe his misconduct before the Commissioners was principally to be attributed to his connexions with the person to whom I have already alluded.

I have, &c.,

Geo. Gipps.

Lord Stanley to Sir George Gipps.

(Despatch No. 181, per ship Hamlet.)

Sir,

Downing Street, 5th September, 1842.

It is with great satisfaction that I have now to announce to you the final completion of a measure, which has long been in the contemplation of successive Governments, but which has been, from various causes, repeatedly postponed from year to year, and that I am now enabled to transmit to you for your guidance a copy of the Bill for the Government of New South Wales, which has been submitted to Parliament by Her Majesty's Government, and has now passed into a law.

The long period* during which this measure has engaged the anxious attention of Government, and the publication by my predecessor, during a former Session of Parliament, of the Bill,* which was then in contemplation, and on which the present Act has been in a great degree founded, have tended to secure to the measure, during its progress, the full consideration of all parties.

I have great satisfaction in stating that the general provisions of the Act have met with the concurrence of those persons in

* Note 20.
this country, who may be regarded as chiefly representing the
different interests in the Colony; and I am also glad to perceive
that the leading principles of the Bill are consonant with your
own views, as expressed in your Despatch No. 13 of the 13th
January, 1841; and that, when you had an opportunity of re-
viewing the statements on which the Government had proceeded
in framing their proposed measure, you did not dissent from the
correctness of the facts, or the conclusions on which it was
founded. I have also gladly availed myself of the presence in
this country of the Attorney-General of New South Wales, to
take the benefit of his local knowledge and experience in the
arrangement of many points of detail. Under these circum-
cumstances the Bill has passed without a dissentient voice through
both Houses of Parliament.

I shall now proceed to point out to you the duties, which, under
this Act, will immediately devolve on the Executive Government
and the existing Council; and I need scarcely point out to you
that the execution of those duties will require their utmost care
and vigilance.

The 55th clause enacts that the Act "shall be proclaimed by
the Governor of New South Wales, within six weeks after a
copy of it shall have been received by him, and shall take effect
within the said Colony from the day of the Proclamation
thereof."

The 22nd clause enacts that the first writs for the election of
the Members of the new Council shall issue at some period not
later than twelve calendar months after the Proclamation of the
Act within the Colony.

Although that latitude of time is allowed by the Act in order
to provide against unforeseen contingencies, it will be desirable
that no unnecessary delay should be permitted to take place in
that respect; and that the first Legislative Council, constituted
under its provisions, should be assembled at as early a period
as may be consistent with the due Legislative and other pre-
liminaries to their election and appointment.

The 2nd clause gives the power to the existing Council, under
certain provisions, by ordinances to be made by them for that
purpose, to make the necessary provision for dividing the parts
of the Colony within the Boundaries of Location into con-
venient Electoral Districts, and for declaring the number of
Members to be elected for each District.

Although I have no wish to fetter the discretion of the Council
in this respect, I should suggest that, in distributing the Repre-
sentatives, they should adhere as far as possible to the existing
boundaries, rather than adopt new divisions of the Colony with
a view of equalizing the area; and that they should content
themselves, with apportioning the representation in each case,
not with mathematical accuracy, but with a general reference
to the joint considerations of amount of population and extent
of territory. Two small or thinly peopled Counties might per­
haps be united, and, in the larger and more populous Districts,
the representation might be advantageously increased.

Out of the twenty-four Members to be elected under the Act,
it is provided that not less than six would be allotted to the
District of Port Phillip, including the Town of Melbourne. On
the distribution of the Members within that District, you will
probably consult Mr. La Trobe. From the representations I
have received respectively from the Coloniasts of the Sydney and
the Port Phillip Districts, and also from the communications
which I have had with those parties in this Country connected
with the interests of both those Districts, I am lead to believe
that the divisional boundaries laid down in the Act are such as
will meet the general feelings of the Colonists.

In fixing, under the 3rd clause of this Act, the boundaries of
the Towns to be taken out of the adjoining District for repre­
sentative purposes, you will be careful not to include more of
such District than may be reasonably expected to be occupied for
building purposes within a limited period.

The 4th clause gives to the Governor and Legislative Council,
the power, by any Act or Acts to be hereafter passed, to alter,
not only the boundaries of divisions, but the number of such
divisions, and consequently the total number of the elective
Members, subject to a proportionate increase in the number of
the Members nominated by the Crown.

You will observe, however, that such power is reserved entirely
to the future Legislative Council, and you will not assent to any
Bill which may be passed by them for altering in any way the
composition of the Council without a suspending clause.

I have felt some doubt as to the propriety of permitting a quali­
fication in the Country Districts to be derived from leasehold as
well as from freehold property, nor am I possessed of sufficient
information to enable me to decide on the expediency or neces­
sity of such an addition to the franchise conferred by the present
Act. It would not of course be competent to the Legislative
Council to make such an alteration in the principle of the quali­
fication; but I should be glad to receive your opinion on the
subject; and if, being convinced of the advantage of such a mea­
sure, you should hereafter think fit to submit the question to the
newly constituted Council, you are authorised to do so; and, on
receiving an intimation, in the shape of an address to the Crown,
of the concurrence of that body in your views, I shall feel warranted in submitting to Parliament an amendment of the Act in that respect; you would, however, carefully consider what term of lease should be deemed a sufficient permanency to confer the franchise; and you must bear in mind that the annual interest possessed by the leaseholder, over and above any rent to which he may be subject, must be at the least equal in amount to the annual value of freehold property required in order to give the qualification.

Subject to this question, there appears sufficient reason to believe that the freehold qualification in the Country Districts, and the household qualification in the Towns, will admit all who have the least claim to exercise that function.

Looking at the great increase of the free population, and the cessation of Transportation, Her Majesty's Government have not thought it necessary to introduce into the Act any exceptional provision in reference to the Emancipist class.

You will observe that an unusual power is conferred on you, by the 30th clause, of returning to the Council, with any amendments which you may think desirable, any laws presented to you for Her Majesty's assent. This power is intended to counteract the inconvenience which might result from the absence of reconsideration of such measures in a second Chamber, and from the necessity which might possibly arise, in consequence, for disallowing laws transmitted from so great a distance to the Secretary of State.

You will observe, however, that the rejection of any amendments which you may propose will not entail the loss of the Bill.

I transmit herewith Instructions under the Royal Sign Manual, which, it is provided under the 40th clause, shall be issued to the Governor for his guidance in the exercise of the powers vested in him by the Act, of assenting to or dissenting from, or reserving for the signification of Her Majesty's pleasure Bills to be passed by the Council. The effect of these Instructions is to confirm so much of those under which you are now acting, as relate to the subject.

The 34th clause is for the appropriation of the Taxes and Duties, etc., levied in the Colony. I have especially to call your attention to the provision of that clause, which enacts that it shall not be lawful for the Council to pass, or for the Governor to assent to, any Bill appropriating to the Public Service any sums or sum of money arising from such sources, unless the Governor, on Her Majesty's behalf, shall first have recommended to the Council to make provision for the specific Public Service towards which such money is to be appropriated.

STANLEY TO GIPP.S. 1842.
5 Sept.

Franchise granted.

Omission of reference to emancipists.

Reasons for power of governor to propose amendments.

Instructions re asenting to, dissenting from or reserving bills.

Appropriations to be initiated by governor.
1842.
5 Sept.
Instructions re financial statement and estimates.

Transmission of instructions for treasurer.

Provisions for establishment of district councils.

Expenditure on police.

It will be your duty, through an official Member of the Council, to submit annually to the Council, a Budget or Financial Statement, accompanied by a detailed estimate of all sums required to be voted; and you will adhere rigidly to the practice of Parliament, which does not permit any question to be put for the insertion of any new head of expenditure, or for the increase of any single item submitted in such estimates. This will not, of course, preclude you from submitting supplementary estimates.

The clauses 37 to 39 inclusive, respecting the Civil List, require no further explanation, with the exception of the provision of $30,000 for Public Worship, which will form the subject of a separate communication. I transmit, however, Instructions to the Local Treasurer, which have been prepared by the Lords Commissioners of the Treasury, in conformity with the provisions of the 37th clause.

Large as are the Revenues of New South Wales, and comparatively light its taxation, it is thought desirable that the objects to which mainly the public expenditure should be limited, ought to be such as are of general and not of purely local interest, and that these latter objects should be in the main provided for by local taxation, and managed on the spot by local boards, chosen from among the inhabitants out of whose means the expenditure is to be defrayed. It is with this view that the clauses from 41 to 47 inclusive have been framed, chiefly on the model of those recently adopted in reference to Canada. In a matter however of such purely local application, it has been thought right to give the amplest Legislative power to the Legislative Council of the Colony; and the object, in the first instance, of delegating to the Governor the power of establishing the District Municipal Courts, is to secure beyond doubt that the system shall be set on foot. You will observe that, when once established, ample powers are given by the 46th clause for securing its continuance; you will observe also that those provisions apply to the Towns, as well as to the Country Districts. It may probably hereafter be necessary to make different regulations for the Government of these very different bodies; and it will be necessary for you to exercise, in the first instance, a very careful discretion in assigning the limits of different Districts, so as not to impose upon the Inhabitants of a Country or Town District the burden of local taxation, for purposes of which they do not respectively derive a fair share of advantage.

The clauses relating to expenditure on account of the Police will, I apprehend, be sufficiently explanatory of themselves.

This being a charge partly of a general and partly of a local character, it has been thought equitable to apportion the expense equally between the Colony at large and the several Districts;
and while motives of economy connected with the general expenditure will be sufficient check against the Legislative Council unduly raising the total amount to be levied, it has been thought right to guard, by the interposition of compulsory powers, against the possibility of the District Councils, from motives of ill understood self interest, seeking to avoid the necessary expenditure in so important an object, or to transfer the whole burthen to the general Funds of the Colony. It has been thought absolutely necessary, for the present, at all events, to vest the control of the Police in the Governor.

In conclusion, I have only to express my anxious, but confident hope, that the Act which I now transmit to you, conferring upon the Inhabitants of New South Wales powers so extensive for the Administration of their own local affairs, will be received by them with feelings corresponding with those which have induced Her Majesty, by my advice, to divest Herself of so large a portion of Her authority over the internal management of the Colony, and, with the aid of Parliament to grant so large a measure of self-government; that the powers thus vested in the Local Legislature will be wisely and temperately exercised; and that Her Majesty may have the high satisfaction of witnessing, as the result of Her gracious boon to the Colony, its continued advance in religion and morality; its steady progress in wealth and social improvement; and the permanent happiness and contentment of Her people.

I have, &c.,

STANLEY.

[Enclosures.]

[Copies of these instructions* are not available.]

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 182, per ship Hamlet.)

Sir,

Downing Street, 5th September, 1842.

There is one point connected with the Act for the Government of New South Wales, to which I have not referred in my Despatch No. 181 of this day's date, I allude to the provision made in the Schedule for the Civil and Judicial Establishments at the rate of £1,500 a year for the Salary of the Superintendent at Port Phillip.

In fixing the Salary of the Superintendent at that rate, I have been guided by the recommendation contained in your Despatch No. 102 of the 28th of April, 1841, and you are authorized without delay to take the necessary measures for giving Mr. La Trobe the benefit of that encrease of Salary.

I have, &c.,

STANLEY.

* Note 21.
LORD STANLEY TO SIR GEORGE GIPPS.

(A separate despatch, per ship Hamlet.)

Sir,

Downing Street, 5th September, 1842.

With reference to my Dispatch No. 181 of this day’s date, I transmit to you a Warrant under the Royal Sign Manual delegating to the Governor of New South Wales the power of nominating and designating the non elective Members of the Legislative Council under the 1st and 12th Clauses of the Act for the Government of New South Wales and Van Diemen’s Land.

I have, &c,

STANLEY.

[Enclosure.]

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

------------------

LORD STANLEY TO SIR GEORGE GIPPS.

(A private despatch, per ship Hamlet.)

Sir,

Downing Street, 5th September, 1842.

There is one point, with reference to the operation of the new Act for the Government of New South Wales, which I have not touched upon in my public Despatch of this day’s date, thinking it better to reserve it as the subject of a private Communication.

You will observe by the 12th Clause that, of the twelve non Elective Members, not more than Six are to hold Offices of Emolument under the Crown; but there is no restriction as to the numbers of such Officers, who may hold seats in the Council by Election; and, with a view to facilitate the arrangements of the Government in this respect, it is provided that the Non Elective Members shall not be appointed until all the Writs are returned. It will be of course desirable that some of the Officers of Government should owe their Seats to popular Election. With respect to others again, I should conceive it unadvisable that they should be dependent on particular constituencies, and appear to represent particular interests. Of this latter class are the Chief Justice, the General Commanding the Forces, The Bishop and the Colonial Secretary. I own that I entertain great doubts how far it may be advantageous to the Colony, and to the Interests of Religion, that the Bishop should continue to hold a Seat in a Council thus in part popularly constructed; but my sincere respect for the present Bishop forbids my taking any step in reference to him, which should appear to intimate any slight upon him, and I am therefore prepared to leave this matter.

* Note 22.
to his discretion, and to authorize you to appoint him to the Council, or not, according to his own wish and feeling on the subject.

Should he still adhere to the opinions expressed by him in his Letter* to Lord Glenelg of the 29 Feb., 1836, his resignation would be accepted by me with regret, on account of the loss of his personal Services, but with respect for the feeling of public duty which might lead him to divest himself of the authority attaching to a Seat in the Council. Should he have seen reason to alter his opinion, I shall not be the less prepared to acquiesce in his decision, nor to attribute it to any other motive than an altered sense of what is best for the interests of the public and especially of the Church committed to his care.

In addition to those whom I have named, I think it expedient that the Collector of Customs, the Attorney or Solicitor General (or both), The Treasurer, or the Auditor, should have Seats in the Council; but there is no reason why these Functionaries should not be returned by election, A non-Elective Seat being disposable in case of their failure. It will be necessary to intimate to all the existing Un-official Members that, with regard to each of them, you must hold yourself entirely unfettered until the Elections shall have taken place under the Act. Most of them will probably be returned without difficulty by some of the new Constituencies.

I have, &c,

STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 157, per ship Lady Raffles; acknowledged by lord Stanley, 1st April, 1843.)

My Lord,

Government House, 5th Sept., 1842.

I have the honor herewith to transmit a Memorial, which has been addressed to Your Lordship by Mr. Heneage Finch, whose case is as follows:—

Mr. Finch, after having been employed about ten years in the Department of the Surveyor General, resigned his situation in 1837, under circumstances which might have been considered such as to disqualify him for any future employment under Government. He however was, by Sir Richard Bourke, at the intercession of the Deputy Surveyor General (the Surveyor General being then absent from the Colony) allowed to resume his rank in the Department; and shortly afterwards he was appointed to conduct a Survey in the Northern part of the Colony. In this appointment he gave so little satisfaction that the Deputy Surveyor General reported, on the 21st Feb., 1839, "that the survey of a few farms by Mr. Finch, in the neighbourhood of the

* Note 23.
Hastings, and two lines of road of no very considerable length, is nearly all the work that has resulted from an expenditure of probably sixteen hundred pounds."

The correspondence between Mr. Finch and the Deputy Surveyor General respecting this survey, and the several disasters which had happened in the course of it to the party under Mr. Finch's guidance, having been submitted to me, I found it so marked with a spirit of insubordination, and of absolute contempt for the orders of his Department, that I caused, on the 27th Feb'y., 1839, a communication to be made to Mr. Finch, through the Deputy Surveyor General, that any repetition on his part of such querulousness or flippancy would be followed by the severest punishment that I could inflict. Mr. Finch on this again tendered his resignation, which was accepted, and he ceased to receive pay in the Department on the 1st May, 1839.

From that time, I have constantly and steadily refused to admit Mr. Finch to any employment under this Government; and Your Lordship will observe that this refusal forms the groundwork of Mr. Finch's Memorial.

It is not improbable that Mr. Finch may have been (as he states he was) encouraged to hope for employment by Mr. Mayne, a Commissioner of Crown Lands, or even by Captn. Perry, the Deputy Surveyor General, who, I am disposed to think, both in 1837 and 1839, treated Mr. Finch with unmerited leniety; but neither of these officers was in any way authorized by me to hold out such expectations to Mr. Finch; on the contrary, I find that, on a letter from Mr. Finch to Mr. Mayne, I made, on the 12th Decr., 1840, the following Minute:—

"As Mr. Finch has thought it right to bring this letter under my notice, I shall record on it (which otherwise I should not have thought it necessary to do) that the circumstances, under which Mr. Finch quitted the Surveyor General's Department, render it not in my opinion desirable that he should be employed again in any service under the Surveyor General's direction."

The letter, with this Minute on it, was forwarded to Mr. Mayne; and I find that, on four different occasions, I caused Mr. Finch to be very explicitly informed that I would not again employ him in any manner.

I trust Your Lordship will consider that, after having twice resigned, and having been always one of the most insubordinate of a Department by no means remarkable for its regularity, Mr. Finch can have no just cause of complaint against this Government, if he now find himself in pecuniary distress.

I have, &c.,
GEO. GIPPS.
MR. HENEAGE FINCH TO SECRETARY OF STATE.

Bent Street, Sydney,

My Lord, New South Wales, 27th June, 1842.

I have the honor to submit for your Lordship's consideration as Her Majesty's Secretary of State a correspondence with the Government of this Colony, a copy of which according to the enclosed List I have solicited His Excellency the Governor to transmit to your Lordship accompanied by this Letter.

I have been employed as a Surveyor under the orders of the Deputy Surveyor General during Sir Thomas Mitchell's recent absence in England. Having reason to complain of the insufficiency of the means afforded me for discharging very arduous duties, far more so than those assigned to the generality of Surveyors and Assistant Surveyors, I solicited in the first place facilities which had been afforded to other officers, but withheld from me, and respectfully pointed out that the difficulties of my Situation were such as prevented my acting up to what I conceived to be my duty; at the same time suggesting means for meeting those difficulties, but in vain. I then assumed a more decided tone, and resolved either to obtain the Co-operation of the Government or to quit the Service (my only means of subsistence). I briefly represented in several instances the obstacles to the execution of the Deputy Surveyor General's orders; and, having thus as I conceived relieved myself of the responsibility, prepared for the undertaking with the same resolution I should have done if confident of success. I persevered in my operation till, from exposure to Swamps under a vertical Sun and from the effect of unwholesome provisions, it became literally impossible for me to proceed. My men too threw down their Tools, declaring they were unable to work. I went to Sydney, having drawn up a Statement of what I considered absolutely necessary in order to render my exertions effective.

All my applications procured only evasive answers. The answer of the Deputy Surveyor General to my statement was puerile in the extreme. My remonstrances were met with offensive and insulting language. At length finding that nothing was to be done, I tendered my resignation. I could not even get an answer to this; and addressed the enclosed letter (No. 12) on the subject to the Colonial Secretary. But all my efforts to place the circumstances which had compelled me to resign in a true light, so as to prevent their being misrepresented, were unavailing.

Having after my resignation twice made my way to the Clarence river (I was the first person who reached that river from the Table land of New England and also the first to make it from the McLeay), I took an interest in the survey of a large tract which formed a blank in the map of Australia. At that time, I received the enclosed letter from Mr. Edward Mayne, the Commissioner of Crown lands appointed to the District of New England (No. 30). On receiving it I laid it before Captain Perry, Deputy Surveyor General, and also before the Colonial Secretary; and was induced by them to tender for the performance of the Survey required, which Tender I was surprised under the circumstances to find rejected by the Governor.
I wrote to Mr. Mayne, and, as I had received his letter through the Colonial Secretary's office, requested mine might be transmitted by the same channel. His Excellency then shewed (No. 20) what were the motives for having previously withheld from me all explanation and for opposing my attempts to clear up the mystery with which his Officers had sedulously invested these transactions. He made use of my letter to insinuate to Mr. Mayne and through him to the public that I had been guilty either of neglect of duty or dishonorable conduct while in Office; in order I suppose that he might conceal the true cause of my retiring, viz., the want of cooperation on the part of the Government. I adopted the only course then in my power and wrote the enclosed letter (No. 21). A long correspondence (on two occasions) took place, throughout the whole of which there appears a determination on the part of the Governor to keep out of view the real question, and a very awkward attempt to appear to misunderstand my object and to suppose me desirous of returning to the public service instead of being resolved to counteract, if possible, the system of calumny and misrepresentation to which I was exposed. I believe it will be found that in no instance has any letter of mine been fairly met and answered, and I am almost willing to limit my request on the present occasion to asking for answers to my letters instead of the evasive attempts to put me off to which I have hitherto been obliged to submit.

When I left England to assume the duties of a Government Surveyor, I had strong recommendations to the Colonial Government. These recommendations it was my constant endeavour to deserve, and I had the flattering testimony of Sir Thomas Mitchell to my having succeeded. And, though my exertions procured me nothing but the hardest lot among the working Surveyors, I took upon it as the most honorable one as shewing that I did not shrink from my duty. I conceived, however, that I had a right to the co-operation of the Government; and, when I made known my wants in this respect and found that all attention to them was denied, I surely had a claim to have the cause which rendered it necessary for me to retire made apparent in order to secure my conduct from misrepresentation. This was not only refused, but the obscurity, in which the circumstances were thus involved, was made use of to calumniate me in order to vindicate the apathy or neglect of the Government. I was unwillingly forced into a correspondence which I conducted in haste, secure as I imagined in the integrity of my motives. I took every precaution however to avoid giving offence; and, when charged with disrespectful language (though the expressions were not pointed out to me and I now submit the charge cannot be maintained) I offered to retract (No. 8). But can any inconsiderateness on my part justify the machinations resorted to and the gross unmanly injury attempted to be inflicted on me in the Governor's minute affixed to my letter to Mr. Mayne (No. 20). From such injury, I claim the protection of Her Majesty's Ministers. I complain not of neglected Services. The wrongs I resent are such as strike at the efficiency of Government as well as the welfare of the Governed. A Free, fair, and open Enquiry is all that I solicit, conducted so as to prevent the sacred power entrusted to Her Majesty's Representative being abused to suppress the Truth. I have, &c,

HENEADE FINCH.
MR. E. MAYNE TO MR. H. FINCH.

Sir, A. Club, 3rd October, 1840.

It has been suggested to me by Captain Perry that you might be a person likely to undertake the following employment:—

I therefore take the liberty to address you on the subject and to request that, if entertained by you, you would state the terms upon which you would be likely to act.

It is found desirable to determine by a skeleton survey the Boundaries assigned to the Commissioners of New England, Bligh and Liverpool Plains District, respectively. These boundaries to be fixed by prominent and well defined mountain ranges wherever practicable. The apices of the principal ranges being fixed by Trigonometrical observations upon an assumed base, as the proximate scale can be given when the work is in a sufficient state of forwardness to render it necessary. The size, general course and points of confluence of the several rivers will be all the detail requisite in the work. The several squatters' stations should be fixed as accurately as possible, it being of importance to the Commissioners to be acquainted with their exact locality.

EDWD. MAYNE.

COPY CERTIFICATE OF MR. TOZER, APOTHECARY.

Sir, Medical Depot, 31st May, 1839.

I herewith furnish your little s/c for the operation on your Foot, etc.

You have requested me to state my opinion of the case. I beg to add that from Statement by your Diet and the distance you had ridden to obtain medical advice that the inflammatory action was so increased that, had you not followed the Treatment recommended, you would in all probability have been obliged to resort to amputation. In prescribing for you, I did so knowing there was no practising medical Man on the Settlement at that time; otherwise I would have referred you to him.

I am, Sir, &c,

HORATIO TOZER, Chemist and Druggist.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 184, per ship Victoria.)

Sir, Downing Street, 6th September, 1842.

I transmit to you herewith Copies of a Correspondence with the Revd. Dr. Polding relative to an application, which he has made for an Allowance of £50 each for the passage of four Clergymen, who are about to accompany him to Australia to be employed in the Civilization and Instruction of the Aborigines in New South Wales. You will observe that I did not feel justified in sanctioning a compliance with Dr. Polding’s application. At the same time, I have informed Dr. Polding that I would recommend these Gentlemen to your protection, although it must be clearly understood that they are not to be chargeable on the Revenues of the Colony.

I have, &c,

STANLEY.

REV'D. DR. POLDING TO LORD STANLEY.

My Lord, 63 Paternoster Row, 23rd Aug., 1842.

I have the honor to inform Your Lordship that four Clergymen of the highest character are prepared to accompany me to Australia for the purpose of devoting themselves entirely and exclusively to the Civilizing and instructing of the Aborigines. At the same time, I have informed Dr. Polding that I would recommend these Gentlemen to your protection, although it must be clearly understood that they are not to be chargeable on the Revenues of the Colony.

I have, &c,

STANLEY.

STANLEY TO GIPPS.

[Sub-enclosure No. 1.] 5 Sept.

Survey proposed by E. Mayne to H. Finch.

MR. E. MAYNE TO MR. H. FINCH.

It has been suggested to me by Captain Perry that you might be a person likely to undertake the following employment:—

I therefore take the liberty to address you on the subject and to request that, if entertained by you, you would state the terms upon which you would be likely to act.

It is found desirable to determine by a skeleton survey the Boundaries assigned to the Commissioners of New England, Bligh and Liverpool Plains District, respectively. These boundaries to be fixed by prominent and well defined mountain ranges wherever practicable. The apices of the principal ranges being fixed by Trigonometrical observations upon an assumed base, as the proximate scale can be given when the work is in a sufficient state of forwardness to render it necessary. The size, general course and points of confluence of the several rivers will be all the detail requisite in the work. The several squatters' stations should be fixed as accurately as possible, it being of importance to the Commissioners to be acquainted with their exact locality.

EDWD. MAYNE.

[Sub-enclosure No. 2.]

COPY CERTIFICATE OF MR. TOZER, APOTHECARY.

Sir, Medical Depot, 31st May, 1839.

I herewith furnish your little s/c for the operation on your Foot, etc.

You have requested me to state my opinion of the case. I beg to add that from Statement by your Diet and the distance you had ridden to obtain medical advice that the inflammatory action was so increased that, had you not followed the Treatment recommended, you would in all probability have been obliged to resort to amputation. In prescribing for you, I did so knowing there was no practising medical Man on the Settlement at that time; otherwise I would have referred you to him.

I am, Sir, &c,

HORATIO TOZER, Chemist and Druggist.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 184, per ship Victoria.)

Sir, Downing Street, 6th September, 1842.

I transmit to you herewith Copies of a Correspondence with the Revd. Dr. Polding relative to an application, which he has made for an Allowance of £50 each for the passage of four Clergymen, who are about to accompany him to Australia to be employed in the Civilization and Instruction of the Aborigines in New South Wales. You will observe that I did not feel justified in sanctioning a compliance with Dr. Polding’s application. At the same time, I have informed Dr. Polding that I would recommend these Gentlemen to your protection, although it must be clearly understood that they are not to be chargeable on the Revenues of the Colony.

I have, &c,

STANLEY.
and passage. I beg most respectfully to suggest that the sanction of H.M.'s Govt, thus expressed would place them in a position, which would materially assist in the accomplishment of the highly meritorious object they propose to themselves. I trust Your Lordship will judge the case favorably, as not contemplated by the regulation made respecting the Outfit and passage of Clergymen in consequence of the application of Governor Sir Geo. Gipps.

I have, &c.,

J. B. POLDING.

[Enclosure No. 2.]

UNDER SECRETARY STEPHEN TO REVD. DR. POLDING.

Sir, Downing Street, 1st Sept., 1842.

I am directed by Lord Stanley to acknowledge the receipt of your Letter of the 23rd Ulto. in which you solicit His Lordship's sanction for the payment of £50 each to 4 Clergymen, who are about to accompany you to Australia to devote themselves to the civilization and Instruction of the Aborigines; and I am to refer you in reply to my letter to you of the 6 October last, in which you were informed that H.M.'s Govt, were not prepared to sanction the measures which you proposed for establishing a Mission for the Instruction of the Aborigines, and to acquaint you that His Lordship must therefore decline to sanction the payment of the Allowance in question.

I have, &c.,

JAS. STEPHEN.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 158, per ship Lady Raffles; acknowledged by Lord Stanley, 15th April, 1843.)

My Lord, Government House, 6th Septt., 1842.

I have the honor herewith to forward a Memorial addressed to Your Lordship by Mr. Terence Aubrey Murray, on behalf of his Sister, Mrs. Bunn, the Widow of Mr. G. Bunn, formerly a Merchant of Sydney.

In the year 1830, Mr. Bunn obtained permission from Governor Darling to select ten acres of land on the shores of Port Jackson for the purpose of forming a Whaling establishment, and accordingly selected ten acres in Lane Cove, one of the very numerous coves or inlets, which are to be found in the Harbour of Sydney, distant however by water about ten miles from that Town.

The terms, on which Mr. Bunn was authorized to take possession of these ten acres, are very clearly defined in a letter to him from the Colonial Secretary, dated the 13th Octt., 1831, of which a copy is herewith enclosed; and they were as follows:—

1. That there should be no prior claimant to the land;
2. That the grant of the land to him should be confirmed within two years by the Secretary of State;
3. That he should immediately apply it to the purpose for which he wanted it, and not convert it to any other purpose whatsoever.

Very shortly after the date of this letter, another claimant for the same ten acres of land appeared in the person of a
Mr. William Gore; consequently Mr. Bunn never obtained the land, nor were any of the conditions, on which he was to have possession of it, fulfilled.

Mr. Gore's claim extended not only to the ten acres which had been selected by Mr. Bunn, but to a great deal more land in the neighbourhood; and, being founded on vague and old documents, issued before regular records were kept in the Colony, the investigation of his case lasted for several years; and it was only in 1837 that, on the report of Commissioners, appointed under a local Act of Council (5th Wm. IV, No. 21) to investigate claims to Grants of land, Mr. Gore's right to eight acres out of the ten, which Mr. Bunn had selected, was confirmed by the Commissioners, who, in reporting in Mr. Gore's favor, recommended that Mr. Bunn should be "compensated elsewhere."

It might be difficult to imagine the grounds, on which the Commissioners made such a recommendation. Sir Richard Bourke, however, by a Minute, dated the 22nd May, 1837, approved their report, and added to his approval the following words:—

"It will be as easy to compensate Bunn's representative for the whole ten, as for eight acres, as I understand Bunn was never in possession of any."

Shortly after my arrival in the Colony, the representatives of Mr. Bunn (Mr. Bunn being dead) applied to me for the compensation, which had been thus promised to them; and I allowed them compensation at the rate of £10 per acre, or £100, for the ten acres, being the full value put upon the land by the Surveyor General, as will be seen by the enclosed Copy of a letter from the Deputy Surveyor General, dated the 24th August, 1839.

Instead of £100, Mr. Murray asked, on the 10th Octt., 1839, for £2,000, a sum altogether preposterous; and I beg in conclusion to state that the greatest doubt, which presents itself to me in this case, is whether I may not have been wrong in granting to Mrs. Bunn any compensation at all.

I have, &c.,

Geo. Gipps.

[Enclosure No. 1.]

The Memorial of Terence Aubrey Murray, of Yarrowlumla, in the Colony of New South Wales, most respectfully sheweth, To the Right Honourable Lord Stanley, Her Majesty's Secretary of State for the Colonial Department, etc., etc., etc.,

That your Memorialist is Executor to the Will of the late George Bunn, a merchant of Sydney, who died in 1834; that that Gentleman received from Governor Darling in 1833 a Grant of ten acres of land on the North Shore of Port Jackson; that this land was notwithstanding withdrawn from Mr. Bunn's family in 1836, and given to a Mr. Gore, in consideration of some right conceded by
1842.
6 Sept.
Memorial of
T. A. Murray
as executor
for G. Bunn.

HISTORICAL RECORDS OF AUSTRALIA.

252 him to the Government; and that Sir Richard Bourke, in doing this,
ordered compensation to be made to Mr. Bunn's estate. That your
Memorialist accordingly applied to His Excellency Sir George Gipps
soon after his arrival in the Colony, and was offered by him a re­
mission of one hundred pounds in the purchase of land elsewhere;
and that, this being wholly disproportionate to the loss sustained,
he has since made different applications on the subject but without
any better success.

Your Memorialist therefore, being the brother of Mrs. Bunn, and
deeply interested in her welfare and that of her children, now most
respectfully appeals to your Lordship, humbly but earnestly, so­
licina your consideration for the simple merits of the case, and
begging that you will be pleased either to permit the Executors to
select ten acres elsewhere in the vicinity of Sydney, or allow them
a remission in the purchase of land equal to the assessed value of
the grant withdrawn.

And, as in duty bound, your Memorialist shall ever pray.
T. AUBREY MURRAY.
Yarrowlumla, N.S.W., 16 May, 1842.

[Enclosure No. 2.]

COLONIAL SECRETARY MACLEAY TO MR. G. BUNN.
Colonial Secretary's Office,
Sir, Sydney, 13th October, 1831.

The Surveyor General having stated in his Report for
1/15 November, 1830, No. 30/315, that, in pursuance of the authority
given to you by His Excellency the Governor, you have selected
Ten acres of Land situated in the County of Cumberland, Parish of
Willoughby at Gore's Wharf, in the Bay North of Point Salamander,
commencing at the Chimney of a Hut and extending Northerly,
bounded on the south East by the Water, and on the West by a Road
reserving the Wharf and road to it for Public use, for the purpose
of a Whaling Establishment and the erection of a Residence; I am
directed to communicate to you His Excellency's sanction to take
possession of the said Ten acres of Land, and to retain the same
(if it has been surveyed) for two years from the present date or
until His Majesty's pleasure shall be made known on the subject.
Provided that you apply it immediately to the purpose stated and
do not convert any part of it to any other purpose whatsoever.
But, if the selection which you have made be in an unsurveyed
part of the Country, it will not be possible to determine at present
whether there are any prior claims or other objections to your
obtaining the precise spot applied for, or not. It is presumed, how­
ever, that there will be a sufficiency of Land for all purposes, and
the Government will not interfere with your selection if it can be
avoided.

If it be found at the end of Two years that you have failed to
carry into effect the purpose above stated, the land will be immedi­
ately resumed and granted to another applicant. But, if during
that time you shall fully and bona fide comply with the intention
of this Reserve, and if the same shall be approved by His Majesty,
you will be allowed a grant of the Land in free and common soc­
cage on the following conditions, viz.:.

1st. You will have to pay a Quit Rent to the Crown of Five per
cent. per annum, on the value of the Land as it may be hereafter
STANLEY TO GIPPS.

affixed by the Commissioners, appointed for that purpose or by order of His Majesty's Government.

2nd. The payment of the Quit Rent will not commence until the end of Seven years from 13th July, 1830, the date of my former Letter; but, within that period, you must expend in improvements on the Land a Sum equal to its full value, estimated as above, under the penalty of forfeiting the Grant.

3rd. The Quit Rent will be redeemable at your option on a payment to the Colonial Treasury of a sum equal to Twenty years' purchase, provided such payment be made within Twenty Years from the present date.

4th. The land will not be alienable under any pretence whatever before the expiration of seven years from this date, nor until the sum above stipulated to be laid out in improvements shall have been actually expended on it; and you will not be put in possession of the Title Deeds until the end of that period.

5th. The Crown reserves to itself all mines of Gold, Silver and Coals, the right of making and constructing all Roads and Bridges which may be necessary for Public purposes, and such Stone, Indigenous Timber and other materials, the produce of the Land, as may be required at any time for the construction of the said Roads and Bridges, for naval purposes and for Public Works.

6th. You must apply it to the purpose above stated and never convert any part of it to any other purpose whatever under penalty of forfeiture.

I have, &c.

ALEXR. MCLEAY.

[Enclosure No. 3.]

DEP. SURVEYOR-GENERAL PERRY TO COLONIAL SECRETARY THOMSON.

Surveyor General's Office, Sydney, 24th August, 1839.

Sir,

In attention to your Letter of the 17th instant No. 39/346, referring to an application received from Mr. T. A. Murray, claiming on behalf of the Estate of the late Mr. Bunn compensation for the ten acres of Land in the Parish of Willoughby promised to that Gentleman by General Darling, but recently granted to Mr. William Gore, and requesting my report as to what might have been the value of the Ten acres of Land in the Year 1829 and its present value, I have the honor to report for the information of His Excellency the Governor that, according to the private Sales which took place in 1829, I consider the value of the Ten acres in question to have been about Twenty Pounds (£20) and that its present value (taking the medium between the maximum of Public Sales in 1837 and those in the present year) is about One hundred Pounds (£100).

I have, &c.

S. A. PERRY, Dy. S. Gl.

LORD STANLEY TO SIR GEORGE GIPPS.

(SDespatch No. 185, per ship Victoria.)

Sir,

Downing Street, 7th September, 1842.

With reference to my dispatch No. 116 of the 26th May last, I have now to acquaint you that The Queen has been graciously pleased to allow and confirm the Act of Your Government,
No. 1 of the 29th June, 1841, entitled, "An Act further to restrain the unauthorized occupation of Crown Lands, and to provide the means of defraying the expense of a Border Police."

I have, &c.,

STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.

(A separate despatch, per ship Victoria; acknowledged by Sir George Gipps, 18th April, 1843.)

Sir,

Downing Street, 7th September, 1842.

With reference to my Dispatch No. 185 of this day's date, I transmit to you herewith a copy of a letter from the Colonial Land and Emigration Commissioners relative to the effect, which may result to the Land Revenue of New South Wales from the authorized temporary occupation of Land beyond the boundaries of Location.

I should wish you to consider the question raised by the Commissioners in the enclosed letter, and report to me fully your opinion on the subject at Your earliest convenience.

I have, &c.,

STANLEY.

[Enclosure.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Colonial Land and Emigration Office.

9 Park St., Westminster, 21st July, 1842.

Sir,

With reference to our other letter of this day's date in which we have reported for Lord Stanley's information that we see no objection to the New South Wales Act for the maintenance of order beyond the limits of location, we feel that it might be an improper omission on our part not to take the opportunity of alluding to a more general question that may be expected to arise respecting the Lands beyond the boundaries. We have indeed on a former occasion, in a letter dated the 24th of March last, mentioned the future disposal of those Lands as a subject on which it might be deemed expedient to request the Governor's opinion. But, since the date of the letter, the Report of the Council on the Immigration of 1841 has reached us, and, besides containing some Evidence of an important tendency on this subject, has also led us to refer to the information transmitted on former occasions by Sir George Gipps upon the same matter. By the latest Return, which is appended to the Council's Report for 1840, it appears that the number of Stations beyond the Boundaries was 473, and that they comprised Runs extending over 3,022,560 acres, of which no less than 6,663 were actually in cultivation. The Stock upon those Runs was returned as follows:—Horses, 6,734; Cattle, 352,126; Sheep, 1,204,470. It is impossible, we apprehend, to consider these Statements without feeling what serious difficulties may arise whenever the progress of settlement may give reason to wish that the Lands beyond the limits of location should be offered to sale. On the other hand, the recent Report of the Committee of Council on the Debenture Bill, appended to
Sir George Gipps' Despatch of the 23rd Dechr., 1841, points out the scarcity of such Land as settlers will choose at the established prices, within the old limits of the Sydney District of New South Wales. Sir Thomas Mitchell also, in his evidence before the Committee on Immigration for 1841, while he expresses himself aware of the evils which might result from disturbing the licensed holders of Lands beyond the boundaries, nevertheless remarks that it will become expedient to bring those Lands to sale, if the Crown Revenues are to be kept up. And again Mr. Laurentz Campbell, the Acting Colonial Treasurer, in his evidence before the Council in 1840, also gives an opinion that the Sale of Lands within the limits of location will be insufficient for the purpose of raising a Revenue, although he is strongly adverse to putting an end to, or even restricting, the system of licensed occupation.

Adverting to these various circumstances, while we offer no opinion of our own on the subject, it appears evident that the manner of dealing with Lands beyond the boundaries is likely to become a topic that may require the most mature and deliberate consideration on the part of the Government; and we have therefore thought that it would not be misplaced, on the occasion of recommending the confirmation of the Bill required for the maintenance of order beyond the boundaries, to bring the foregoing facts under Lord Stanley's notice, as grounds for securing in time the benefit of the Governor's views upon a question of so much growing importance.

We have, &c,

T. Fredk. Elliot.
Edward E. Villiers.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 159, per ship Lady Raffles.)

My Lord,

Government House, 7th Septt., 1842.

I have had the honor to receive your Lordship's Despatch, No. 63 of the 5th Feby., 1842, transmitting to me a Copy of a letter which had been addressed to the Secretary of State for the Home Department by Mrs. Ann Hornby, on the subject of a Power of Attorney, which she alleges to have been sent out by her, in the year 1840, for the purpose of receiving from the Supreme Court of New South Wales the produce of the effects of the late David Hornby, who died in New South Wales an Emancipist.

I herewith enclose a Copy of a letter and other documents, which I have received from the Chief Justice of this Colony on the subject of Mrs. Hornby's Complaint, from which it will appear that the Power of Attorney cannot be traced, but that there is a sum in the Savings Bank of New South Wales, which amounted, on the 31st Dechr. last, with Interest to £132 13s. 7d., which will be payable to any person authorized to receive it in the manner pointed out by the Chief Justice.

I have, &c,
Geo. Gipps.
Letter acknowledged.

Inability to trace power of attorney of A. Hornby.

Money in savings bank in estate of D. Hornby.

HISTORICAL RECORDS OF AUSTRALIA.

[Enclosure.]

SIR JAMES DOWLING TO SIR GEORGE GIPPS.

Supreme Court House,
Sydney, 15th Augt., 1842.

Sir,

I have the honor to acknowledge the receipt of the Colonial Secretary's Letter of the 15th July with its enclosures, written by Your Excellency's direction, respecting an application made by Mrs. Ann Hornby, touching a power of Attorney, said to have been sent out to this Colony in 1840, with a view to receiving from the Supreme Court the balance of the produce of the effects of the late David Hornby her husband, a prisoner of the Crown, who died an Emancipist in this Colony intestate.

In reply, I have the honor to state that, after diligent enquiry, no such power of Attorney as is mentioned by Mrs. Hornby can be found, if it has ever reached its destination.

Enclosed I have the honor to transmit the correspondence which Mr. Macpherson, the present Registrar of the Supreme Court, has had on the Subject with Mr. Manning, the late Registrar. I have the satisfaction of stating that the balance arising from the estate of the Intestate Hornby is safely lodged at Interest in the New South Wales Savings Bank, subject to be paid out upon due proof that Mrs. Ann Hornby is legally entitled to receive it. The late Registrar's letter of the 6th August, 1839, addressed to the Revd. J. Slade of Bolton-le-Moors, enumerates the necessary documents to enable Mrs. Hornby to obtain payment of the money, which, when supplied, and a power of Attorney sent out therewith to some responsible person in this Colony to enable him to take out letters of administration, will authorise the Supreme Court in directing the money to be paid to her legal representative.

I have, &c.,

JAMES DOWLING, C.J.

[Sub-enclosure No. 1.]

MR. W. MACPHERSON TO MR. E. MANNING.

Sir,

Registry Office, Supreme Court, Sydney, 13th July, 1842.

I am directed by their Honors the Judges to inform you that the Colonial Secretary has transmitted to them a Copy of a Petition (dated 30th January, 1842) addressed to the Right Honorable the Secretary of State for the Home Department by Ann Hornby (of Sweet Green, Bolton-le-Moors, Lancashire), widow of Daniel Hornby, who died here Intestate some years ago, and at the credit of whose estate there is a deposit in the Savings Bank, amounting, with Interest to 31st December last, to the sum of one hundred and thirty two pounds 13s. 7d., to which Petition is annexed a Copy of your father's letter, dated 6th August, 1839, to the Revd. J. Slade, Vicar of Bolton, and the Petition states that, on the 23d of April, 1840, a Power of Attorney from the Petitioner had been dispatched for New South Wales, but no answer had been received; and praying that His Lordship would direct enquiry into the matter to be made.

The Judges request to be informed whether you ever received the Power of Attorney alluded to in Ann Hornby's Petition, or know whether your father or any other person received it; and, if you have received such a Power, or can give any information in respect to it, they request that you will attend at their Honors' Chambers in the Court House at ten o'clock tomorrow, or on as early a date as convenient to receive their instructions on the subject.

I have, &c.,

WM. MACPHERSON, Regr., Supreme Court.
MR. E. MANNING TO MR. W. MACPHERSON.

Sir, Sydney, 16 July, 1842.

I have the honor to acknowledge the receipt of your letter on the subject of the Petition of Ann Hornby, bearing reference to an amount claimable by virtue of a Power of Attorney.

In reply to which, I beg to state that I never even heard of the name before, but will by this day’s post address a letter to Mr. Manning on the subject and enclose him your communication to me, and, on receipt of his reply, will immediately wait upon you.

I have, &c,

E. E. MANNING.

MR. M. J. MANNING TO MR. W. MACPHERSON.

My dear Sir, Vermont, Camden, 22d July, 1842.

At the request of Mr. Manning, who is confined to his bed from Erysipelas, I write to acknowledge the receipt of your letter to Edye of the 15th, on the subject of Hornby’s estate; it could not reach Vermont till last night. The particulars you mention make Mr. Manning almost certain that he has such a power of Attorney by him for some years.

Mr. Edye Manning will look for it in a bundle of powers to which he refers him, and, if he finds it, will send it to you for examination. Mr. Manning never acted under the power by Administering, and therefore the money remains in the Savings Bank.

Mr. Manning thinks that this and some other power or powers reached the Colony soon after one of their Honors the Judges had suggested the inexpediency of the Registrar’s administering to an Intestate estate. If the testimonials of kindred should be found sufficiently regular to support the claim for Administration, and there should be found a Power of substitution, Mr. Manning feels that his course would have been, in order to prevent disappointment to the Widow from delay, to have exercised that power; but he is quite ignorant on the subject; very probably it will be found that he should have sent back the Power to England.

I remain, &c,

M. J. MANNING.

MR. J. E. MANNING TO MR. W. MACPHERSON.

My dear Sir, Vermont, Camden, 8 August, 1842.

During my confinement to bed, I have done my best to trace out the Power of Attorney alleged to have been sent to me by Mrs. Hornby, but without avail. It seems I have it not, nor has Turner or Norton received any such from me to proceed to Administration upon. At all events, it is clear I have not done anything in it; the money is in the Savings Bank; and the poor Widow must now send out a power to some one upon Stamps in the well known form; supported by documentary evidence of her right to Administration as the lawful Widow, Certificate of her Marriage, Affidavits in proof of the identity of the Hornby whom she married with the Hornby tried at . . . and in such a year, and transported, and since alleged to be deceased in this Colony.

Yrs., My dear Sir,

J. E. MANNING.
HISTORICAL RECORDS OF AUSTRALIA.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 160, per ship Lady Raffles.)

My Lord,
Government House, 8th Sept., 1842.

Having brought your Lordship's Despatch of the 6th Dec., 1841, No. 37, and the several papers which accompanied it, before the Legislative Council of this Colony, I have the honor to report that, agreeably to your Lordship's suggestion, the sum of £1,061 6s. 4d. has been voted by the Council to Lieutt. Colonel Sir Thomas Mitchell, the Surveyor General of this Colony, the only person entitled to a gratuity under the instructions of Your Lordship.

I have, &c.,
GEO. GIPPS.

LORD STANLEY TO SIR GEORGE GIPPS.
(A circular despatch, per ship Victoria; acknowledged by Sir George Gipps, 31st March, 1843.)

9 Sept.
Sir,
Downing Street, 9th September, 1842.

A Petition having been recently addressed to Her Majesty by the Directors of the Union Bank of Australia, praying that a Royal Charter of Incorporation may be granted to that Bank, I have to request that you will, at your earliest convenience, report to me your opinion as to the propriety of granting such a Charter, with reference both to the wants of the Community and the condition of any Banking Establishments that may be already in operation in the Colony under your Government.

I have, &c.,
STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 161, per ship Lady Raffles; acknowledged by Lord Stanley, 25th March, 1843.)

My Lord,
Government House, 9th Septt., 1842.

With my Despatch of the 16th May last No. 91, I brought under your Lordship's notice various documents tending to prove the inefficiency of the Department, which was organized in 1839 for the Protection of the Aborigines in the District of Port Phillip; and, recurring to the same subject, I have now the honor to inform Your Lordship that I found it necessary to issue, on the 3rd June last, an order for the suspension of Mr. Sievewright, one of the four Assistant Protectors, who were sent from England in the year above mentioned to be employed under Mr. Robinson.
I regret to say that my reasons for suspending Mr. Sievewright are not founded solely on his general inefficiency as an Officer, but on certain reports injurious to his moral character, which have long prevailed at Port Phillip, and the truth of which he has taken no steps to disprove.

In respect to these rumours, I transmit to Your Lordship a Copy of a Confidential Paper, which I have received from Mr. La Trobe.

I also transmit a Copy of a letter from Mr. La Trobe, by which Your Lordship will perceive that Mr. La Trobe has, with my sanction, appointed to succeed Mr. Sievewright (though upon a different footing) a Medical gentleman, named in the margin,* the state of the Aborigines in the District of Portland Bay, where the Station called Mount Rouse is situated, being such as very urgently to require Medical assistance.

I shall of course transmit to Your Lordship any remonstrance which may be made by Mr. Sievewright against his removal from Office.

I hope my proceedings in this matter will meet your Lordship’s approval. I have, &c,

GEO. GIPPS.

[Enclosures.]

[Copies of these letters, dated 2nd and 6th August, 1842, will be found in a volume in series III.]

SIR GEORGE GIPPS to LORD STANLEY.
(Despatch No. 162, per ship Lady Raffles.)

My Lord,

In connexion with the subject of My Despatch of this day’s date, No. 161, reporting the suspension of Mr. Assistant Protector Sievewright, as well as in further exemplification of the general inefficiency of the officers employed in the Port Phillip District for the protection of the Aborigines, I enclose herewith a Copy of a letter which I have received from Mr. La Trobe, reporting that the salary of the Chief Protector has been suspended since the month of May last. I have, &c,

GEO. GIPPS.

[Enclosure.]

[A copy of this letter, dated 6th September, 1842, will be found in a volume in series III.]

* Marginal note.—Mr. John Walton.
1842.
10 Sept.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 157, per ship Victoria; acknowledged by Sir George Gipps, 1st January, 1844.)

Sir,

Downing Street, 10 September, 1842.

With reference to my Dispatches of the Nos. and Dates specified in the margin,* I have now to acquaint you that Her Majesty's Government have had fully under their consideration the Act of your Government, No. 17 of the 6th October, 1840, "for the further and better Regulation and Government of Seamen within the Colony of New South Wales, and for establishing a Water Police."

The Act embraces three principal subjects:

1st. The prevention of the departure of persons secretly from the Colony.

2nd. The desertion and misbehaviour of Seamen.

3rd. The Police of the Port.

With regard to so much of the Act as relates to the first and third of these subjects, there appears to be no reason to disapprove of its provisions.

With respect to the Enactments relating to Seamen, Her Majesty's Government do not object to the regulations respecting their Certificates of Discharge and Registry thereof, which are in accordance with and furtherance of the Imperial Act respecting merchant Seamen. It is necessary, however, to advert particularly to the 8th, 9th and 25th Sections of the Act, which appear to require amendment.

The 8th Section provides that, on complaint of a Master of a Ship or Vessel, or any Merchant, Merchant's Clerk or other person on behalf of such Master, that any other Ship or Vessel, proceeding to sea, hath on board any Seaman or Mariner, who hath deserted from, or is in any way indebted to the said master, or to the owner of such first mentioned Ship or Vessel, it shall be lawful for any Superintendent of Water Police, Inspector of Police, Officer of Customs, or Constable to detain such seaman or Mariner and lodge him in safe custody until he shall be dealt with as by Law is provided.

It seems to me that this summary power rests on too slight a foundation, and that a seaman should not be thus apprehended and detained upon a complaint of any indifferent person on behalf of a Master of a Vessel; but that the power of originating such detainer should be confined to the Master and Mate of the Vessel, and the Owner or his Correspondent Merchant, and that Provision should be made to prevent the seaman being in custody beyond such reasonable time as may be necessary to deal with him according to Law.

* Marginal note.—No. 116, 26 May, 1842; No. 165, 10 Aug., 1842.
There do not, moreover, appear sufficient grounds to justify the exercise of this summary power of detention to the cases of Seamen, who have not deserted, but are only indebted to a Master or Owner of the Vessel, to which they previously belonged. Such a power might be unfairly and oppressively exercised upon a seaman in relation to such Debts, which are by no means necessarily incidental to the relation of Master and Seaman.

The 19th Section imposes a severe punishment (namely) not exceeding three months' imprisonment with or without hard labour, upon seamen for insubordination, or a refusal to work whilst in Port, or inciting others to such misconduct.

This Enactment is in fact an extension of a similar Enactment in the New South Wales Act, 2nd Will. 4th, Cap. 10, imposing a Penalty of seven days' imprisonment for refusal or neglect to work whilst in Port.

These Enactments affect in an important manner the relation of Master and Seaman whilst in Port. In this Country, the Law does not secure the obedience of the Seaman to the Commands of the Master by legal process leading to penalties and imprisonments; but it concedes to the Master himself the power of enforcing obedience, which a Master can exercise over his apprentice, or a Parent over his child.

This power is obviously essential at sea, and in some cases even in Harbour; as occasions will arise, in which, without such a power of immediate coercion on the part of the Master, the safety of the Vessel and Crew might be placed in jeopardy.

It is no doubt a question well deserving consideration whether, under ordinary circumstances, when a Vessel is in Port, the summary power of coercion and punishment might not be transferred from the Master to the Magistrate with advantage both to the Master and to the Seaman; but this appears a question of principle, which as respects the Merchant Seamen of this Country should be decided by Parliament; and, until it be found desirable to place the relation of Master and Seaman upon this footing in British Ports, it is scarcely advisable to adopt that course in Colonial Ports, with respect to the Merchant Seamen of the Mother Country. I have not, therefore, felt justified in advising Her Majesty definitely to sanction this Act, until the Enactment now under consideration, as well as the corresponding Enactment in the New South Wales, 2nd Will. 4th, Cap. 10, shall have been amended in the Provisions which I have pointed out.

The 25th Section of the Act authorizes the Superintendent of Water Police, or any parties on complaint upon Oath that any runaway Seaman is harboured or concealed in any Ship or Place,
to issue a warrant directing such Ship or Place to be searched, and that such Seaman or any other Seaman who shall be found concealed there, and also the Master or person in charge of the Vessel, or the occupier of the House, to be lodged in the Watch House, and detained there until brought before the Justice.

Upon this I have to observe that, as respects the Seaman not mentioned in the Complaint, this power of apprehension is not grounded upon any evidence whatever, but may be exercised upon the mere suspicion of the Constable. I think that the powers in this clause are objectionable, both on account of their vagueness and extent.

The apprehension of the runaway Seaman is not, as in the Imperial Act, to be founded on the information of the Master, Mate or Owner, but of any person whatever. It is not confined to the seaman informed against, but may be exercised on any seaman whom the Constable may conceive to be harboured in the Vessel or House which he is searching; it extends moreover not to seamen only, but to the Master of the Vessel, and even the Occupier, and without reference to his knowledge of the concealment.

Under these powers, innocent persons might be exposed to such serious inconvenience and hardship from ill founded or vexatious arrests as to render it absolutely necessary that the Enactment should be mitigated, before it can receive Her Majesty’s Sanction.

Considering that a principal object of this Act is the preservation of good order, and the maintenance of security in the Ports of New South Wales, Her Majesty’s Government do not object to the Expenses incidental to it, being defrayed by a charge upon the Shipping by Way of Tonnage Duty.

I have to confirm the appointment notified in your Dispatch No. 5 of the 1st of January, 1841, of Mr. H. H. Browne to be Superintendent of the Water Police with a Salary of £400 a year.

I shall shortly notify to you the nomination of a Successor to Mr. Nicholson in the office of Harbour Master with the reduced salary of £300 per annum, which appointment you stated, in your Dispatch No. 208 of the 15th October, 1841, that Mr. Nicholson had been obliged to resign in consequence of infirmities arising out of advanced age, and lengthened services.

The confirmation of Mr. Nichoison’s Pension forms a separate question, and will, as I have already informed you,* depend upon your forwarding the necessary certificate of his age, services, and incapacity for further employment.

I have, &c.,

STANLEY.
STANLEY TO GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 163, per ship Lady Raffles.)

My Lord,

Government House, 10th Sept., 1842.

With my Despatch No. 151 of the 27th Augt. last, I transmitted a letter addressed to Your Lordship by the Judges of the Supreme Court resident in Sydney, complaining of the conduct of Mr. Justice Willis, in some matters connected with the Will of a person deceased, of the name of Batman; and I have now the honor, at the request of Mr. Justice Willis, to transmit to your Lordship a Copy of a letter, which was addressed to me by Mr. Justice Willis himself on the 23rd Augt. last, relating to the same proceedings.

I have, &c.

GEO. GIPPS.

[Enclosure.

A copy of this letter, dated 23rd August, 1842, will be found in a volume in series III.]

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 188, per ship Victoria; acknowledged by Sir George Gipps, 23rd April, 1843.)

Sir,

Downing Street, 13 September, 1842.

I transmit to you, herewith, for your information, copies of a correspondence with the Foreign Department and the Emigration Commissioners, relative to the condition in which the Emigrant Ship "Theresa" had put into the Port of Pernambuco, and the measures which had been taken by the British Consul for purifying the Vessel, and facilitating its progress on its Voyage.

I am, &c,

STANLEY.

[Enclosure No. 1.]

VISCOUNT CANNING TO UNDER SECRETARY HOPE.

Sir, Foreign Office, 13th June, 1842.

I am directed by the Earl of Aberdeen to transmit to you for the Information of Lord Stanley, and for such steps as His Lordship may think proper to take thereon, copies of Despatches from Her Majesty's Consul at Pernambuco, relative to the arrival of the British Emigrant Ship "Theresa" at that Port in distress.

I am, &c,

CANNING.

[Sub-enclosure No. 1.]

MR. H. A. COWPER TO EARL OF ABERDEEN.

My Lord,

British Consulate, Pernambuco, 5th March, 1842.

It is with feelings of the most poignant distress that I have the honor to transmit to your Lordship the case of the Emigrant Ship "Theresa," now at anchor off this Port, where she arrived on the 21st Ultimo, having upwards of 300 Souls on board.

I cannot convey to your Lordship a statement of the sufferings of these wretched persons in a better manner than to enclose you Copies of Capt. Driscoll's letters to me, and I beg to assure your Lordship that I fully sympathize in his condemnation of the treatment, which he has received from the authorities, of whose proceedings I shall now inform Your Lordship.
Upon receipt of Capt'n Driscoll's first letter dated the 21st Ultimo, I immediately called upon the President, and requested him to fix some place as a Lazaretto for the reception of my unhappy Countrymen and Women, and I suggested the Island of Nogueira, commonly known as Coceanut Island, as a fitting place. His Excellency requested 24 hours to consider upon a subject which threw so great a responsibility upon him. Not receiving an answer at the time fixed by the president, I again called upon him. He then stated that the Municipality had the charge of the public health, and he would refer the case to them; the Municipal Chamber meets only once a week; I therefore urged upon him the necessity of calling an immediate meeting, as my people were daily dying, and numbers were hourly added to the sick list. He promised to effect this, but a few days after the President had retracted his permission. Distressed beyond measure at my position, on the one hand hearing hourly news of the increase of the disease on board amongst the people and the most touching appeals to me to save them, and on the other, notwithstanding exertions for which I take no credit, but which astonish me when I think of the climate in which I was using them; finding how useless all those exertions were, I proposed to Capt'n Driscoll to proceed to Bahia, or to hire ships outside for the reception of the people whilst the "Theresa" was being purified. Uncertain of his position at Bahia, and dreading the consequences of again putting to sea, Capt'n D. chose the latter course. I again applied to the President, who has placed a miserable Schooner of War of about 80 Tons at my disposal. He also desired Capt'n. Sequeira, the Captain of the Fort, to give me anchorage, Cables, etc., from the Dock Yard. Of this latter Gentleman, I cannot speak too highly; he did, and is still doing all that lays in his power; after numberless vexations from the exorbitant charges demanded by persons for their Vessels, I took a large old hulk, and thro' remaining on board myself, succeeded in getting her to Sea in two days and a night, during which time I never took off my clothes. A French Brig of War, the "Cygne," Capt'n. Petion, being in the roadstead, I requested the French Consul to obtain me 25 or 30 Men from her to hasten the hulk to Sea. Capt'n. Petion replied that it was "beneath the dignity of the French Marine to prepare Vessels for Sea, but that he had no objection to assist in towing her out, if I dismissed all other persons from her." Having 25 Englishmen from the different Merchant Ships, I declined his assistance! and I am happy to inform Your Lordship that the people of the "Theresa" took possession of the hulk yesterday.

The President has pledged me his word that, in the event of no case occurring on board the Schooner or Hulk for one week, they shall be admitted to Pratique. I shall wait that time, and then protest against the proceedings of the Provincial Governor, which I am sure your Lordship will admit with me have been marked by an utter want of feeling, and such a disregard for humanity as to stamp them rather as the rulers of Savages than of persons professing to be civilized. I have written down the Coast for any British Man of War that can be found. I regret to state that the French Officer (Capt'n. Petion) was not the only person who refused me assistance in getting out the Hulk; Joseph Gunton, Master of the English Brig "London" of London, and Anthony Dodson, the Master of the "Emilia" of Guernsey, also did so; but I cannot refrain from mentioning to Your Lordship the kind conduct of Mr. W. May, a British merchant of this City, has volunteered to place himself in the infected ship without remuneration, on an innate benevolent feeling. He will be obliged to leave his practice and remain on board until she obtains Pratique.

This really heroic offer shall not be accepted unless in extreme necessity, but I fear that necessity approaches. The Surgeon of the "Theresa" is so reduced from weakness that he can scarcely stand, and the Captain's last report announced the appalling fact that 84 persons were ill. Let me also do justice to that Gentleman's exertions; they have been beyond praise.
Your Lordship will perceive the deplorable condition of these our unfortunate Countrymen, and you will readily imagine how my limited means to afford them relief must add to my distress; but no exertion shall be neglected by me to increase those means, and to aid and succour them in their misery. My personal services and my private purse are alike at their disposal.

Two bodies have been washed on shore. I shall continue to inform your Lordship of the "Theresa's" condition.

H. AUGUSTUS COWPER, Consul.

[Sub-enclosure No. 2.]
MR. W. H. DRISCOLL TO MR. H. A. COWPER.

I have the honor to report to you my arrival here in command of the Arrival of ship Theresa, of London, 495 Tons burthen, bound to Sydney, with about 310 Emigrants and Passengers on board.

I sailed from Plymouth on the 6th of January, and shortly afterwards experienced a succession of very bad weather, in consequence of which and the confined state in which we were obliged to keep the between decks, the Emigrants became very unhealthy, and on the 13th Inst. in Lat. 0° 46' S. Long. 51° W. the Surgeon Superintendent represented to me that, having had three fatal cases of fever and five deaths among the Children from other causes, and having then on the sick list about sixty cases, of whom the majority were attacked by a species of typhus fever, which was daily assuming a more virulent character, it was absolutely necessary to proceed to the nearest port. I accordingly determined to make this place.

Since I came to this resolution, I am happy to have it to say that the weather has been fine, which has enabled me to bring our invalids on deck, and, the spirits of the Emigrants having been cheered by the near approach to land, there has been a great amelioration in the state of the sick. We now number 27 cases of a serious character. Our convalescents amount to 7.

It is nevertheless absolutely necessary, in order that the progress of the disease may be further stayed and the Ship freed from infection, that the whole of the Emigrants should be landed; and, as I presume that under the circumstances I have stated the Quarantine regulations will be enforced against us, I have to request your intercession with the authorities of the Port to have a Fort or some other Building placed at our disposal, in which there may be facilities for keeping the healthy apart from the sick, in which the Emigrants may remain in Quarantine until they are sufficiently recovered to admit of their being re-embarked.

My Cuddy passengers are six in number with five children and four servants; and, as they have been wholly free from any sickness, I trust that, if it be deemed necessary to place them in quarantine, permission may be granted to them to reside in some building apart from the Emigrants, and that the same indulgence may be extended to myself, it being considered most advisable, in order to the complete purification of the Ship, that all should be landed.

I have further to state that my Medical officer has been severely tried with the harassing duties which lately devolved upon him, and will require, if such can be procured, some professional assistance in his hospital.

On these points, I venture to solicit your assistance and the exertion of your influence with the local authorities; and, being altogether a stranger at this Port, I shall also feel very thankful for any information and facilities which you may be pleased to afford us in procuring fresh provisions for the great number of people I have on board, and in supplying my other wants before I again put to Sea.

Anxiously awaiting your reply.

WM. HENRY DRISCOLL,
Commr. Ship "Theresa."

[Sub-enclosure No. 3.]
MR. W. H. DRISCOLL TO MR. H. A. COWPER.
Sir, Ship Theresa, Pernambuco Roads, 1st March, 1842.

I did myself the honor to address you on the 21st ulto. reporting my arrival at this Port with upwards of 300 Souls on board, and reporting that, having been obtaining considerable relief among the Emigrants, an absolute necessity existed to get landed immediately as the only means of staying the disease. With this view, I requested you to obtain the sanction of the authorities of this place to our being permitted to occupy some Fort or other building on shore, where our Sick would be debarked from all intercourse with the Inhabitants; they and the healthy would be in the enjoyment of fresh air and refreshments, which can only be procured on shore; and which, I stated, on the authority of my Surgeon, it would be vain to look for any amelioration in their condition. All this I have no doubt you have faithfully brought to the notice of the authorities, and knowing that in England such a
Conditions on board ship Theresa.

In a long service at Sea to have visited, I did indulge the hope, nay the earnest 
reliance that, in 24 hours after my letter was placed in your hands, some active 
measures would have been adopted for our relief. But in this how sadly have I been 
disappointed! We have been 8 days at anchor in these roads, and nothing has as 
yet been done to release us from this cruel bondage; our Ship from its crowded 
state, and the great haste and swiftness of the attempt, to do away with the whole 
infected air, and our sick, as may very naturally be expected, are hourly increasing 
in number, during the week we have been here; in fact the last two days we have 
had two casualties; those, who in the hope and prospect of landing were progressing 
towards recovery, have, since this has been cruelly denied them, retrograded, and 
such is the despondency which has taken possession of the minds of those who are 
as yet in health, that we can expect nothing but the poisoning cup alone, or the conceivable 
more fearful sacrifice of life; but I feel it my duty, being deeply sensible of the responsibility 
which attaches to me as Commander of this Ship, to protest, and to call upon you, 
as the representative of our Sovereign, to protest most earnestly, most strenuously 
against the barbarous and inhuman neglect with which we have been treated by the 
authorities of Pernambuco, and praying that the Almighty Judge and Disposer of 
all may be pleased to vouchsafe to us that relief which is here denied us.

I have, &c.,

WM. HENRY DRISCOLL,
Commander Ship Theresa.

[Sub-enclosure No. 4.]

MR. W. H. DRISCOLL TO MR. H. A. COWPER.

Sir,

I began this as ended my last with the offer of my heartfelt gratitude for that 
which you have done, as also for all you have attempted to do on our behalf. I 
immediately availed myself of the permission granted, when you left us last evening, 
to visit the Schoonery but sad indeed was my disappointment when I beheld the 
miserable craft we were about to send to us, as the sole measure of relief accorded by 
the Government to upwards of 300 Souls in so distressing a situation! I did not 
expect much, but I did expect that, from being designated a Man of War, there would 
have been some place in her, into which I could have put those on whose behalf 
I more particularly pleaded, viz., Mrs. Hart and her young family of five children; 
grateful should I have been, could I have at once taken them on board; but I was 
obliged to announce to her that there was not a hole in her which could shelter 
her young children from the scorching rays of a vertical sun, or the heavy showers 
which we have experienced, and to which they would have been exposed, and for 
which the comfort and luxury they had until this been accustomed' to hail, but ill 
fitted them. What was the exclamation of the distressed and afflicted mother? "I 
have supported myself from day to day by hope, that has now forsaken me; we have 
nothing left but to remain here and die." Fruitless were the efforts of 
her afflicted husband and myself to restore her to composure by pointing to those 
who were around her, and to whom she had given life, and for whose sake it was 
her duty to reserve it, and not to sacrifice herself by yielding herself up to despair, 
and by assuring her that by tomorrow something more might be done. Her 
agonized reply was "We are murdered! one of our family is preceding us, probably 
by a few hours only, to her watery Grave; three days since health and hope were 
hers; she now lies a thing loathsome to approach, and such surely will be the fate 
of those more precious to me than life, horrible, maddening thoughts." We are 
indeed murdered! for I by the poisoned weapons of the assassin that murder is committed. Murder has been done by those who, with 
a Coast line of upwards of 2,000 miles, denied and continued to deny the occupation 
of as many hundred hourly falling victims to an atmosphere tainted by a most loathsome disease, from which there can be no escape 
as long as they are crowded together in so small a space, and in numbers which 
precluded the possibility of separating the healthy from the diseased! to 
our sick, as may very naturally be expected, are hourly increasing 
in number, during the week we have been here; in fact the last two days we have 
had two casualties; those, who in the hope and prospect of landing were progressing 
towards recovery, have, since this has been cruelly denied them, retrograded, and 
such is the despondency which has taken possession of the minds of those who are 
as yet in health, that we can expect nothing but the poisoning cup alone, or the conceivable 
more fearful sacrifice of life; but I feel it my duty, being deeply sensible of the responsibility 
which attaches to me as Commander of this Ship, to protest, and to call upon you, 
as the representative of our Sovereign, to protest most earnestly, most strenuously 
against the barbarous and inhuman neglect with which we have been treated by the 
authorities of Pernambuco, and praying that the Almighty Judge and Disposer of 
all may be pleased to vouchsafe to us that relief which is here denied us.

I have, &c.,

WM. HENRY DRISCOLL,
Commander Ship Theresa.
STANLEY TO GIPPS. 267

hope, nay the probability of another vessel being sent us, their reply was, "The savages will again throw obstacles in the way, and our hopes and expectations will be for the moment raised to be as they have before been, the more cruelly blasted." That such barbarity may be known in the quarter to which every Briton appeals with confidence, I must entreat of you to take the earliest opportunity to place before His Excellency, the Envoy Extraordinary and Minister Plenipotentiary at the Court of this Empire, as also Her Majesty's Secretary for Foreign affairs the particulars of our unhappy case, accompanied, if you please, with copies of our correspondence. To His Excellency the Commander in Chief on this Station, I will myself transmit copies; as we are prohibited from using the Schooner as an Hospital, as which she would have been extremely useful to us. I am placing in her with much the same hope of relief as a drowning man would catch at a Straw, as many of our healthy Emigrants as her scanty deck will accommodate. God in his great mercy grant these few may escape.

Of myself I have not spoken, scarcely have thought, for which those around can vouch; but it will be by little less than a miracle if I am enabled to stand up much longer as the advocate of others; anxiety of mind, more distressing infinitely than fatigues of body, has begun to tell on me. I pray that I may be spared, as much to assist others as from any feeling for self. But, while anything is to be done, I cannot attend to the advice or listen to the exhortations of my valuable friend and assistant my Medical officer. Last night, I never left the deck, having reason to apprehend a desperate attempt on the part of desperate men, on whose brows I have long seen written despair.

As I began, so I end, with the tender of my gratitude to you and to all who have assisted us or would have assisted us, had it been in their power to have done so, and subscribe myself,

Yours, &c.,

WM. HENRY DISCOLL,
Commr. of E.I. Ship Theresa.

[Sub-enclosure No. 5.]

MR. H. A. COWPER TO EARL OF ABERDEEN.

My Lord,

British Consulate, Pernambuco, 17th March, 1842.

I have the honor and satisfaction to inform your Lordship that the Emigrants on board the "Theresa" have derived the greatest benefit from my arrangements in cessation of removing a portion into other Vessels; the fever on board has now ceased, and only epidemic one case remains; fourteen persons have been its victims, amongst whom a Miss Bell, a highly accomplished young Lady, who was accompanying the family of Mr. and Mrs. Hart to Sydney.

The Emigrants, whom I had removed to the "Science" and "Peregrina," are all well and were admitted to pratique on Saturday; and I am now engaged in landing emigrants from them at a spot situated about three miles from the city. When this is accomplished, the people remaining on board the "Theresa" will be placed in the "Science," whilst the former is undergoing purification preparatory to the re-embarkation of the whole. The expenses will be borne by the Owners.

The causes, which led to the existence of Typhus, were:

First, the crowded state of the Vessel and the great preponderance of children, Causes of two being calculated for one adult, whereas from quicker respiration a child consumes more air than an adult; and, as the Theresa encountered ten days of bad typhus fever weather in the Bay of Biscay, during which time the hatches were battened down, the consequences of this arrangement were unhappily those which we have seen;

Secondly, the defective state of the Water closets. Indeed Mr. Hart, who is a relation of mine, feels astonished that the Emigration Agent at Plymouth could ever have passed the Ship in the State she was.

I am gratified to be enabled to add that the authorities are now assisting me in the promptest and most effective manner.

Yours, &c.,

H. AUGUSTUS COWPER, Consul.

[Sub-enclosure No. 6.]

MR. H. A. COWPER TO EARL OF ABERDEEN.

My Lord,

British Consulate, Pernambuco, 5th Apr., 1842.

I have the honor and satisfaction of informing your Lordship that the whole Convalescence of the Emigrants belonging to the "Theresa" are convalescent, and are now of all patients landed near the City, until the Vessel shall be purified preparatory to their re-embarkation. We have however to deplore the loss of Twenty persons, amongst Number of others of Miss Jane Bell, a young Lady of high accomplishments and education, who deaths.

It is, I trust, with a feeling of pardonable pride that I take the liberty of enclosing to your Lordship a translation of His Excellency the Barão Boa Vista's reply to my despatch announcing the above satisfactory intelligence.

I have, &c.,

H. AUGUSTUS COWPER, Consul.
THE BARAO DA BOA VISTA TO MR. H. A. COWPER.

Most Illustrious Sir,

I beg to acknowledge the receipt of the despatch which you addressed to me on the 16th instant, informing me that the sick, belonging to the English Barque "Theresa," were almost entirely re-established; and in reply I beg to assure you that this announcement is most grateful and satisfactory to this Presidency, which deeply deplored the state of disease in which they arrived. I have now the pleasure to congratulate you particularly upon a result entirely due to those measures and that untiring zeal by which you have put to flight and extinguished the pest, by which they were afflicted.

I avail myself, &c.,

BARAO DA BOA VISTA.


TRANSMISSION OF REPORT RELATIVE TO THE SICKNESS AND MORTALITY ON BOARD THE BRITISH EMIGRATION SHIP "THeresa."  

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.


With reference to your Letter of the 18th Instant, forwarding the intelligence that had been received from Her Majesty's Consul at Pernambuco respecting the sickness and mortality on board the ship 'Theresa,' bound to New South Wales with Emigrants on Bounty, We have the honour to state, for Lord Stanley's information, that we have made such inquiry as was in our power as to the condition in which this Vessel left England.

Lord Stanley is aware that the Ship was not chartered by Government, but that on the other hand a general superintendence has been exercised by the Agents for Emigration over ships carrying Passengers on Bounty. With reference therefore to the causes to which the existence of the disease was ascribed in Mr. Cowper's letter of the 17 March last, viz., the crowded condition of the Vessel including a preponderance of children, and the defective state of the Water closets, we proceeded to require reports respectively from the Officer subject to whose inspection the ship was fitted at London, and the Officer who was present on the embarkation of the Passengers at Plymouth. The nature of the remark that Mr. Hart, a Cabin Passenger, had been "astonished the Emigration Agent at Plymouth could ever have passed the ship in the state she was," was too indefinite to admit of any specific answer; but we thought it right to communicate it to that Officer, with the other information, in order to give him an opportunity of making any general observations he might wish to offer.

Of the Reports now received in answer to our inquiries, We beg leave to enclose copies.

It will be seen that the number of Steerage Passengers embarked fell within the law, and that the proportion of children to adults was moderate, not exceeding two to every six adults; on which it is remarked with justice by the Inspecting
Office at Plymouth that, supposing all the adults to have been married (against which there is no Law), it would have left 1/3rd of them without any child, and the remaining 2/3rds with only one child for each couple.

We are bound to say that it has been quite common to send ships to Australia filled to the utmost limits allowed by the Passengers Act, and that the voyage has been made under those circumstances healthily, and with success. We find no reason therefore to suppose that, in an excess of the numbers embarked, resides the cause of the misfortune on board the “Theresa.”

With respect to the alleged defective state of the Water Closets, it is affirmed in both the enclosed Reports that they were fitted according to custom in Bounty ships, and we are enabled to state that we know Lieutenant Lean to have established a to enforce a very strict usage on this point allowing no expense to be spared. It seems reasonable, therefore, to conclude that, as the officers represent, any faults under this head must have been owing to other causes than defects existing at the time of departure.

Upon the general stricture of Mr. Hart not being definite, it is not possible to collect definite evidence. Mr. Francis Lean, the Officer whom it involves, represents that the ship left Plymouth in a condition strictly complying with the Passengers Act; that he inquired, as is his custom amongst the Passengers, and received no complaint; and that Mr. Hart had a great stake in the Vessel and was on the spot at the time she was preparing for sea, but also made no complaint until the misfortunes that have since occurred. As a proof that he had not been inattentive to the interests of the Passengers, Mr. Francis Lean mentions that, in order to keep the Upper Deck clean, he had refused to allow two young Bulls to be shipped, notwithstanding the earnest application of the Managers for permission.

On the whole, we have the honor to report that we do not think there is reason to suppose that the Officers have been guilty of neglect of duty in this case. It appears sufficient evident that the ship sailed in conformity with the provisions of the Law, and in accordance with the established usage of the Australian Passenger Trade, being one in which happily the voyage is usually accomplished with comparatively little suffering or mortality. And when we see it mentioned that, for 10 days together at the commencement of the voyage, it was considered necessary from stress of weather that the ship should be battened down, we confess that, in the situation of between two and three hundred people, confined for so long a period under Hatches, there seems to us but too much reason to account for the sickness that ensued, without supposing any disregard at home of the ordinary Rules and Precautions suited to any average requirements of the Passage.

In conclusion, it has been gratifying to us to observe the activity with which Her Majesty's Consul at Pernambuco appears to have exerted himself for the distressed Emigrants, and that, while we have explained the grounds of our conclusion that there was no neglect of the duties of Inspection when the ship sailed. We always feel indebted for an opportunity of inquiring into any such occurrence that seems to afford a prima facie case for investigation.

We have, &c.

T. FREDK. ELLIOT.

EDWARD E. VILLIERS.

[Sub-enclosure No. 2.]

LIEUTENANT LEAN TO MR. S. WALCOTT.

Sir,

Plymouth, 24th June, 1842.

I have the honor to acknowledge the receipt of your letter of the 23 Inst. calling my attention to the Consul's report that the ship had upwards of 300 Souls on board, and, as the Bounty Emigrants did not exceed 230, requesting I would state how far I was aware whether the number of other persons on board would have completed the total above mentioned, enclosing also an extract of the Despatch from the Consul to Her Majesty's Secretary of State for Foreign Affairs, remarking upon the crowded state of the Vessel and upon the defective state of the Water Closets.

In reply, I beg leave to state, for the information of the Commissioners, that, including the crew of the “Theresa” and Cabin Passengers, the total number of souls on board to the best of my knowledge amounted to 292.

Secondly, with reference to the remark of the Consul's on the crowded state of the Vessel, I have to observe that this ship sailed with less than the Act of Parliament authorized, and therefore, had the Managers desired to have put more on board, I could not have hindered; my impression however was that she berthed her people well, and, with respect to the preponderance of children, they did not average more than two to six adults, which supposing all the adults to have been married (against which there is no law) would have left one third without any child, and the remainder two thirds, only one child each couple; and if this was too large a
Thirdly, the defective state of the Water Closets. The Commissioners are aware
that the "Theresa" was fitted in London under the inspection of the Government Agent and sent down to take the place of the "Mangles," which ship was found rotten and condemned at this Port; the Water Closets between decks, those attached to the Cabin not coming under my inspection, were fitted in the usual manner and were of course not used until the Ship arrived here, and the Emigrants embarked;
the simplicity of their fitting would according to my judgment have made it difficult to put them out of order with common care; but they would doubtless require con­
stant attention to prevent substances thrown in that would choke the pipe, and that
the water should be brought down from above to keep them clean. This however
would be a matter over which I could have no control after the ship left. It remains
only for me to report that the Water Closets between decks were not out of repair
when the ship left Plymouth.

Fourthly, I would remark on the Consul's statement that his relation Mr. Hart
"feels astonished that the Emigration Agent at Plymouth could have passed the
Ship in the state she was." Mr. Hart's astonishment must have come upon him
from his ignorance of the law, which governs vessels carrying Emigrants, and therefore viewed the Ship as unlawfully crowded, or grew out of the unhappy circumstances which afterwards developed themselves; the latter would appear the most reasonable conclusion, as Mr. Hart had a great interest in the Ship, having his large family with him in the cabin, several servants as Steerage passengers, as well as a considerable portion of the freight, and, being on the spot while the ship was preparing for sea, would naturally it might be supposed be on the qui vive to detect anything that might militate against his safety or comfort, had any existed before departure to his apprehension; no complaint however was made, and, as the Emi­
gations, and therefore the necessity of a watchful superintendence, not only that the
people on board ship is often dependent humanly speaking on her internal arrange­
ments, and therefore the necessity of a watchful superintendence, not only that the
ship be properly fitted but that the Master and Surgeon be competent to such a
charge.

In conclusion, I beg leave to state that I refused to permit the Managers to put
out of order

4

FRAS. LEAN, R.N.

30 Sept.

30 Sept.

1842.

Report by
FRAS. LEAN, R.N.
13 Sept.

LIEUTENANT LEAN TO MR. S. WALCOTT.

Sir,  

I have the honor to acknowledge your letter of the 22nd Instant, communicating to me the circumstance that the Commissioners of Land and Emigration have with regret received accounts of the prevalence of Fever and Mortality on board ship Theresa on her voyage to New South Wales with Bounty Emigrants, and transmitting to me the copy of a letter addressed by the Board to the Inspecting Officer at Plymouth from which Port that vessel had last sailed, together with an extract of a letter from Her Majesty's Consul at Pernambuco. In reporting upon this case, it would appear that there are only two points which afford matter of complaint on the part of Her Majesty's Consul, First, the alleged crowded state of the ship, and, secondly, the defective state of the Water Closets. With reference to the first point, the return of names and numbers embarked on board the "Theresa" at Plymouth, furnished me by the Brokers, when the ship sailed from thence (part of whom had proceeded from London in the "Mangles") is as follows:—

<table>
<thead>
<tr>
<th>Class</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Steerage</td>
<td>250 Souls</td>
</tr>
<tr>
<td>Intermediate</td>
<td>2</td>
</tr>
<tr>
<td>Cabin</td>
<td>9</td>
</tr>
<tr>
<td>Total</td>
<td>261 Statute adults</td>
</tr>
</tbody>
</table>

The Ship was measured by me to carry 208 Statute adults in the between decks, which the Board will observe is the precise number here given, the Cabin passengers being in the Poop; and, as the Vessel was a good height, well ventilated, and had only 64 children to 186 Adults, being a very moderate proportion, I consider she was less crowded than most Emigrant ships proceeding to the Australian Colonies; it is almost needless for me to remark to the Commissioners that, provided the number of Statute adults on board did not exceed what was allowed by the second section of the Passengers Act, that neither myself nor the Officer at Plymouth were justified in interfering to restrict the number of children, however great in proportion that number might have been. With reference to the 2nd point, the alleged defective state of the Water closets, I can only state that, when the ship left London (having been fitted for the accommodation of the people here) she was in this respect fitted quite as well as any of the Bounty Emigrant ships that had preceded her, and, as this is a point upon which my special attention is at all times directed, I am inclined to believe that the defect complained of may be mainly attributed to a want of watchful care in looking after them, rather than to any original defect in their fitting. In conclusion, I may venture respectfully to remind the Board that only a partial control could be by the existing Regulations exercised over ships proceeding with Emigrants on Bounty very unlike to that of the Government Emigrant ships, where the management is placed under my direct and immediate superintendence, which I consider involves my personal responsibility that all the arrangements should be satisfactory to the Board. I have, &c,

JAS. S. LEAN.

[Enclosure No. 3.]

VISCOUNT CANNING TO UNDER SECRETARY HOPE.

Sir,  
Foreign Office, 25 June, 1842.

With reference to my letter of the 13th Instant, transmitting for the consideration of Lord Stanley copies of Dispatches from Mr. Cowper, Her Majesty's Consul at Pernambuco, relative to the state in which the British Emigrant ship "Theresa" had arrived at that Port, I send to you the copy of a further Dispatch with its enclosures in original from Consul Cowper detailing the steps, which he had taken to enable the "Theresa" to proceed with the Emigrants to New South Wales; and I am directed by Lord Aberdeen to request you will move Lord Stanley to give such directions thereon, and to make such communications to the Admiralty as his Lordship sees fit.

I am, &c,

JAS. S. LEAN.

[Sub-enclosure.]

MR. H. A. COWPER TO EARL OF ABERDEEN.

My Lord,

Pernambuco, 30th April, 1842.

The Typhus fever having entirely disappeared from amongst the Emigrants belonging to the Barque "Theresa," I recommended their immediate reembarkation, and the last person was received on board yesterday, preparatory to the vessels
sailing tomorrow morning; the total number of deaths have been 22, vizt., 9 at sea, 7 in this Roadstead, and 6 on shore, one of the latter in my house; a subscription has been raised by our Countrymen to place a Stone in the British Cemetery as a commemoration of this sad event.

Financial difficulties seemed to have beset this ill-fated vessel; for some days ago the consignees, Messrs. Deane, Youle and Co., suddenly threw up the Agency of the ship, announcing that, in the event of their claim not being paid, they would seize her. The captain addressed me upon this subject, enclosing to me a copy of a letter from Mr. Hamilton and other documents clearly supporting his claim to public assistance; indeed, entirely occupied as I had been for upwards of two months with the vessel, it was impossible to blind myself to the necessities of her situation, and to the consequences in the shape of expense to Her Majesty's Government, should so unfortunate a contingency arise as that of the vessel's seizure, and of course the abandonment and destitution of upwards of 300 persons, who must have been provided for from the public purse; perfectly alive to the difficulty of my position, and of the responsibility which attached to me, but supported in my course by a letter from Mr. Hamilton and the opinion of the Honourable Captain Cary, I complied with Captain Driscoll's request, upon the sole condition that Her Majesty's Government should be secured in the repayment of any advance. The security, which I have obtained, appears to me to be undoubted, and I earnestly trust will prove to be so, viz., bills upon the owner, Mr. T. Ward, who has vessels constantly employed in the service of Her Majesty as transports, Emigrant, and convict ships, and a hypothecation of the ship and freight, the latter being due in the shape of bounty by Her Majesty's Government itself upon the arrival of the vessel at Sydney; and I have taken measures that it may be retained by His Excellency the Governor, and remitted to the Lords of the Admiralty in the manner specified by Mr. Ward himself, a copy of whose instructions to his agents I have transmitted to Sir George Gipps and to their lordships; as the hypothecation is taken as collateral security, I could not charge maritime interest, which, according to the legal authorities I possess, would have nullified it.

I enclose your lordship the bills which I have paid on account of the vessel, amounting to £1,864 4s. 1ld., for which I have drawn upon the accountant general of the navy; and I have transmitted to the lords commissioners of the admiralty to meet my draft three bills drawn by the captain upon the owner in favor of their lordships for £1,954 15s. 3d., the difference being made up by interest and insurance. I am so impressed with the desire of placing my position clearly before your lordship, that I must risk being deemed prolix by shewing the effects of a refusal to assist the "Theresa."

1st. She would have been unable to proceed.
2nd. If she could not have proceeded, she would have been sold at an immense loss to pay her debts, in which case the emigrants and crew would have been thrown upon this consulate as distressed British subjects and seamen, who could not have been sent home at the very lowest calculation under £3,500, to say nothing of the object of the voyage being entirely defeated.
3. The owner would have lost £3,845, the amount of bounty due to him on the arrival of the vessel at Sydney, together with an incalculable sum upon the sale of the vessel here, and withal retaining most probably his liability to Her Majesty's Government for the expense of the emigrants.

On the other hand by enabling her to sail:
1. The object of the voyage will be accomplished.
2. Her Majesty's Government escapes the burthen of a permanent expense; an advance is made it is true, but secured beyond a doubt as, whatever may be the fate of the bills, the money is already in the hands of the government at Sydney; and 3rd. The owner is greatly benefited for, by being enabled to accomplish his voyage, he earns a bounty of £3,845, which will leave him, after paying Her Majesty's Government their advance, nearly £2,000.

I have only now to add, that I trust I shall have been deemed by your lordship to have acted with discretion under very difficult and extraordinary circumstances.

I have, &c,

H. Augustus Cowper.

I take the liberty of enclosing to your lordship Capt. Driscoll's farewell letter.

[Enclosure No. 4.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Colonial Land and Emigration Office,
9 Park Street, Westminster, 18th August, 1842.

With reference to your letter of the 4th ultimo, transmitting by Lord Stanley's direction one from the Under Secretary of State for the Foreign Department containing a further communication
from the Consul at Pernambuco respecting the "Theresa," we have the honor to report that we have made the necessary enquiries into the subject to which the papers relate.

The further communication now received from the Consul reports his having drawn Bills on the Lords Commissioners of the Admiralty to the amount of £1,864 4s. 11d. on account of the ship "Theresa," and transmits copy of a letter from the Surgeon in which we found some additional particulars respecting the alleged defectiveness in the fitting of the Ship.

With regard to the Bills, we conclude that they will have been a subject of communication between the Foreign Department and the Admiralty, and that it will not be necessary we should offer many remarks on the subject. There can be no doubt, we apprehend, that, in drawing them, Her Majesty's Consul fell into a certain degree of Error, inasmuch as the Ship was not chartered by any department of the Government, and the Admiralty had no connexion with her Voyage at all. It was an Error however into which the very peculiar nature of the interest of the Government in Emigration on Bounty was much calculated to lead any officer at a distance from England. And, on the other hand, it was one from which we are glad to believe that no substantial evil could result. For Mr. Cowper is quite correct in assuming the large amount of Passage Money due from the Colonial Government at the end of the voyage, which he took measures to get remitted to the Lords of the Admiralty, is security for the value of the Bills drawn on them. And as Mr. Ward, the owner of the "Theresa," is one of the principal Ship Owners of the City of London, we feel no doubt that in point of fact the Bills drawn upon himself, against those upon the Admiralty, will have been at once duly paid, and put an end to the transaction. The alternative of the Ship's being prevented from proceeding to her destination would unquestionably have been attended, as the Consul represents, with the most serious loss and inconvenience to all parties.

Observing in the letter from the Surgeon some rather more detailed account than before of the defects complained of in the fitting of the Vessel, we thought it proper to call on Lieut. Lean for a further report, of which we beg leave to enclose a copy for Lord Stanley's information. It will be seen by Lieut. Lean's report that, altho' the Water closets in the "Theresa" were not of the very best and most expensive description, such as those of which the use is customary in Vessels directly chartered under this Board, they were of the kind usually supplied by the private Merchants in Bounty Ships, which, as Lord Stanley is aware, have carried over a great succession of numerous parties of Emigrants to Australia healthily and with comfort. Taking this circumstance in connection with the more detailed information furnished by Lieut. Lean, we adhere to the opinion which we submitted in our former communication on this subject, that the evils complained of may be considered principally attributable to want of good management, rather than to original faults of construction at the time the Vessel sailed.

We have, &c,

T. FREDK. ELLIOT.
JOHN GEORGE SHAW LEEFEVRE.
Sir,

I have the honor to acknowledge your letter of the 20th Ulto. referring to your communication of the 22nd June on the barque "Theresa," and transmitting, by direction of the Commissioners of Land and Emigration, a further statement on the same subject, consisting of extracts of a letter from the Surgeon Superintendent of the Ship to H.M. Consul at Pernambuco, representing that the Ports were in a bad state, and that the Water Closets were deficient in values or anything to supply their place. The Water Closets of the "Theresa" were fitted in the common usual mode pursued in all Bounty Ships including those of Mr. Marshall, Carter and Bonus, etc., without valves. I am free to confess that this plan of fitting never met with my entire approval; but, as no regular complaint had ever been made to me respecting them, I could offer no well-founded objection, nor did I possess the authority to insist upon a different plan; but I may remark that to show that such was my opinion, the first ship fitted by the Board (the "Orleana") under my sole direction, and which met with their approbation, was fitted with the patent water closets, and which has been the case with the subsequent Ships; but the "Theresa's" water closets were, as I have stated in my former communication, quite as well fitted as any of the Bounty Ships that had preceded her, and I am of opinion that, if the Master of the Ship had used the common precaution of seeing that a proper leather or stout canvas hose was nailed outside the scupperhole of the closet, and which had probably been washed off, much of the evil complained of would have been avoided, as the Ship being fitted with a Pump purposely to fill the cisterns, an abundance of water could always be supplied to carry off the soil without any trouble or difficulty.

The Surgeon's statement that the holes were attempted to be plugged up securely from within, but could not be accomplished until the Ship got to Madeira to plug them from without, appears to me a most extraordinary one, for a round plug driven into a round hole with fearnought or flannel about it and plenty of tallow, oakum, and pitch, all of which would be on board, must securely stop any hole from within, no matter how large: it may not be necessary to remark that there were two places of convenience built on deck for the use of the Men and boys, one at least of which could have been appropriated under the circumstances stated for the exclusive use of the females. With respect to the alleged bad state of the Ports, I conclude that the complaint here made refers to the half-ports of the Ship and not of the scuttles cut since in her sides; the Ports referred to could not be done in the first place, had probably by continual opening and shutting got worn, and thus caused some leakage, which with the Ports properly barred in could not possibly be great; and therefore the statement of the Decks being constantly flooded and the beds as well as the general clothing of the Emigrants kept wet through appears to me to involve much want of common care and attention, for it would seem either that the Ports were not properly closed, or that they had been left open at improper times or in doubtful uncertain weather; and it may be important to state that the sleeping berths were built and boarded with planks 2 inches from the side of the ship, for the express purpose of preventing any drain of wet (that might arise) from falling into them. In conclusion, I would beg respectfully to remark that in my humble opinion, judging from the whole statement, that a prima facie case would appear that, if due watchfulness and attention had been shewn by the Master and Surgeon, evils of such magnitude as are here represented would never have happened, and this I think is also further exemplified in the alleged filthy habits of the Emigrants, which, without questioning the statement that they might have had such habits on embarkation, the allowing or continuance of them implies a want of system and management without which neither health or comfort can be expected to prevail on board Ship.

I have, &c.,

Jas. S. Lean.
SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 166, per ship Lady Raffles; acknowledged by lord Stanley, 20th April, 1843.)

My Lord,

Government House, 13th Sept., 1842.

I have the honor herewith to forward the Annual Estimate of Works and Repairs required for Convict services in this Colony and at Norfolk Island, during the year 1843-4, as prepared by Lieutt. Colonel Barney, the Commanding Royal Engineer.

Item No. 7 I have caused to be struck out, the expense, amounting to £26 3s. 11d., being one which in my opinion should be borne by the Colony.

Items from 16 to 35, both inclusive, and also Item 37, have been introduced by Lieutt. Colonel Barney on the especial application of Capt'n Maconochie, and are the Items which are alluded to in the letter from the Lieutt. Colonel, which was forwarded with my Despatch, No. 146 of the 15th Augt. last.

To that Despatch, as well as to the one which succeeded it, No. 147 of the same date, I beg to draw attention, before any expenditure be sanctioned for Norfolk Island.

Should the views developed in the last mentioned Despatch be approved and acted on, the whole of the above Items, namely from No. 16 to No. 35 (both inclusive) and also No. 37, may be struck out; and the amount of the estimate (exclusive of Convict Labour) will then be £3,909 10s. 2d. I have, &c.,

GEO. GIPPS.

[Enclosure.]

[These estimates have been omitted.]

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 167, per ship Lady Raffles; acknowledged by lord Stanley, 19th April, 1843.)

My Lord,

Government House, 14th Sept., 1842.

I have the honor herewith to enclose a Petition, which has been addressed to the Lords of the Treasury by Mr. R. G. Dunlop of Sydney, complaining that the sufferance, which he lately held for a Wharf in Sydney, has been withdrawn by the Collector of the Customs.

Mr. Dunlop is the head of the firm of "Dunlop and Ross," from which a Petition to the Lords of the Treasury was forwarded with my Despatch, No. 117 of the 10th July last; and, from the contents of that Despatch, Your Lordship will already

GEO. GIPPS.
276 HISTORICAL RECORDS OF AUSTRALIA.

have gathered that I consider Mr. Dunlop to be entitled to no favor whatever from any Department of Her Majesty's Government.

I subjoin a Memorandum by the Collector of Customs, shewing his reason for withdrawing the sufferance which Mr. Dunlop had been allowed to hold for the Wharf, known by the name of "Cox's Wharf" in Sydney.

I have, &c.,

GEO. GIPPS.

[Enclosure No. 1.]

Petition from R. G. Dunlop, re withdrawal of sufferance from Cox's wharf.

The humble petition of Robert Glasgow Dunlop, Sheweth,

That your Lordships' Petitioner is a Merchant and Ship Owner and has been for many years resident in Sydney.

That, in March, One thousand eight hundred and forty one, Your Lordships' Petitioner, being in want of extensive premises to conduct his business, agreed with the Owner to lease the Wharf known as Cox's Wharf and the Premises there unto attached, provided permission could be obtained from the Colonial Government for landing Goods at the said Wharf.

That, your Lordships' Petitioner having for that purpose made application to the Colonial Government on the fifth of March, an answer was returned by the Colonial Secretary granting a Sufferance to land goods on the said Wharf.

Upon receipt of which answer, Your Lordships' Petitioner agreed with Charles Wentworth, proprietor of the said Wharf and Premises, for Six years' lease at a rent of five hundred Pounds Sterl. pr. annum, agreeing further to pay One thousand pounds gratuity to the former Occupier. And your Lordships' Petitioner Subsequently, upon the faith of possessing the said sufferance for landing Goods on the said Wharf, expended a large Sum of Money in erecting buildings and improving the said Wharf. That, on the twenty-fourth day of June, One thousand, eight hundred and forty two, the sufferance for landing Goods on the said Wharf was cancelled by a Notice in the Government Gazette, signed by the Collector of Customs, without any notice having been given to Your Lordships' Petitioners.

Dunlop and Co., Merchants, in whose Firm your Lordships' Petitioner is a Partner, having on the eleventh of July made special application to the Collector of Customs for leave to land British Goods not liable to duty at the said Wharf, the same was refused, and an application for a renewal of the Sufferance of Cox's Wharf made to the Colonial Government was also refused.

The Governor refusing in reply to a subsequent application to state the Circumstances which lead to such refusal.

The large Sums laid out on the said Wharf and premises by Your Lordships' Petitioner, which, had the Sufferance been retained, would have realized a return to Your Lordships' Petitioner, are consequently lost and Your Lordships' Petitioner is still compelled to pay a heavy rent for a Wharf and Premises which are nearly valueless since the Sufferance for landing Goods has been cancelled.

Your Lordships' Petitioner begs to forward the accompanying plan of the Wharfs in Sydney, by reference to which or the Government
Surveys Your Lordships will see that there are seventeen private sufferance wharves in Sydney, besides one Government Wharf in use, and one partly finished, and that Cox's Wharf is nearer the Custom House than any private Wharf except Campbell's and the Liverpool Wharves, and also nearer than the new Government Wharf; Cox's Wharf being only nine hundred yds. distant from the Custom House, while many other Wharves enjoying the benefits of a Sufferance for landing Goods are upwards of a Mile distant; and the said Wharf, of which Your Lordships' Petitioner is lessee, being nearer the principal business part of Sydney, the entrance shorter and the wharf more open and accessible than any other Wharf in Sydney. Your Lordships' Petitioner would humbly beg to point out to your Lordships that the only Government Wharf in Sydney is incapable of accommodating one tenth of the Vessels discharging Cargoes at one time in the Port of Sydney, and that the Vessels belonging to or consigned to Your Lordships' Petitioner must often be detained for many weeks before they can obtain permission to land their Cargoes at the Government Wharf or at any private Wharf not a very great distance from their Stores and the business part of Sydney. And as Your Lordships' Petitioner, during the time he held the Sufferance for Cox's Wharf, afforded every facility for the Custom House Officers to visit his Wharf, and even at their desire furnished them with Scales, Weights and Laborers for weighing all Goods landed on Cox's Wharf, Your Lordships' Petitioner is at a loss to conceive the reasons which could have lead to a proceeding so unparalleled in this Colony and so ruinous to him.

And Your Lordships' Petitioner humbly Prays that Your Lordships may be pleased to direct the sufferance for landing Goods on Cox's Wharf to be restored, and Such remuneration to be Made to Your Lordships' Petitioner as Your Lordships may See proper.

And Your Lordships' Petitioner as in duty bound will ever pray.

R. G. DUNLOP.

Dated in Sydney New South Wales, the twenty ninth day of July, One thousand eight hundred and forty two.

[Sub-enclosure No. 1.]

COPY of Advertisement in the Government Gazette of 24th June, 1842.

Notice.

Custom House, Sydney, 22nd June, 1842.

Much inconvenience having been experienced in the discharging of Vessels at the Wharf occupied by Messrs. Dunlop and Co., known as Cox's Wharf, and it being expedient to discontinue the landing of goods there. Notice is hereby given that the Sufferance granted for that Wharf is from this time revoked; and any goods, arriving from Parts beyond Sea which may be landed there, will henceforward be liable to Confiscation.

J. GIBBES, Collr.

[Sub-enclosure No. 2.]

MESSRS. DUNLOP AND CO. TO MR. J. GIBBES.

Sir,

Observing a paragraph in one of the public journals, purporting to be signed by you, to the effect that the license for landing goods on Cox's Wharf, which was cancelled by us, was Cancelled. We having received no notice on the subject, and not being aware of any reason which could possibly lead to such an act, this Wharf being nearer the Custom House than most others in Sydney, and as Lessees having always afforded every reasonable assistance to your Officers to inspect goods landed on it. We beg to request that you will be pleased to inform us if the license is actually cancelled by your authority.

We have, &c,

DUNLOP & Co.
14 Sept. 1842.
Confirmation of notice.

[Sub-enclosure No. 3.]

Gentlemen,

In reply to your letter of this day's date on the subject of the sufferance granted for the wharf occupied by you, I beg to say that that sufferance is cancelled by authority and notice given in the Government Gazette to that effect.

I am, &c.,

J. Gibbes, Collr.

[Sub-enclosure No. 4.]

Sir,
On the 11th of this month, we did ourselves the honor of addressing you, requesting leave to land forty Casks of (English) Blacking on Cox's Wharf of which we are the Lessees. Not having been favored with any reply to this application, we take the liberty of again addressing you to request the favor of an answer before making application to the Government.

We remain, &c,

Dunlop & Co.

[Sub-enclosure No. 5.]

Sir,

Having given a verbal answer to your former application to the person who called from you, I did not consider it necessary to write; but I now beg to say in reply to your letter of this morning that, as the sufferance for Cox's Wharf has been withdrawn, no goods can be landed there, which have not been first discharged at a Sufferance Wharf.

I am, &c.,

J. Gibbes, Collr.

[Sub-enclosure No. 6.]

Sir,

In consequence of this permission, I agreed with the owner for Six Years' lease at £500 per ann., agreeing to pay the former Lessee £1,000 bonus for giving up the premises.

I have, also on the faith of possessing His Excellency's permission to land goods, since laid out a large Sum of Money in improving the wharf which without possessing a Sufferance will be valueless. I therefore perceived with the deepest regret a notice in the Government Gazette of June 24th signed by the Collector of Customs, stating that, great inconvenience having arisen from landing goods on Cox's Wharf, the Sufferance had been cancelled.

I would humbly request that you will be pleased to point out to His Excellency the extreme hardship I shall suffer by His Excellency's permission to land goods being withdrawn, as I shall thereby for ever not only lose the large Sums I have laid but be compelled to pay heavy rent for the wharf and premises now rendered of no value to me whatever; and, as the wharf is more conveniently situated than most others in Sydney, and nearer the Custom House, I feel conscious of having afforded the Customs Officers every facility in visiting the Wharf and examining goods landed on it during the time I held the Sufferance.

I hope His Excellency the Governor may be pleased to direct the Sufferance to be restored, or some adequate compensation made me for the ruinous loss I must Sustain by its withdrawal.

I have, &c.,

R. G. Dunlop.

[Sub-enclosure No. 7.]

Sir,

Having laid before the Governor your letter of the 22nd Instant, I am directed to inform you that He regrets to have to state, in reply to your application to be allowed to continue to land Goods at the place known as Cox's Wharf, that Circumstances have recently occurred to satisfy His Excellency that the Collector of Customs acted properly in withdrawing the Sufferance for that Wharf.

I have, &c.,

for the Colonial Secretary,

Wm. Elyard, Junr.
Mr. R. G. Dunlop to Colonial Secretary Thomson.

Sir, Sydney, 26th July, 1842.

As, in your reply to my representation regarding the withdrawal of the Sufferance for Cox's wharf dated 25th July, 1842. You state that Circumstances have recently occurred to satisfy His Excellency the Governor that the Collector of Customs acted properly in withdrawing the said Sufferance, I shall esteem it a favor if you will request His Excellency to favor me with a statement of the Circumstances referred to, as certain malicious Vagabonds have done to use His Excellency's name as their authority for certain anonymous aspersions on my character, which, though without the least shadow of foundation, are calculated to injure me in public opinion.

I have, &c.,

R. G. Dunlop.

Mr. W. Elyard to Mr. R. G. Dunlop.

Sir, Colonial Secretary's Office, Sydney, 29th July, 1842.

In acknowledging the receipt of your letter of the 26th Instant, I am directed by His Excellency the Governor to inform you with reference to my former communication, that He sees no occasion to say more in reply to it than that He is satisfied with the reasons which led the Collector of Customs to withdraw the license which he had given to Cox's Wharf. I have, &c.,

for the Colonial Secretary,

Wm. Elyard, Junr.

Memorandum referred to above.

"I think it is only necessary to say that Mr. Dunlop was lately fined £200 for attempting to defraud the Revenue; that he is the person who imported the colored spirits, under the denomination of Menecarlo Wine, which has been condemned in the Court of Vice Admiralty, and that his Bond for £5,000 is now being prosecuted for having been accessory to rehandling, in an unfrequented part of the Colony, the cargo of spirits exported by himself in the 'Fair Barbarian' for Lombock, to shew that he is not a proper person to have a Sufferance Wharf.

"Indeed this Wharf is in itself rather objectionable, as, notwithstanding the Jetty which has been run out, vessels of any size cannot lie within several yards of the landing place, by which means it was that the Coffee was removed to the Port Phillip Steamer, without the knowledge of the Officer, for which Mr. Dunlop was fined."

8th Sept., 1842.

J. Gibbes, Collr.

Lord Stanley to Sir George Gipps.

(Despatch No. 191, per ship Victoria.)

Sir, Downing Street, 15 September, 1842.

I transmit to you an Act passed in the present Session of Parliament for regulating the Sale of Waste Land belonging to the Crown in the Australian Colonies. It is, I trust, drawn with such accuracy and clearness as fully to convey its own meaning, and as to indicate completely the duty which will devolve on

*Note 25.
yourself in the execution of it. Yet, on an occasion of so much importance, it appears necessary that I should enter into some explanation of the motives in which this Law has originated, and of the course of proceeding which it prescribes.

You are well aware of the protracted discussions, which have taken place respecting the settlement of Waste Lands in the Australian Colonies, of the frequency with which the system has been changed, and of the complaints to which this mutability of purpose has given rise. Perhaps it may to a considerable extent have been unavoidable thus repeatedly to alter the Land Instructions issued under the Royal authority. With the gradual progress of experience, errors demanding correction were brought to light, and, when the principles of the question first attracted general attention and public debate, more than one experiment may have been not imprudently hazarded, even though in the result such experiments were found to disappoint the hopes of their authors. The result, however, has been to accumulate a large body both of theoretical and of practical knowledge, of which we now propose to gather the fruits.

In the Session of 1841, the subject was carefully investigated by a Committee* of the House of Commons.

Early in the present Session of Parliament, I introduced into that House a Bill for giving effect to the views of the Committee, aided and matured by all such additional information and suggestions as it was in my power to collect from the various sources of intelligence at my command. That Bill has been passed into a Law, with scarcely a dissentient voice in either House of Parliament, nor have I any reason to suppose that the general propriety of the provisions of it is disputed by any persons in this Country to whose judgment on such topics any peculiar authority is due. It is therefore, I trust, with no unreasonable confidence that I anticipate important advantages from this enactment, both as it respects the general interests of the Empire at large, and the local interests of the Australian Provinces of the British Crown.

Of those advantages not the least important will be found in the guarantee at length given for stability and consistency of purpose in the administration of the Land and the Land Revenues of the Crown in New Holland and the adjacent Islands. It is, of course, impossible that the system now established should be changed by any authority but that of Parliament. Her Majesty's Government have had no difficulty in advising the Queen thus to relinquish a power which experience has shewn not to be unattended with the risk of immature and precipitate resolutions.

* Note 26.
Another material advantage, which I should anticipate from the enactment of this Law, is that it will place on a fixed basis the question hitherto so much agitated regarding the expenditure of the Land Revenue. You will see that the first appropriation of that Fund is to the expense of management. Subject to this charge, for which however you will observe that, by the 18th Section, the Local Legislature is empowered, if it should be thought desirable, to make separate provision, the proceeds of all Land Sales are to be divided into two equal moieties. To the disposal of one of these moieties, Her Majesty has been graciously pleased to intimate Her willingness to surrender Her rights, and it is accordingly appropriated by Parliament exclusively to the purposes of Emigration. But it is by no means intended by this provision to enact that the other moiety or any part of it may not likewise be so applied; although on this point it has been deemed expedient to reserve a discretion to the Crown. Should the circumstances of the Colony be such as to render a larger outlay on Emigration desirable, and the means from other sources adequate to meet the current expenditure, there is no reason why a sum equal to the whole gross amount of the proceeds of the Land Sales should not be directed to that object.

There are, however, certain Items of Expenditure legitimately falling upon the Land Revenue, which I think it desirable that the Crown should retain in its own hands. The first of these is the application of such sums, and in such manner as you may judge most expedient, not exceeding in the whole 15 per cent. of the gross proceeds of the Land Sales, for the benefit, civilization and protection of the Aborigines; the next is intimately connected with, though perhaps not strictly included in the terms of the reservation in the 18th Section, being an expenditure in Roads, Bridges, etc., for the purpose of opening and making more easily available Lands, which it may be in your contemplation to bring into the Market. The discretionary power thus given to you to incur expenditure in opening Roads applies of course to main Lines of communication only, and the Funds thus placed at your disposal are on no account to be diverted to purposes of partial, Local or Individual interest.

The two objects to which I have thus referred, you would consider as those to which in the first instance you would apply the proceeds of so much of the Land Sales as are not specifically appropriated to Emigration. Of all your expenditure of these proceeds, you will lay before the Legislature periodical and detailed accounts; and you will pay over to the general account of the Colony any sums which may remain, after making in your judgment adequate provision for these objects, to be appropriated.
1842. 
18 Sept.

by the Legislature in aid of the ordinary and current services. At the same time, it must be distinctly understood that this appropriation is to be made, subject to the right which Her Majesty reserves to Herself of making any other disposition, which circumstances may hereafter appear to require, of the moiety which is not specifically appropriated to the object of Emigration.

The main principle of this Act is, however, that which Her Majesty's Government for many years past have invariably maintained, the principle that the Waste Lands of the Crown shall never be alienated except by Sale. All gratuitous Grants of Land will, henceforward, be absolutely illegal and void. The only exception to this rule (if indeed it can properly be described as an exception) will arise in the case of the reservation of Lands for purposes in which the public at large have a direct interest. They are minutely enumerated in the 3d section of the Act.

The Royal Commission,* authorizing you to alienate Waste Lands on behalf of Her Majesty, and the Royal Instructions* prescribing in detail how that power is to be exercised, are superseded by this Act. The power of Sale and Conveyance will henceforth be vested in you by the authority of Parliament, and by the same authority you will be guided in the exercise of that power. Among the regulations to which it will thus be your duty to adhere, the most important are those which relate to the Division of the Colony under your Government into any number of Territorial Districts, not exceeding 4, for the purposes of the Act. Should you be of opinion that it is expedient to adopt different sums respectively as the minimum for the upset price of Land in different parts, the distinction of the Lands to be sold into three separate classes, the fixing a minimum price on the Lands of each class, the sale of Lands of the more valuable class by auction only, and the sale of Country Lots by private contract after they shall have been put up to auction. I do not enter into any minute explanation of the motives of these Regulations because your own experience will enable you to anticipate any such statement. It may be enough to say that the principle of Sales by Auction appears more applicable to the case of Lands likely to be occupied for Building, or for Gardens, or as pleasure grounds, than to the case of Lands only fit to be occupied for the purpose of Agriculture or pasturage. In the one case, there is an accidental Local value which will best be ascertained by public competition. In the other case, when it has been ascertained by an ineffectual auction that no such competition can be raised, there appears to be no good reason why the Lands should not be sold at the upset price of the time. This distinction you will therefore find established in this Act.

* Note 27.
The most important general principle of the Law, which remains to be noticed, is that which determines that no waste Land of the Crown shall ever be sold at less than 20 shillings an acre.

In fixing this sum, Her Majesty's Government have not proceeded on the assumption that the whole of the Land in the Colony under your Government, which may be profitably occupied, would, if offered for sale, realize or is worth at the present moment that price; they are aware that there are large Tracts now occupied for grazing purposes of a value inferior to the Standard thus adopted; and, by the provisions of the 17th Section, care has been taken to relieve you from the necessity of attempting to force sales of such Land by enabling you to draw a Revenue from its permissive occupation. Nor is it to such Tracts only that Her Majesty's Government are aware the price of 20s. per acre is at present inapplicable. They are conscious that the same observation would apply to many portions of the more settled and richer districts. These circumstances, however, do not appear to them to militate against the course they have taken on this subject. On the contrary, they consider it desirable that the more fertile and valuable portions of Land in the Colony should be first brought into cultivation, trusting to the operation of progressive settlement to render saleable hereafter many qualities of Land not at present of a marketable value.

Having thus stated the views which have led to the adoption of so high a minimum price for the sale of Waste Lands, as that fixed by the Bill, I must also advert to the power which is reserved to you by the 9th Section of the Act of raising that price, and I do so merely to impress upon you the necessity of exercising it with great caution, The inconvenience, which must result from its being found requisite to advise Her Majesty to disallow acts done by you for that purpose, being too obvious to require to be dwelt upon.

You will perceive that it remains for you to issue the proclamations* mentioned in the 6th, 7th, 11th, and 21st Sections of the Act, and (in the event of your considering the same minimum upset price as inapplicable to the whole Colony) also that specified in the 14th Section. The terms of those proclamations you will of course prepare with the assistance of your Legal advisers, and with the advice of your Executive Council.

I enclose an Instrument under Her Majesty's Signet and Sign Manual, prescribing the forms and solemnities to be used in pursuance of the third clause in the Conveyance of the Waste Lands of the Crown. To prevent as far as possible any error on this subject, Her Majesty has for the present directed the use of the Forms and Solemnities hitherto employed in the Colony

* Note 28.
under your Government. Additional Instructions will hereafter
be issued, authorizing the employment of any other Forms and
Solemnities, which experience may point out as being more con­
venient, and the adoption of which may be recommended by the
proper Local Authorities.

I also enclose an order made by the Lords Commissioners of
the Treasury, in pursuance of the 16th clause, for the receipt in
this Country of any money which may be paid here for the pur­
chase of Waste Lands of the Crown in any of the Australian
Colonies and for issuing Certificates to the purchasers.

I also enclose an order made by the Lords of the Treasury under
the nineteenth clause for the application of the Land fund.

In a separate Despatch, I shall communicate to you the In­
structions which I have been commanded by Her Majesty to
convey to you under the Nineteenth clause for conducting the
Emigration service.

And I also enclose copies of the Instructions issued to the
Colonial Land and Emigration Commissioners on the same
subject.

In conclusion, I have to express my earnest hope that your re­
ports as to the progress of this new system will be frequent and
copious. It is a subject of deep interest to Her Majesty’s Gov­
ernment and to Parliament, and it is essential that the informa­
tion respecting it should be so complete and perspicuous as to
enable all persons proposing to employ their capital, or to engage
personally in the Settlement of the Waste Lands in the Aus­
tralian Colonies, to form as correct an estimate as possible of the
prospects awaiting them there.

I have, &c,

STANLEY.

[Enclosure No. 1.]

[This was a copy of the statute, 5 and 6 Vict., c. xxxvi.]

[Enclosure No. 2.]

VICTORIA REG.

ADDITIONAL Instructions to Our Trusty and Wellbeloved Sir George
Gipps, Knight, Our Captain General and Governor in Chief in and
over Our Colony of New South Wales and its Dependences, or,
in his absence, to Our Lieutenant Governor or the Officer Adminis­
tering the Government of Our said Colony and its Dependencies for
the time being. Given at Our Court at Windsor, this Twenty
seventh day of August, 1842, in the Sixth year of Our Reign.

Whereas, by an Act of Parliament, made and passed in this sixth
year of Our Reign, Intituled, “An Act for regulating the sale of
Waste Land belonging to the Crown in the Australian Colonies,” it
is amongst other things Enacted that, under and subject to the
various provisions and regulations thereinafter contained, the Gov­
ernor for the time being of each of those Colonies is thereby autho­
rized and required in Our name and on Our behalf to convey and
alienate in Fee simple or for any less Estate or Interest to the
purchaser or purchasers thereof, any Waste Lands of the Crown in any such Colony, which Conveyances or Alienations shall be made in such Forms and with such Solemnities as shall from time to time be prescribed by Us.

Now therefore, in pursuance of the said recited Act of Parliament and in exercise of the powers thereby in us vested, We do, by these Our Instructions under Our Signet and Sign Manual, declare Our Pleasure to be that for the present, and until Our further Pleasure shall be signified to you in this behalf, the Forms and Solemnities heretofore observed in the Conveyance or Alienation of the Waste Lands of the Crown in our Colony under your Government shall continue to be observed and followed in the conveyance or alienation of any such Lands as may hereafter be made in Our said Colony under the provisions of the said recited Act of Parliament.

[Enclosure No. 3.]

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

Sir,

Treasury Chambers, 30th August, 1842.

The Lords Commissioners of Her Majesty's Treasury, having had under consideration the provisions of the 16th Clause of the Act of 5th and 6th Vic., Cap. 36, "for regulating the sale of Waste Lands belonging to the Crown in the Australian Colonies," are of opinion that Edward Barnard, Esq., Agent General for the Settlements and Colonies in Australia should continue to receive any payments that may be made in this Country for the purchase of waste Lands of the Crown in any of the Colonies to which the Act relates; and that, in granting certificates of such payments, or in other matters relating thereto, the Commissioners of Colonial Lands and Emigration and Agent General should conform to the Instructions from their Lordships, which accompanied the Communication from this Department to you of 22nd May, 1840. And I am to request that you will move Lord Stanley to cause the requisite directions in this respect to be conveyed to the Commissioners and to the Agent General.

I am, &c.,

C. E. TREVELYAN.

[Enclosure No. 4.]

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

Sir,

Treasury Chambers, 30th August, 1842.

I am commanded by the Lords Commissioners of Her Majesty's Treasury to acquaint you for the information of Lord Stanley that in pursuance of the provisions of the 19th Clause of the Act of the 5th and 6 Victoria, Cap. 36, "for regulating the sale of Waste Lands belonging to the Crown in the Australian Colonies," My Lords are pleased to authorize the Governors of the respective Colonies and the Commissioners of Colonial Lands and Emigration and likewise the Colonial Treasurers and Agent General acting under the directions, which the said Governors or Commissioners may be duly empowered to give, to expend and apply the proceeds of the sales of Waste Lands, to which the Act relates, in payment of the expenses and charges of survey, management and sale of the Lands, or of the conveyance of Emigrants specifically mentioned therein, or of such other expenses or services as are or may hereafter be duly authorized; and I am to request that you will move Lord Stanley to cause the requisite orders and instructions on these respects to be conveyed to the several Governors and to the Commissioners.

I am, &c.,

C. E. TREVELYAN.
1842.
15 Sept.

Authority for appropriations for aborigines and for roads and bridges.

[Enclosure No. 5.]

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

Sir,

Treasury Chambers, 30th August, 1842.

With reference to the 19th Clause of the Act of the 5th and 6th Vict., Cap. 36, "for regulating the Sale of Waste Land belonging to the Crown in the Australian Colonies," I am commanded by the Lords Commissioners of Her Majesty's Treasury to acquaint you, for the information of Lord Stanley, that, subject to the appropriations out of proceeds of Sales of Waste Lands for defraying charges incurred in any of the Colonies for the Survey, management and sale of the Lands or otherwise carrying the Act into effect, and for defraying expenses of the conveyance of Emigrants from the United Kingdom, which are provided for in the Act, My Lords are pleased, so far as regards the proceeds of Sales of Waste Lands of the Crown in the Colony of New South Wales, to authorize the appropriation by the Governor of the Colony of a portion not exceeding £15 out of every £100 of the said proceeds after payment of the first class of the above mentioned charges, to expenditure for the benefit, civilization and protection of Aborigines; and the application of the remainder of those proceeds, or so much thereof as the Governor of the Colony may deem proper, for the construction of Roads, Bridges or other means of communication for the purpose of opening and making more easily available Lands, which it may be desirable to offer for sale; and that My Lords are likewise pleased to authorize the transfer to the General Revenue Fund of the said Colony of any residue of those portions of the proceeds applicable to either of the last mentioned purposes which may not be expended thereon.

I have, &c.

C. E. TREVELYAN.

[Enclosure No. 6.]

LORD STANLEY TO LAND AND EMIGRATION COMMISSIONERS.

Gentlemen,

Downing Street, 27th August, 1842.

The 19th Clause of the Australian Land Act, 5 and 6 Vic. Cap. 36, requires that the money to be expended in compliance with that Statute upon Emigration shall be laid out subject to such Regulations, as shall from time to time be prescribed either by Her Majesty in Council, or by one of Her Majesty's Secretaries of State regarding the selection of Emigrants, the means to be provided for their Conveyance, their superintendence during the voyage to the Colony to which they are destined, and their reception and settlement in that Colony. It therefore becomes necessary that you should receive directions founded on this Clause; and I have received Her Majesty's Commands to instruct you accordingly that you are to continue to guide yourself on all matters concerning the conduct of Emigration by such Instructions conveyed to you under authority of myself or my predecessors as are at present in force upon this subject, subject to such modifications as may at any future time be required by Instructions emanating from this Department in the usual manner, by Letters written under the direction of the Secretary of State.

I have, &c.

STANLEY.
STANLEY TO GIPPS.

LORD STANLEY TO SIR GEORGE GIPPS.

(A circular despatch, per ship Victoria.)

Sir,

Downing Street, 15th Sept., 1842.

The nineteenth Clause of the Australian Land Act, 5 and 6 Vict., Cap. 36, requires that the money to be expended in compliance with that Statute upon Emigration shall be laid out subject to such Regulations as shall from time to time be prescribed either by Her Majesty in Council, or by one of Her Majesty's Secretaries of State, regarding the selection of Emigrants, the means to be provided for their conveyance, their Superintendence during the Voyage to the Colony to which they are destined, and their reception and Settlement in that Colony. It therefore becomes necessary that you should receive directions founded on this Clause; and I have received Her Majesty's Commands to instruct you accordingly, that you are to continue to guide yourself on all matters concerning the conduct of Emigration by such Instructions, either under the Royal Sign Manual, or conveyed by me or my predecessors as are at present in force upon this subject, subject to such modifications as may at any future time be required by directions either under the Sign Manual or emanating from this Department in the usual manner by Despatches from the Secretary of State. I have, &c.,

STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 168, per ship Lady Raffles.)

My Lord,

Government House, 15th Sept., 1842.

At the earnest request of Major Sullivan, formerly of the Portuguese Service, but for some years past a Settler in this Colony, I transmit to Your Lordship the accompanying Sealed Papers,* one of them addressed to Your Lordship, and the other to Sir Robert Peel, and containing a Printed Prospectus for forming a Settlement on the Island of New Caledonia.†

The position of New Caledonia is such, as to render it I think very worthy the attention of the British Government; but I feel it necessary nevertheless distinctly to disclaim any participation whatever in the projects of Major Sullivan. I have, &c.,

GEO. GIPPS.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 189, per ship Victoria.)

Sir,

Downing Street, 16th September, 1842.

My attention has been called by the Lords Commissioners of Her Majesty's Treasury to a correspondence between the Colonial Secretary to your Government and A. C. G. Irvine, which

* Note 29.  † Note 30.
took place in February and March, 1842, relative to the increasing demands on the Military Chest by the Benevolent Society at Sydney; and, with reference to that correspondence, I have to observe that, although you may have hitherto considered yourself at liberty under the arrangement respecting the expenses of the Institution in question, which was sanctioned by Lord Glenelg's Despatch No. 215 of the 6th October, 1836, to authorize issues from the Commissariat Chest for that purpose without any specific limitation, Her Majesty's Government deem it necessary, on adverting to the great increase of the charge under this head during the year 1841, and to the altered state of the Colonial Community with reference to the sources of Casual pauperism, that some restriction should now be put upon those issues.

The Annual Sum of £2,500, since 1836-7 inclusive, provided by the Parliamentary Estimate and Vote for Convict expenditure in the Australian Colonies has fully sufficed to meet the demands on account of this Asylum until the last year; but, although the votes for the last and current year have been increased to £2,800, an excess of Expenditure, amounting to £784, has been incurred in 1841; and the intentions in regard to the issues for the current year, as signified in the letter from the Secretary to the Colonial Government to the Commissary of Accounts, dated the 3d of March, would involve a further excess of £200.

Referring to the arrangement before mentioned, Her Majesty's Government are not disposed to object to the admission of these excesses, or to direct that any retrospective claim should be made upon the Institution, or upon the Colonial Funds in respect thereof; but they must at the same time refer to the discontinuance of any addition to the indigent portion of the population by further introduction of Convicts, and to the obvious presumption, afforded by the period at which the increase in the expenditure of the Asylum has occurred, that it is to be attributed to other causes; and it is to be presumed that, after the current year, the contribution from the Funds of this Country for the purposes of the Institution ought not to exceed the former amount of £2,500 per Annum, and that, hereafter, it may be subject to further diminution. You will, therefore, be at liberty to sanction the contemplated contribution of £8,000 from Convict Funds, should it be requisite, towards defraying the expenditure of the Asylum for the present year; but the annual aid hereafter is not in any case to exceed £2,500 a year. You will also bear in mind that that sum must be gradually reduced in amount, in proportion as the peculiar state of things which led to its being afforded shall cease to exist, until it be entirely discontinued.

I have, &c.,

Stanley.
GIPPS TO STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 170, per ship Lady Raffles.)

My Lord,
Government House, 17th Sept., 1842.
With reference to my Despatch No. 140 of the 8th Augt. last, I have the honor to inform Your Lordship that the Estimates, which I presented to the Legislative Council for the service of the year 1843, have been voted by the Council, with such alterations only as were proposed by myself.

The Appropriation Act, and the usual Financial Papers of the year, will be forwarded with as little delay as possible.

I have, &c.,
GEO. GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 171, per ship Lady Raffles.)

My Lord,
Government House, 19th Sept., 1842.
I have the honor to report to Your Lordship that the Closing of Session of the Legislative Council of this Colony was closed by me on the 9th inst., the business which I had brought before it having been disposed of.

I enclose herewith a List of the Acts which have been passed; and I shall forward the Acts themselves in the usual manner, for Her Majesty's Gracious approval, with as little delay as possible.

I have, &c.,
GEO. GIPPS.

[Enclosure.
This was a list of the titles of the acts, 5 Vict., Nos. 22 to 25, 6 Vict., Nos. 1 to 15, and private acts for the Australasian sugar company and for trustees of the will of Samuel Foster.]

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 172, per ship Lady Raffles; acknowledged by Lord Stanley, 22nd May, 1843.)

My Lord,
Government House, 19th Sept., 1842.
With reference to my Despatch of this day's date, No. 171, wherein I reported the closing of the Session of the Legislative Council of this Colony for the year 1842, I have now the honor to forward Two Private Acts which have been passed by the Council.

The first is,
"An Act for facilitating proceedings by and against a certain Australasian Joint Stock Company, called the 'Australasian Sugar Company,' and for other purposes therein mentioned."

SER. I. VOL. XXII—T
The Company, in favor of which this Act has been passed, is established for the purpose of refining Sugar; and a Clause (the 12th) is expressly introduced, prohibiting the Company from engaging in the business of Distilling Spirituous Liquors.

A Capital of, I believe, about £30,000 has been already expended by the Company in the erection of Buildings, preparation of Machinery, etc., at a place called Canterbury, distant about six miles from Sydney.

The Act is in all essential respects similar to those, which are usually passed in this Colony to enable Trading Companies to sue and be sued in the name of one of their Officers, without incorporating them or relieving the Members of the Company from individual responsibility.

The 11th Clause is framed, so as to meet the instructions contained in Lord J. Russell's Despatch, No. 332 of the 14th Augt., 1841.

The second Act is intituled,

"An Act to enable the Trustees for the time being of Samuel Foster, late of Birmingham, gentleman, deceased, to grant leases of land in the Colony of New South Wales."

The object of this Act seems to be such as to require no comment from me.

As these two Acts cannot come into operation, until they have received Her Majesty's Assent, I have respectfully to request that they may be submitted for Her Majesty's Pleasure, as early as may be convenient.

I have, &c.,

GEO. GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 173, per ship Lady Raffles.)

My Lord,

Government House, 20th Sept., 1842.

I have the honor to forward herewith, the Annual Report of the Committee of the Legislative Council of this Colony on the subject of Immigration, as also a copy of the Resolutions which were passed by the Council on the last day of its session (the 9th instt.) adopting and approving the Report.

Having in my Despatch, No. 88 of the 14th May last, addressed Your Lordship fully on the subject of Immigration, I feel it unnecessary to accompany the Report with many observations.

The view, taken by the Committee of the probable want of Immigrants, is I have reason to believe correct; there is not, it appears to me, any actual dearth of Labor in the Colony; but there is ground to apprehend that ere long a scarcity of it will again be felt.
STANLEY TO GIPPS.

1842.
20 Sept.

With respect to the project of a Loan, I beg leave to state that I still adhere to the opinion I have often expressed, that we should endeavour, if possible, to do without one; but that, if the want of Immigrants alone stand in the way of the prosperity of the Colony, and we cannot obtain money to pay for the passage of them in any other way, we ought not to shrink from resorting to a Loan, remembering however always that we cannot raise one, without the assistance of Her Majesty's Government.

We still continue to sell but little land; but our ordinary Revenue suffices, I am happy to say, to cover all our expences.

I have, &c.,

GEO. GIPPS.

P.S.—I take the liberty of enclosing a Printed Copy of the remarks which I made in the Legislative Council, on the 9th instt., when the Report of the Committee on Immigration (which is now enclosed) was under consideration.

[Enclosures.]

[These papers will be found in the "Votes and Proceedings" of the legislative council.]

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 190, per ship Victoria.)

Sir, Downing Street, 21 September, 1842.

I referred for the report of the Colonial Land and Emigration Commissioners your Despatch No. 40 of the 24 February last, forwarding the report of the Immigration Board on the Immigrants by the Ship "Duke of Roxburgh," and stating that Bounties had been disallowed on several Females, who were not under the protection required by the Regulations.

I transmit to you herewith for your information the copy of a Report which I have received in reply from the Commissioners.

I have, &c.,

STANLEY.

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY HOPKINS.

Colonial Land and Emigration Office,

Sir, 9 Park Street, Westminster, 14 Sept., 1842.

We have the honor to acknowledge the receipt of your letter of the 20th Ultimo, transmitting to us the Copy of a Despatch from the Governor of New South Wales, mentioning the disallowance of Bounty on some of the Females comprised amongst the Immigrants by the Duke of Roxburgh.

These cases have been sent home by Sir George Gipps as an example of the way in which the working of the Bounty system is checked in New South Wales; and it appears that a proper control was exercised in respect to them by the Colonial Authorities. The Officers at home, as Lord Stanley is aware, have very little connection
292

HISTORICAL RECORDS OF AUSTRALIA.

1842.
21 Sept.

Report by land and emigration commissioners.

with the subject. Being desirous, however, to contend, as far as possible, with the laxity which prevails in signing written testimonials, we have to state that, on receipt of your communication, we traced out the parties who had signed the Certificates to the Bounty Agents which led to the acceptance of these Emigrants, and addressed to them a letter of which a copy is enclosed, in which we pointed out the bad consequences resulting from a want of correctness in signing such certificates. We have received from them in answer a communication, of which a copy is also enclosed, expressing the utmost regret at the intelligence which has arrived, and offering their assurance that they had no reason to suppose the Emigrants were of such character as reported, at the time they signed those documents. We are not aware that there is anything further which can be done in the matter.

We have, &c.,

T. FREDK. ELLIOT.

J. G. SHAW LEFFER.

[Sub-enclosure No. 1.]

MR. S. WALCOTT TO MESSRS. J. BRADLEY AND R. BROOKS.

Colonial Land and Emigration Office,

9 Park Street, Westminster, 26 August, 1842.

Certificates given to persons ineligible as immigrants.

Sir,

In reference to some Certificates to the good character of a party of single women proposed as Emigrants, which were signed by you about July, 1841, and in consequence of which these women received a free passage to New South Wales, I am directed by the Colonial Land and Emigration Commissioners to acquaint you that they have learned with much regret from the authorities in the Colony that two of the people, named Mary Ann Forster and Jemima Hawkins, proved to be common prostitutes, and that there is every reason to believe that a third named Harriet McCrow was of the same description. The Commissioners have thought it due to you to acquaint you with this intelligence in case you should wish to afford any information or explanation on the subject.

It is always to be regretted that Certificates of this nature should prove to be incorrect, because it throws obstacles in the way of the really deserving, by bringing all such Testimonials into additional doubt and discredit.

I am, &c.,

S. WALCOTT, Secretary.

[Sub-enclosure No. 2.]

MESSRS. R. BROOKS AND J. BRADLEY TO MR. S. WALCOTT.

Sir, St. Mary Newington, 6th September, 1842.

We the undersigned beg to acknowledge your Letter of the 26th Ultimo in reference to certain Certificates signed by us for Mary Ann Forster, Jemima Hawkins, and Harriet McCrow, admitted as Emigrants to New South Wales in July, 1841. We assure you it is with the utmost regret we learn that they have so misconducted themselves as to incur the displeasure of the Authorities at Sydney; in signing the Certificates we did so under the full assurance that they would prove good Members of Society.

We certainly had no cause to consider either of them to be of the character reported or we would not have signed the Document. We are, Sir, &c.,

ROBT. BROOKS.

JOHN BRADLEY.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 174, per ship Lady Raffles; acknowledged by lord Stanley, 30th May, 1843.)

My Lord,

Government House, 21st Septt., 1842.

I had the honor to receive, on the 6th July last, Your Lordship's Despatch, No. 60 of the 30th Jany., 1842, communicating to me the circumstances under which your Lordship had, on the recommendation of the Commissioners of Colonial Lands and Emigration, granted a special authority to Mr. Forsyth, to
receive Bounties on the importation of 20 Emigrants and their families into this Colony; that Bounties have accordingly been claimed, in the name of Mr. Forsyth, on 20 Adult Males, 18 adult Females, and 31 Children, who arrived at Sydney by the Ship “Earl of Durham” on the 11th July last.

I have however further to report to Your Lordship that I have not paid the Bounties thus claimed in the name of Mr. Forsyth, because it appears to me very clearly either that the Emigrants by the ship “Earl of Durham” are not those for whose importation into this Colony Your Lordship’s permission was given, or that Your Lordship’s permission for their importation was obtained by means of representations altogether inconsistent with the facts of the case.

Mr. Forsyth appears to have gained an advantage over other persons, who equally with himself held permissions from this Government to bring Emigrants to the Colony, by representing that the Emigrants were to be engaged for his own service; that he had lands in the Colony, which would come out of Lease in April, 1842; and that he would suffer great inconvenience and hardship, if not allowed to bring out Emigrants to be employed on them; it will therefore doubtless surprise your Lordship to learn that the Emigrants by the “Earl of Durham” appear to have been sent out by Messrs. Carter and Bonus in the ordinary way of their business; that no agent of Mr. Forsyth was ready to receive them in the Colony; that the Emigrants have in every case had to find employment for themselves; and that neither Mr. Forsyth, nor any person on his behalf, has made any application to me respecting them.

I enclose, for Your Lordship’s information,
1. A Copy of the List of these Emigrants made by the Board, transmitted, on whom Bounties were claimed by Messrs. Gore and Co., as agents for Messrs. Carter and Bonus, by which it will appear that, after certain disallowances on account of the ineligibility of a portion of the Emigrants, the amount of Bounties, which would have been payable on them but for the circumstances I have reported, is £861.

2. Copy of a letter from the Immigration Agent in Sydney, dated the 6th Augt., 1842, explaining, as far as was in his power, the way in which the Immigrants had been disposed of.

3. Copy of a letter which was written by my direction to Messrs. Gore and Co., dated the 20th Augt., 1842, explaining the reasons why the whole of the Bounties has been withheld.

I have, &c.,

Geo. Gipps.

[Enclosure No. 1.]

[This list has been omitted.]
MR. F. L. S. MEREWETHER TO COLONIAL SECRETARY THOMSON.

Sir,

Immigration Office, Sydney, 6th August, 1842.

In answer to your letter of the 4th Instant, requesting me to state "the manner in which the Immigrants per 'Earl of Durham' had been disposed of," and "whether Mr. Forsyth had taken them into his own service."

I do myself the honor to annex a list of those of them, with whose engagements the Surgeon was made acquainted, shewing the names of the employers, and the terms on which they were hired.

The Surgeon has stated to me that he is not aware that any of those, of whose disposal he was unable to give account, were taken into the service of Mr. Forsyth.

I am aware from the man's own statement to myself, made when drawing his gratuity as overseer, that William Turner (married) is employed at the Messrs. Barker's Mills. His brother, he told me, had joined with him in taking a house, and that they were living together. He also must therefore be engaged in Sydney, but to whom I am not informed.

I have, &c.,

FRANCIS L. S. MEREWETHER.

[Sub-enclosure.]

LIST of Engagement of Immigrants from "Earl of Durham" (Extracted from the Surgeon's Report).

<table>
<thead>
<tr>
<th>Name</th>
<th>Calling</th>
<th>By whom Engaged</th>
<th>Wages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Willm. Webb and family</td>
<td>Nursery Maid</td>
<td>Dr. Savage (Sydney)</td>
<td>Not stated.</td>
</tr>
<tr>
<td>James Smith</td>
<td>Agriculturist</td>
<td>Mr. Cook (Stanmore)</td>
<td>£25 per annum with rations.</td>
</tr>
<tr>
<td>Philip Nicholson</td>
<td>Agriculturist</td>
<td>Mr. Hannam (Newtown)</td>
<td>£35 per annum with rations.</td>
</tr>
</tbody>
</table>
| John Robinson         | do           | Newnham & Tooth (Cow-
|                       | do           | pastures)                | £21 per week without rations.|
| Thos. Brown and family| Labourer    | Mr. Saunders (Sydney)    | £25 per annum with rations.|
| Thos. Maulbury        | Agriculturist| Mr. Lodge               | £25 per annum with rations.|
| Wm. Lodge and family  | do           | Mr. Lodge living at     | £30 per week without rations.|
| John Whiteman         | do           | Newnham & Tooth         | £25 per annum with rations.|
| Joseph Dole and family| Smith       | Issac Dole (Sydney)     | £30 per week without rations.|
| Amelia Anderson       | Servant      | Mr. Dawson (Sydney)     | £20 per annum with rations.|

[Enclosure No. 3.]

COLONIAL SECRETARY THOMSON TO MR. T. GORE.

Colonial Secretary's Office,

Sydney, 20th August, 1842.

Sir,

I am directed by His Excellency the Governor to inform you that it has been reported by the Emigration Agent, in a letter dated 29th July last, that Bounties are claimed by you, as agent for Mr. Forsyth, on Sixty nine persons, alleged to have been brought to this Colony under a special permission from the Secretary of State,
granted in consequence of an application made by Mr. Forsyth in England to the Land and Emigration Commissioners under date of the 2nd August, 1841.

Of this application, as well as of the communications respecting it which have been received from the Secretary of State, I am directed to enclose copies, and to observe to you that you cannot fail to perceive that the representations, by means of which Mr. Forsyth obtained permission to bring out a certain number of Emigrants, are not at all borne out by the circumstances under which the Emigrants by the "Earl Durham" have been imported; and that, therefore, it is quite out of his Excellency's power to pay bounties on them.

Mr. Forsyth obtained a preference over other persons, equally with himself having claims on the local Government, by representing that these Emigrants were engaged for his own service, and that he not only had employment for them, but that he would suffer loss and inconvenience if not allowed to bring them out, whereas the Emigrants appear to have been sent out by Messrs. Carter and Bonus precisely in the way of their ordinary business; and the Emigrants have been dispersed over the Country and left to find employment for themselves, like ordinary Bounty Emigrants.

I am directed further to remark to you that, amongst the unmarried immigrants on whom bounty is claimed, there is one person, Maria Hinkerman, so clearly ineligible for Bounty, that it is difficult to look upon her case except as an unjustifiable attempt to obtain Bounties contrary to the intention and spirit of the Regulations.

This Person, who was passed before the Board as a "Servant of All-work" is confessedly a "Music Mistress," and has already advertised to give Concerts in Sydney.

I have, &c,

E. Deas Thomson.

Lord Stanley to Sir George Gipps.

(Despatch No. 192, per ship Victoria; acknowledged by Sir George Gipps, 24th May, 1843.)

Sir,

Downing Street, 22 September, 1842.

I transmit to you herewith the Copy of a Letter from Messrs. F. Huth and Co. applying on behalf of Mr. Henry Meinertzhagen, of Sydney, for the Grant of Letters of Denization.

I have to direct that you will report to me, without delay, your opinion on the merits of this application, and that you will explain the reason that no notice has been taken (as alleged by Mess. Huth and Co.) of the application which was made to the local Government by Mr. Meinertzhagen in the month of September, 1840.

I have, &c,

STANLEY.

Messrs. Huth and Co. to Under Secretary of State.

Sir,

10 Moorgate St., City, 19th Sept., 1842.

Our friend, Mr. Henry Meinertzhagen of Sydney, New South Wales, informs us that, in September, 1840, he applied through Mr. Jas. Norton, an attorney at Sydney, for Letters of denization,
to enable him to hold land in the Colony. Up to April, 1842, no
answer had been received; he therefore fears that his application
must have miscarried, and now requests us to apply to you here on
his behalf. Mr. Meinertzhagen was born at Bremen, in Germany,
on the 19th August, 1805, and has been established as a Merchant
at Sydney since January, 1838.

We hope these particulars will be sufficient to enable you to com­
ply with Mr. Meinertzhagen's request; but, if any other information
or formality should be required, we shall deem it a favor if you will
acquaint us with it for our government.

We are, &c.,

FREDK. HUTH AND CO,

SIR GEORGE GIPPS TO LORD STANLEY.

(Ge Bspatch No. 175, per ship Lady Raffles: acknowledged by
lord Stanley, 30th May, 1843.)

My Lord,

Government House, 22nd Sept., 1842.

With reference to my Despatch No. 174 of yesterday's
date, wherein I reported the circumstances under which I had
deprecated paying Bounties on any of the Emigrants, said to have
been sent to this Colony by Mr. Forsyth in the "Earl of Dur­
ham," I have now to request your Lordship's attention to the
case of an unmarried female by that ship, named "Maria
Hinckerman," on whom Bounty was peremptorily refused.

Maria Hinckerman came out as a domestic servant; and the
fact of her being such is regularly certified in the Paper (an
original one) which I transmit herewith, No. 1, by two persons
described as respectable householders, namely, Edward James
Hewitt and Henry Hays, residing at Nos. 188 and 168, Regent
Street. Very shortly however after the arrival of Maria Hinckes­
man in the Colony, an advertisement was published by her, to
which my attention was very properly drawn by the Immigration
Agent. I enclose a Copy of the Immigration Agent's letter,
accompanied by the "Sydney Herald" Newspaper of the 27th
July last, containing the advertisement, by which Your Lord­
ship will perceive, that Maria Hinckesman attributes herself "Prof­
nessor of Music, and Sostenente Pianiste to His late Majesty."

I have also further to report that I have myself seen Miss
Hinckerman, who has stated to me that she never was a domestic
servant; but that, before she was reduced by unexpected mis­
fortunes, the nature of which she did not explain, she considers
that she held a high place among the professional performers
and teachers of Music in London, and that she kept her own
carriage; and she further stated to me that, when she applied
for a free passage to New South Wales, she was accompanied
by a gentleman, who explained to Messrs. Carter and Bonus all
the circumstances under which she desired to emigrate.
If this statement be true, and from the air, manner, and appearance of Miss Hinckerman, I see no reason to doubt that it is so, it must be evident to Your Lordship that an imposition or, more properly speaking, a gross fraud has been attempted on this Government; and I would respectfully suggest that the case should be enquired into by the Commissioners of Colonial Lands and Emigration.

I have, &c,

[Enclosure No. 1.]

Geo. Gipps.

[Enclosure No. 2.]

MR. F. L. S. MEREWETHER TO COLONIAL SECRETARY THOMSON.

Sir, Immigration Office, Sydney, 29th July, 1842.

With reference to the Report of the Immigration Board on the Immigrants per "Earl of Durham," in which was recommended the payment of Bounty on Maria Hinckerman, an unmarried female who arrived in that Ship.

I do myself the honor to submit for His Excellency's perusal an advertisement which appeared in the "Sydney Herald" of the 27th Instant enclosed, from which it appears that Maria Hinckerman is an accomplished Musician, and that she intends shortly to give an Evening Concert; Miss Hinckerman has also advertised for musical pupils.

As the recommendation that Bounty should be paid on account of this Lady was made on the supposition that she was, as she represented herself to be, a general servant, I do not think it necessary to bring the case before the Board for reconsideration, but will at once beg to request that the recommendation may not be acted upon.

I enclose the Certificate produced in favor of Miss Hinckerman.

I have, &c,

FRANCIS L. S. MEREWETHER.

LORD STANLEY TO SIR GEORGE GIPPS.

(A confidential despatch, per ship Stratheden; acknowledged by Sir George Gipps, 19th June, 1843.)

Sir, Downing Street, 23rd Sepr., 1842.

I transmit to you, herewith, for your information, the enclosed Copies of several Communications from the Foreign Department, on the subject of the proceedings of the French Expedition* which has recently proceeded to the South Seas.

I am, &c,

STANLEY.

VISCOUNT CANNING TO UNDER SECRETARY STEPHEN.

Sir, Foreign Office, 3rd May, 1842.

I am directed by the Earl of Aberdeen to transmit to you, for the information of Lord Stanley, a Copy of a Despatch which has been received from Her Majesty's Minister at Rio de Janeiro,

* Note 31.
announcing the arrival at that place of the French Frigate "La Reine Blanche," with 300 Troops on board, on her way to New Zealand, and also stating that five other French Vessels with Troops on board sailed from Brest at the same time with the "Reine Blanche," destined also for New Zealand.

I am, &c.,

CANNING.

[Sub-enclosure.]

MR. HAMILTON TO EARL OF ABERDEEN.

My Lord,
Rio de Janeiro, 22d February, 1842.

I have the honor to acquaint Your Lordship that the French Frigate "La Reine Blanche" arrived here some weeks ago on her way to the Pacific by Cape Howe, and that I am very credibly informed she had on board near 300 Soldiers; it is stated also that five other Vessels sailed from Brest at the same time with her, also having Troops on board; and that the destination of all six Vessels is understood to be New Zealand. The Troops, however, on board the "Reine Blanche," were clothed in a manner so similar to the Sailors comprising the Crew that it was not easy to ascertain their number.

I have, &c.,

HAMILTON.

[Enclosure No. 2.]

VISCOUNT CANNING TO UNDER SECRETARY STEPHEN.

Sir,
Foreign Office, 12th May, 1842.

With reference to my letter of the 3rd Instant, enclosing a copy of a Dispatch from Her Majesty's Minister in Brazil, reporting the arrival at Rio de Janeiro of the French Frigate "La Reine Blanche" with Troops on board on her way to New Zealand, I am directed by the Earl of Aberdeen to transmit to you for the information of Lord Stanley a copy of a further dispatch from Mr. Hamilton announcing the arrival at Rio of two French Corvettes the "Emboscade" and "Boussole" with Troops on board.

I am, &c.,

CANNING.

[Sub-enclosure.]

MR. HAMILTON TO EARL OF ABERDEEN.

My Lord,
Rio de Janeiro, 11th March, 1842.

Two French Corvettes the "Emboscade" and "Boussole" arrived here on the 9th Instant from Cadiz in 38 days.

In answer to inquiries I made on the subject, the French Minister informed me yesterday that he believed their destination to be Isle Bourbon. Reports here, however, mention China as their real destination. They mount about 30 Guns each, appear of a Light Draft of Water, and have Troops on board. This arrival, together with others which I had occasion to report to your Lordship some short time ago, and single Vessels of War arriving and departing from time to time, evince a more than common activity in the French Navy at present.

One of the Corvettes above mentioned suffered a very severe collision with one of our large Mediterranean Steamers near Gibraltar, and was compelled to enter Cadiz Harbour to repair her damages.

The American Frigate "United States" mounting 50 guns and bearing the broad Pendant of Commodore Jones, arrived here on the 8th Inst., on her way to the Pacific.

I have, &c.,

HAMILTON.

[Enclosure No. 3.]

MR. H. U. ADDINGTON TO UNDER SECRETARY STEPHEN.

Sir,
Foreign Office, 14th May, 1842.

I have laid before the Earl of Aberdeen your letter of the 11th Instant, respecting the arrival at Rio de Janeiro of a French Frigate with 300 Troops on board, reported to be on her way to New Zealand; and I am directed by His Lordship to transmit to you, for the information of Lord Stanley, Copies of a correspondence, as marked in the margin,* between the Earl of Aberdeen and

* Marginal note.—To Lord Cowley, Nov. 23, 1841, No. 6; from do., Nov. 26, 1841, No. 19; From do., Nov. 29, 1841, No. 56.
Her Majesty's Ambassador at Paris, in the month of November last, when information had reached Her Majesty's Government that an Expedition was fitting out in French Ports destined for New Zealand. It will be seen from Lord Cowley's despatch of the 29th of November last that Mr. Guizot, the French Minister for Foreign affairs, distinctly stated to Lord Cowley that there was not the slightest foundation for such a report; and Lord Aberdeen presumes that the French Naval force, which is stated to have arrived at Rio de Janeiro on its way to New Zealand, is the same that gave rise to the original report, which has been thus contradicted by the French Minister.

I am, &c.
H. U. ADDINGTON.

[Sub-enclosure No. 1.]

EARL OF ABERDEEN TO LORD COWLEY.

My Lord, Foreign Office, 23rd November, 1841.

Her Majesty's Government have received information that an Expedition, consisting of a Naval Force of about twelve hundred men, has for some time been preparing in the French Ports, and that it is now on the point of departure. They are assured that this expedition is destined for New Zealand.

Notwithstanding the sources from which this information is derived, I hesitate to give it that implicit belief which it appears to deserve; for it is difficult to imagine that the French Government should gratuitously adopt a measure calculated to lead to a serious misunderstanding between the two Countries.

Your Excellency is aware that Her Majesty had commanded the Secretary of State to notify in the London Gazette of October 2nd, 1840, the acquisition of the Territory of New Zealand to the Crown of Great Britain.

In the London Gazette of Nov. 24th, 1840, a further notification appeared, stating that Her Majesty had by Letters patent under the Great Seal erected the Islands of New Zealand into a distinct and separate Colony, and in the same gazette was notified the appointment of Captain Hobson as Governor and Commander in Chief of the Colony.

The French settlers in New Zealand are now living under British Jurisdiction; and a correspondence has taken place between M. de Bourqueney and my Predecessor in this office, respecting their Rights and interests, without any intimation on the part of the French minister that the Sovereignty of Her Majesty was not fully recognised.

Under these circumstances, the approach of a force similar to that which I have described could only be regarded as a hostile invasion by the Governor and Inhabitants of the Colony.

I am to instruct your Excellency to ascertain if the information received by Her Majesty's Government upon this subject be correct. I indulge the hope that satisfactory explanations may be given. But, should it be confirmed, you will not hesitate to remonstrate in the strongest terms against an act which must greatly endanger the friendly Relations of the two Governments. I am, &c.

ABERDEEN.

[Sub-enclosure No. 2.]

LORD COWLEY TO EARL OF ABERDEEN.

My Lord, Paris, 26th November, 1841.

I have the honor to acknowledge the receipt of your Lordship's dispatch, No. 6 of the 23rd Instant, respecting the reported French Expedition to New Zealand. I have made every possible enquiry upon the subject, of which the shortness of the time would admit, and I am strongly impressed with the belief that no such expedition is in the contemplation of this Government.

I have therefore thought it advisable to abstain from the present of speaking to M. Guizot upon the subject; but, should I upon further enquiry see reason to alter the opinion I have formed, I shall not fail to make the necessary representation to that minister.

I am, &c.
COWLEY.

[Sub-enclosure No. 3.]

LORD COWLEY TO EARL OF ABERDEEN.

My Lord, Paris, 29th November, 1841.

While M. Guizot was remarking upon the exaggerated reports which were circulated respecting the extent of the Reinforcements sent to the Frontiers, I took occasion to observe that there was another report still more absurd, to which I had
Transmission of despatch.

Arrival of French frigate at Santiago.

Rumours re French expedition.

1842. 23 Sept.  

300 HISTORICAL RECORDS OF AUSTRALIA.

never attached the smallest credit, viz., that a squadron was fitting out in one of the French ports which was to convey twelve hundred men to New Zealand. He answered without hesitation, "You did well not to give credit to such a report as I give you my honour there is not the slightest foundation for it."

[Enclosure No. 4.]

VISCOUNT CANNING TO UNDER SECRETARY STEPHEN.

Sir,

Foreign Office, 5th August, 1842.

I am directed by the Earl of Aberdeen to transmit to you for the information of Lord Stanley a copy of a Despatch from Her Majesty's Charge d'Affaires in Chili, reporting the arrival of a French Frigate at Valparaiso, with several Officers and Troops on board, the destination of which unknown.

I am, &c.,

CANNING.

[Sub-enclosure.]

Mr. JOHN WALPOLE TO EARL OF ABERDEEN.

My Lord,

Santiago, 30th March, 1842.

On the 7th instant and after an unusually favorable Passage of seventy seven days from Brest, ten of which had been passed in the Harbour of Rio de Janeiro, arrived at Valparaiso the French Frigate "Reine Blanche," commanded by Captain Alix and bearing the Flag of Rear Admiral Du Petit Thouars.

This Frigate carries sixty guns, some of which are of a heavy Calibre (80 Pounders) on the Plan of General Paixhaus.

Admiral Du Petit Thouars, when Captain de Vaisseau, and in command of the "Venus" Frigate, returned about two years ago to France, having then, though at various intervals, passed several years on these Coasts and among the various Islands spread over the Pacific, with which he had become familiarly acquainted, and the result of his investigation he has given to the World.

It having been rumoured that the Admiral had left the Coast of France for Valparaiso, thence to proceed with sealed Orders not to be opened until he had reached a specific point in the Pacific Ocean, I instituted an enquiry into the correctness of this report, the result of which was its confirmation, together with intelligence of the "Reine Blanche" having been accompanied as far as the Canary Islands by a Corvette de Charge "La Triomphante," but which proving a heavy Sailer had separated in that Latitude.

It was also stated that the "Reine Blanche" had on board two Governors with their Staff together with from 100 to 150 Soldiers Supplementary to that Portion generally forming the Crew of Vessels of her class; that these were all chosen Mechanics and Artificers, and carried with them Tools and every article required for the construction of buildings, including Lead for Roofing; that the Frigate had been provisioned at Valparaiso for eight months and drew daily Rations for 700 Men.

I subsequently learnt that three additional Corvettes were shortly expected on this Coast on their Passage to the same destination; that a French Merchant Vessel had been chartered to follow the Admiral as a Storeship, in the Cargo of which had been already expended the sum of $40,000, consisting of Stores and Provisions of all kinds, and in Cattle and Horses for breeding; Sheep, etc., etc., while "La Thetis" Frigate, the Return of which to France had been expected on the arrival of Admiral Du Petit Thouars, had been ordered to remain until that Officer reappeared at Valparaiso.

Together with the original Notice were united conjectures as to the destination of the Squadron being the Coast of New Zealand, and Banks's Peninsula its immediate object. To these I could give no credit. It had been long known that, although the Establishment of a French Colony had been attempted at that Point, the British Sovereignty had been proclaimed and recognized throughout those Islands; and it was difficult to believe, in the absence even of a rumour of a difference as to the right of Property in them, that the former power would undertake an operation which would bring it in immediate hostile Collision with the British Government. I rather attributed it to an intention to profit of the influence, which the French Government had already obtained by means of the Priesthood in the Marquesas Islands, and to appropriate that Groupe or, and perhaps simultaneously, to form a Colony in the Northern Part of California and in the Neighbourhood of Monterey, where observation had been made of a French Officer, with the authority of the President of the Mexican Republic, taking Plans and Surveys.

However to penetrate the mystery which envelopes the movements of Admiral Du Petit Thouars, I visited M. Cazotte, the French Charge d'Affaires resident here;
I mentioned the current Reports and my own conjectures, and I requested (since possibly with the departure of the Admiral had ceased all cause for further concealment) that he would confide to me his Point of Direction, or would authorize me at least to state that the object was not of a nature to give umbrage or to interview with cause disquietude to the British Government for the integrity or tranquility of its French charge Colonial Possessions. M. Cazotte could give me his positive assurance that no d'affaires, purpose of an unfriendly nature to Great Britain was contemplated by this enterprise; that of its immediate object he was equally ignorant with myself; that on that subject the Admiral, though questioned by him as an old and intimate acquaintance, refused all information further than a Denial of all interference with the Islands of New Zealand or their Dependencies; that he, M. Cazotte, had also formed his opinion which entirely coincided with mine, though he declared himself ignorant of the fact above related of the employment of a French Officer, that he believed his Government are in search of some spot on which to establish a Penal Colony, and that their views for that purpose are directed to California; but that, whenever the destination of the Admiral should be assured, he would immediately and unhesitatingly communicate with me.

I have already made known to Rear Admiral Thomas now at Callao the substance of this Despatch.

I omitted to mention that Admiral Du Petit Thouars sailed from Valparaiso on the 20th instant.

[Enclosure No. 5.]

MR. H. U. ADDINGTON TO UNDER SECRETARY STEPHEN.


With reference to my letter of the 18th June last, I am directed by the Earl of Aberdeen to transmit to you, for the information of Lord Stanley, a copy of a Letter from the Admiralty, enclosing a copy of a Despatch from the Admiral commanding on the West Coast of America, reporting the arrival at Valparaiso of a part of a French Expedition, the destination of which was unknown, but was suspected to be either New Zealand or California.

I am also directed to state to you that copies of these Papers having been forwarded to Her Majesty's Ambassador at Paris, Lord Aberdeen has received a Dispatch from His Excellency (copy of which is herewith transmitted) enclosing a statement respecting the real objects of this expedition.

I am, &c.,

H. U. ADDINGTON.

[Sub-enclosure No. 1.]

MR. SIDNEY HERBERT TO VISCOUNT CANNING.

My Lord, Admiralty, 28th July, 1842.

I am commanded by my Lords Commissioners of the Admiralty to send you herewith, for the information of the Earl of Aberdeen, a Copy of a Letter of the 10th April last No. 24, from Rear Admiral Thomas, and of its inclosure from Her Majesty's Charge d'Affaires at Santiago de Chili, reporting the arrival of the French Frigate "La Reine Blanche" at Valparaiso, bearing the Flag of Rear Admiral Du Petit Thouars, with 700 men on board, including a Governor and his staff together with 130 soldiers who are all mechanics and artificers; and further stating that it is surmised the Frigate's destination is New Zealand (Bank's Peninsula) or California.

I am, &c.,

SIDNEY HERBERT.

[Sub-enclosure No. 2.]

REAR-ADMIRAL THOMAS TO MR. SIDNEY HERBERT.

Sir, Her Majesty's Ship Dublin at Callao, 16th April, 1842.

I transmit, for the information of the Lords Commissioners of the Admiralty, Report by the copy of a Letter I have received from Colonel The Honble. John Walpole, Her R. Thomas Majesty's Charge d'Affaires at Santiago de Chili, dated Valparaiso the 14th of March, stating the arrival of the French Frigate "La Reine Blanche" of 60 Guns, bearing the Flag of Rear Admiral du Petit Thouars, which ship has come with sealed orders, and has on board 700 men, including a Governor and his staff together with 130 soldiers, who are all mechanics and artificers carrying with them Tools, Lead for roofing, and every article requisite for the erection of temporary buildings.
Three other Corvettes de Charge, with an additional body of soldiers and stores of all kinds, are expected from France in furtherance of the object of this secret expedition.

I have received letters conveying the same information from Mr. Rouse, Her Majesty's Consul at Valparaiso, and from Lieutenant Hunt in command of the "Basilisk."

Rumour assigns different destinations to this Expedition, but the report of its being intended to take possession of that part of New Zealand (Bank's Peninsula) on which are already located a number of Frenchmen, is generally discredited; the more probable circumstance is that there is an intention of taking possession of some of the Islands in the Pacific, or some part of the Coast of Upper California.

It will appear in the Despatch Captain Jones of the "Ouracoa," addressed to Her Majesty's Minister at Mexico, forwarded with Report of that officer's proceedings, that M. Duplot de Mousse, one of the Attachés to the French Mission at Mexico, left that City professedly to prosecute some scientific purpose in California; That he arrived at Monterey in April, 1841, remained there for about six months, during which time he visited Santa Barbara for the purpose of having an interview with the Reverend Father Narciso Duran, President of the Mission. He likewise visited Captain Vallejo of Sonora, North of St. Francisco, and the Russian Settlement at Rodega. On the 17 of September, he took his departure for the Port of San Francisco, and on the 26th sailed in the Honble. Hudson Bay Company's ship "Cowley" for the Columbia River, leaving directions for the parties to be forwarded to Mazaltan. For four months he was under the roof of Mr. Spence, an Englishman at Monterey, and he never could form any idea what his object was; but he as well as many others were satisfied that his visit to California was not for scientific purposes.

I have, &c.

RICH. THOMAS,
Rear Admiral and Commander in Chief.

P.S. April 22nd, 1842.—Since having forwarded the original of this Letter, I have received a private Despatch from Colonel Walpole, in which he makes the following observations:

"I have, &c.

JOHN WALPOLE.

[Sub-enclosure No. 3.]

MR. J. WALPOLE TO REAR-ADMIRAL THOMAS.

Sir,

Valparaiso, 14th March, 1842.

On the 7th Instant, arrived the "Reine Blanche" French Frigate of 60 Guns, some of which, I am given to understand, are of very heavy Calibre, commanded by Captain Alix and bearing the Flag of Rear Admiral Du Petit Thouars.

This latter Officer returned about two years ago to France from this Coast, where he was in command of the "Venus" Frigate.

The Admiral has come with sealed Orders, not to be opened until he reaches a specified point in the Pacific, and for which he leaves this Port within a very few days, accompanied by the "Jules Cesar," a French ship of 400 Tons, now lying here, which has been chartered for this purpose as a Store Ship. Such is the report.

But certain it is, that this ship the "Reine Blanche" sailed from Brest in company with a "Corvette de Charge," which was left behind about the Latitude of the Canaries; that she has on board a Governor, vice Governor, and a Staff, together with from 100 to 130 Soldiers supernumerary to that portion generally employed in Vessels of this Class. These Soldiers are all Mechanics and Artificers, and carry with them Tools, lead for roofing, and every article required for the construction of temporary Buildings, evidently demonstrating the intention to take possession of and establish French dominion in some of the Islands of these Seas, but of which, with the slight information of which I am present in possession, I am not prepared to hazard scarcely a conjecture; pains however are taken to induce a belief of the expedition being destined for Banks Peninsula in New Zealand, but of which I am inclined to discredit.

The Frigate is being provisioned for Eight Months' voyage, and has drawn daily rations for 700 men.

Three other "Corvettes de Charge" with an additional Body of Soldiers and stores of all kinds are expected from France in furtherance of the object of this Expedition.

Under these circumstances and uncertain as to the period of our Return to this Port, I transmit this intelligence for your information, confident that you will avail yourself of the earliest opportunities, which the means at your disposal may afford, for ascertaining the real destination of these Vessels and the nature of the Projects which they are intended to promote.

I have, &c.

JOHN WALPOLE.
STANLEY TO GIPPS.

[Sub-enclosure No. 4.]

LORD COWLEY TO EARL OF ABERDEEN.

My Lord,

Paris, 1st August, 1842.

It was not without anxiety that I read the Inclosures contained in your Lordship's Despatch No. 114, reporting the arrival at Valparaiso of the French British Frigate "La Reine Blanche" with 700 men on board, including a Governor and his staff, with 130 Soldiers who are all Mechanics and Artificers; although, from the repeated assurances afforded me by M. Guizot that there was no intention of sending an Expedition to New Zealand, I could not bring myself to believe that this armament was destined for that settlement.

I have however in the course of this day made every possible enquiry upon the subject, and the statement on the enclosed paper will I think satisfy your Lordship that, although the French Frigate "La Reine Blanche" may touch at some Port in New Zealand, yet that the French Government have no intention of forming a settlement upon any part of that Island, or of its Dependencies. I have, &c,

COWLEY.

[Sub-enclosure No. 5.]

MONSIEUR GARBIDON, Chef de Division des Colonies au Ministere de la Marine, Statement affirme, sur l'honneur, que la Fregate la Riene Blanche n'a point sa destination a la Nouvelle Zelande, non plus que le but de coloniser dans la groupe de la Tasmanie. Ce haut Fonctionnaire explique ensuite l'expedition de l'amiral du Petit Thouars. L'Amiral du petit Thouars commande notre station navale de la mer du sud. Il doit visiter les differens archipels de l'Oceanie Occidentale, centrale et orientale, et rester absent au moins deux ans encore. Il n'est pas question a proprement parler dans ces Instructions de coloniser sur un point determine, et il n'est pas que je sache detenteur d'instructions secretes de quelque nature que ce soit. Seulement il a reçu l'ordre de venir partout et de toute maniere dans ses voyages au secours des Francais et de donner au Gouvernement des renseignmens certains et precis sur le Commerce de l'Australie et des differents Isles, commerce qui a pris un grand eper surtout dans les dernieres annees. Il a de plus l'ordre d'examiner, s'il n'y aurait pas dans l'Australie, un lieu propre a la colonisation et d'en avertir le Gouvernement Francais. Les dernieres nouvelles de l'amiral sont de Valparaiso.

[Enclosure No. 6.]

VISCOUNT CANNING TO UNDER SECRETARY HOPE.

Sir,

Foreign Office, 17 Sept., 1842.

With reference to my Letter of the 5th of August last, I am directed by the Earl of Aberdeen to transmit to you for the information of Lord Stanley a Copy of a further Despatch from Her M's Charge d'Affaires in Chili, reporting the arrival of several French Ships of War to join Admiral Du Petit Thouars' Expedition.

I am, &c,

CANNING.

[Sub-enclosure.]

MR. JOHN WALPOLE TO EARL OF ABERDEEN.

My Lord,

Santiago, 14 May, 1842.

In reference to my Despatch No. 15 of March 30th, I have now to acquaint your Lordship that "La Triomphante" therein mentioned came into Valparaiso on the 7th April, having on board 40 Artillerymen. This Ship sailed on the 20th April for Gambiers Island, at which place her sealed instructions are to be opened.

She was followed on the 24th by the "Jules Cesar," a French Merchant Vessel, already noticed as chartered by the French Admiral.

This Vessel was engaged at six thousand francs per month but for no definite period.

On the 3d instant appeared the French Corvettes de Charge "Boussole" of 22 Guns, Captain Brignand, and "Ambuscade," 20 guns, Captain Mallet, and sailed yesterday with secret instructions left for them by Admiral Du Petit Thouars.

These Ships, as did also those previously mentioned, contained a number of Artillerymen with their proportion of Officers, with Stores and provisions of every description calculated for the formation and support of an Infant Colony.

By them also is brought a confirmation of the rumour of an intended occupation of the Marquesas as a favorable situation for the protection of the French Vessels employed in the Whale Fishing; but I still see no reason for an alteration of the opinion, in which I have ventured to indulge regarding a projected simultaneous settlement in North California, a point chosen as better adapted in every respect for the reception of French Convicts for Political offences. I have, &c,

JOHN WALPOLE.
SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 176, per ship Lady Raffles.)

My Lord,

Government House, 23rd Sept., 1842.

It having frequently been made a matter of reproach, not only to the Government of this Colony but also to Her Majesty’s Government, that the Land Fund of New South Wales has been expended on purposes which do not form legitimate charges on it, I have much pleasure in forwarding to Your Lordship the enclosed authentic Return of the whole Receipts and Expenditure of the Land Fund, during the ten years and a half that the system of selling land (introduced in 1832) has been in force.

From this Return, Your Lordship will collect the following facts:

That the gross proceeds of the sales of every description of land in the Colony (including some very valuable Building Land in Sydney) have amounted to £1,090,583 17 2

That, of this sum, there has been expended on Immigration from the United Kingdom to the Colony, more than 87 per cent., or £951,241 17 4

That, during the same period, the expenses of the Survey and sale of land within the Colony have amounted to £198,417 17 11

And that there has, during the same period, been expended in protecting and civilizing the Aborigines, the sum of £63,097 2 0

That the expenditure, therefore, on the three objects which form legitimate charges on the Land Fund, namely, the Survey and sale of the land itself, the Protection of the Aborigines, and Immigration, has exceeded the whole proceeds of the lands sold by a sum (which of course has come out of the ordinary Revenue of the Colony) of £122,173 0 1

I trust this statement will satisfy your Lordship that this Government is not justly open to the reproach of having improperly expended the Land Fund of the Colony.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

[This return will be found in the “Votes and Proceedings” of the legislative council.]
STANLEY TO GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 177, per ship Lady Raffles; acknowledged by
lord Stanley, 6th April, 1843.)

My Lord,

Government House, 24th Sept., 1842.

With reference to the Despatches numbered and dated
as in the margin,* on the subject of atrocities committed by or
on the Aborigines in the Port Phillip District, and especially
to the Murder of Mr. Codd at a place called Mount Rouse on
the 19th May, 1840, I have the honor to report to Your Lordship
Conviction and
that an Aboriginal Native, named Tigara, alias Alkeperte, alias
Roger, having been tried before Mr. Justice Willis at Melbourne,
and convicted of the Murder of Mr. Codd, was executed in pursu­
ance of his sentence on the 5th instant.

I enclose for Your Lordship's information a Copy of the
Minute, which was made by the Executive Council, when the
report of the Judge on the case of the Prisoner was brought
under consideration.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

[A copy of this minute, dated 10th August, 1842, will be found
in a volume in series II.]

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 178, per ship Lady Raffles.)

My Lord,

Government House, 26th Sept., 1842.

I have had the honor to receive Your Lordship's Despatch,
No. 83 of the 11th April, 1842, containing a letter for Dr.
Kinchela, LL.D., late Master in Chancery of this Colony, from
Mr. John Dillon of 102 Bride St., Dublin; and, having caused
the latter to be delivered, I have received from Dr. Kinchela the
accompanying sealed letter for Mr. Dillon, containing, as I am
informed, a remittance of money.

I have, &c.,

GEO. GIPPS.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 193, per ship Stratheden; acknowledged by
Sir George Gipps, 23rd July, 1843.)

Sir,

Downing Street, 28th September, 1842.

I transmit to you, herewith, the copy of a Letter addressed
to me by Mr. Burton Pinsent, of Bristol, representing the seri­
ous loss which he sustains through the neglect of the Post
Office Authorities at Port Phillip.

* Marginal note.—From the Secretary of State to Sir George Gipps: No. 138,
1st Sept., 1840; No. 190, 15th Decr., 1840; No. 184, 26th Decr., 1840; No. 202,
20th Feb., 1841, From Sir George Gipps to the Secretary of State: No. 140,
19th July, 1841; No. 145, 26th July, 1841; No. 185, 26th Sept., 1841.
I have to direct that you will call upon the Superintendent of that District for an explanation on the subject of the irregularities adverted to by Mr. Pinsent, and that you will communicate to me the Report which you may receive from that Officer.

I have, &c,

STANLEY.

[Enclosure.]

MR. B. PINSENT TO LORD STANLEY.

My Lord,

Bristol, 17th Sept., 1842.

I beg leave respectfully to acquaint you that, having a correspondent at Melbourne, Port Phillip, New South Wales, I am in the habit of constantly corresponding with that Settlement and beg to complain of the serious loss I sustain through the great neglect of the Post Office Authorities there. I have scarce a letter comes in the regular way. Within the last year, I have had two instances of original letters and their Duplicates, although directed, one direct, and the other via Sydney, yet have been sent by the Post Office Authorities, through the same conveyance; one of these sets of letters had a Remittance to a considerable amount, and the interest alone (which would have been saved, had one letter been forwarded as directed) was considerable, and the disappointment in not receiving it at the time was of great injury to me.

I also received a letter last, which had been posted at Melbourne, and yet 15 months on the way. I have now a lot of wool on board a vessel, that I cannot get, which I am satisfied is owing to the Post Office not having forwarded the letter containing the necessary document. I am of this opinion because I seldom get a letter regularly from Port Phillip; the post master does not either read the directions on them, or willfully neglects his duty. I trust the subject will be considered a sufficient excuse for my writing, as, if these things are suffered without complaints being made, such grievances, and there cannot be well a greater grievance in mercantile transactions, will never be remedied. I have before written to the English Post Office, but their reply is "they have nothing to do with the matter."

Hoping on these grounds you will excuse this liberty.

I remain, &c,

BURTON PINSENT.

P.S.—I have just seen Mr. Hinton, one of our most respectable solicitors here, who has a son at Port Phillip, and he complains of even worse treatment than I do: he says, a short time since, he received 6 letters at one time, which, instead of being forwarded as directed, were kept in the Post Office and forwarded at one time; thus, entirely doing away with the use of sending duplicates, and not only depriving us of the chances that may occur, through sending by 2 or 3 conveyances, but gives those parties a great advantage over us, who, knowing the irregular way in which matters are conducted by the Post Office, send their letters by private hands, and thus cheat the revenue of its due right.
My Lord,

Government House, 30th Sept., 1842.

I have the honor to report to Your Lordship that the Arrival of Barque "Theresa," which sailed from Plymouth with Bounty Emigrants on the 7th Jan., 1842, under a special permission from the Commissioners of Colonial Lands and Emigration, arrived here on the 23d Augt. last, after a voyage of very unusual duration, in the course of which she was detained several weeks at Pernambuco, on account of sickness* among the Emigrants.

Whilst so detained at Pernambuco, Bills to the amount of £1,954 15s. 3d. were drawn by the Master of the "Theresa," Mr. W. H. Driscoll, on the owner of the Vessel, Mr. Thomas Ward of London; but, as an additional security, a Bond or Hypothecation on the Ship, Freight, and Passage Money, was executed by the Master of the vessel at Pernambuco, under which, at the request of the Consul, Mr. Cowper, and with the advice of the Law Officers of this Government, I have kept back out of the sum withheld Bounties, due on the Emigrants by the "Theresa," the sum of £1,954 15s. 3d., to be paid in London to Mr. Thos. Ward, in the event of his having honored the Bills drawn on him by Mr. Driscoll, or, in the event of the said Bills having been dishonored, to be placed at the disposal of the Lords of the Admiralty, or of any other Department of Her Majesty's Government, by which any responsibility may have been incurred on account of the said Bills.

A Copy of a letter from the Consul at Pernambuco is forwarded herewith (together with the Original Bond and Papers alluded to in it), as also a Copy of the Report on the Immigrants by the "Theresa" made by the Immigration Board of Sydney; and I have to request that Mr. Barnard may be directed to pay on account of this Government, the sum of £1,954 15s. 3d., to the parties equitably entitled to receive the same.

The amount of the Bounties on the Emigrants £ s. d.
by the "Theresa" is .. . .. .. 3,312 0 0
Amount withheld, as herein stated .. .. 1,954 15 3

£1,357 4 9

I have, &c.,
Geo. Gipps.

[Enclosure No. 1.]

MR. H. A. COWPER TO SIR GEORGE GISPS.

Sir,
British Consulate, Pernambuco, 30th April, 1842.

I have the honor to inform your Excellency that, the Emigrant Barque "Theresa" having on her voyage from Plymouth to Sydney put into this Port with Typhus fever raging violently on

* Note 32.
Advance to W. H. Driscoll.

30 Sept. 1842.

Request for retention of bounties.

Board, she has been unavoidably detained here for two months, and she would have eventually been seized and sold for the payment of her debts, if I had not, at the suggestion of Her Majesty's Minister at Rio de Janeiro, advanced her, on behalf of Her Majesty's Government, the sum of one thousand nine hundred and fifty-four pounds 15s. 3d. Sterling, to enable her to prosecute her voyage.

I have done this upon Bills of Exchange drawn by the Master upon his owner, secured by a Hypothecation of the Ship, freight and passage money; and, as the latter is payable by the Colonial Government in the shape of Bounty, I have enclosed to your Excellency the Deeds of Hypothecation, the conditions of which I request your Excellency to see effected, namely, the retention of the above amount to be remitted in Treasury Bills, or Bills of the Bank of Australasia or the Union Bank of Australia to the Admiralty, to be applied by the Lords Commissioners, as the circumstances of the case may in their judgment warrant.

Your Excellency will perceive by the enclosed copy of a letter from Mr. Thos. Ward, the owner, that it was his intention to have had the Bounty money remitted to England in Bills such as I have suggested.

I have forwarded copies of this Despatch to the Earl of Aberdeen and to the Lords of the Admiralty.

I have, &c.,

H. AUGUS. COWPER, Consul.

[Enclosure No. 2.]

IMMIGRATION BOARD TO COLONIAL SECRETARY THOMSON.

Sir,

Immigration Office, Sydney, 17th Septr., 1842.

We do ourselves the honor to acquaint you, for the information of His Excellency the Governor, that, at the request of Messrs. W. T. Arnold and Co. of this City, we have examined the parties enumerated in the Margin,* whose names, ages and occupations together with the amount of Bounty payable for each are inserted in the accompanying List, and who have been selected and sent to this Colony in pursuance of the unconditional authority conveyed to those Gentlemen, in your letter dated March 12th, 1840.

These Immigrants left Plymouth on the 7th January last, in the Barque "Theresa," W. H. Driscoll, Commander, under the Medical Superintendence of George Yarnold, Esq., and arrived at Port Jackson on the 22nd Ult.

They were, on their arrival, in a healthy condition; and they have, with the single exception of Henry Wood, who embarked at Pernambuco under circumstances below stated, produced Certificates of Age, Character, etc., signed and certified in the manner prescribed by the Colonial Land and Emigration Commissioners; from a careful perusal of which as well as from personal observation, we have reason to believe that they are of the occupations of which they describe themselves to be, and are eligible as Bounty Immigrants, under the Regulations of 3rd March, 1840.

Having also satisfied ourselves by special enquiry that they were not only duly supplied with provisions and water, but were treated with praiseworthy liberality, we beg to recommend the payment of Bounties on their account, amounting to Three thousand three hundred and twelve pounds.

His Excellency will perceive, on reference to the date of the permission to import these Immigrants, that the period of two years,

* Marginal note.—41 Families; 46 Single Men; 33 Single Women.
within which they were to be introduced, expired on the 12th March last, and that consequently Messrs. Arnold and Co. are not strictly speaking entitled to Bounties on their account. Under the peculiar circumstances however which delayed the final departure of these Immigrants from England in the first instance, and the disastrous occurrences owing to which their voyage hither was protracted so much belong the usual length, His Excellency will doubtless waive all objection to the Importers' claim on this score.

His Excellency will also perceive that these Immigrants left England some months after the time prescribed by the Commissioners. As however it appears from the Memorandum attached by the Government Agent at Plymouth to his Certificate, transmitted herewith, that the "Theresa" sailed with the approbation of the Commissioners, we conclude that the claim to Bounties will not be prejudiced.

Of the Bounties claimed on account of the following individuals, we are not able to recommend the allowance:—

1. William Barnier, who appeared to us to be much under the age of 18, or if of that age, to be so deficient in bodily strength as to be ineligible, and who proves also not to be the son of William and Mary Barnier, as stated in his Certificate, but their nephew;

2. Samuel Veale, reported by the Water Police Magistrate to be a sailor; and

3. Margaret Hunter, who appears to us not to have been under proper protection.

We would recommend that the Bounties claimed for James Cook, stated by himself to be a Farm Steward, for Thomas Chambers, stating himself to be a Coachman and Groom, and Samuel McNally, stating himself to be a Land Steward, should not be allowed, unless it can be shown that they are engaged at that Calling to which their Certificates represent them to belong, which is that of Agricultural labourers.

Henry Wood, on whose account we have recommended payment of Bounty, was a resident at Pernambuco, and embarked there with the sanction of the Consul, in the room of a man named Samuel Shickler, who refused to come on to Sydney. He was not of course, therefore, provided with a Certificate from the Commissioners or their Agent. The British Consul, however, has certified, on the back of the Certificate of Shickler whose place he supplied, to the Goodness of Wood's character, and that he was taken on board with his (the Consul's) approval. Under these circumstances and in consideration of the heavy losses to which the Importers have been subjected, we hope the Bounty may be paid according to our recommendation. The Certificate referred to, we transmit herewith.

There is an excess of eligible single males over females by this Ship to the number of thirteen, from which we have deducted eight on account of females in excess by former Ships, thus leaving five on whose account payment cannot be made for want of a corresponding number of females.

A complaint having been preferred to the Immigration Agent in a letter addressed to him by one of the Immigrants per "Theresa," named George Knox (see annexed paper C), in which he stated that he had received much ill usage from the Master, and a document being at the same time forwarded containing no less than twenty
1842.
30 Sept.

Testimony in favour of master and surgeon.

Adverse criticism of Brazilian authorities.

seven specific charges against him and the Surgeon Superintendent (see also paper C), we felt it our duty to institute a formal enquiry into these and other complaints.

From our proceedings, the Minutes of which we append hereto (D), it will, we think, be evident to His Excellency that the complaints were frivolous, groundless, or referring to circumstances over which neither the Surgeon nor the Master had any control.

The almost unanimous expression of gratitude from the most respectable portion of the immigrants towards their Officers, coupled with the fair, open, and manly manner in which these Gentlemen have come forward to meet the accusations laid against them, and the readiness evinced by them to afford any explanation required, has satisfied us that their conduct throughout has been judicious, praiseworthy, and temperate. Indeed, when we consider the fearful difficulties with which they had to contend, the awful sickness which prevailed, their protracted voyage, and above all the inhumanity and opposition which they experienced at the hands of those from whom better things might have been anticipated, we can only express surprise and thankfulness that the issue was not more disastrous than it has proved; and, in recommending that the usual gratuities should be paid to the Surgeon and Officers of this Ship, as well on account of those immigrants for whom bounties may be refused or withheld, as those whose eligibility is not questioned, we desire to record our unanimous approbation of the indefatigable exertions and unwearied assiduity of Mr. Driscoll the Master, and Mr. Yarnold the Surgeon of the "Theresa," in the discharge of the onerous and responsible duties which devolved upon them.

In transmitting for His Excellency's consideration the accompanying letter, with its enclosures, addressed to us by Mr. Driscoll (see annexed paper marked E), we think it due to him to express our opinion that the course he pursued throughout the passage was dictated by prudence, and pointed out to him not only by expediency, but by the absolute necessity of the case.

With reference to the application contained in this letter for payment of the Bounties to himself on behalf of the Ship owner, instead of to the Importers of the immigrants, we do not consider that it is within our province to recommend a compliance with his request; but we shall feel satisfaction, if, under the peculiar circumstances of the case, His Excellency should be pleased to sanction some arrangement which will have the effect of relieving Mr. Driscoll from the heavy personal responsibilities which he has been obliged to incur.

We cannot omit to call His Excellency's particular attention to the copy of a letter (enclosed to us by Mr. Driscoll) from the British Consul at Pernambuco to the Secretary of State for Foreign Affairs, detailing the inhospitable conduct of the Brazilian Authorities towards those immigrants in their distress. Such a duty has never fallen upon us before, and we trust that we may not again be called upon, on behalf of British Emigrants, to charge the subjects of a Christian State with treatment so ungenerous and unfeeling.

We have, &c,

Francis L. S. Merewether.  J. Long Innes.
SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 181, per ship Lady Raffles.)

My Lord,
Government House, 2nd Octr., 1842.

With reference to my Despatch No. 106 of the 15th June, 1842, and the correspondence which has taken place respecting the delay of the Auditor General of this Colony, in transmitting his Accounts to the Commissioners of Audit, I have the honor to inform Your Lordship that the Auditor (Mr. Lithgow) has reported to me, that the accounts of the first half of the present year have been forwarded by him to the Post Office for transmission to England.

I have, &c.,

GEO. GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 182, per ship Lady Raffles.)

My Lord,
Government House, 4 Oct., 1842.

In obedience to the instruction contained in Your Lordship's Circular of the 1st April, 1842, I have the honor to forward herewith a Return of Steam Vessels registered in the Port of Sydney, in the Colony of New South Wales.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

[A copy of this return is not available.]

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 183, per ship Lady Raffles; acknowledged by Lord Stanley, 18th July, 1843.)

My Lord,
Government House, 6th Octr., 1842.

I have the honor to report to Your Lordship that the payment of £5,000, directed to be made into the Military Chest by Your Lordship's Despatch, No. 1 of the 16th Sept., 1841, has been this day effected; and, having with my Despatch, No. 154 of the 2nd Sept. last, transmitted a Bill for £5,000 drawn by the Governor of New Zealand on the Lords of the Treasury for the purpose of liquidating another sum of £5,000, due from this Government to the British Treasury, I have now the honor to report that the whole of the advances made by the Lords of the Treasury to Mr. Barnard, of which I have up to the present time had notice, are repaid, whilst there yet remains due to this Government the sum of £3,000 advanced to the Government of South Australia, as reported in my Despatch of the 12th Augt., 1841, No. 154, and approved by Your Lordship’s Despatch, No. 50 of the 5th Jany., 1842.
312 HISTORICAL RECORDS OF AUSTRALIA.

I beg further to report that, by the last account current received from Mr. Barnard, there appears to have been in his hands on the 31st Decr., 1841, a balance of £5,964 1s. 8d. in favor of this Government, exclusive of the large sums (as yet wholly unaccounted for), which he must have received for lands sold in England by the Commissioners of Colonial Lands and Emigration.

I have, &c.,

GEO. GIPPS.

LORD STANLEY TO SIR GEORGE GIPPS.

(Sdespatch No. 194, per ship Stratheden.)

Sir,
Downing Street, 8 October, 1842.

I have to acquaint you that, in consequence of an application from Mr. Plunkett, the Attorney General of New South Wales, I have acceded to that Gentleman’s request, to be permitted to postpone his departure for the Colony until the first week in January next.

I am, &c.,
STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 184, per ship Lady Raffles.)

My Lord,
Government House, 8th Octr., 1842.

I have had the honor to receive Your Lordship’s Despatch, No. 91 of the 19th April, 1842, desiring me, at the request of Ann Crossley, to afford any information in my power respecting her Son, Thomas Crossley, who emigrated in the ship “Argyleshire” from Liverpool on the 14th July, 1840; and in reply, I have to report that Thomas Crossley, a Native of Ashton under Lyne, aged 28, arrived in good health in this Colony by the ship “Argyleshire,” on the 12th Novr., 1840, but that nothing further can be traced respecting him.

The “Argyleshire” was a Bounty, not a Government Emigrant ship.

I have, &c.,
GEO. GIPPS.

LORD STANLEY TO SIR GEORGE GIPPS.

(A circular despatch, per ship Stratheden.)

Sir,
Downing Street, 10 Octr., 1842.

I transmit to you herewith for your information a Copy of a General Report of the Colonial Land and Emigration Commissioners, bearing date the 30 July last, of their proceedings during the preceding year.

I have, &c.,
STANLEY.

[Enclosure.]

This report was dated 30th July, 1842, and was printed in the “Parliamentary Papers” of the house of commons for August, 1842.]
STANLEY TO GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 185, per ship Lady Raffles.)

My Lord,

Government House, 10th Oct., 1842.

With reference to my Despatch No. 154 of the 2nd Septt. last, wherein I reported the circumstances, under which I had taken up a Bill for £5,000 drawn by the Governor of New Zealand on the Lords of the Treasury, I have now the honor further to report to Your Lordship that Mr. Cooper, the Collector of Customs of New Zealand, arrived in Sydney on the 29th ulto., having been sent hither by Governor Hobson, for the purpose of negotiating further Bills to the amount of £15,000, which however up to the present day he has not been able to accomplish.

I have very reluctantly felt myself forced to decline yielding any further assistance to the Government of New Zealand, as I find from Mr. Cooper that Governor Hobson had no direct authority from Her Majesty’s Government to draw on the Lords of the Treasury.

I have, &c.,

GEO. GIPPS.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 195, per ship Stratheden.)

Sir,

Downing Street, 11 Oct., 1842.

I referred to the Commissioners of Colonial Land and Emigration your Despatch No. 53, of the 13th of March last, with its Enclosures reporting the circumstances under which you had withheld one half of the Bounties claimed on the introduction of Immigrants into the Port Phillip District by the Ship “Ward Chapman”; and I transmit to you herewith the Copy of a Report, which has been received from that Board on the subject.

I concur in opinion with the Commissioners that, in the case of Bounty Orders, the final decision should rest, as it is declared to do with the Local Authorities.

I have, &c.,

STANLEY.

[Enclosure.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Colonial Land and Emigration Office, 9 Park St., Westminster, 29th September, 1842.

We have the honour to acknowledge your letter of the 12th Instant, accompanied by a Despatch from the Governor of New South Wales dated the 13th of March, reporting the circumstances under which he had withheld one half of the Bounties claimed on the introduction of Immigrants into the Port Phillip District by the Ship “Ward Chipman.”
Before making any other remarks of the case, we would premise that we quite agree with the Officers in the Colony in thinking that the entire want of previous experience both in the Owner of the "Ward Chipman" and in her Master and officers, is much to be regretted, and we have little doubt that from this cause, more than any other, sprung most of the inconveniences complained of by the people. It is perhaps one of the strongest objections to Emigration on Bounty that, being an open Trade (and it could not be otherwise without involving grave evils of another description), it encourages the entrance into the enterprise of persons, who, with good intentions and even general respectability and knowledge in their calling, may yet be quite without the particular experience necessary to successfully carry out large bodies of people to Australia. The check relied upon is that, if they fail, they forfeit their freight. This may be a good remedy against wilful faults. But it will always be a difficult one to enforce towards such Ship Owners as may have acted in good faith and with fair intentions; and, in the meantime, the Emigrants themselves will, in each case, have undergone their sufferings already.

But, while we make this general observation, we are anxious not to be understood as expressing, or even implying any opinion on the decision adopted in the particular case. The question of payment is, by one of the most essential conditions in all orders for Bounty, made to rest entirely and solely with the Colonial Government. Independently of the delays and other inconveniences, which would attend appeals from one Authority to another upon matters of this kind, we apprehend that it would be very unadvisable, on general grounds, to deviate from the terms of a clearly defined condition, upon which a pecuniary payment is made to depend in a class of Documents that have become the subject of very extensive Mercantile transactions. Such are the grounds on which we hope that Lord Stanley will deem us right in considering that any opinion of this Board on the correctness of the decision pronounced by the proper Authorities in the present case would be superfluous and misplaced. All we would state is that we apprized the owner of the "Ward Chipman" before she sailed, and again remarked to him upon his complaining to us of the refusal of Bounties after her arrival, that the payment of them depended exclusively on the judgment of the Authorities in the Colony. To them accordingly, we believe that the Owner has forwarded such further evidence as he was anxious to tender of the fitness of his preparations for the Voyage; and we have no doubt that whatever testimony, he may have been able to send out, will be duly weighed by the Governor, and such conclusion arrived at as may appear just on a review of all the facts brought within his Knowledge.

Without entering, therefore, into the propriety of the refusal of the Bounties, we believe that the points, on which Lord Stanley will probably desire a report from us, are those involving the responsibility of the Officer whom we employed at Bristol. Part of the long detention of the Ship before sailing has been ascribed to a delay in the arrival of the Government Officer to visit her; and again, if the provisions were of bad quality, that officer ought not to have granted his Certificate that the Vessel was properly furnished in that and other respects. But, immediately on first hearing of this case through the Owner, we called on Mr. Bromehead, who had visited the Ship, for an explanation; and, on the 15th June last, we forwarded his report* to the Colonial Department. We would

* Note 33.
STANLEY TO GIPPS.

request a reference to it, as it supplies Mr. Bromehead's answer by anticipation to the questions that suggest themselves on the present papers.

On the first of the two points above referred to, the statement of the Master is described to have been that the Stores and Provisions could not be shipped until after they had been inspected on shore by the Government Officer, but that, although expected from London for that purpose about the 1st of August, he did not reach Bristol until the 15th or 19th of that Month. It is to be observed that there being no resident Agent at Bristol, it was necessary to despatch some competent person expressly for the inspection of the "Ward Chipman"; and, as his employment must be attended with expense, it was proper that he should not go till he was wanted. Now we find that, on the 7th August, the owner wrote to inform this Office that the Ship would sail on the 14th and for the first time asked on what day the Inspecting Officer would be at Bristol. This letter we received on Monday, the 9th of August. On the 10th, we appointed Mr. Bromehead to the duty, and directed him to repair to Bristol forthwith, and, on the 11th, he went there accordingly. But, on the 16th, he stated that the Ship was not yet prepared for the reception of Emigrants, and it was not till the 26th that he was able to report her ready for Sea with the Emigrants on board. No complaint was made that the Shipment of the Stores had been kept back for the arrival of Mr. Bromehead, and it will be seen that this officer was appointed and actually at Bristol, within two days after receiving notice from the owner that his presence was required. The representation of the Master, therefore, on this point does not seem well founded.

The true cause of delay may probably be gathered from Mr. Bromehead's explanatory Report above referred to. He notices there the owner's entire want of acquaintance with the routine of despatching large bodies of Emigrants, and says that, had not himself or some one else practically conversant with the subject reached the spot, the delay would have been greater still. Mr. Bromehead, it will be observed, does not here refer to the Office which it was his duty to discharge, but to the casual assistance he was able to give as a person acquainted with the subject of the owner's undertaking. With regard to the hardship of the detention to the Emigrants which appears to have been included in the considerations for inflicting the Mulct on the Owner, justice requires us to draw attention to the distinct assertion made by Mr. Bromehead, that he refused to grant his general Certificate of approval, until the provisions of the Act in such cases were complied with; that, before their embarkation, he told the Emigrants, in the presence of the Owner, to apply to a Magistrate if not contented, and he would accompany them; and that he did not give his Certificate until he satisfied himself at the last moment by questioning the parties separately, that there was no complaint remaining.

With respect to the quality of the Provisions, the evidence, as might be expected, is more conflicting. Those of the Emigrants, who appeared before the Board of Inquiry, complained of them altogether. The Master and a Mate of the Ship said that the Soup and Bouilli had not answered, but that they had not been conversant with the use of such articles before; and they spoke of the bulk of the provisions as not being of the first quality, but for the most part of a fair average description. On the other hand, Mr. Bromehead, in his explanatory Report of the 14th June, asserted that he
had strictly examined all of the provisions, and had remarked at the time that he had scarcely ever seen better for such service; and that he had made this remark not from their appearance alone, but took home a sample of each article, and had it cooked for his own use, thereby satisfying himself as well as some other persons of the correctness of his first observation. It is remarkable that in this report, written before the present papers arrived, Mr. Bromehead added that the Preserved Meats and Soup often became a subject of complaint, not from their quality, but from a defect in the manner in which they were prepared for use. And the Owner has since transmitted some papers, of which we beg to enclose Copies, containing the account of an Examination of the Bouilli and Soup of the Manufacturer, from whom he bought his supply, before several persons of the first eminence at Edinburgh. These articles, said to be taken at random from a large stock prepared 18 months ago, were sworn to be of the same quality furnished to the "Ward Chipman," and also to a great number of other Ships, by the same Manufacturer and the result of the examination was entirely favourable to them.

With regard to his qualifications, it may be stated that Mr. Bromehead was long a Surgeon at Sea; he was employed on several Voyages to India in charge of Troops for the East India Company, and, for about a year and a half, he acted as Surgeon Superintendent of Emigrant Ships for the South Australian Board in this Country, and from time to time made the voyage in the Vessels from London to Plymouth or Cork in order to observe the working of the arrangements, and to instruct the Surgeon of the Ship in the routine of management. When the Emigration to South Australia stopped, his appointment ceased; but, from his acquaintance with the subject, he has been occasionally employed in any case such as that of the despatch of the "Ward Chipman," where the temporary services of some one of experience, and known to the office, were required.

Such is the information, which we have to offer on the circumstances connected with the "Ward Chipman," so far as concerns the inspection of her before she left England. Into the more general question of the fitness of granting or refusing the Bounties, on which the Governor thought that an appeal might possibly be made in this Country, we have already submitted the grounds on which we believe that it is not desirable to enter.

We have, &c,

T. FBEDK. ELLIOT.
J. G. S. LEEVE.

[Sub-enclosure No. 1.]

MR. R. LEWIS TO MR. JOHN GILLON.

Dear Sir,

6 Quality Street, Leith, 23rd May, 1842.

The cases of Soup and Bouilli, that I took from your Store this morning, were opened in the Housekeeper's room at the Royal Infirmary, in presence of Doct. Graham, President of the Royal College of Physicians, and found in excellent condition. The Meat being quite fresh, and the Vegetables perfectly succulent, and of the same favour, as the day they were put up. The proper quantity of water was added, and the whole subjected to the heat as directed; the result was a mess that was pronounced very savoury and nutritious by the whole Staff of Physicians and the Apothecary of the Hospital, who will give you a Testimonial to that effect.

There was accidentally a Meeting of the Managers of the Infirmary to-day, consisting of Lord Medwyn, Sir Henry Jardine, Mr. Commissary Wemyss, Mr. Henry Legis and Mr. James Hope, who assembled in the Housekeeper's room, and, after partaking of the Soup and Bouilli referred to, declared it to be capital. These philanthropic and scientific Gentlemen will, I have no doubt, willingly testify to
that effect. As an individual referred to, I most cheerfully express my decided opinion of the excellence of the Soup and Bouille in question, as well as of the prime condition of all the preserved provisions, I have had frequent opportunities of seeing in your large Establishment here. But the most conclusive Testimonial I can give is the statement of the fact that I have, once and again, sent supplies from your abundant Stores to my Sons in the West Indies, as the most acceptable and wholesome Articles of diet, I could send to them from this Country.

I am, &c.

ROBT. LEWIS.

[Sub-enclosure No. 2.]

SUPPLIED by John Gillon and Co., Leith.

"Dauntless," from Greenock to New South Wales, Jan'y., 1840, 3,000 lbs. Soup and Bouille.

"Bucephalus," London to India with Troops, June, 1840, 2,000 lbs. Soup and Co.

"Robert Small," London to India with Troops, July, 1840, 2,400 lbs. Soup and Bouille.

"Seaton," London to India with Troops, July, 1840, 1,800 lbs. Soup and Bouille.

"Duke of Argyle," London to India with Troops, Augt., 1840, 3,000 lbs. Soup and Bouille.

"Susan," London to New South Wales, Sept'r., 1840, 4,482 lbs. Soup and Bouille.

"Amelia," Greenock to New South Wales, Jan'y., 1841, 4,002 lbs. Soup and Bouille.

"Catherine Jamieson," Leith to New South Wales, May, 1841, 3,600 lbs. Soup and Bouille.

"Ward Chipman," Bristol to New South Wales, June, 1841, 6,798 lbs. Soup and Bouille.

"Calder," Greenock to New South Wales, Jan'y., 1840, 2,604 lbs. Soup and Bouille.

Total, 33,886 lbs. Soup and Bouille.

The above is a true and correct List, so far as it goes; but, in 1840, we sent out upwards of 100,000 lbs. weight and, in 1841, 128,400 lbs. weight of 6 lb. Soup and Bouille and we never had a solitary complaint.

Leith, 15th June, 1842. JOHN GILLON and Co.

[Sub-enclosure No. 3.]

AFFIDAVIT BY JOHN GILLON.

At Leith, on the 15th June, 1842, compared before Provost James Reoch, one of Affidavit by Her Majesty's Justices of Peace, John Gillon, sole Partner of the Firm of John J. Gillon.

Gillon and Co., preserved provision Manufacturers, Leith, who, being solemnly sworn, deposes:

That the two six pound cases of Soup and Bouille, alluded to in the accompanying Certificate, opened in the presence of Lord Medwyn (J. H. Forbes), Sir Henry Jardine, Dr. Robert Graham, M.D., David Craigie, M.D., and the elite of the Medical School of Edinburgh, Managers of the Royal Infirmary there, was of the very same quality in every particular as that furnished to the ship Ward Chipman and many other Ships for the use of Emigrants, also the Bucephalus, Robert Small, Seaton and Duke of Argyle all from London to India with Troops, besides many other ships' names unknown to deponent, supplied thro' Customers; That indeed and in truth deponent's 6 lb. Soup and Bouille has given such general satisfaction from the first that he has uniformly put up the same quality and that supplied the Ward Chipman must have been and was neither better nor worse than that supplied others and deponent never in one instance had that article complained on. All which is truth as deponent shall answer to God.

Sworn before:—JAMES REOCH, J.P. JOHN GILLON.

[Sub-enclosure No. 4.]

CERTIFICATE.

Royal Infirmary, Edinh., 23rd May, 1842.

It is hereby certified that a Six pounds weight Case of Soup and Bouille, taken we Certificate re understand at random from a large parcel prepared upwards of eighteen months examination of sgo by Mr. John Gillon of Leith, was this day opened in our presence and found in most excellent condition.

We have no hesitation in stating that the use of animal and vegetable food so preserved must prove highly salutary during long Voyages, and in climates and situations where fresh animal and vegetable food cannot be otherwise obtained, And a powerful prevention of those diseases which have so frequently been disastrous to Sailors at Sea and Soldiers on foreign service.

ROBERT GRAHAM, M.D. G. FAYMAN, M.D.

DAVID CRAIGIE, M.D. WM. M. HENDERSON, M.D.

DAVID MCLAGAN, M.D. A. McDougall, Surgeon.
HISTORICAL RECORDS OF AUSTRALIA.

Sir George Gipps to Lord Stanley.
(Despatch No. 186, per ship Lady Raffles.)

Government House, 11th Octr., 1842.

My Lord,

With my Despatch, No. 39 of the 22nd Febry., 1842, I forwarded various Returns, called for by Lord J. Russell's Circular of the 29th May, 1841, of which Returns one (relating to Immigration) was necessarily forwarded in an incomplete state; I have consequently now to request that the Return forwarded herewith may be substituted for the one in question.

I forward with the Return a Copy of a letter from the Immigration Agent explaining the nature of it.

I have, &c,

Geo. Gipps.

[Enclosure.]

Mr. F. L. S. Merewether to Colonial Secretary Thomson.

Sir, Immigration Office, Sydney, 13th May, 1842.

With reference to my letter of 14th of February last, enclosing a Return of the Bounty Immigration to Sydney, during the year 1841, in the form required by the Colonial Land and Emigration Commissioners, and Stating that I was unable at that time from want of the requisite information to include in the Columns of that Return the number of Immigrants landed at Port Phillip, I now do myself the honor to enclose a complete Return of the Bounty Immigration to New South Wales during the year 1841.

In transmitting this document, I beg to observe that (the numbers inserted in the Columns respecting trade, etc., are compiled from the Statements made by the Immigrants when examined by the Board, and that, having had no means of obtaining a satisfactory record of their engagements in the Colony, by which to test the accuracy of their own representations of themselves, I do not consider that the information given in those columns can be depended upon as a correct account of the distribution of the labour which has arrived.

His Excellency will at once see that, the number of agricultural labourers being 5,317 and the number of Shepherds being only 328, a vast proportion of those represented to belong to the former calling must be actually employed in the latter. It is not improbable also that, in addition to the number who have been detected by the Board and have not in consequence been paid for, some few individuals not belonging to the class of Agricultural labourers may have been passed as such, and so be entered under a heading which does not apply to them.

In my former Return above alluded to, the total number of Bounty Immigrants was stated to be 19,711, being in excess of that now given by 188; this difference is occasioned by disallowances of Bounty of which I was not at that time aware.

I have, &c,

Francis L. S. Merewether.

[Sub-enclosure.]

[A copy of this return is not available.]
SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 187, per ship Lady Raffles.)

My Lord, Government House, 12th Oct., 1842.

I have the honor to forward herewith to Your Lordship five Returns, marked respectively A, B, C, D and E, shewing the progress of Immigration into this Colony during the half year ended the 30th June, 1842.

I should explain that these Returns have been made by the Immigration Agent for the satisfaction of this Government, and are independent altogether of those which the Agent is required to make for transmission to Your Lordship, on the application of the Commissioners of Colonial Lands and Emigration.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

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

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 188. per ship Lady Raffles; acknowledged by lord Stanley, 1st May, 1843.)

My Lord, Government House, 13th Octr., 1842.

I have the honor to transmit herewith Lists of Immigrants, who have been landed at Port Phillip from the ships "Earl of Durham," and "Platina," on account of Mr. Dendy, who was the purchaser of a special Survey in that District.

No Bounty has been paid on these Immigrants in the Colony, and I am not informed of the precise terms on which they have been sent out; I have however caused the Bounties to be calculated, which would have been payable on them, if they had come out on the regular Bounty system; and I beg to suggest that these documents be referred to the Commissioners of Colonial Lands and Emigration.

Your Lordship will perceive that, among the Emigrants by the "Earl of Durham," there are several who are not eligible under the Bounty regulations.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

[Copies of these returns will be found in a volume in series III.]
1842.
13 Oct.

Differences between J. W. Willis and judges of supreme court.

Discretion used by judges; but want of discretion by J. W. Willis.

Repeated instances of temper of J. W. Willis.

Excitement at Melbourne.

Differences between J. W. Willis and judges.

Remittal of sentence on G. Arden.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 191, per ship Lady Raffles.)

My Lord,

Government House, 13th October, 1842.

Your Lordship will, I am sure, have perceived with regret by my Despatches dated and numbered as in the margin,* that differences have again broken out between Mr. J. Walpole Willis, the Resident Judge of the Port Phillip District, and the Judges of the Supreme Court in Sydney.

Differences, relating merely to the extent to which the Court in Sydney can exercise appellate jurisdiction over the Court at Melbourne, need not have led to any expression of acrimonious feelings between the Judges of the respective Courts; and I feel it a duty to say that I believe the Judges in Sydney have carefully abstained from the use of any expressions, either from the Bench or in their official correspondence, that could reasonably be deemed offensive to Mr. Justice Willis; but it is with very great regret I feel I cannot certify to Your Lordship that an equal degree of caution or forbearance has been exercised by Mr. Justice Willis, whose letters alone (some of them too written expressly for Your Lordship's eye) afford, I would venture to submit, internal evidence that Mr. Willis is afflicted with an infirmity of temper, which, notwithstanding his varied acquirements and acknowledged talents, goes far to unfit him for the calm and dispassionate administration of Justice.

The occasions, on which the irritability of Mr. Willis' temper has brought him into collision with his own colleagues on the Bench, with the Practitioners in or Officers of his own Court, and with the Public Press, are so numerous, that it would be scarcely possible for me to notice them in a single Despatch; and for many months past, I regret to say, the Town of Melbourne has been kept in a state of continued excitement by the proceedings of Mr. Justice Willis, and the extraordinary nature of the harangues, which he is in the habit of delivering from the Bench.

In my Despatch of the 3d Jany., 1841, No. 7, to Lord J. Russell, I reported at considerable length on the differences which then existed between Mr. Willis and his colleagues, differences which were comprised, rather than accommodated, by his removal to Port Phillip.

With my Despatch, No. 93 of the 18 May last, I reported the circumstances, under which I had, on the recommendation of the Law Officers of the Crown, and with the advice of my Executive Council, remitted a sentence of fine and imprisonment, pronounced by Mr. Willis on Mr. George Arden, the Editor of a Newspaper at Melbourne, for a Libel on himself; whilst my Despatches, already referred to of the 27th Augt., and 10th Sept.

* Marginal note.—No. 151, 27th Augt., 1842; No. 163, 10th Sept., 1842.
last, have brought before Your Lordship the complaints of the Sydney Judges, in the case arising out of the Will of a Mr. Batman, and partially also the complicated cases, which have grown out of the insolvency of a Mr. Snodgrass. In these latter proceedings, a question arose whether a Mr. Carrington, an Attorney practising at Melbourne, had in certain transactions, wherein he had been engaged with the Insolvent, acted for him in the capacity of an Attorney or as a Partner. Mr. Justice Willis, considering that Mr. Carrington and Mr. Snodgrass had in these transactions stood to each other in the relation of Attorney and Client, ordered Mr. Carrington to bring certain accounts into Court, and, on his failing to do so, put in force the authority against him, which the Law allows a Judge to exercise over a contumacious Officer of his Court, that is to say, he imprisoned him, attached his property, and struck him off the Roll of Attorneys. Mr. Carrington appealed to the Court in Sydney; the Court entertained his appeal, and ordered him to serve notice of the same on the Resident Judge. Mr. Carrington, in serving this Notice on the Judge (being at the time out on bail), was again sent to Prison by the Judge for an alleged assault on his person, as also was a gentleman of high respectability, named Ebden, who accompanied Mr. Carrington on the occasion; the two prisoners (Messrs. Carrington and Ebden) being brought before a Bench of Magistrates, Mr. Justice Willis swore to Mr. Carrington’s having assaulted him, and to Mr. Ebden’s being aiding in the assault; but he subsequently withdrew his charge against Mr. Ebden, and the charge against Mr. Carrington was dismissed by the Magistrates.

In the matter of the appeal, the Judges in Sydney decided in favor of Mr. Carrington, and against the Resident Judge; but the latter denies that they had any right to entertain the appeal, and thus the matter at present rests.

Mr. Ebden has been advised that he has just cause of action against the Judge for false imprisonment; but it is evident that his action cannot be tried in the Port Phillip District, where Mr. Justice Willis himself is sole Judge.

Mr. Justice Willis has called on the Sydney Judges to forward to me the whole proceedings in Mr. Carrington’s case, in order that I may transmit them to Your Lordship; but the Judges have, I believe, declined to do so on his demand; they would doubtless furnish me with a report of the case, were I to call upon them to do so; but, in the actual and unfinished state of the proceedings in which Mr. Carrington is engaged, it appears to me that the time is not arrived, at which it would be proper for me to call on the Judges for any report respecting them.
In the mean time, I brought two specific applications, one from Mr. Carrington, the other from Mr. Ebden, before my Executive Council, the nature of which will be seen by the enclosed Minutes of the Proceedings of the Council.

Your Lordship will, I trust, perceive the very difficult position in which I am placed in respect to Mr. Justice Willis. Though strongly persuaded that his continuance in the Port Phillip District cannot be conducive to the peace or good government of it, I scarcely feel that I should be as yet justified in bringing his whole conduct before my Executive Council, with a view to his suspension from office. The various cases against him are also full of technicalities, in the discussion of which it would be desirable for the Council to have the advice and assistance of the other Judges; but this the Council cannot have, as the Judges are all parties against him. I am also in great measure precluded from seeking advice from the Attorney General, as he too has appeared before me as an accuser of the Judge, in a case quite distinct from any that I have alluded to, and which I am not as yet in a condition to enter on.

There is also a case of a distinct nature before me, in which Mr. Justice Willis has called on the Attorney General to prosecute the Editor of a Sydney Newspaper for Libel, but wherein the Attorney General has refused to prosecute, except it be at my express command, and another case, in which I have supported Mr. La Trobe in declining to authorize a Government prosecution (on the application of Mr. Justice Willis) against an Editor at Port Phillip; and I have further from Mr. La Trobe a complaint against Mr. Justice Willis, for having given to the Editor of another Paper (in his own interest) copies of certain documents which were transmitted officially to him by Mr. La Trobe.

Mr. Willis has applied to me for Leave of Absence, which I have promised him he shall have, if provision can be made for the due performance of his duties during his absence without expense to the Colony; but I have declined acceding to a proposal made by him that Mr. Croke shall act as Judge during his absence, for reasons which may be gathered from my Despatch to Lord J. Russell of the 28th Sept., 1841, No. 194.

In conclusion, I beg to remark that it was my intention to abstain from bringing before Your Lordship any case in which Mr. Justice Willis was concerned, until I could submit it in a complete shape; but I feel I ought no longer to delay bringing the subjects alluded to herein in a general way before Your Lordship, as I am informed that Petitions to the Queen and both Houses of Parliament are in the course of preparation at Melbourne by the partizans of Mr. Justice Willis.
I will only add that, as the Local Legislature has full power to settle any points respecting the disputed jurisdictions of the two Courts, I have it in contemplation to propose to the Legislative Council the passing of an Act to remove all doubt upon the subject; and to declare that an appeal shall lie from the Court of the Resident Judge in the Port Phillip District to the Supreme Court of the Colony, in all cases wherein it is usual to allow of an appeal from an inferior Tribunal to a superior one. The inconveniences, which have arisen from the independent action of a single Judge in that District, are, I consider, quite sufficient to justify the introduction of such a measure.

I have, &c.,

GEO. GIPPS.

P.S.—Since this Despatch was written, I have received a formal complaint against Mr. Justice Willis from the three Judges in Sydney; also, a formal complaint against him from the Attorney General; and a Petition to the Queen from parties who are favorably disposed to the Judge at Port Phillip.

I regret that time will not allow me to forward any of these documents by the present opportunity.

14th Octr., 1842.

[Enclosures.]

Copies of these papers will be found in a volume in series III.]
was transferred from the 28th Regiment of Foot to the Mounted Police of New South Wales.

I have to direct that you will furnish me with any information in your power respecting this person.

I have, &c.,

STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 190, per ship Stratheden.)

Sir,

Downing Street, 18th October, 1842.

I have received your Despatch No. 54 of the 14th March last, in which you request to receive further Instructions in regard to the Claim of Mr. Perrott to Land as a Military Settler, and further observe that no reply has been returned to your Despatch No. 142 of the 1st November, 1839, in which you reported the nature of the measures you proposed, with the concurrence of your Executive Council, to follow in arranging the claims of Military Settlers, in consequence of the recent increase of the upset price of Lands from 5s. to 12s. an Acre. On referring to the former correspondence, it appears that, on the 1st April, 1839, you first stated the course which you contemplated on this subject. Your intention then was to allow Land at 5s. to those Officers, who had emigrated under Regulations issued from the Horse Guards in 1834, and to enforce the price of 12s. as to those who emigrated under the Regulations of 1838. That measure was approved by the Secretary of State. In your subsequent Despatch, to which you now refer, dated 1st November, 1839, You pointed out the difficulty of distinguishing between Officers who had bona fide come out on the strength of each set of Regulations, and the consequent necessity of establishing some definite rule; and you stated that you had resolved therefore, with the advice of the Council, that all officers, who had left England prior to the 1st of January, 1839, should receive their Land under the Regulations of 1834, and all after the 1st of January, 1839, under the next set of Regulations dated in 1838.

I have to convey to you my sanction of the general arrangement which you reported, and you will dispose of the case of Mr. Perrott, on the same principles which have been already carried into effect in respect of all other Military Settlers Emigrating at the same period.

At the same time, I have to observe that the silence of the Secretary of State, to which you advert, might in this case be fairly assumed to imply an acquiescence in a proposal which was in fact accessory to the principle which had been formerly sanctioned.

I have, &c.,

STANLEY.
SIR GEORGE GIPPS TO LORD STANLEY.

My Lord,

Government House, 18th Oct., 1842.

With reference to my Despatches of the 15th Augt. last, numbered from 142 to 147, reporting upon the state of Norfolk Island, and the measures which I had recently thought it fit to decide on, I have now the honor to forward to Your Lordship Copies of various communications which reached me from the Island on the 5th instt.:

1. Copies of two letters from Captn. Maconoehie, dated respectively the 17th and 26th Sept., 1842, replying to the complaints made of the working of his system by Mr. John W. Smith of the Commissariat Department.

2. Copy of a letter from Mr. Smith in support of his complaints; these three documents have particular reference to my Despatch, No. 145.

3. Copy of a letter from the Revd. Mr. McEncroe, respecting the state of crime on the Island, having reference particularly to the latter part of my Despatch, No. 145, and the Attorney General's letter which was enclosed in it.

4. Copy of a letter from Captain Maconoehie on the state of crime on the Island having reference also to the Attorney General's letter just mentioned.

5. Copy of a letter from Captn. Maconoehie to myself acknowledging the receipt of a Copy of my Despatch to Your Lordship, No. 147 of the 15th Augt. last, and commenting on the same.

I beg to explain to Your Lordship that I forward these various documents merely by way of information; and I have simply to add that I see nothing in them to induce me to alter the intention, which, in my Despatch No. 147, I reported I had formed of removing all the English Prisoners (as they are termed) from Norfolk Island to Van Diemen's Land in the Month of March next.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

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

SIR GEORGE GIPPS TO LORD STANLEY.

My Lord,

Government House, 22nd Oct., 1842.

With reference to my Despatch No. 135 of the 29th July, 1842, wherein I reported the suspension of Mr. Le Soeuf, assistant Protector of Aborigines at Port Phillip, I have now to

1842. 18 Oct.

[Transmitting reports from Norfolk island.]

[Decision to remove convicts from Norfolk Island.]
acquaint your Lordship that I am informed by Mr. La Trobe that he has not acted on the authority I gave him to suspend Mr. Le Soeuf, the differences between Mr. Le Soeuf and the Chief Protector, which formed the sole grounds of his suspension, being adjusted.

As Mr. La Trobe had in every other respect reported favorably of Mr. Le Soeuf, I have to request Your Lordship's permission to allow my Despatch above mentioned of the 27th July last to be cancelled.

I have, &c,

GEO. GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 198, per ship William Fletcher; acknowledged by Lord Stanley, 16th April, 1843.)

My Lord,

Government House, 23rd Octr., 1842.

At the request of the Moderator of the Synod of Australia, I have the honor to forward herewith a Loyal Address of Congratulation on Her Majesty's escape from the atrocious attempt on Her Majesty's Life, which was committed in the month of May last; and I have, on the part of the Moderator and Synod, to request that the same may be presented to Her Most Gracious Majesty.

I have, &c,

GEO. GIPPS.

ADDRESS.

May it please Your Majesty,

The Ministers and Elders of the Synod of Australia, being now assembled, have learned with deep concern and regret that an attempt was made in the month of May last upon the life of Your Majesty. They cannot therefore separate without expressing their abhorrence of this enormous offence, the lively solicitude they feel for Your Majesty's safety and peace, and their thankfulness to Almighty God that He has been pleased in his gracious providence to shield Your Majesty from such violence, avert threatened calamity from the nation, and vouchsafe Your Majesty great fortitude and composure under so alarming an occurrence.

They embrace this opportunity of declaring their warm attachment to Your Majesty's person and Government, and of giving utterance to the prayer that God may long spare Your Majesty in peace and in the enjoyment of every domestic blessing, to reign over a free and loyal people both in the United Kingdom and in the various colonies and dependencies of the British Crown, and that, under the benign Government of Your Majesty, He may cause godliness and righteousness to prevail, and prosperity and peace to be uninterruptedly enjoyed by all classes of Your Majesty's subjects.

In name and by authority of the Synod of Australia,

WM. HAMILTON, Moderator.

Sydney, New South Wales, 12th Oct., 1842.
STANLEY TO GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 199, per ship William Fletcher.)

My Lord,

Government House, 24th Octr., 1842.

I have had the honor to receive Your Lordship's Dispatch, No. 104 of the 13th May, 1842, enclosing to me a copy of a Despatch which was addressed by Your Lordship on the same day to the Governor of South Australia, on the subject of conflicts which had taken place on the Murray River between the Aborigines and a Party proceeding overland from South Australia to Sydney; also desiring me to impress upon the Colonists of New South Wales the necessity of travelling across the Districts, which have lately been the scene of so much conflict, in sufficient force to overawe the natives.

Having, in my Despatch No. 141 of the 11th Augt. last, fully reported to Your Lordship on the subject of the communication by land between this Colony and South Australia, I trust I may be permitted to refer to that Despatch, as containing a full exposition of my views on the subject. I have, &c,

GEO. GIPPS.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 201, per ship Stratheden; acknowledged by Sir George Gipps, 9th June, 1843.)

Sir,

Downing Street, 25 Oct., 1842.

I transmit to you herewith the enclosed Copies of a Correspondence, which has passed between the Horse Guards, the Board of Ordnance and this Department, on the occasion of an Application having been addressed to the Commander in Chief by the Officer Commanding the Forces in New South Wales for two Companies of Artillery to be added to the Force in that Command, for the Service of Four Batteries which he states to be in the course of erection or repair, and for four other Works of Defence in Contemplation.

You will perceive that it is stated, in the Letter of the Secretary to the Board of Ordnance of the 15th August, that the Batteries at Pinchgut Island and Bradley's Head were ordered by "the Governor in 1840."

In referring you to the Despatch addressed to you by my Predecessor on the 21 April, 1840, in which you were informed that Her Majesty's Govt. were not prepared to undertake the works of Defence proposed by the Commanding Royal Engineer, I have to request that you will furnish me with a full explanation of the circumstances, under which the erection of these Works were subsequently sanctioned by you. I have, &c,

STANLEY.
HISTORICAL RECORDS OF AUSTRALIA.

[Enclosure No. 1.]

LORD FITZROY SOMERSET TO UNDER SECRETARY STEPHEN.

Sir, Horse Guards, 4 July, 1842.

I do myself the honor, by desire of the General Commanding in Chief, to transmit to you for the consideration of Lord Stanley the copy of a Letter from Lieut. General Sir Maurice O'Connell, recommending for the reasons therein stated the addition of two Companies of Artillery to the Force allotted for the protection of N.S.W. and its Dependencies.

I have, &c,

FITZROY SOMERSET.

[Sub-enclosure.]

SIR MAURICE O'CONNELL TO THE ADJUTANT-GENERAL.

Sir, Sydney, New South Wales, 15th February, 1842.

I have the honor to report for the information of the General Commanding in Chief that four Batteries, now in the course of erection or repair for the protection of this Harbour and the Town of Sydney, are approaching to completion, and are almost in a state of readiness to receive the Guns destined for them.

In addition to these four Batteries, there are four other Works in contemplation.

In laying this Report before Lord Hill, I request you will bring under his Lordship's notice the necessity of now sending a Detachment of Artillery to this Command, for, agho. I have directed that the 28th Regt., now in Garrison in Sydney, shall be instructed in the Battery and Great Gun exercises by Lieutt. Colonel Barney, Commanding Royal Engineer, who has taken a great deal of pains in teaching them, I still question much whether their fire would be very effective in case of necessity.

There is moreover no Naval force on this Station, and, as there is both an American and a French Squadron in the South Seas, we might in case of a War with either of those Powers anticipate an attempt on their part to levy contributions in Port Jackson.

I have no doubt that, even now, we could give them a sufficiently warm reception to prevent their doing us much injury; but, as manning the Batteries from the Line, even were the men efficient Gunners, would materially weaken the only Regiment I have in Garrison, I hope his Lordship will not fail to urge on the Master General of the Ordnance the necessity of embarking a Detachment of Artillery for this Command with as little delay as possible.

I should say that for V. D. Land and N. S. Wales, nearly 2 Companies would be required.

I have, &c,

M. C. O'CONNELL, M. General.

[Enclosure No. 2.]

UNDER SECRETARY STEPHEN TO MR. R. BYHAM.

Sir, Downing Street, 29 July, 1842.

I am directed by Lord Stanley to transmit to you, to be laid before the Master General and Board of Ordnance, the enclosed Copy of a Letter from the Military Secretary to the General Commanding in Chief, with a copy of a Communication from Lieut. General Sir Maurice O'Connell, Commanding the Troops in N. S. Wales, recommending for the reasons therein stated that two Companies of Artillery should be added to the Force in that Command.

Referring to the former Correspondence on the subject, and especially to my Letter to you of the 22d April, 1840, it appears that the plan, which was sent home by the Commanding Royal Engineer of Military Defences, which it was proposed to construct in N. S. Wales, was not sanctioned by Lord J. Russell or by the Board of Treasury. Sir Maurice O'Connell however now reports that four Batteries are nearly completed, and that four other works of defence are in contemplation, and on that circumstance grounds the demand for two Companies of Artillery.

Lord Stanley would wish to be informed when and by whom the Batteries now referred to were authorized, what are the new
works "in contemplation," and whether the Master General and Board are of opinion that, with the present force of the Royal Artillery, it would be desirable or possible to comply with Sir M. O’Connell’s Requisition.

I have, &c.,

JAS. STEPHEN.

[Enclosure No. 3.]

MR. G. BUTLER TO UNDER SECRETARY HOPE.

Sir,

Office of Ordnance, 15 Augt., 1842.

With reference to your Letter, dated 29th Ulto., transmitting Letter by Lord Stanley's desire a copy of one from the Military Secretary to the General Commanding in Chief, with a copy of a Communication from Lieut. General Sir Maurice O’Connell, Commanding the Troops in N.S.W., recommending, for the reasons therein stated, that two Companies of Artillery should be added to the Force in that Command;

I have the honor, by desire of the Master General and Board, to inability to request you will apprise Lord Stanley that the Existing Establishment of the Artillery force of this Country will not admit of such an addition being made to the Artillery in New South Wales, as Lieut. General Sir Maurice O’Connell’s letter applies for.

With respect to that part of your Letter, wherein, in referring Report re to the former Correspondence on the subject, and especially to your batteries. Letter of the 22d April, 1840, you signify the wish of Lord Stanley to be informed when and by whom the four Batteries, referred to by Sir Maurice O’Connell as nearly completed, were authorized, and what are the new Works “in contemplation,” I am to request you will have the goodness to state to his Lordship that the “Batteries” not being named in the correspondence, it can only be inferred that the four alluded to are:

1. Daw’s Battery An old work repaired under Item 8 of the Ordnance Estimates for 1841-2.
2. Fort Macquarie Do. Do. Do.
3. Pinchgut Island New Batteries ordered by the Govr. in 1840.
4. Bradley’s Head Do.

The "new works in contemplation" must mean, The Master General and Board apprehend, those alluded to in my Letter, dated 5 April, 1839, and yours of 22d April, 1840, hereinbefore quoted. The plans and Estimates, which were called for on 5 April, 1839, have been received in this Country; but the Master General has found it necessary to desire that the Commanding Royal Engineer in New South Wales should be instructed to revise them.

I have, &c.,

G. BUTLER, for the Secy.

[Enclosure No. 4.]

UNDER SECRETARY STEPHEN TO LORD FITZROY SOMERSET.

My Lord,

Downing Street, 24th Oct., 1842.

I have laid before Lord Stanley your Lordship’s letter of the 4th of July last, with the accompanying Communication from Lt. General Sir Maurice O’Connell, Commanding the Troops in N.S.W. recommending that two Companies of Artillery should be added to the Force in that Command.

I am directed by his Lordship to transmit to you, to be laid before His Grace The Commander in Chief, the enclosed Copies of
HISTORICAL RECORDS OF AUSTRALIA.

1842.

Letter acknowledged.


Inability to provide detachment of artillery.

26 Oct.

Letters of denization proposed for Revd. J. C. S. Handt.

[Enclosure No. 5.]

UNDER SECRETARY STEPHEN TO MR. R. BYHAM.

Sir, Downing Street, 24 Oct., 1842.

I have laid before Lord Stanley your Letter of the 15 August last, in which, by desire of the Master General and Board of Ordnance, you state that the existing establishment of the Artillery Force of this Country will not admit of such an addition being made to the Artillery in N. S. Wales as the General Commanding the Forces in that Colony has applied for.

With reference to the concluding part of your Letter, Lord Stanley would suggest to the Master General and Board the propriety of calling upon their Officers in the Colony for an explanation of the Circumstances under which the erection of the Works of defence therein alluded to have been proceeded with, in the absence of the necessary sanction on the part of H.M.'s Govt.

I have, &c,

JAS. STEPHEN.

27 Oct.

Transmission of letter from R. Dixon.

SIR GEORGE GIPPS TO LORD STANLEY.

My Lord, Government House, 27th Octr., 1842.

I have the honor herewith to forward a statement, which has been addressed to Your Lordship by Mr. Robert Dixon, who
was removed from his employment of Assistant Surveyor in this Colony under the circumstances stated in my Despatch to Lord J. Russell, No. 156 of the 16th Augt., 1841.

This statement has been drawn up by Mr. Dixon, in consequence of my having communicated to him the contents of Your Lordship's Despatch of the 28th Decr., 1841, No. 48, in the latter part of which I was informed that Your Lordship would receive any statement, which Mr. Dixon might think fit to make, in explanation of the charges which had been preferred against him.

In transmitting Mr. Dixon's statement, I feel it necessary to offer the following remarks:—

Mr. Dixon's object is to disprove his having on a certain occasion spoken disrespectfully of Lieutt. Gorman, or in a manner tending to bring his authority into contempt, in the eyes of the Soldiers serving under him; the whole of the documents merely however tend to prove that certain individuals did not hear any such expressions; and there is nothing contained in them, which in the smallest degree removes from my mind the conviction that Mr. Dixon's conduct on that occasion was (as sworn to by four soldiers of the 80th Regt.) highly indecorous and improper.

There is one part of Mr. Dixon's statement, which I regret to say is true; but, though it tends in a moral point of view to criminate Lieutt. Gorman, I cannot consider that it in any manner exculpates Mr. Dixon. It is quite true that, when I visited Moreton Bay in March last, I found that Lieutt. Gorman had for some time previously kept up an improper intercourse with a Convict woman, living in his family as a domestic servant; and that the quarrels between himself and his Wife, which this intercourse had occasioned, were matters of common conversation and reprobation in the Settlement. The woman was sent away previous to my arrival, but the fact of his connexion with her was distinctly admitted to me by Lieutt. Gorman himself; and the proof of this intercourse certainly tends to strengthen the probability of his having (as charged against him by Mr. Dixon) been previously connected with Marcella Brown, Mr. Dixon's own servant.

The knowledge, which I thus acquired of Lieutt. Gorman's immoral habits, certainly caused me to relieve him from the duties of a civil Magistrate, a few weeks sooner than I otherwise should have done; but his removal from Moreton Bay was a measure rendered necessary by the opening of the District to Location, and had been determined on before I visited the Settlement.

Without at all intending to extenuate his criminality, in respect to his connexion with his female servant, I feel it a duty
to state that, in all matters of an official nature, Lieut. Gorman conducted himself greatly to my satisfaction.

There were some circumstances however, which contributed to make him unpopular in the small circle of officials residing at Moreton Bay; he had risen from the Ranks, and he is a Roman Catholic; and I greatly apprehend that to these circumstances, rather than to his immorality, is to be attributed the opposition which was manifested against his authority, not only by Mr. Dixon, but by others, and particularly by the Commissariat officer (Mr. Kent), whose insubordinate conduct, no less than that of Mr. Dixon, I had frequently occasion to reprove.

In proof of Mr. Dixon's habitual disregard of official duty, I may further mention that he has very recently published and sold in Sydney, without my knowledge or consent, a Map* of Moreton Bay, compiled entirely from Surveys or documents, which came into his hands in an official capacity, thus repeating, and as it would seem in intentional defiance of all authority, the very irregularity, which, in respect of his publication† of his Map of the Colony, led to the first complaints against him on the part of the Head of his Department.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

ASSISTANT SURVEYOR DIXON TO LORD STANLEY.

Sydney, New South Wales,
22nd September, 1842.

My Lord,

It is with a grateful sense of your Lordship's condescension in allowing me to offer any statement in explanation of the charges which have been preferred against me, that I now humbly submit the particulars of the circumstances,‡ which have involved me in the deepest distress and deprived me of the hard earned reward of near fifteen years of diligent and faithful service in the Surveying Department of New South Wales.

I had served from July, 1826, to the period of my suspension May 31st, 1841, with an unblemished reputation.

Having however very unintentionally offended my Superior Officer by publishing a Map of New South Wales under the sanction and patronage of Lord Glenelg.§ whilst in England on leave of absence from the Colony, I had the misfortune to fall under the displeasure of the Chief of the Survey Department, and unhappily felt that I was exposed to censure without hope of mitigation by the retardment of my promotion and advancement of Junior Officers over my Head in the service.

My conduct was thus brought under the notice of His Excellency the Governor by parties more or less prejudiced against me; and, when His Excellency was pleased to express his disapprobation of my Conduct in giving expression to feelings to which I had been goaded, by what I considered great injustice, in having Junior Officers advanced to my prejudice without reference to my service,

* Note 34. † Note 35.
‡ Marginal note.—By certificates from No. 1 to 22.
§ Marginal note.—See Mr. James McArthur’s letter, No. 18.
which had hitherto obtained for me the fullest approbation of my Superiors,* I carefully endeavoured to keep myself clear of every possible imputation against my character or conduct as an Officer, and exerted myself to the utmost to carry out the orders and instructions of His Excellency the Governor in completing a Trigonometrical Survey of Moreton Bay and the adjacent Districts; and in the execution of this duty I had hoped for the approbation of His Excellency and a relief from the prejudiced opinion he had been induced to form of me. It was however my misfortune to become the victim of misrepresentation to His Excellency.

Lieutt. Gorman,† the Military Commandant and Magistrate of the Settlement at Moreton Bay, invaded the peace of my Family by most unwarrantable and immoral intercourse with my assigned Convict Woman servant, and, to save himself from the consequences of a formal complaint to the Governor, got up a false and scandalous charge against me, of which I am perfectly innocent, and of which I would have fully proved myself innocent; and that I never in any manner sought to embroil myself in disputes with the Commandant; on the contrary, I had silently submitted to much Insult and injury by his indulging in a disgraceful Intimacy with my servant Woman.§

His Excellency however too hastily condemned me upon a representation sustained by Depositions taken against me by Lieutt. Gorman himself in my absence,‖ and which would have been proved utterly false and unfounded, had I been allowed a hearing, and which I respectfully submit is at this time clearly shewn to be so by Certificates and Statements herewith attached,‖ although obtained under all the difficulties to which I am exposed by my suspension from Office and Pay, and myself and family reduced to comparative poverty.

I will not trouble your Lordship with details of the conduct of Lieutt. Gorman; but I would with great deference and respect beg to appeal to His Excellency the Governor, whether he did not on his visit to the Settlement hear such complaints from the Officers of the immoral and violent conduct of Lieutt. Gorman as to induce His Excellency to call for and accept the resignation of that Officer.

May I not then plead with your Lordship, and equally with His Excellency, upon the Evidence contained in the documents now respectfully submitted, to acquit me of the false and injurious charges preferred against me by Lieutt. Gorman, which are so fully denied and contradicted by Officers of Government and other Persons who were present, when I am said to have been so guilty, and who can have no other motive than to state the Truth, seeing that both Lieutt. Gorman and myself are now unconnected with the Settlement or their interests.

Feeling assured that these unprejudiced Testimonials will prove, both to your Lordship and His Excellency, that I have been falsely and maliciously accused, I humbly submit this my explanation.

* Marginal note.—See No. 17, Captn. Perry’s certificate, Mr. Secretary Grey’s Letter.
† Marginal note.—See plan of Trigonometrical Survey of Moreton Bay by R. Dixon published by order of the House of Commons, 2nd March, 1841. Parliamentary Papers No. 120.
‡ Marginal note.—Lieutt. Gorman is a married man and his Wife and family living with him at Brisbane Town.
§ Marginal note.—See No. 6, Evidence Dr. Simpson. No. 7, Mr. Kent, Depy. Ass, Commy. General.
‖ Marginal note.—See No. 1 to 6.
334 HISTORICAL RECORDS OF AUSTRALIA.

1842.
27 Oct.

thro' His Excellency the Governor in conformity with your Lordship's commands, trusting that I may plead my long tried and arduous services, and receive at the hands of His Excellency that favorable consideration which his after-knowledge of Lieutt. Gorman's* conduct may dispose him to grant towards one who, with a young Family, is now laboring under the severest privations in the loss of Rank and pay, to which fifteen years of diligent service has given him some claim.

Submitting my case in all deference and humility to the considerate decision of your Lordship, and relying on a mitigation from His Excellency The Governor of his first Judgment in the Case, I do so in the humble hope and fervent prayer -that I may not remain the suffering victim of a malicious misrepresentation, but that I may be in Justice and mercy restored to that Service in which I have spent so many of the best years of my life.

I have, &c,
ROBERT DIXON.

[Sub-enclosure No. 1.]

CERTIFICATE BY DEP. ASSIST.-COMMISSARY-GENL. KENT.

Certificate by J. Kent.

I, JOHN KENT, Deputy Assistant Commissary General, certify that, on the evening of the 12th of April, 1841, I was sitting in the Verandah of my Quarters at Brisbane Town, looking at the Cutter “John” moving from the wharf, when I heard a voice which I recognized as that of John Ford calling out from the Vessel to Lieutenant Gorman that he would tell the Governor of his (Lieutenant Gorman's) proceedings with that vagabond Woman in Mr. Dixon's house. On looking out from the terrace, I saw several persons on the wharf and shortly after I heard the Sentry threaten to run some one through with his bayonet, and then the voice of Mr. Dixon enquiring “Mr. Gorman do you refuse to let me have my boat?” to which an answer was returned in the negative. Mr. Gorman then gave the Sentry orders to clear the Wharf which was immediately done without any opposition being made. I saw no attempt to resist the Sentry and heard no language to incite the mutiny.

Having been applied to by Mr. Gorman, if I knew anything of the matter, I attended at the Police Office in the morning at the trial of Ford, but I was not called in evidence. I heard that given by the Soldiers, in which Mr. Dixon was charged with using mutinous language, but they were not cross examined, nor was Mr. Dixon present.

I have never known any other occasion when persons were prevented from going or remaining on the wharf, which is open to the Public.

Brisbane Town, Moreton Bay, 19th July, 1842.
JOHN KENT, D.A.C.G.

[Sub-enclosure No. 2.]

AFFIDAVIT BY MR. JOHN CHAMBERS.

Affidavit by J. Chambers.

JOHN CHAMBERS, then Master of the Cutter “John,” being duly sworn, deposeth that, on the evening of the 12th of April, 1840, while hauling off the Cutter from the Wharf at Brisbane Town, at the distance of about 35 or 40 Yards, I saw Mr. Dixon and some of his men come on the Wharf, and, on one of the men attempting to strip to swim to get Mr. Dixon’s boat, the Sentry, who is placed over the Commissariat Stores, being then on the other end of the Wharf, made some objection and threatened to run the man through.

Mr. Dixon called to Lieutenant Gorman, 80th Regiment, the Commandant, and asked if he was to have his boat, and Mr. Gorman said, No; upon which Mr. Dixon made the man desist.

I did not hear or see Mr. Dixon in any way encourage his men to force the Sentry, or in any way address the Soldiers to incite them to mutiny.

Previous to Mr. Dixon's coming on the Wharf, Mr. Gorman came along side in the Ferry Boat and told Mr. Hexton, the Pilot, that, if he allowed Mr. Dixon to come on board, he would send him to Sydney by the next ship and Mr. Dixon along with him.

When Mr. Gorman made application to me to send John Ford to Sydney (the man Servant he had taken from Mr. Dixon), he wanted me to put Irons on him, when I sent him on shore at Sydney, which I declined doing. John Ford called to Mr. Gorman, when he had left the Cutter, that he would make the Governor acquainted with his proceedings with Mr. Dixon's Servant woman. Mr. Gorman

* Marginal note.—See No. 11, Revd. J. O. S. Hands.
† Note 36.
GIPPS TO STANLEY.

1842.  
27 Oct.

returned and took him out, saying that he would punish him for his insolence; this took place before Mr. Dixon came on the Wharf. I did not hear the Sentry call to Mr. Gorman to know if he was to allow Mr. Dixon to have his boat. John Ford was afterwards sent on board in Irons, under the escort of a Soldier (R. Whitmore) while the Cutter was in the Bay.  

JOHN CHAMBERS.  
Sworn before me, this seventh day of June, 1842:—L. N. DULHUNTY, J.P.

[Sub-enclosure No. 3.]

CERTIFICATE BY JAMES GRAHAM.  
I, JAMES GRAHAM, Bullock Driver, employed on the Agricultural Establishment at Certificate by Moreton Bay, declare that, on the evening of some day in April, 1841 (about the J. Graham; 12th), I was on the wharf at Brisbane Town, Moreton Bay, when the Cutter "John" was hauled off the Wharf about forty yards distant, when Mr. Dixon and some of his men came on the Jetty and one of them (Wm. Crabb) attempted to swim off for the boat belonging to Mr. Dixon, then moored in the river. The Sentry, Robert Whitmore, who was then on the end of the Jetty, threatened to run Wm. Crabb through with his bayonet, if he attempted to go into the water to swim for the boat. Mr. Dixon or the Sentry, I cannot say which, called out to Mr. Gorman, the Commissariat, who was alongside the Cutter, to know if he was to have the boat, and Mr. Gorman replied, No; upon which Mr. Dixon immediately ordered his men to desist from any attempt to get the boat, and said to the Sentry, "I don't blame you, Bob"; but did not hear Mr. Dixon call Mr. Gorman either a Brute or a Cowardly Scoundrel. I did not hear Mr. Dixon tell Whitmore he might fire as fast as he liked, nor did I hear Mr. Dixon address language to the Soldiers, or encourage his men to force the Sentry. I was on the Jetty the whole time and not more than four or five yards from Mr. Dixon.  

Moreton Bay, 5th August, 1842.  
JAMES GRAHAM.

[Sub-enclosure No. 4.]

CERTIFICATE BY PILOT HEXTON.  
I, JAMES HEXTON, Pilot, certify that, on the evening of the 12th of April, 1841, by J. Hexton; while on board of the Cutter "John" at a short distance from the Wharf, I saw Mr. Dixon (Surveyor) and some of his men come on the Wharf, and, on one of the men attempting to strip to swim for Mr. Dixon's boat, which was moored in the river, the Sentry over the Commissariat Stores, then on the Wharf, threatened to run the man through, if he attempted to go into the water. Mr. Dixon immediately called out to Mr. Gorman to know if he was to have his boat, and Mr. Gorman said, No. I did not see or hear Mr. Dixon in any way encourage his men to force the Sentry or incite the Soldiers to mutiny.  

JAMES HEXTON, Pilot.

[Sub-enclosure No. 5.]

CERTIFICATE BY P. NICOL.  
I (PATRICK NICOL, Overseer of the Colonial Hospital), hereby certify that I saw by P. Nicol; Mr. Dixon and some of his men at the wharf on the evening of the 12th of April, 1841, when the Cutter "John" was leaving the Wharf, one of Mr. Dixon's men made an attempt to swim for the boat belonging to the Survey Department; the boat was moored in the river; the Sentry over the Commissariat Store was then on the Wharf, who brought his bayonet to the charge and stopped the man from going for the boat. What the Sentry said I am not positive. Mr. Dixon immediately stopped the man himself, and then called to Mr. Gorman, if he was to have his boat. Mr. Gorman said, No. I saw no attempt made to go to the boat after that. I did not hear the Sentry call to Mr. Gorman. I did not hear Mr. Dixon tell the Sentry to fire away, nor address language to the Soldiers to incite them to mutiny, nor did I see Mr. Dixon's men in any way force the Sentry.  

Brisbane Town, Moreton Bay, 20th July, 1842.  
PATRICK NICOL.

[Sub-enclosure No. 6.]

CERTIFICATE BY DR. SIMPSON.  
I (STEPHEN SIMPSON, M.D., Acting Colonial Surgeon) certify that I attended and by the Court held on the 13th of April, when John Ford was tried for Insolence to S. Simpson. Mr. Gorman, the Commandant, and Mr. Gorman being the only Magistrate tried his own case and sentenced the prisoner to one hundred lashes. Mr. Gorman acted his own Clerk, did not read the depositor's over to the Court, nor get them signed by the deponent.  

Moreton Bay, 25th Sept., 1841.  
STEPHEN SIMPSON, M.D.  

* Marginal note.—Now Commissioner of Crown Lands.
[Sub-enclosure No. 7.]

MEMORANDUM BY DEP. ASSIST. COMMISSARY-GENL. KENT.

MEMORANDUM:—I (John Kent, Deputy Assistant Commissary General) on the 13th April last attended the Police Court at Brisbane during the examination of a man named John Ford, charged with Insolence and Insubordination to the Commandant on the previous evening, that the Commandant, Mr. Gorman, presided as the Magistrate, there being no other, and wrote down the depositions of the Witnesses, which I did not hear read over to them, nor were they signed by them to my knowledge.

Brisbane Town, Moreton Bay, 24th September, 1841. JOHN KENT, D.A.C.G.

[Sub-enclosure No. 8.]

AFFIDAVIT BY J. FORD.

JOHN FORD, free by mitigation of Colonial Sentence, being duly sworn, deposeth,
That, when I was Servant to Mr. Robert Dixon, Surveyor, at Moreton Bay, Mr. Gorman, the Commandant, used to make a practice of coming after Mr. Dixon's Servant woman, Marcella Brown, a prisoner of the Crown, on the dark Nights; and I have frequently seen Mr. Gorman coming out of this woman's bedroom in the mornings, both when Mr. Dixon was at home and more frequently when Mr. Dixon was from home surveying in the Country. When this woman was in the family way, she made no secret to say Mr. Gorman was the Father of the child. When Mr. Gorman took me from Mr. Dixon without giving or making any charge against me, and put me on board of the Cutter "John" and wanted the Captain to put Irons on me, I felt convinced this was to get me from the place, being a witness to his immoral proceedings. Mr. Gorman came alongside of the Cutter and told the Pilot, Mr. Hexton, that, if he allowed Mr. Dixon to come on board or alongside, he would send him both to Sydney. My feelings got the better of me, and I told Mr. Gorman I would make the Governor acquainted with his proceedings with Mr. Dixon's servant woman; for which I was immediately brought on shore and put into the Gaol. I was brought into the Court the next day (the 13th of April, 1841) and tried by Mr. Gorman who acted his own Clerk; he never read the depositions he had taken down to the Court, nor got them signed by the Deponents. He sentenced me to receive one hundred lashes, seventy five of which I received. I was then put in heavy Irons and sent to Sydney under the escort of a Soldier "Robert Whitmore," where I was confined Eight weeks in the Watch House at Hyde Park Barracks and then sent to work in an Iron Gang for fourteen Months, from which I was relieved on July 27th, 1842. JOHN FORD.

Sworn before me this 26th day of September, 1842:—A. H. K. RANKEN, J.P.

[Sub-enclosure No. 9.]

COLONIAL SECRETARY THOMSON TO LIEUTENANT GORMAN.

Sir,

A communication having been received from Assistant Surveyor Dixon requesting that the prisoner named in the Margin* may be allowed to remain at Moreton Bay in his Service, I am directed by His Excellency the Governor to inform you that he has no objection to a compliance with his application and to request that you will inform Mr. Dixon accordingly.

E. DEAS THOMSON, Colonial Secretary.

[Sub-enclosure No. 10.]

CERTIFICATE.

WE, the undersigned, certify that the Prisoner, John Ford, per Ship Atlas 1819, has been known to us, during our residence at Moreton Bay, as a quiet and well behaved man and worthy of His Excellency's consideration of a remission of his sentence.

ROBERT DIXON, Surveyor.
H. C. HANDT, Clergyman.
ANDREW PATRICE, Foreman of Works.
12th April, 1841.

[Sub-enclosure No. 11.]

CERTIFICATE BY REVD. J. C. S. HANDT.

I, the undersigned (J. C. S. Handt, Clergyman), being requested by Robert Dixon, late Government Surveyor, from the knowledge which I had of his general conduct during his stay here as Government Officer, whether I thought him guilty of causing

GIPPS TO STANLEY. 337

his men to force the Sentry and of addressing language to the Soldiers calculated to excite them to mutiny, I hereby certify that I believe the two said accusations preferred against Robert Dixon by Lieutenant Gorman, then Commandant of this place, vizt., of causing his men to force the Sentry and of addressing language to the Soldiers calculated to excite them to mutiny, to be false, although Soldiers under Revd. J. C. S. Lieutenant Gorman have sworn to the truth of them, for similar oaths were taken afterwards under the said Lieutenant Gorman, which were appalling to the mind of almost every person in this place, from a conviction that they were false.

I further certify that I believe Lieutenant Gorman took the Surveyor Robert Dixon's servant "John Ford" from him and brought the abovementioned charge against him from vindictive feelings, as he evinced a like spirit towards other persons here, especially when they shewed their disapprobation of his highly immoral conduct. Lieutenant Gorman's character had not been previously known; but, as soon as His Excellency The Governor was made fully acquainted with his conduct, he was removed.

Moreton Bay, 22nd June, 1842. J. C. S. HANDT, Clergyman.

[Sub-enclosure No. 12.]

CERTIFICATE BY REVD. J. C. S. HANDT.

THIS is to certify that the undersigned did not hear of Mr. Robert Dixon's having caused his men to force a Sentry on the 12th of April last when the Cutter "John" was leaving the Wharf at Brisbane Town, nor of his having addressed language to the Soldiers to excite them to mutiny, until the return of the Vessel.

Brisbane Town, Moreton Bay, 19th July, 1841. J. C. S. HANDT, Clergyman.

[Sub-enclosure No. 13.]

CERTIFICATE BY COLOUR-SERGEANT BINNS.

I HEREBY certify that I did not hear any of the Soldiers say that Mr. Robert Dixon and by had caused his men to force the Sentry or had addressed language to excite them to J- Binns. mutiny, on the evening of the 12th April, 1841.

Jos. BINNS, Color Sergeant, 80th Regiment Parramatta, 27th Augt., 1841. (with the detachment at Moreton Bay).

[Sub-enclosure No. 14.]

MR. A. PETRIE TO MR. R. DIXON.

Dear Sir,

Brisbane Town, Moreton Bay, 19th July, 1841.

In answer to your note of the 17th ultimo, relative to the circumstance that Statement by occurred between you and Lieutenant O. Gorman at the Commissariat Wharf on the A. Petrie; 12th April, I beg leave to state that I never heard a word mentioned by any one whatever except Lieutenant O. Gorman that you attempted to force a Sentry or to incite them to mutiny.

I am, &c,

A. PETRIE, Foreman of Works.

[Sub-enclosure No. 15.]

ASSISTANT SURVEYOR WARNER TO MR. R. DIXON.

Dear Dixon,

Brisbane, Moreton Bay, 24th Septr., 1841.

Referring to the mention I made to you of some indecent remarks made by J. Warner; Lieutenant Gorman to your late Servant Woman soon after your marriage, I do not precisely remember the very words he repeated to me as having addressed to her; but I recollect his taking her by the arm in a very familiar way at your door on that occasion. Enough I remember to be able to satisfy any person that it was most unfit discourse to be held between a Magistrate and a Government Woman and not fit to be written here.

I am, &c,

JAMES WARNER, Assistant Surveyor.

[Sub-enclosure No. 16.]

STATEMENT BY MR. F. W. FORBES.

Moreton Bay, 21st September, 1841.

In consequence of the letter of the Colonial Secretary to R. Dixon, Esquire, dated and by F. W. 1st September, 1841, in which the Colonial Secretary says, "I am directed by His Forbes. Excellency to state that the Evidence against Mr. Dixon being on oath and proceeding

* Marginal note.—Which was in the latter end of May, 1841.
from very credible Witnesses, he considers it conclusive against you, unless you can show reasonable cause for doubting their veracity, and to add that, unless you do this, He cannot consider that any necessity exists for bringing your case before a Court of Enquiry."

Mr. Dixon was desirous that I should as a Justice of the Peace take the counter depositions on oath of certain persons who came before me; but, as Mr. Dixon's object was merely to obtain a Court of Enquiry and not to proceed against any one, I consider that it would be an irregular proceeding on my part to take such depositions, and on this ground I declined doing so.

At the same time, I do not think that, from the tenor of the Colonial Secretary's letter, that His Excellency insists that such evidence should be on oath, and am of opinion that the simple Statement of such persons in writing is all that is required, for I do not see how their deposition could be taken with propriety.

FRANCIS WM. FORBES, J.P.

[Sub-enclosure No. 17.]

SIR GEORGE GREY TO MR. R. DIXON.

Sir, Downing Street, 16th December, 1836.

I am directed by Lord Glenelg to acknowledge the receipt of your letter of the 8th Instant, with reference to your application to be allowed leave of absence for the period of two Years with half the Salary of Assistant Surveyor at New South Wales, I am directed to state that, in consideration of your length of Service and the testimony borne in your favor by the Deputy Surveyor General, His Lordship is induced to comply with your application, and will direct the Colonial Agent to pay you your absent allowance, when you shall have produced the usual Certificate shewing the period up to which you received your salary in the Colony. I am, &c.,

GEO. GREY.

[Sub-enclosure No. 18.]

MR. JAMES MACARTHUR TO MR. R. DIXON.

Dear Sir, Council Chambers, 1 August, 1842.

I have to apologise for my long delay in replying to your note which I had mislaid and only found this morning.

Having known you in your official Capacity in the Surveyor General's department for many years past, and having been a fellow passenger with you to England in 1836, I have no hesitation in stating that you are one of the last persons I should have supposed capable of exciting Soldiers to mutiny or of any improper insubordinate behaviour. Your conduct as a Crown Surveyor has, so far as I have had an opportunity of observing upon it, been eminently useful to the public and creditable to yourself.

The Map, which you compiled on the voyage to England and which, after having been submitted to Her Majesty's Secretary of State for the Colonies and to Sir John Barrow, you were encouraged to publish in London, is in itself a proof of your ability as a Surveyor and your zeal for the welfare of the Colony.

Believe me, &c.,

JAS. MACARTHUR
Member of Council.

[Sub-enclosure No. 19.]

MR. H. H. MACARTHUR TO MR. R. DIXON.

Dear Sir, Vineyard, 15th Sept., 1842.

Having known you from your arrival in the Colony and first appointment to the Survey department under my late friend Surveyor General Oxley, I have much pleasure in giving my Testimony to your general Character, having always heard you highly praised for your zeal, intelligence and correctness in the execution of the duties entrusted to you; nor have I ever heard your name mentioned but to your credit, until you unadvisedly published your useful Chart of the Colony,* contrary I fear to the wishes of your Department and your own interests.

I shall be most happy to hear that His Excellency has been induced to mitigate the Severity of his decision in your case, and that you are again restored to a Service for which you are so well qualified by practice and experience.

I remain, &c.,

H. H. MACARTHUR,
Member of Council.

* Marginal note.—In London.
GIPPS TO STANLEY.

[Sub-enclosure No. 20.] 1842.

COLONEL DUMARESQ TO MR. R. DIXON.

My dear Sir,

Port Stephens, 25th June, 1836.

As you appear to think my testimony of your diligence and ability as a Surveyor may be of some importance to your future views, it affords me great pleasure to say that, whilst in Office as well as during the period I lived in R. Dixon from District where you were employed, I had opportunities of witnessing your activity, H. Dumaresq; zeal and obliging attention in the performance of your official duties.

I remain, &c.,
H. DUMARESQ, Colonel
(then Commissioner for the Australian Agricultural Compy., formerly Aide-de-Camp to His Excellency the Governor, Sir Ralph Darling).

[Sub-enclosure No. 21.]

LIEUTENANT GRAVATT TO MR. R. DIXON.

My dear Dixon,
Sydney Barracks, 7th June, 1842.

In answer to your letter of the 6th Instant, I beg to state that, on my being sent to Moreton Bay to relieve Major Cotton, I was directed to render every assistance to the Surveying Department; and I am happy to say that, during my stay there, I considered you a most efficient Officer and I never saw anything in your conduct unbecoming the character of a Gentleman.

Believe me, &c.,
GEO. GRAVATT (Lt., 28th Regt.),
formerly Commandant of Moreton Bay.

[Sub-enclosure No. 22.]

MAJOR COTTON TO MR. R. DIXON.

Dear Sir,
Parramatta, 29th November, 1841.

In reply to your letter under date the 24th instant, I beg to acquaint you that I cannot, without reference to Official documents which are now at Brisbane, tell you what were the orders of Government relative to yourself and the Surveyors under your authority.

To the best of my recollection, I was ordered to afford you the requisite assistance in men and Bullocks and nothing more.

The Penal Settlement of Moreton Bay, I understood, was broken up on the recall of myself and the other Officers of the Establishment to Head Quarters, although it would appear that the Settlement did not altogether lose its penal character at the same moment, some of the penal prisoners having remained behind for the protection of the public property.

I am, &c.,
SYDNEY COTTON (Major, 28th Regt.),
formerly Commandant of Moreton Bay.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 202, per ship William Fletcher; acknowledged by lord Stanley, 22nd April, 1843.)

My Lord,
Government House, 28th Octr., 1842.

I have the honor to forward herewith a Memorial, which has been addressed to Your Lordship by Mr. Thomas Scott Townsend, an Assistant in the Surveyor General's Department of this Colony, praying for promotion to the rank of Surveyor.

Mr. Townsend is a very good public Officer; and I am the more happy to bear testimony of his merits, as I have unfortunately in many cases had to bring instances of misconduct before Your Lordship, or Your Lordship's Predecessors, on the part of Officers of the Department to which he belongs.

Though only the 3rd on the List of Assistant Surveyors, I consider Mr. Townsend to have the best claim to promotion, whenever,
Inability to grant promotion.

MEMORIAL OF ASSISTANT SURVEYOR TOWNSEND.

To the Right Honorable the Secretary of State for the Colonies, the respectful Memorial of Thomas Scott Townsend, an Assistant Surveyor, in the Surveyor General's Department of New South Wales, holding that appointment together with that of Draftsman for a period of nearly twelve years, having previously learned his profession in England,

Respectfully Sheweth,

That your memorialist has been employed in various arduous duties in different parts of the Colony, has suffered innumerable privations, and undergone many hardships, and the last three years has been employed in surveying and exploring districts previously unknown, and has been consequently subjected to many dangers from the wild aborigines, also, has performed the duties of a Surveyor and had seven Officers under his direction at one time, four of them being Contractors whose work he had to check on the ground. Memorialist is now conducting a trigonometrical survey without the limits of the Colony Southward, and has to traverse mountains covered with perpetual snow. In performing his several duties, it is satisfactory for him to be able to state that his services have been uniformly approved of by the Surveyor General, from whom he has on many occasions received communications, and has now honored Memorialist by forwarding herewith his favorable recommendation that Memorialist should receive the appointment of Surveyor over the heads of Messrs. Rawnsley and Wade, who recently arrived from England with such appointments, without having undergone any of the hardships and privations to entitle them to it, which Your Memorialist has been so long and often subjected to. That Memorialist, on hearing in January last of their being placed over his head, respectfully remonstrated, and was recommended by the Surveyor General for the appointment to His Excellency the Governor who, although he refused, expressed his satisfaction at having received many favorable reports of Memorialist.

That Your Memorialist respectfully begs that you will be pleased to take his case into your consideration, and cause him to be placed Senior to Messrs. Rawnsley and Wade on the list of Surveyors.

And your Memorialist will ever pray,

THOS. TOWNSEND.
LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 203, per ship Stratheden.)

Sir,

Downing Street, 29th Oct., 1842.

In the Blue Book of New South Wales for the year ended the 30th of September, 1841, I have observed the names of several Gentlemen, who have been nominated by you since the beginning of 1837 to the Office of Commissioner of Crown Lands beyond the Boundaries of Location. On referring, however, to the Records of this Department, it does not appear that these Appointments have been reported to the Secretary of State.

I have no desire to disturb the Appointments, which you have already made to the Offices in question; but you will understand that, for the future, all nominations to offices of that Class, which may be made in the Colony, will not be considered valid unless confirmed by the Secretary of State.

I have, &c.,

STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 203, per ship William Fletcher.)

My Lord,


I have had the honor to receive Your Lordship's Despatch, No. 90 of the 19th April last, and have made the enquiry directed by Your Lordship into the grounds on which an accusation has been made to Your Lordship by Mr. Denistoun, the Member for Glasgow, against the authorities of Port Phillip, charging them with having unduly deprived a Mr. William Cross of the priority, to which he was entitled in the selection of land as the Bearer of a Land order from the Commissioners of Land and Emigration in England, which was dated, London, the 12th Septr., 1840, and marked No. 1; and I have to certify to Your Lordship that I have found the accusation against the authorities at Port Phillip to be grounded altogether on a misapprehension of facts.

Mr. Cross' complaint rests entirely on the assumption that, because his Land order was marked No. 1, there could be no order entitled to take precedence of it; this assumption however is an erroneous one.

Your Lordship is aware that, when Officers of the Army or Navy settle in New South Wales, they are, under Her Majesty's Regulations, entitled to a remission in the purchase of land, which remission is equivalent to a Land Order, and takes date, and consequently priority, from the day on which the order for the remission is granted by the Local Government.

These remission Orders, so long as the system of selling land by Auction was in force, were received as Cash at the Colonial Treasury for land purchased by the holders of them; but, when the system of selling by Auction was abolished, and that of a
fixed price established, the remission orders came, as I have already said, to be considered in every respect equivalent to Land Orders; and that they should be so considered was expressly stated in the regulations issued by me, with the advice of my Executive Council, on the 21st Jan., 1841, which regulations were transmitted by me to the Secretary of State on the 18th Feb. following.

It so happened that at the time, when sales by Auction were abolished, there were three officers holding unsatisfied remission Orders in the Port Phillip District, the names of the Officers and the dates of their Orders being as follow:—

Major St. John, 7th Augt., 1840; Captn. Reid, 2nd Septr., 1840; Lieutt. Chamberlain, 9th July, 1840.

All these Orders being dated in the Colony, prior to the 12th Septr., 1840, were clearly entitled to precedence over an Order dated in London on that day.

As to the clubbing together of the three remission orders for the purchase of a single allotment of land, there was nothing whatever irregular in it; the only provision in the regulations is that, when orders are thus clubbed together, they shall take precedence only according to the date of the latest, which, in the case under consideration, was the 2nd Septt., 1840.

I enclose, for Your Lordship's further satisfaction, a Copy of a letter, which I have received from Mr. La Trobe (with its various enclosures) dated the 3rd Oct., 1842, on the subject of the present complaint.

Having stated that Remission Orders are equivalent in all respects to Land Orders, it may be proper for me to add that there is this difference, namely, that the Deed of Grant is withheld for two years, if the land be acquired in virtue of a remission order, whilst, in all other cases, it is issued with as little delay as possible; this difference however does not bear in any manner on the case of Mr. Cross.

I have, &c,

GEO. GIPPS.

[Enclosure.]

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

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 204, per ship William Fletcher.)

My Lord,


I have had the honor to receive Your Lordship's Despatch, No. 99 of the 30th April last, enclosing a copy of an enquiry which had been addressed to Your Lordship by Miss Mary Curtis, respecting her Brother Michael Patrick Curtis, who came to this Colony as an Emigrant by the ship "Diamond" in 1841; and I
have the honor to inform Your Lordship that I have ascertained that the said Michael Patrick Curtis is now in the employment of Dr. Jamieson, a Settler near Western Port, in the District of Port Phillip.

I have communicated to Dr. Jamieson the contents of Miss Curtis' letter to Your Lordship.

GEO. GIPPS.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 205, per ship Stratheden; acknowledged by Sir George Gipps, 21st July, 1843.)

Sir, Downing Street, 1st Novr., 1842.

In transmitting to you the enclosed Copy of a Letter from Mrs. Burrowes, I have to request that you will cause enquiry to be made respecting Mr. Burrowes, and that you will report to me the result.

I have, &c.,

STANLEY.

[Enclosure.]

MRS. S. A. BURROWES TO COLONIAL SECRETARY.

Sir, 24 Oct., 1842.

I shall feel particularly obliged to you, if you can give me any information respecting Mr. M. E. L. Burrowes, who is a Surveyor under Government in Sydney, and, who was, the last time I heard from him, somewhere near Clarence River; and, not having received Letters for some time, I feel very anxious about him; and, having been informed that by applying at the Colonial Office I might hear something of him, therefore may I beg the favor of an answer and it will greatly oblige.

Your Obedt. Servt., &c,

S. A. BURROWES.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 206, per ship Stratheden; acknowledged by Sir George Gipps, 20th June, 1843.)

Sir, Downing Street, 4 November, 1842.

At the request of Sir W. Hooker of the Royal Botanic Gardens at Kew, I forwarded to the Superintendent of the Botanic Garden at Sydney early in last year a letter from that Gentleman together with a Pacquet of Seeds. Sir W. Hooker has informed me that he has received no acknowledgment of his Communication. He also acquaints me with the death of the Superintendent, Mr. Anderson.

I have to request that you will impress upon Mr. Anderson's Successor the propriety of his placing himself in communication with Sir W. Hooker, who states his anxious desire that a mutual interchange of Plants, etc., should take place between this Country and New South Wales.

You will inform me of the name of the person whom you have appointed to succeed Mr. Anderson.

I have, &c.,

STANLEY.
HISTORICAL RECORDS OF AUSTRALIA.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 207, per ship William Fletcher; acknowledged by
lord Stanley, 26th April, 1843.)

My Lord,

Government House, 4th Novr., 1842.

I have the honor herewith to enclose a Petition to the Queen, which has been forwarded to me by Mr. La Trobe for transmission to Your Lordship, praying that the Judges in Sydney may be restrained from interfering with the proceedings of the Supreme Court of the District of Port Phillip.

I forward also a Copy of a letter from Mr. La Trobe (with its enclosures, and containing a Copy on Paper of the Petition) wherein he observes "that he does not consider it his duty to offer any remarks, further than that he highly disapproves of the Petition, especially when he casts his eye over the names appended to it, and sees so few belonging to a class capable of forming a judgment on matters involving such grave consideration."

I beg leave to certify to Your Lordship that I entirely concur in the opinion thus expressed by Mr. La Trobe. The persons, whose names are affixed to the Petition, constitute moreover, I feel warranted in saying, a very small minority of those whose attention has, during the last twelve months, been directed to the proceedings of the Court of the Resident Judge.

On the receipt of this Petition, I deemed it proper to submit it to the perusal of the Judges of the Supreme Court of the Colony, resident in Sydney; and I have the honor to enclose a Copy of the letter from the Colonial Secretary, transmitting it to the Judges, as also a Copy of the observations on the Petition, which have been addressed to me by their Honors in reply.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

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

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 208, per ship William Fletcher.)

My Lord,

Government House, 5th Novr., 1842.

I have the honor to transmit herewith a Copy of a letter, which I received on the 21st ulto. from the Acting Consul of Her Majesty at Tahiti, informing me that the Queen and Chiefs of that Island had placed themselves under the protection of His Majesty, the King of the French, in consequence of their inability to pay the sum of ten thousand dollars, demanded of them by Admiral Du Petit Thouars of the French Navy.
Her Majesty's Sloop "Favorite" being in Sydney Harbour and nearly ready for sea, when I received this letter, I communicated the contents of it to the Officer in command of her, Captn. Sullivan of the Royal Navy; and I subsequently addressed to him the letter, of which I subjoin a Copy.

I beg to add that, in my personal communications with Captn. Sullivan, I strongly recommended him to refrain carefully from any act, that might have the effect of compromising either Her Majesty's Government or himself in regard to the proceedings of Admiral Du Petit Thouars.

With respect to the conduct of the same Officer (then Captn. Du Petit Thouars) at Tahiti in 1838, I beg to refer to my Despatch to Lord Glenelg of the 24th Decr. of that year No. 202.

I have, &c,

GEO. GIPPS.

[Enclosures.]

[Copies of these letters are not available.]

_____

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 207, per ship Stratheden.)

Sir,
Downing Street, 6 Nov., 1842.

With reference to my Despatch No. 14 of the 8th of Oct., 1841, I have to acquaint you that, on the application of the Revd. Dr. Polding, I have sanctioned the substitution of the Revd. Mr. Cavenagh for the Revd. Mr. Burke, the latter Gentleman being prevented by ill health from proceeding to New South Wales as a Roman Catholic Chaplain.

I have, &c,

STANLEY.

_____

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 208, per ship Stratheden.)

Sir,
Downing Street, 8 Nov., 1842.

The Revd. Dr. Polding has reported to me the resignation by the Revd. Dr. Ullathorne of the Office of Vicar General in New South Wales, and has applied for my sanction to the allowance of £200 pr. Annum, hitherto received by Dr. Ullathorne, being paid to the Revd. Francis Murphy, who, Dr. Polding states, has discharged the duties of Vicar General during Dr. Ullathorne's absence to his own satisfaction and, he believes, to that of the local Government.
1842.
8 Nov.
Authority for payment of salary.

I have to convey to you my authority, in the event of your seeing no objection to the arrangement for the payment to Mr. Murphy of the Stipend heretofore allotted to his predecessor on the understanding, of course, that he resigns the situation of Roman Catholic Chaplain to the Gaols at Sydney.

I have, &c.,

STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 210, per ship Olinda; acknowledged by lord Stanley, 4th June, 1843.)

My Lord,
Government House, 8th Novr., 1842.

I have the honor herewith to forward a Memorial, which has been addressed to Your Lordship by Mr. Richard Blackwell of this Colony, praying that compensation may be awarded to him for his not having obtained an allotment of land, to which he laid claim, in the Town of Liverpool in this Colony, distant about twenty miles from Sydney.

The case of Mr. Blackwell is as follows:—

More than twenty years ago, Governor Macquarie gave authority to Mr. Thomas Moore, a Magistrate residing at Liverpool, to locate persons on allotments of Building ground within the Township then about to be formed at that place, and promised to confirm the persons so located, in the possession of the lands allotted to them, provided they continued on and improved their locations.

In pursuance of these promises, many grants of lands have been made (even in my own time), whilst several applications for similar grants have been by me refused.

On the 3rd May, 1834, a claim to two allotments of land in Liverpool was preferred by a person, named John Roby Hatfield, to the Commissioners who had been appointed under an Act passed in the preceding year, 4th Wm. IV, No. 9, to investigate claims to grants of land in the Colony. The Commissioners (a Copy of whose Report is enclosed) reported against his claim to one of these portions of land, containing 3 acres, 2 roods and 14 perches, but in favor of his claim to the other portion, containing 1 acre and 2 roods; and it is this report, which the Memorialist erroneously calls a Verdict.

That this Report however had not the effect of a Verdict, is clearly shown by the concluding part of the 7th Section of the Act of Council (4th Wm. IV, No. 9) which runs thus:

"Provided however that nothing, herein contained, shall be held to oblige the Governor to make or deliver any such Grant as aforesaid, unless His Excellency shall think proper to do so."
The Governor for the time being, Sir Richard Bourke, did not in Hatfield's case think it proper to issue a Grant, because it was distinctly proved that the Commissioners had reported in error; that in fact, neither the claimant, John Roby Hatfield, nor his Father of the same name (through whom he claimed) had ever been located by Mr. Moore on any land within the Township of Liverpool; and it will be seen by the enclosed Copy of a letter from the Deputy Surveyor General, dated the 16th Jany., 1838, that the elder John Roby Hatfield had only occupied temporarily, and without any authority, a small portion of land beyond the limits of the Township, and on the said land (being a shoemaker) had established some Tan Pits.

No sooner however had the Commissioners erroneously reported in favor of John Roby Hatfield (the Son) than he sold his right and title to the land (whatever it might be) to the Memorialist, Richard Blackwell, and his Brother (since deceased).

The Blackwells evidently purchased on a bad Title, and their only plea is that they were led to do so by the knowledge, which they obtained of the Report of the Commissioners; it is alleged that they paid to John Roby Hatfield £45 for his Title to the land; and, though no proof of this is adduced, it is probable that they did so.

The Memorialist is not able even to point out the land which he claims; and that he entirely misapprehends the nature of his own case, is evident from the fact that, in his memorial to Your Lordship, he claims the land (3 a. 2 r. 14 p.), which the Commissioners reported Hatfield had no right to, instead of the acre and a half, to which the Commissioners erroneously reported that Hatfield had a claim.

It seems unnecessary for me to enter on the reasons, which led the Commissioners into error, especially as the Memorialist himself does not dispute the fact of their having been in error, but claims compensation only for having been led wrong by them.

Had the Memorialist in 1837, when the error of the Commissioners was discovered, thrown himself candidly on the Government, it is probable that, under the very liberal system which then prevailed in all matters relating to land, some compensation for his actual loss might have been made to him; but he preferred to prosecute his claim in his own way, so that, as stated in his Memorial, by the employment of Lawyers and other expenses his losses have been greatly increased, and now amount to about £70.

His case, though of old standing, first came before me on the 17th March in the present year, and I immediately decided that I could grant him no relief.
I will only further observe that, even if the elder Hatfield had been located on any land at Liverpool by Mr. Moore (which in fact he never was), he would have forfeited all claims to a grant of it by his not having continued on his location and improved it.

GEO. GIPPS.

Memorial of Mr. R. Blackwell.

To the Right Honble. The Secretary of State for the Colonial Department, the Memorial of Richard Blackwell, Landholder of Woodburn, in the County of Camden, in the Colony of New South Wales,

Sheweth,

That the late William Blackwell of Sydney and your Memorialist did, sometime in the year 1835, purchase from John Roby Hatfield of Sydney all his right, title and interest in and to three acres and a half of land, more or less, in the Township of Liverpool in the Colony of N. S. Wales; and for which the said John Roby Hatfield obtained a verdict in the Court of Claims, and which verdict was recorded in favour of the late William Blackwell and your Memorialist, the amount paid to Hatfield for the land being nearly Forty six Pounds.

That, the late William Blackwell having died about the month of September, 1837, the interest in the above ground now vests in your Memorialist by right of survivorship.

That, on a survey of the land in question, it was found that no land was charted to Hatfield in the town of Liverpool; but it was proved a piece of ground outside the present boundaries of the said Township had at one period been occupied by the Father of J. R. Hatfield as a tan-pit; therefore the Commissioners refused to confirm a grant of the said land on the plea that no land exists within the present boundaries of the township of Liverpool that could be charted to Hatfield.

That, in August, 1841, your Memorialist produced a witness named King before the Court of Claims, who swore that he saw an allotment measured to Hatfield, senior; that two dollars was paid for the registry of the same, and that he saw it registered.

That, after a delay of four years. His Excellency the Governor decided that he could not allow the claim of your Memorialist.

That your Memorialist has incurred expenses connected with this Case to the amount of nearly Twenty Pounds for various fees, attorneys' attendances and witnesses' expenses; and, having taken professional advice on the subject, your Memorialist finds that he has no remedy against Hatfield, he having sold his verdict and having proved the occupation of the ground to the satisfaction of the Commissioners of the Court of Claims; and it has been conjectured that the mistake about this ground has arisen through the indistinctiveness of the town boundaries at the time Hatfield, Senior, was in possession.

That your Memorialist considers it a case of great hardship that he should be subjected to a loss of nearly Seventy Pounds (besides
GIPPS TO STANLEY.

349

the trouble of attendance on the Court and a great deal of corre-
spondence connected with the matter) owing to the erroneous ver-
dict of the Commissioners; and, having no remedy either against
the Commissioners or Hatfield, your Memorialist respectfully prays
that an equivalent may be made to him in land, or in such way
as you shall think fit.

And your Memorialist will ever pray,

Dated at Sydney, 20 Octr., 1842.            RICH. BLACKWELL.

[Enclosure No. 2.]

REPORT.

By the Commissioners of Claims for Grants of Land.

Memorial No. 923.

Claimant's Name and Address John Roby Hatfield, of Sydney,

Shoemaker.

Name of first Possessor ...... John Roby Hatfield.

Date of Letter of Possession ...... does not appear.

By whom Letter granted ...... An Allotment bounded on the North by

Land, now or lately in the possession of

Thomas Moore, Esq., J.P., on the

South by Land in the possession of George Graves, on the East by

George Street, and on the West by Macquarie Street in the Town-

ship of Liverpool, Parish of Saint Luke, County of Cumberland,

containing 3 acres, 2 Roods and 14 Perches.

2nd. An Allotment situate in the Brickfields in the Township of

Liverpool, lying between the Creek, Smith's Land, Crown Land,

and the Street leading to Bullshill containing one acre and 2 Roods.

Date of Memorial .......... 5 May, 1834.

Date of Notification in "Gazette." 9, 16 and 23 July, 1834.

"Gazette."

Opponent's Name and Address ...... None.

Date of filing his claim ...... Date of taking Evidence ...... Date of determination ...... 28 January, 1835.

Commissioners' Report.

The Commissioners have the honor to report in favor of Me-

morialist for that portion of Ground, which is described in his Me-
morial under the second head, intitled an allotment situated in the

Brickfields and in the Township of Liverpool;

With respect however to the first portion of Land claimed by him,

which claim is opposed by Memorials Nos. 414 and 915, the Com-
mmissioners decided that the Memorials in the latter cases, for the

reasons stated in their final report on those Memorials, had a pre-
ferable claim to the Land in dispute between the Parties, and

accordingly rejected the claim of the present Memorialist for the

first portion of Land claimed by him, but confirm and approve of

his claim to the second portion. Since the decision of the Commis-
sioners, Memorialist has disposed of his interest in this second por-
tion of Land to Messrs. William and George Blackwell, and he

requests accordingly that the Deed of Grant do issue in their names.

Dated this 2nd day of May, 1837.    SYDNEY STEPHEN.

R. THERBY.
DEP. SURVEYOR-GENL. PERRY TO COLONIAL SECRETARY THOMSON.

Sir,

Surveyor General’s Office, 16th January, 1838,

By letter No. 1,269 of the 2nd May, 1837, the commissioners of claims under the former Act, in pursuance of the arrangement by which all their Final reports were passed through this office, forwarded to me with another the report No. 923 on the memorial of J. R. Hatfield for an allotment at Liverpool, and requested that, as soon as the description was obtained, I would insert it and send the report to you.

I have now, by letter dated sixth January, 1838, been informed by Mr. Assistant Surveyor Butler that Mr. Moore, J.P., assures Wm that Hatfield never received authority to occupy an allotment in the town. The Chief Constable however informed him that he recollected Hatfield having tan pits in what is now the Common and near the Brickfields, but that he had no title whatever to the land. As this is, no doubt, the land alluded to in Hatfield’s memorial, I have considered it advisable to send for the commissioners’ report in order that the circumstances may be brought under the notice of His Excellency the Governor and his decision obtained.

I have, &c.,

S. A. PERRY.

SIR GEORGE GIPPS TO LORD STANLEY.

(My Despatch No. 211, per ship Olinda.)

Government House, 10th Novr., 1842.

In my Despatch, No. 191 of the 13th Oct., 1842, I mentioned that the Attorney General of this Colony, Mr. Roger Therry, had come before me as an accuser of the Resident Judge of the Port Phillip District, in a case quite distinct from any that I had, up to that time, had occasion to bring before Your Lordship.

I have now the honor to submit to Your Lordship a copy of Mr. Therry’s complaint, as also of the answer to it, which has been addressed to myself by Mr. Justice Willis.

On these Papers, I find it extremely difficult to offer any comment; and I trust it may be sufficient for me to refer to the observations, which I made on the general conduct of Mr. Justice Willis in my Despatch above referred to of the 13th ulto.

With respect to the alleged wish of Mr. Therry to be the Resident Judge at Port Phillip, I feel it my duty to certify to Your Lordship that Mr. Therry some time ago distinctly intimated to me that he did not wish to be considered a candidate for that honor, though it is true that he once applied for it, as will appear by Lord J. Russell’s Despatch to myself, No. 310 of the 19th July, 1841.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

[Copies of these papers, dated 13th and 25th October, 1842, will be found in a volume in series III.]
GIPPS TO STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 212, per ship Olinda.)

My Lord,

Government House, 12th Novr., 1842.

In the Postscript to my Despatch of the 13th ulto., No. 191, I mentioned that I had received from the Judges of the Supreme Court of Sydney another formal complaint against Mr. Justice Willis, the Resident Judge in the Port Phillip District, though I could not at that moment transmit it to Your Lordship. I have now however the honor to forward it herewith, as also a Copy of a letter, which has been addressed to myself by Mr. Justice Willis in reply to it.

Your Lordship will observe that these Papers relate principally to matters, which have grown out of Mr. Carrington's appeal to the Sydney Judges from a Judgment of Mr. Justice Willis. Of the merits of that appeal, or of the decision of the Sydney Judges, I am, for the reasons stated in my Despatch of the 13th ulto., No. 191, unable to speak with any degree of certainty. I can hardly however express too strongly my opinion that many of the speeches, delivered from the Bench by Mr. Justice Willis in this case, as well as in others, have been characterized by a want of moderation or decorum; whether the same be not apparent in some of the learned Judge's letters, and even of those which have been written for Your Lordship's perusal, Your Lordship will of course be better able than myself to decide.

Were Mr. Justice Willis an Executive Officer of this Government, I should have no difficulty in controlling the ebullitions of his temper, or at any rate in guarding against any evil effect which they might be calculated to produce; but, occupying, as he does, the station of a Judge, I can only look to Your Lordship for such measures, as may restore to the Administration of Justice in this Colony the calm and even dignity which always ought to characterize it.

I have, &c.,

Geo. Gipps.

[Enclosures.]

[Copies of these two papers, dated 11th and 25th October, 1842, will be found in a volume in series III.]

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 213, per ship Olinda.)

My Lord,

Government House, 14th Novr., 1842.

Having recently had occasion to address numerous Despatches to Your Lordship respecting the proceedings of Mr. Justice Willis, it is with much regret that I find myself obliged
to submit to Your Lordship's notice a charge delivered by that learned Judge at Port Phillip on the 15th Ulto.

This charge is strongly illustrative of the nature of the harangues, which Mr. Justice Willis is in the habit of delivering from the Bench, and which at different times have exposed him to so much animadversion.

Though addressed to a Common Jury on the occasion of opening an ordinary Criminal Session of his Court, his charge is of a most discursive character. It commences with a discussion of the causes which have produced the commercial and agricultural distress now prevailing in the Colony; passes on to the questions of Paper Money, Metallic Currency and the principles of Banking, to the evils of excessive speculation, overtrading, landjobbing, and domestic extravagance. It then recommends the establishment of a Government Bank or the exclusive issue of Paper Money by the Government; speculates on what might be the effect of a further alteration in the Navigation Laws; gives an historical account of the passing of an Act of Parliament in the year 1793, under which the issue of five Millions of Exchequer Bills was authorized for the support of Commercial credit; and concludes by recommending that a similar measure should now be adopted in New South Wales, without in any way alluding to the fact (which might however perhaps have been unknown to the learned Judge) that such a measure was proposed to me about a year ago, and that I declined to authorize it.

However foreign topics of this nature may be to the subject on which Mr. Justice Willis might have been expected to address a Common Jury, impanelled to try cases of Felony and Misdemeanour, the whole would probably have passed without observation, and certainly without any comment from me, had not Mr. Justice Willis thought it proper to introduce into his harangue a charge against the Government of allowing 200 Convicts to be unemployed and at large in the District of Port Phillip; a charge against the Judges of the Supreme Court in Sydney of having accelerated the "general ruin of the Colony" by the adoption of certain Rules of Court relating to proceedings in Insolvency; a charge against Government Officers, "even in very high and responsible situations," of engaging for themselves or for their friends in speculations, which distract their attention from the performance of their public duty; and lastly, a denunciation of the Insolvent Act, passed in the year 1841, which he ascribes to Mr. Justice Burton by name, and of which he recommends the immediate modification or repeal.

This Address has not only appeared in the Public Prints in the usual manner, but has been published also in the shape of a
STANLEY TO GIPPS.

Pamphlet (herewith enclosed); and, in consequence of the publication of it, the Judges, resident in Sydney, have addressed to me the communication, of which I enclose a Copy, with a request that I would forward it to Your Lordship.

Mr. La Trobe also, the Superintendent of Port Phillip (who up to a very recent period has managed to avoid all personal collisions with the learned Judge) has addressed to me on this occasion a letter, of which I enclose a Copy.

Mr. La Trobe denies, in the most positive manner, that there are 200 Convicts, or any Convicts at all (except perhaps a very few) illegally at large in the District; and, considering himself to have been pointed out by the learned Judge as one of the Government Officers in very high and responsible situations, who have, either for themselves "or for their friends" (the latter words being printed by Mr. Justice Willis in Italics), engaged in speculations which have diverted their attention from the performance of their public duties, denies in a high and indignant tone, the truth or justice of the accusation, and equally denies the truth of it in respect to any, except some few inferior Officers of Government in the Port Phillip District.

Mr. Justice Willis having addressed to myself a letter on the subject of his charge, I think it right also to enclose to Your Lordship a Copy of this letter. It is indeed marked Private, but the contents of it relate solely to official matters, and I therefore conceive that I am fully justified in using it officially.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

[Copies of these letters, one dated 4th November and two dated 24th October, 1842, will be found in a volume in series III.]

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 209, received by ordinary post: acknowledged by Sir George Gipps, 26th May, 1843.)

Sir,

Downing Street, 15th November, 1842.

I transmit to you, herewith, the enclosed Copies of a correspondence, which has passed between the Commissioners of Colonial Land and Emigration and this Department, from which you will perceive that in the month of November of last year I sanctioned the detention of the ship "Sir Charles Napier" with Bounty Emigrants, a few days before the general period fixed for the Departure of Vessels, on which Bounty was to be claimed in New South Wales.

GEO. STANLEY.

1842.
14 Nov.

Transmission of letters from judges and C. J. La Trobe.

Transmission of letter from J. W. Willis.

Denial of allegations by C. J. La Trobe.

Transmission of correspondence re detention of ship Sir Charles Napier.

Ser. I. Vol. XXII—Z
HISTORICAL RECORDS OF AUSTRALIA.

I have accordingly to convey to you my authority, in case the claim shall not have been already liquidated, to pay all Bounties due on the Sir Charles Napier, without reference to the objection on account of the delay of his departure from this Country.

I have, &c.

[Enclosure No. 1.]

STANLEY.

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Colonial Land and Emigr. Office,
19 Park Street, Westminster, 29th Oct., 1841.

Sir,

We have the honor to report to you, for Lord Stanley's information, the circumstances under which we have consented to an extension of time beyond the 1st of November, for the sailing of the "Sir Charles Napier" with Emigrants on Bounty from Liverpool to New South Wales.

By a Letter received from the Owners on the 18th Instant, it appeared that this Ship had been duly chartered on the 29th September, which was previous to the time limited by Lord Stanley's directions for that purpose, but that, owing to circumstances beyond the control of the Owners, and not foreseen, such as the crowded state of the Port and bad weather, the fitting out of the Vessel had been retarded so as to preclude the hope that she could be ready by the 1st of November. The Application did not come from the Charterers, who are the parties answerable to the Government as the Bounty Agents, and who might have been blamed for any want of due caution, but from the Owners of whom those charterers had hired the Ship, and who may be readily presumed, for their own sakes, not to have entered into any engagement, which involved unreasonable risk of failure. The case seemed to us altogether one for favorable consideration.

But as there were agreements of parties inter se, and as all our communications are with the Bounty Agents, to whom alone it is our part to look, we thought it more prudent to state that we could only act upon representations from the Messrs. Byrnes, who are to claim the Bounty in the Colony. And we added that some date must be named, to which the extension of time was to be limited.

The Messrs. Byrnes replied in a Letter, received on the 25th Instant, by making on their own behalf the same application that had been made by the Owners of the Ship, and by asking that the extension might reach until the 5th of November, adding that an early reply was of great consequence, as their time of action was so limited.

We confess we should anticipate that so small an increase of time can hardly meet all the chances of delay to which ships are exposed in preparing for Sea. But, seeing that the extension of time required may at any rate be assumed to be very moderate, and observing how urgent was the need of a prompt decision, the case appeared to us one on which it was our duty to act on our responsibility, and we answered on the same day on which we received the letter by acceding to the application.

It has been the spirit of the directions, we have received from Lord Stanley, that, while measures were to be taken to prevent ships from continuing to be engaged until too late, no unnecessary severity ought to be employed in regard to Vessels which had been
engaged bona fide, at a reasonable period, and which might meet with difficulties not foreseen. And, in the propriety of proceeding in that spirit, we are confirmed by finding that no excessive pressure is being created by the Charterers of Bounty Ships. All those Ships intended to proceed from the Clyde have sailed some time since. The departures from the Thames have also taken place in good time.

Such are the circumstances under which we have the honor to report, for Lord Stanley's information, the course we have adopted upon the case of the "Sir Charles Napier," and to express our hope that it may meet his Lordship's approval.

We have, &c.,

T. FREDK. ELLIOT.
EDWARD E. VILLIERS.

[Enclosure No. 2.]

UNDER SECRETARY STEPHEN TO LAND AND EMIGRATION COMMISSIONERS.

Gentlemen, Downing Street, 6 November, 1841.

Having laid before Lord Stanley your Letter of the 29th Ultimo, reporting the circumstances under which you have consented to an extension of time beyond the 1st Instant for the Sailing of the "Sir Charles Napier" with Emigrants on Bounty from Liverpool to N. S. Wales, I am directed to convey to you his Lordship's approval of the course, which you have adopted in the case of that Vessel.

I am, &c.,

J. STEPHEN.

[Enclosure No. 3.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Colonial Land and Emign. Office,

Sir, 9 Park St., Westminster, 9 November, 1842.

With reference to your Letter of the 6th Novr. last year, conveying to us the sanction of the Secretary of State for the course we had adopted in consenting to the detention of "Sir Charles Napier" with Bounty Emigrants a few days beyond the 1st of November, 1841, being the general period fixed for the departure of Vessels on which Bounty was to be claimed in New South Wales, we have the honor to transmit, for Lord Stanley's information, the inclosed Copy of a Letter from Messrs. Lockett the Owners of the Vessel, from which it appears that, in consequence of the absence of any separate or special instruction to the Governor on the subject, Bounty has been refused on the Emigrants by the "Sir Charles Napier"; and we also enclose a Copy of our Reply; we authorized our Officer to issue the usual Certificate of approval notwithstanding the departure of the Vessel after the 1st of November; and it did not occur to us that any further communication to the Governor would be necessary, or any Instructions from the Secretary of State.

We would now beg leave to submit our request that Lord Stanley would furnish the Governor with directions, in case the claim shall not have been already liquidated, to pay all Bounties due on the "Sir Charles Napier," without reference to objection on account of the day of her departure.

We have, &c.,

T. FREDK. ELLIOT.
EDWARD E. VILLIERS.
1842.  
13 Nov.

Sir, 
Liverpool, 26 Oct., 1842.

We shall feel very much obliged if you will inform us, whether any Letter has been sent from your Office to the Governor of Sydney, N.S.W., stating the permission granted to the Emigrant Ship “Sir Charles Napier” to remain here beyond the 1st November, if sent, by what vessel, and if in duplicate, or if you have received any reply of the receipt, as it would appear, from the following extract of our Agents’ letter there, Messrs. Gilchrist and Alexander, dated 3d May, 1842, that, unless such a letter has been sent that the Governor would not pay the Bounties as they state, “no papers have as yet been received from the Colonial Secretary at home, regarding the ‘Sir Charles Napier,’ having been allowed to remain till the 5th November, 1841, although we received the documents signed by the Agent at Liverpool, for the Commissioners regarding the Emigrants being all correct, which was dated 5th November, yet we are told, this is not enough, and the Bounties will not be paid, until it is received, so as this document, authorizing the detention of the vessel till the 5th November, may be sent out immediately. If this has been sent, a copy should be had in case the original should be lost.”

Perhaps you may have more information on this subject than ourselves; and, if you have not any objection, we shall feel very much obliged if you will communicate the same to

Wm. and Jno. Lockett,
Owners of the Ship Sir Charles Napier.

MR. S. WALCOTT TO MESSRS. W. AND J. LOCKETT.

Colonial Land and Emigr. Office,
Sir, 9 Park St., Westminster, 9th November, 1842.

I am directed by the Colonial Land and Emigration Commissioners to acknowledge the receipt of your Letter of the 26th Ultimo, and to state in reply that the detention of the “Sir Charles Napier” with Bounty Emigrants a few days later than the 1st November, 1841, did take place with the approval of this Board, subsequently sanctioned by the Secretary of State, and that the Commissioners authorized their Officer accordingly to grant the usual Certificate of approval of the Ship and her Passengers, and that it was not supposed that any further intimation to the Governor would be necessary. The Board regret to learn from your present letter that the Bounties were refused on the arrival of the Vessel, in consequence of the absence of any separate or special Instructions to the Governor on the subject; and I am to acquaint you that they have addressed a letter to the Secretary of State explaining the Circumstances and requesting that the Governor may be furnished with directions, in case the claim shall not have been already liquidated, to pay all Bounties due on the “Sir Charles Napier” without reference to the objection on account of the day of her departure.

S. Walcott.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 214, per ship Olinda; acknowledged by lord Stanley, 25th May, 1843.)

My Lord,
Government House, 16th Novr., 1842.

In my Despatch of the 13th Octt. last, No. 191, I informed Your Lordship that Mr. Justice Willis had applied to me for Leave of Absence to return to Europe, but that I had declined to grant such Leave, unless means could be devised for the satisfactory performance of the duties of his Office during the time he might be absent.

I have now the honor to report that I have received from Mr. Justice Willis a renewed application of which a Copy is here-with enclosed, accompanied with Certificates of ill health from two Medical Practitioners at Melbourne; and that I have in
consequence (with the advice of my Executive Council) given Mr. Willis leave to return to Europe by any ship that may leave Port Phillip after the 1st Jan'y. next.

I have further to report to Your Lordship that it being out of my power to find a gentleman qualified in my opinion and in that of the Chief Justice of the Colony, to perform the functions of a Judge, who would accept the office at half salary, it is my intention, on the recommendation of the Chief Justice, to appoint Mr. William Montagu Manning to act as Resident Judge in the Port Phillip District, with the full salary of £1,500 per annum, until Her Majesty's pleasure shall be known.

I have further promised that a passage to Melbourne for Mr. Manning shall be provided at the public expense, but with the understanding that the amount shall be refunded to the Government, in the event of Mr. Manning's being confirmed in the situation of a Judge at Port Phillip. This arrangement is conformable to the intention, which I expressed in my Despatch to Your Lordship, No. 120 of the 14th July, 1842.

Whether Mr. Justice Willis is to receive any salary or allowance from this Government during his absence, or Pension in the event of his retiring from the Bench, are points for Your Lordship's decision. The Executive Council has recommended that, as Mr. Justice Willis' application for Leave of Absence is founded on Certificates of ill health, his Leave should be granted to him on the usual terms.

[Enclosure.]

Geo. Gipps.

[Sir George Gipps to Lord Stanley.
(Despatch No. 215, per ship Olinda; acknowledged by lord Stanley, 10th August, 1843.)

My Lord, Government House, 17th Nov'r, 1842.

I have the honor to forward herewith, for the Gracious Approval of Her Majesty, the Acts which were passed by the Legislative Council of this Colony in the Session which commenced on the 10th May, and ended on the 9th Sept. last.

5th Vict., No. 22.—"An Act to further continue for a limited time an Act, intituled 'An Act for preventing the extension of the disease, commonly called the Influenza or Catarrh in Sheep and Lambs in the Colony of New South Wales.'"

The Act merely continues for two years longer an Act, which has been in force in the Colony since 1833, to prevent the spreading of certain diseases amongst Sheep, called "Scab" and "Catarrh."
1842.

**Bushrangers act.**

5th Vict., No. 23.—"An Act to further continue for a limited time an Act, intituled 'An Act to facilitate the apprehension of transported Felons, and Offenders illegally at large, and of persons found with Arms, and suspected to be Robbers.'"

This is to continue in force for two years the "Bushrangers" Act, which it is felt cannot yet be dispensed with. A Clause however has been added, calculated to lessen in a great degree the unconstitutional severity of its enactments, by preventing Magistrates from sending persons as Prisoners to Sydney, who may have been arrested in the country, on vague suspicion only of being Convicts illegally at large.

5th Vict., No. 24.—"An Act to amend an Act, intituled 'An act to provide for the periodical publication of Liabilities and Assets of Banks in New South Wales and its Dependencies, and the registration of the names of the Proprietors thereof.'"

The sole purpose of this Act is to put Banks, which may have privileges granted to them by Letters Patent, on the same footing with Banks established by Charter; the Letters Patent or Charter being issued in either case by the Queen.

5th Vict., No. 25.—"An Act to further continue for a limited time an Act intituled, 'An Act for regulating the constitution of Juries, and for the trial of Issues in certain cases in the Supreme Court of New South Wales.'"

This Act merely continues for two years the existing Jury Laws of the Colony.

The propriety of passing an Act of this nature, was pointed out in Your Lordship's Despatch, No. 22 of the 25th Oct., 1841.

6th Vict., No. 1.—"An Act to permit Goods, the produce or manufacture of New Zealand or Van Diemen's Land, to be imported into the Colony of New South Wales free of duty; and to indemnify certain Officers for acts already done."

New Zealand, when first taken possession of, having been annexed to New South Wales, the intercourse between the two Countries was of course restricted by no fiscal or Custom house regulations, except such as apply to the Coasting trade of this Colony; and indeed the trade between New Zealand and New South Wales had been carried on as a Coasting one, under the authority of a local Act of Council (5th Wm. IV, No. 15, S. 49) even before New Zealand was occupied by Her Majesty. When New Zealand however was formed into a separate Colony, it was pointed out to me that duties in each Colony must be levied on the produce of the other, unless special provision to the contrary
were made by Law. This Act was therefore passed to continue the trade on the same footing as it has been since the year 1834.

The part of the Act, which relates to Van Diemen's Land, was inserted at the desire of the Collector of Customs, who was apprehensive that the provisions of the Act of Council, 4th Vict., No. 11, had been made so general, as to render it necessary to charge duties on the produce of Van Diemen's Land, notwithstanding that no duties had ever been charged on the produce of that Island, since it was separated from New South Wales in 1824, and that their exemption from duty was expressly recognized in the 3rd Vict., No. 3, S. 52.

6th Vict., No. 2.—“An Act for further facilitating proceedings by and against all Banking and other Companies in the Colony, entitled to sue and be sued in the name of their Chairman, Secretary or other officer.”

The propriety of passing this Act was pointed out by Lord J. Russell's Despatch, No. 332 of the 14th Augt., 1841.

6th Vict., No. 3.—“An Act to declare the Town of Sydney to be a City, and to Incorporate the Inhabitants thereof.”

This Act is reported on in my Despatch No. 216 of this day's date.

6th Vict., No. 4.—“An Act to amend an Act, intituled 'An Act to provide for the more effectual administration of Justice in New South Wales, and its Dependencies.'”

This Act was passed, in consequence of the instructions contained in Lord J. Russell's Despatch of the 8th July, 1841, No. 304.

On the subject of other alterations in the Act of the 4th Vict., No. 22, I beg to refer to my Despatch of this day's date, No. 217.

6th Vict., No. 5.—“An Act to appropriate for a limited time, from the general Revenue of New South Wales, certain sums in aid of the Sydney Police, and of the City Fund raised by the Corporation of Sydney.”

This Act is explained in my Despatch of this day's date No. 216.

6th Vict., No. 6.—“An Act to facilitate proceedings by and against the Proprietors of a certain Joint Stock Company, lately carrying on business in Maitland, in the Colony of New South Wales, under the name, style, or firm, of the 'Hunter's River Auction Company,' and for other purposes therein mentioned.”

This Act is precisely similar to the Acts 5th Vict., Nos. 10 and 20, which were passed to enable certain Auction Companies of Sydney and Melbourne to wind up their accounts, and which were reported in my Despatches of the 16th Octr., 1841, No. 209.
and 9th March, 1842, No. 48. The Royal allowance of the Act, 5th Vict., No. 10, was communicated to me in Your Lordship's Despatch, No. 130 of the 11th June last.

6th Vict., No. 7.—"An Act to Incorporate the Inhabitants of the Town of Melbourne," and

6th Vict., No. 8.—"An Act to appropriate for a limited time, from the general Revenue of New South Wales, certain sums in aid of the Melbourne Police, and the Town Fund to be raised by the Corporation of Melbourne."

These Acts are explained in my Despatch of this day's date, No. 216.

6th Vict., No. 9.—"An Act to declare that an Act, passed in the present Session of the Governor and Legislative Council of New South Wales to Incorporate the City of Sydney, May at any time be altered, amended, or repealed."

This Act is also explained in my Despatch of this day's date, No. 216.

6th Vict., No. 10.—"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.'"

This Act is altogether of a local nature, relating to the Harbour of Sydney. It was passed in consequence of the observations contained in Your Lordship's Despatch of the 3rd Novr., 1841, No. 30.

6th Vict., No. 11.—"An Act to amend Schedule C of an Act, intituled 'An Act for appointing and empowering Commissioners to examine and report upon claims to Grants of land, under the Great Seal of the Colony of New South Wales.'"

By an Act passed in the year 1835 (5th Wm. IV, No. 21), a Court was established in Sydney for the investigation (in all doubtful cases) of claims to Grants of land, in virtue of promises made by former Governors of this Colony; and, by the 9th Clause of that Act, it was provided that the three Commissioners of the Court should each receive one guinea for every case disposed of by them, and their Secretary should receive £1, making in all £4 3s. for each case heard and disposed of. By schedule C of the same Act, it was provided that, in addition to minor fees intended to cover the small expenses of the Court, there should be paid the sum of £2 by the parties in whose favor the report was made. But this sum of £2, being insufficient to cover the allowances to the Commissioners and their Secretary, it followed that each case heard by the Commissioners caused an expense to the Government of £3 3s. and, as the delay in the issuing of the Deeds of Grant was in some degree chargeable on the Government
(arising as it did in most instances from the insufficiency of the Survey Department), this division of the expenses of the Court was, at the time the Act was passed, considered equitable. Though seven years have elapsed since the Court was established, it is not yet possible entirely to close it; but the time is considered to be arrived, at which the Government should be relieved from any part of the expense attendant on it, ample time having been given to parties to come forward and prove their claims. The object therefore of the present Act is to relieve the Government from any further expense by raising the fee payable by the party or parties interested from £2 to £4 3s.

6th Vict., No. 12.—“An Act for applying certain sums arising from the Revenue, receivable in New South Wales, to the service thereof for the year 1843, and for further appropriating the said Revenue.”

This Act is reported on in my Despatch of this day’s date, No. 218.

6th Vict., No. 13.—“An Act for directing the application of all fines imposed for drunkenness.”

Some degree of contradiction appearing to exist in the Local Acts, 2nd Vict., No. 18, S. 80, and 2nd Vict., No. 23, S. 1, each of which might be construed as regulating the way in which fines imposed for drunkenness should be appropriated, the present Act was passed to remove all doubt on the subject.

6th Vict., No. 14.—“An Act to continue for a limited time an Act, passed in the 5th year of Her Majesty’s Reign, intituled ‘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.’”

The reasons, which led to the passing of the Act, 5th Vict., No. 8, were fully set forth in my Despatch of the 13th Oct., 1841, No. 207.

The same reasons have led to the continuation of it for another year; and the necessity for the continuation of it may further be seen by my Despatch on the state of Norfolk Island, of the 15th Augt. last, No. 147.

6th Vict., No. 15.—“An Act to consolidate and amend the Law relating to Courts of Requests; and to extend the Jurisdiction of such Courts in the County of Cumberland.”

An extension in the Jurisdiction of the Courts of Request has been long and very generally called for by the Public of New South Wales, more especially on account of the great expense of suing in the Supreme Court, which was, prior to the passing of this Act, the only Court in which sums exceeding £10 could be recovered.
362 HISTORICAL RECORDS OF AUSTRALIA.

1842.
17 Nov.

Courts of
requests act.

A Court of Requests Act was passed by the Council in 1840 (4th Vict., No. 25), under which the number of Courts in the Colony has been increased; but the amount, which might be recovered in such Courts, was still limited to £10.

The present Act authorizes the establishment of two kinds of Courts of Request; the first (intended for the present to be limited to Sydney and the County of Cumberland) must be presided over by a Barrister, and are to have jurisdiction to the extent of £30; the second, having a jurisdiction as before of £10 only, will remain on the footing of the Courts authorized by the Act above mentioned, 4th Vict., No. 25.

It may be essential to remark that the fees, raised in the Courts of Request, have hitherto very nearly sufficed for the maintenance of the Courts; and that it is intended that this shall continue to be the case. By the 39th and 40th Clauses of the Act, the fees are to be regulated by the Commissioner of the Courts, subject to the approval of the Governor.

The Private Acts of the Session were transmitted with my Despatch, No. 172 of the 19th Sept., 1842. I have, &c.,

GEO. GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 216, per ship Olinda.)

My Lord,

Government House, 17th Nov., 1842.

I have the honor to transmit herewith, for the Gracious approval of Her Majesty, five Acts of Council, passed in the late Session of the Legislative Council of this Colony, relating to the Incorporation of the Towns of Sydney and Melbourne.

The circumstances, under which the two principal Bills, namely, those for the Incorporation of the two Towns, have been brought forward and passed, are sufficiently explained in the Despatches referred to in the margin.* I have however to explain that, instead of a single Bill for the general Incorporation of Towns in the Colony, such as was first proposed by me in 1840, it appeared to me, after the receipt of Lord J. Russell's Despatch, No. 312 of the 21st July, 1841, that it would be more expedient to have a separate Bill for each Town, thereby following the course, which in the mean time had been pursued in Canada in respect to the Incorporation of the Towns of Quebec and Montreal.

The first Act is:

6th Vict., No. 3.—"An Act to declare the Town of Sydney to be a City, and to Incorporate the Inhabitants thereof."

* Marginal note.—Sir George Gipps To Lord J. Russell: No. 120, 30th Aug., 1840; No. 229, 8th Decr., 1841; No. 85, 10th May, 1842; No. 139, 31st July, 1842. Lord J. Russell To Sir George Gipps: No. 312, 21st July, 1841.
This Act is very closely modelled on the English Corporation Act, 5th and 6th Wm. IV, C. 76.

The Town, which contains upwards of 30,000 Inhabitants, is divided into Six Wards, and to each Ward are allowed four Councillors, so that the number of elected Councillors is 24; and either, out of these 24, or out of persons qualified to be Councillors, the Aldermen (six in number) are as in England to be elected.

The principal departure from the English Act is in the qualification of the Electors or Burgesses. In the measure brought forward by me in 1840, the franchise was proposed to be, as in England, a £10 occupancy; but, in my Despatch of the 26th Augt., 1840, I reported that this had been raised by the Council to £30. In the discussions which took place in the present year, the qualification was at first raised to £50, but subsequently reduced to £25, at which sum it is now fixed by the Act. The reduction from £50 to £25 was occasioned by its becoming known in the Colony that, by the Bill introduced by Your Lordship into Parliament, the franchise for the elections of Representatives in the New Legislative Council was to be only £20.

I am happy to be able to inform Your Lordship that, though some warm discussions took place in the Council on the subject of this Act, and great interest was excited by it out of doors, the disputes relating to the rights of Emancipists, which caused the failure of the Bill in 1840, were not renewed. The Act is silent altogether on the subject of these rights; and the consequence is that, under the general Law of the Empire, persons, who have undergone their sentences (commonly called “Expirees”) and persons who have received Free Pardons, will, if otherwise qualified, be entitled to vote, or to be elected, but not persons serving under an actual sentence of Transportation.

6th Vict., No. 5.—“An Act to appropriate, for a limited time from the general Revenue of New South Wales, certain sums in aid of the Sydney Police, and of the City fund raised by the Corporation of Sydney.”

This Act is subsidiary to the Corporation Act, the object of it being to appropriate, for a period of five years, certain sums named therein in aid of those expences, which hitherto have been borne by the General Revenue, but which will, under the Corporation Act, be henceforth defrayed by Local Assessments in the Town of Sydney.

In my Despatch, No. 120 of the 26th Augt., 1840, I reported that, in the four previous years, sums to the amount collectively of £111,418 (very nearly £28,000 per annum) had been paid out of the Public Revenue for purposes of Police, public improvements,
etc., in the Town of Sydney, for purposes, that is to say, the expenses of which would, whenever a Corporation might be established, be thrown upon that Body; and I further reported that the prospect of having to meet so large an expenditure by means of local taxation had caused very urgent demands to be made upon me for a large endowment of land or money, in order that the Corporation might have funds to start with. In answer to these demands, I replied that an endowment of land was out of the question; and, in respect to an aid in money, I said that it could only be obtained by Annual Votes of the Legislative Council. When I brought forward however the measure a second time, it was urged upon me that the Corporation should not be left entirely to depend on Annual Votes; and accordingly I agreed to the principle of this subsidiary Act, which grants for a period of five years (or until one year after a new Constitution, founded wholly or in part on popular representation, shall be established by Act of Parliament) a sum of £5,000 per annum, in aid of the City Police, and another sum of £5,000 per annum, in aid of the general purposes of the Corporation, on condition however that in either case an equal sum at least shall be raised by Local Assessment.

These two sums are in addition to the fees to be taken at the Police Office, and to some small Revenues, amounting to about £2,000 per annum, which, by the Act of Incorporation itself, are transferred to the City Council, and of which the principal are the Market Tolls.

Your Lordship will perceive that the first aid of £5,000 per annum is expressly given on condition that the whole management and control of the Police be retained in the hands of the Government.

The expence of the Sydney Police (paid out of the General Revenue) for the year 1841 was £12,375 14s. 9d. Your Lordship will therefore perceive that the proportion of the expence henceforth to be paid out of the Revenue is very nearly the same as that, which is proposed hereafter to be contributed towards the maintenance of the Rural Police of the Colony by the Bill introduced by Your Lordship into Parliament (Sections 41 to 45).

I have only further to observe that, supposing the Bill introduced by Your Lordship into Parliament to have become Law, this Act of Council will remain but a very short time in operation, the duration of it being limited to one year after any new Legislative Body, formed wholly or in part on popular representation, shall have been established in the Colony.

6th Vict., No. 7.—"An Act to Incorporate the Inhabitants of the Town of Melbourne."
This Act is, in every essential particular, similar to No. 3, the Act by which Sydney is Incorporated. The number of Wards is however only four, instead of six; and the number of Councillors 12 instead of 24.

6th Vict., No. 8.—"An Act to appropriate for a limited time, from the General Revenue of New South Wales, certain sums in aid of the Melbourne Police, and the Town fund to be raised by the Corporation of Melbourne."

This is a subsidiary Act, similar in principle to the 6th Vict., No. 5.

It appropriates for five years, or for one year after a New Legislative Body shall have been formed, a sum of £1,500 per annum in aid of the expenses of the Melbourne Police, in addition to the fees taken at the Police Office; and a further sum of £2,000 in aid of the general purposes of the Corporation.

6th Vict., No. 9.—"An Act to declare that an Act, passed in the present Session of the Governor and Legislative Council of New South Wales, to Incorporate the City of Sydney, may at any time be altered, amended, or repealed."

A few days after the Sydney Corporation Act passed the Council, a Copy reached the Colony of Your Lordship's instruction to the Governor of South Australia, dated the * that an express Clause ought to have been introduced into the Corporation Act of Adelaide, declaring that the powers, privileges, etc., given to the Corporation, might at any time be altered, abridged, or entirely annulled by an Act of the Local Legislature, in consequence of which a Clause to this effect was added to the Melbourne Act (6th Vict., No. 7, S. 115), and the present declaratory Act passed in respect to the Corporation of Sydney.

I trust that these Acts may, on Your Lordship's recommendation, receive the Gracious approval of Her Majesty.

I have, &c.,
Geo. Gipps

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 217, per ship Olinda; acknowledged by Lord Stanley, 16th August, 1843.)

My Lord,
Government House, 17th Novr., 1842.

By Lord J. Russell's Despatch, No. 304 of the 8th July, 1841, I was informed of the reasons which had induced His Lordship to recommend that the Act of the Legislative Council of this Colony, 4th Vict., No. 22, should not be confirmed, until certain parts of it should be amended, and explanations in respect to other parts of it furnished from New South Wales.

* Marginal note.—Blank in original manuscript.
The Act referred to (4th Vict., No. 22) is intituled:

"An Act to provide for the more effectual administration of Justice in New South Wales, and its Dependencies."

The objections to the Act were:

1. That Her Majesty could not (since New Zealand is now separated from New South Wales) give Her consent to an Act, which directed that Justice in New Zealand should be administered by a Judge of the Supreme Court of New South Wales;

2. That sufficient reasons did not appear, why Barristers admitted to the Bar of New South Wales, without having previously been admitted either to the English or the Irish Bar, should be deemed ineligible for advancement to the Bench of New South Wales;

3. That the arrangements respecting the Equity proceedings of the Court were not free from objection;

4. That the expenses, which would be incidental to the Establishment of Circuit Courts and of the Court of a Resident Judge at Port Phillip, had not been estimated or reported on.

With respect to the first of these objections, namely, that which relates to the administration of Justice in New Zealand, I beg to point out to Your Lordship that it has been removed by the passing of an Act in the late Session of the Legislative Council, 6th Vict., No. 4, transmitted with my Despatch of this day's date, No. 215.

With respect to the second objection, or that which relates to the exclusion from the Bench in New South Wales of persons who may not have been admitted to the British Bar, I beg to report that I referred the part of Your Lordship's Despatch, which bore upon the subject, to a Committee of the Legislative Council during the course of its last Session; and I herewith enclose a Copy of the Report, which was made by that Committee (of which the Chief Justice was Chairman) to the Council.

The objections, pointed out in Lord J. Russell's Despatch to the exercise by one Judge exclusively of the Equity Jurisdiction of the Court, have it is hoped been removed by the 12th Clause of the Act, 5th Vict., No. 9, which was transmitted to Lord J. Russell with my Despatch of the 16th Octt., 1841, No. 209. On this subject, I would also refer to the Report of the Committee of the Legislative Council above mentioned.

In respect to the expenses of the Circuit Courts, I enclose a Return, made by the Auditor General, of the expenses which they have occasioned; and, when the offset against these expenses is taken into consideration, which these Courts have produced in the reduction of the charge for Crown Witnesses, as well as for the removal of Prisoners for trial, I trust Your.

1842.
17 Nov.

Objections to act.
Removal of objection re administration of justice in New Zealand.
Report re admission of barristers.
Objections re equity proceedings.
Expenditure on circuit courts.
Lordship will not consider that the balance, or increase of expence occasioned by these Courts, is disproportioned to the advantages, which their Institution has conferred upon the whole People of the Colony.

In respect to the Court of the Resident Judge at Port Phillip, I have the honor to enclose a Return, shewing that the fees, taken in that Court since the creation of it, have very nearly covered the whole expenses of it, including the salaries of the Law Officers, though exclusive of the cost of Buildings.

I enclose also a Copy of a letter on the same subject from the Resident Judge to the Superintendent of the District, shewing that the receipts, arising from fees taken in the half year ending the 30th June, 1842, had more than sufficed for the whole expenses during the same period of the Judicial Department at Port Phillip, and consequently recommending an increase in the salaries of some of the Officers of the Courts. I have not however sanctioned the increase asked for; the fees may not continue to bring in so large a Revenue as they at present do; and moreover they are in many cases higher than those of the Supreme Court in Sydney.

I have to express in conclusion a hope that these several explanations may be deemed satisfactory by Your Lordship, and that the Act of Council, 4th Vict., No. 22, may consequently be recommended for the Gracious allowance of Her Majesty.

I have, &c.,
Geo. Gipps.

[Enclosures.]

[A copy of the report was printed in the "Votes and Proceedings" of the legislative council; the papers relating to Port Phillip will be found in a volume in series III.]

Sir George Gipps to Lord Stanley.

(Despatch No. 218, per ship Olinda.)

My Lord,

Government House, 17th Novr., 1842.

I have the honor to transmit herewith to Your Lordship the Financial papers for the year 1842-3, in the form in which it is usual to transmit them from this Colony.

The first document among them is the Finance Minute, which I addressed to the Legislative Council on the 26th July last, and of which a Copy was transmitted to Your Lordship with my Despatch of the 8th Augt. last, No. 140.

The Papers from Page 5 to Page 49, both inclusive, relate to the expenditure of the year 1841, and they bear out the statements
Estimates for year 1841.

The estimates for the year 1843, are contained in the Pages from 49 to 92. These estimates were voted by the Council without any alterations, except such as were either proposed or approved by myself. The alterations are marked by the corrections made with a Pen; and Your Lordship will perceive that they are very unimportant.

The whole amount of the Estimates is £370,537 2s. 0½d., being £65,437 12s. 8½d. less than the Estimates, which were voted in 1841 for the service of the current year. Having been framed with the strictest regard to economy, there is not I think a single Item in them requiring any special explanation.

There is at Page 93 a small supplementary Estimate for the service of the year 1842; but the reasons why it is necessary are shewn in the last paragraph of my Financial Minute (Page 3).

The grants in aid of the Corporations of Sydney and Melbourne are fully explained in my Despatch, No. 216 of this day's date, wherewith I have transmitted the Acts Incorporating those Towns.

At Page 95 is the Annual Appropriation Act (6th Vict., No. 12), a Copy of which on Parchment is transmitted with the other Acts of the Session for the Gracious approval of Her Majesty, in my Despatch No. 215 of this day's date.

At Page 107 is a Protest from two Members of the Council, Sir John Jamison and Mr. Blaxland, against the appropriation of the sum of £96,144 3s. 8½d., for the purpose of defraying the expenses of Police and Gaol establishments; and to this Protest, it is my duty to invite Your Lordship's attention.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

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

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 219, per ship Olinda; acknowledged by lord Stanley, 4th July, 1843.)

My Lord,

Government House, 17th Novr., 1842.

By Your Lordship's Despatch, No. 4 of the 25th Sept., 1841, I was desired to propose to the Legislative Council of this Colony certain amendments in the Act, which was passed by the Council in the year 1840 (4th Vict, No. 29) for the regulation
of Gaols, Prisons, and Houses of Correction, the said amend-
ments having been proposed in a letter addressed by the Home
Inspectors of Prisons to the Secretary of State for the Home
Department on the 6th Sept., 1841, and forwarded to Your Lord-
ship from the Home Department in Mr. Phillipps' letter of the
9th of the same month. As among the Acts passed by the Legisla-
tive Council in its late Sitting, and forwarded with my Despatch
of this day's date No. 215, Your Lordship may have observed
that there is no Act embodying the proposals of the Home In-
spectors, it becomes my duty to submit to Your Lordship the
reasons why I have not proposed such a measure to the Council.

It can scarcely be necessary to call to your Lordship's recol-
clection, the discontents which have existed in this Colony for the
last seven or eight years, in consequence of the expence of the
Police and Gaol Establishments, required chiefly for the coercion
of British Criminals, being thrown upon the funds of the Colony;
of the grounds of these discontents, or whether they may not be,
as I believe them indeed to be in great part if not wholly, un-
founded, it is not my present purpose to speak; I refer to them
merely to prove to Your Lordship that, in proposing to the
Council any measures tending to increase the expence of them,
it is desirable to proceed with caution.

The Preamble of the Act passed in the Colony for the regula-
tion of Goals (4th Vict., No. 29) starts with declaring, as the
Judges in pursuance of the power given them by the 24th Sec-
tion of the 9th Geo. IV, C. 83, had often declared before "that for police and
the laws now in force in England for regulating Gaols, Houses
of Correction, etc., are not applicable to the Colony of New South
Wales"; the proposals however of the Inspectors go in every
essential respect to assimilate our Laws to those of England, and
this too, in matters wherein I think I shall be able to shew,
that no such assimilation is necessary or desirable.

The first proposal of the Inspectors is that the Rules contained
in the 4th Geo. IV, C. 64, S. 10, and the 2nd Vict., C. 56, S. 6,
be inserted in the Local Act; and, in making it, the Inspectors
refer to a passage in My Despatch of the 1st Jany., 1841, No. 1,
wherein I stated "that the Gaols in New South Wales, being all
under the immediate control of Government, it was thought un-
necessary to make the Prison Rules a part of the Act, as they
are in England, where the Prisons are under the control of Local
Authorities," by which I intended to convey an opinion that
Statutory Rules are necessary in England, because, as the Gaols
are under the control of Local Authorities, it is only by the
enactment of such general rules that regularity and uniformity
can be secured in the management of them; but that statutory
problems re statutory rules for prisons and gaols.

Transmission of regulations for gaols and prisons.

Reasons for inability to adopt English rules in colonial gaols.

rules are not required to secure regularity and uniformity in a country where the control of the Gaols is wholly in the hands of the Executive.

In commenting on this passage, the Inspectors say that, though in England Gaols are managed by Local Authorities, those authorities must submit their Rules to the Secretary of State for approval, and that nevertheless general statutory rules have been considered necessary. I must submit, however, that the observations of the Inspectors do not touch the true point of the question. The Secretary of State in England has not the power, which the Local Government of New South Wales has, of making rules; he has the power only of disallowing such as are proposed to him by the Magistrates, and the statutory rules are necessary, not to control the Secretary of State, but to reduce as far as possible the number of points, on which differences between the Secretary of State and the Local Authorities are likely to arise.

The obvious inconvenience of Statutory rules is that they can only be altered by Statute; the convenience of Rules made by the Executive is that they admit of easy alteration or improvement. It is also essential to bear in mind that, in framing such Rules, the Local Executive of a Colony acts under the control or correction of Her Majesty's Government, which cannot be the case, or only in a much smaller degree, if the rules be statutory.

I transmit herewith a Copy of the Regulations, which have been formed by the Executive of this Colony; and which, in the opinion of the Governor and his Council, as nearly follow the Statutory rules of Great Britain, as the circumstances of the Colony and the condition of the Gaols in it will admit of their doing.

The gaols in New South Wales were, from the foundation of the Colony in 1789* up to the year 1834, built, regulated and supported by the Home Government; and, when, in 1834, the expense of supporting them was transferred to the Local Government, there was not a single Gaol in which classification could be carried into effect, or scarcely any one of the statutory rules enforced, notwithstanding that those rules had for eleven years formed part of the Law of England. In the eight years which have elapsed since 1834, great improvements have been made in the condition of the Gaols, and others are in progress; but their condition is still very far from being such as will admit of the observance of the rules which are in force in England; and to have rules, which are habitually and even of necessity to be disregarded, can never be desirable.

The second proposal of the Inspectors has reference to the 7th Clause of the Local Act, and is to the effect that Returns,

* Note 37.
founded on the Reports of the Visiting Magistrates, should be transmitted annually to the Secretary of State, as is required in England by the 24th Section of the 4th Geo. IV, C. 64.

It would, I apprehend, be both anomalous and improper to introduce into an Act of a Colonial Legislature a clause prescribing in any degree the nature of the correspondence, which is to be carried on between the Governor of the Colony and the Secretary of State, or to declare that any specified Returns shall be made by the one to the other. The Secretary of State has undoubted power to call for any Returns he may desire to have; and Returns of the nature spoken of by the Inspectors have long been called for, and are now annually furnished as an appendix to the Blue Book.

The next suggestion of the Inspectors has reference to the 10th Clause of the Act of Council, which declares that, in order to prevent contamination, any Prisoner may be placed in separate confinement in a cell of such a size, and so lighted and ventilated, that the Prisoner may suffer no injury to his health, to which the Inspectors desire that certain additions should be made, specifying more particularly the nature of the cell, as is enacted by the 4th Clause of the 2nd and 3d Vict., C. 56, and that no cell be used, the fitness of which for the purpose is not certified by two Magistrates.

This is in fact nothing but the proposal of an additional statutory rule. In England, it is one intended equally to guard against the undue severity of a vast number of Local Authorities. In New South Wales, such an enactment would scarcely serve any other purpose than that of proclaiming a distrust in the Government.

The next suggestion of the Inspectors is that the appointment of a Chaplain and Surgeon to each Gaol should be secured by statutory enactment.

The objections, which have been urged against the other proposed statutory enactments, apply of course equally to this. The Inspectors moreover are not perhaps aware that, as all religious denominations are by the Church Act of this Colony (7th Wm. IV, No. 3) on an equality, the appointment of a Chaplain of one denomination could not be made compulsory on the Government, without exciting discontent in other sects or denominations. At present in the principal Gaol of the Colony, there is a Chaplain of the Church of England, and one of the Church of Rome, paid £200 each by an annual vote of the Legislature.

In the minor Gaols, the parochial Clergy generally attend the Prisoners without being paid for so doing, and (as they all receive salaries from the Government) it is not unreasonable...
that they should do so; there are however three clergymen (two Protestant and one Roman Catholic), who receive small salaries at places where it would scarcely be reasonable to require their gratuitous attendance.

Of the eight Gaols that exist in the Colony, four are attended by Surgeons who receive salaries from Government for other duties; at a fifth, the Surgeon receives a salary of £40 a year.

To enforce by Law the appointment of a Chaplain and Surgeon to every Gaol (however small) in the Colony would lead to an increased expense; for, if their appointment were rendered compulsory on the Government, they would all require salaries.

The only remaining suggestion of the Inspectors is that the provisions of the 5th Geo. IV, C. 85, S. 16 and 17, regulating the employment of Prisoners before trial, should be adopted.

The enactment in these two Sections, which forbids the placing of Prisoners on the Treadmill before conviction, would be quite useless in New South Wales, the only Treadmill in the Colony being not in a Gaol but in the House of Correction, to which no Prisoner is ever sent until after Conviction.

The portions of the same Sections, which render it unlawful to put Prisoners before trial to work of any sort, except with their own consent, are I would submit sufficiently met by the 9th Clause of the Act of Council. This Clause provides that Prisoners, after conviction, even though not sentenced to hard labour, may, if they do not maintain themselves, be put to such labour as is not severe, the obvious intendment of which is that Prisoners before conviction cannot (except with their own consent) be put to labour at all.

I would in conclusion beg leave to point out to Your Lordship that the real or essential object of the Act of Council was the appointment of Visiting Magistrates.

Nearly all the other objects of it might have been attained solely by the authority of the Executive; but, in order to prevent collisions between the Visiting Magistrates and the Sheriff, who is the Officer not of the Executive Government but of the Supreme Court, an Act defining the powers and authorities of the visiting Justices was considered necessary. Their appointment has already produced very salutary effects; and I should consequently very greatly regret the loss of the Act, should Your Lordship, in consequence of the suggestions of the Inspectors, think it necessary to advise the disallowance of it.

I have, &c.,
Geo. Gipps.

[Enclosure.]

[A copy of these rules will be found in a volume in series II.]
Sir George Gipps to Lord Stanley.

(My Lord,

Government House, 19th Novr., 1842.

I have the honor to request Your Lordship's permission to issue Letters of Denization, under the Local Act of this Colony, 9th Geo. IV, No. 6, to Mr. Nicholas Hyeronimus, a Native of the Dutchy of Luxembourg, who has been settled in this Colony since the month of March, 1840.

The Memorial, which Mr. Hyeronimus has addressed to me requesting the privileges of a free Denizen, is herewith enclosed; and it is recommended by persons of respectability in the Colony.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

The Memorial of Nicholas Hieronimus of Wellington Valley in the County of Bligh, in the Territory aforesaid,

To His Excellency Sir George Gipps, Knight, Captain General and Governor in Chief of the Territory of New South Wales,

Sheweth,

That your Memorialist is a Native of Machtum in the province of Luxembourg in the Kingdom of Belgium; That he arrived in Sydney, per Ship Hope from London, in the month of March, 1840; That, since the arrival of your Memorialist in this Colony, your Memorialist has been a resident in the districts of Moreton Bay and Wellington; That your Memorialist is at present a Licensed Victualler carrying on business at Wellington Valley aforesaid; And that your Memorialist is possessed of property in Cattle and other Stock and has expended a considerable Sum of money in building a Dwelling House and premises and also a Court House for the use of the Magistrates at Wellington Valley aforesaid.

That your Memorialist is desirous of being naturalized and becoming a subject of her Majesty Queen Victoria.

Your Memorialist therefore prays your Excellency will be pleased to submit the aforesaid premises to her Majesty's gracious consideration, and that your Excellency will be pleased to recommend Her Majesty graciously to extend to your Memorialist the rights and privileges of a British subject.

And your Memorialist will ever pray, etc.,

NICHOLAS HYERONIMUS.

We hereby certify the truth of the above Memorial and the respectability of the Memorialist, Nicholas Hyeronimus—

THOS. HOOD, J.P.

JACOB L. MONTIFIORE, Sydney.

THOS. BULLOT, Sydney.

JAS. W. BLIGH, Bathurst.
1842.

20 Nov.

Despatch acknowledged.

Report required re rule of court.

Lord Stanley to Sir George Gipps.

(Despatch No. 210, per ship Stratheden; acknowledged by Sir George Gipps, 9th July, 1843.)

Sir,

Downing Street, 20th November, 1842.

I have received your Dispatch of the 30th of March last, No. 65, transmitting a Rule of the Supreme Court in the Port Phillip District.

Before taking The Queen's pleasure with regard to the disposal of this Rule, I should wish to receive a report from the Judges of the Supreme Court of their opinion of the working of the Rule after it shall have been a year in operation.

I have, &c,

Stanley.

Sir,

Downing Street, 22d November, 1842.

Petition I have received a Petition addressed to The Queen by John Chubb, residing at Sutton Forest, County of Camden, New South Wales, dated the 7th November, 1841, in which he prays Her Majesty to order him a Grant of Land or a passage to his native Country.

You will acquaint the Memorialist that I have laid his Petition before The Queen, who was pleased to receive it very graciously. You will also call for a Copy of the Petition, and transmit it to me with any observations which you may have to make upon it.

I have, &c,

Stanley.

Sir,

Downing Street, 23d November, 1842.

Despatch I have to acknowledge the receipt of your Dispatch No. 85 of the 10th of May last, forwarding a Copy of the Address with which you opened the Ordinary Session of the Legislative Council of New South Wales for the present year.

I have, &c,

Stanley.

Sir,

Downing Street, 23rd November, 1842.

I have the honor to transmit to you, for publication in the Colony under your Government, an Order made on the 2nd Instant by Her Majesty in Council, authorising "Portuguese Ships to Import into any of the British Possessions abroad, from the
Portuguese Dominions, Goods, the produce of the Portuguese Dominions, and to Export Goods from such Possessions to be carried to any Foreign Country whatever." I have, &c.,

STANLEY.

[Enclosure.]

ORDER-IN-COUNCIL.

At the Court at Windsor, the 2nd day of November, 1842.

Present:—The Queen's Most Excellent Majesty in Council.

Whereas, by an Act passed in the Session of Parliament held in the 3rd and 4th Years of the Reign of His late Majesty King William the fourth, intitled, "An Act to regulate the Trade of the British Possessions abroad," after reciting that, by the Law of Navigation, Foreign Ships are permitted to import into any of the British Possessions Abroad, from the countries to which they belong, Goods the produce of those Countries, and to export Goods from such Possessions to be carried to any Foreign Country whatever; and that it is expedient that such permission should be subject to certain conditions, it is enacted that the privileges thereby granted to Foreign Ships shall be limited to the Ships of those Countries, which having Colonial possessions shall grant the like privileges of Trading with those possessions to British Ships, or which, not having Colonial possessions, shall place the Commerce and Navigation of this Country, and of its possessions Abroad, upon the footing of the most favoured Nation, unless His Majesty, by His Order in Council, shall in any case deem it expedient to grant the whole or any of such privileges to the Ships of any Foreign Country, although the conditions aforesaid shall not, in all respects, be fulfilled by such Foreign Country; And it is thereby provided that no Foreign Country shall be deemed to have fulfilled the before mentioned conditions, or to be entitled to the privileges aforesaid, unless and until His Majesty shall, by some Order or Orders, to be by Him made, by the advice of His Privy Council, have declared that such Foreign Country hath so fulfilled the said conditions, and is entitled to the said privileges.

And whereas it hath been made to appear to the satisfaction of Her Majesty in Council that the Government of Portugal hath fulfilled the conditions herein before mentioned;

Now therefore, in pursuance and exercise of the powers in Her Majesty in Council, by the said recited Act of Parliament in that behalf vested, Her Majesty, by and with the Advice of Her Privy Council, doth declare, and it is hereby declared accordingly, that the Government of Portugal hath fulfilled the conditions herein before mentioned, and that Portuguese Ships may import into any of the British Possessions abroad, from the Portuguese Dominions, Goods the produce of the Portuguese Dominions, and may export Goods from such Possessions, to be carried to any foreign Country whatever; Provided always that nothing herein contained shall be construed to prevent Portuguese Ships from Trading with any of the British Possessions in Europe, to such extent and in such manner as they Lawfully may under the Law of Navigation now in force.

And the Right Honorable the Lords Commissioners of Her Majesty's Treasury, and the Right Honorable Lord Stanley one of Her Majesty's principal Secretaries of State, are to give the necessary directions herein accordingly as to them may respectively appertain.

R. GURNER.
1842. 
27 Nov.

Report required re S. Elrington.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch per ship Stratheden; acknowledged by Sir George Gipps, 3rd July, 1843.)

Sir,

Downing Street, 27th November, 1842.

At the instance of Captain Elrington of the Guards, I have to request that you will furnish me with any information which you may be able to procure respecting Major Sandys Elrington, who settled in New South Wales several years ago, and resided at Mt. Elrington, County St. Vincent, but of whom no tidings have been received by his relatives in this Country for the last twelve years. I am, &c.

STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 223, per ship Olinda; acknowledged by Lord Stanley, 3rd July, 1843.)

My Lord,

Government House, 27th Novr., 1842.

I have the honor to report to Your Lordship that the first Elections of Municipal Officers under the Corporation Act of Sydney have gone off in a satisfactory manner, and that the Town Council has entered on the performance of its functions.

The number of registered Electors in each Ward is as follows, the qualification being, as Your Lordship will recollect, an occupancy of a house or building, worth £25 per annum:

- Gipps Ward, 534; Bourke do, 535; Brisbane do, 584; Macquarie do, 622; Cook do, 243; Phillip do, 684; Total, 3,202.

The persons, elected to be Councillors, are generally reputed to be good men of business, though the greater part of them had previously taken no prominent part in public affairs.

Of the Candidates (amounting in all to 43), the gentlemen most conspicuous from their wealth or station were not those on whom the choice of their fellow citizens fell.

I have further to report to Your Lordship that, some discussion having taken place as to the proper designation of the Mayor and Council, I caused the Notice to be issued in the Government Gazette, of which I enclose a Copy, sanctioning the assumption by the Mayor of the style or title of “Right Worshipful”; when the importance of the City of Sydney is considered and its prominence among the Towns of the Australian Colonies, I trust the Title, thus conferred upon its Chief Magistrate, may, on Your Lordship’s recommendation, receive the sanction of Her Majesty.

I have the honor to subjoin a list of the gentlemen who have been elected Councillors. I have, &c.

GEO. GIPPS.