respectively of 2,000 acres and 1,300 acres have long since been confirmed to him; and he has been permitted, during a period of more than seventeen years, to remain in possession of the 6,000 acres, which he and his Brother were allowed to take possession of with a view to purchase, though he confessedly has never paid for them. Mr. Crawford, however, maintains that Sir Thomas Brisbane, before he left the Colony, converted the “permission to purchase” into a “Promise of a Grant,” and the question at issue is whether such was the fact or not.

Against the probability of such having been the case, the following considerations are to be urged:—

The permission to purchase these 6,000 acres of Land, under the Regulations of 1823, was granted by Sir Thomas Brisbane on the 28th Novr., 1825, only three days before he sailed for England. If, therefore, Sir Thomas Brisbane did convert this “permission to purchase” into a “promise of a grant,” it must have been within three days after he had given the permission to purchase and at the very moment of his departure; also within ten days after he had promised to Mr. Crawford the additional grant of 1,300 acres, and it is further remarkable that, though he had made this additional grant of 1,300 acres, subject to the approval of the Secretary of State, the promise of the larger grant of 3,000 acres (if made at all) was made subject to no such similar condition of approval.

The second grant of 1,300 acres was indeed made under the Regulations of the 8th Novr., 1824,* in consideration of the maintenance of Convicts, and consequently the Regulation then in force that no person should receive free grants of more than 2,000 acres in the whole was not by it broken through; but the further Grant of 3,000 acres to Mr. Crawford, if made at all, must have been in direct violation of the Regulations which restricted Free Grants to a maximum of 2,000 acres; and it is certainly difficult to suppose that Sir Thomas Brisbane could, at the very moment of leaving the Colony, really have intended to give 3,000 additional acres to Mr. Crawford, and also 3,000 to his Brother, who had no claims whatever on the Government for Official Service. Moreover, after the most diligent search, no record of any such promise can be found; the “permission to purchase” is duly recorded, and bears date as already stated; but no record whatever can be traced in any public Office of the alleged conversion of the permission to purchase into a promise of a Grant.

Another circumstance against Mr. Crawford is, that in 1826, less than a year after Sir Thomas Brisbane left the Colony, a

* Marginal note.—See page 10 of the Parliamentary Paper 394 of 1882, headed “New South Wales Land Regulations.”
return was called for by Sir Ralph Darling of the Quantity of Land held by Mr. Crawford, which Return bearing the signature of the then Surveyor General (Oxley) and dated the 27th Nov., 1826, specifies the different Lands as already described, namely, 2,000 acres, 1,300 acres, Grants; 3,000 acres, on permission to purchase.

Of this Return, I enclose a copy.

In opposition to these facts, the claims of Mr. Crawford, as gathered in part from his Memorial and in part taken by myself from his own mouth, are as follows:—

1st. That he enjoyed in a peculiar manner the friendship of Sir Thomas Brisbane, and that the want of an Official Record of the conversion of the "permission to purchase" into a "promise of a grant" is to be ascribed solely to the laxity with which it is notorious all matters connected with Land granting were conducted;

2ndly. That he has in his possession a document (Appendix A of his Memorial), signed by the Surveyor General, certifying that he was in the actual occupation of these 6,000 acres of Land. The document does not state whether as a Grant, or on permission to purchase; but it is admitted that certificates in this form were only given to Grantees, and not to Purchasers. The instructions,* under which the Surveyor General acted, expressly forbade him indeed to give any Certificate of occupation to an intending purchaser, until the first instalment of the purchase money had been paid. It is admitted that no instalment ever was paid by Mr. Crawford; and therefore it is beyond doubt that an irregularity one way or the other was committed by the Surveyor General, either he failed to record the promise made to Mr. Crawford of the conversion of his purchase into a Grant, or he gave to Mr. Crawford a certificate of occupation, which he ought not to have given.

The other facts urged by Mr. Crawford are, I consider, of little importance.

Mr. Crawford states that, having been called upon in 1832 to pay up an instalment on his purchase of the 6,000 acres, he replied (see B in his appendix) that the Land was a Grant and not a purchase, and that he considered this answer to have been received as a sufficient one; but this I can scarcely admit, as it is notorious that the Government never set itself earnestly to work to recover the monies due to it under Sir Thomas Brisbane's permissions to purchase; and that there were many persons in precisely the same position as Mr. Crawford in respect to money.

* Marginal note.—See page 9 of the Parliamentary Paper 394 of 1832, headed "New South Wales Land Regulations."
due on Lands held by them under permission to purchase. The real reason, why Mr. Crawford received no answer to his letter of the 23d April, 1832, probably was that a Government Notice was issued shortly afterwards, extending the time allowed to persons, in the same position as Mr. Crawford, to pay up their debts to the Government.

The other papers, produced in Appendix B of Mr. Crawford's Memorial, are still weaker; indeed they form evidence against his claim rather than in favor of it; for, in those which are of an official character, Mr. Crawford's 6,000 acres at Ellalong are described not as a "Grant," but as an Estate, or simply as his 6,000 acres; and it is only in an extract from an Itinerary, published by the Post Master General, that his Land is described as a Grant. These papers go to prove that, in the Surveyor General's Office, Mr. Crawford was not considered to have received these 6,000 acres as a Grant.

Another point adduced by Mr. Crawford is that, in 1830, he obtained a certificate that he was not indebted to the Government; and that, if he had been so indebted, he would not have obtained payment of a sum due to him on account of fees. In respect to this, it seems to me to be too vague to be of much importance one way or the other. I enclose a letter from the present Auditor General, Mr. Lithgow, respecting this supposed Certificate.

Looking at the whole of Mr. Crawford's case, I should have no hesitation in at once declaring that the 6,000 acres ought to be resumed by the Crown but for the following considerations:

That there was negligence on the part of the Surveyor General (Oxley) in giving to Mr. Crawford the certificate of occupation (A in his appendix), and negligence on the part of the Government in allowing him to remain in undisturbed possession of the Land upwards of seventeen years, during which period he has not only expended capital upon it, but mortgaged it also.

I should be disposed to say that the equity of the case might perhaps be met by allowing Mr. Crawford to have the Land confirmed to him on payment of the present value of it in an unimproved state, which would probably be from 5s. to 10s. per acre; but such a course of proceeding would scarcely be authorized by the Crown Lands Act (5th and 6th Vict., C. 36); to allow him to purchase the Lands at the present Minimum price of 20s. per acre would, even if the Act allowed of it, be doing him no favor.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

[Copies of these papers are not available.]
1843.
7 Oct.

Financial distress in colony.

Failure of Hughes and Hosking.

Cause of failure of bank of Australia and difficulties of banks.

Favourable season.

Business in legislative council.

Lien on wool and live stock act.

HISTORICAL RECORDS OF AUSTRALIA.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 161, per ship Australasian Packet.)

My Lord, Government House, 7th Octr., 1843.

Having on the 19th August last, in my Despatch No. 131, addressed some remarks to Your Lordship on the general state of the Colony, I have now the honor, in continuation of the same subject, to report as follows:—

The pecuniary distress, which has so long existed, continues, I regret to say, unabated, and the shares* of the different Banking Companies are scarcely saleable at any price; the value of Sheep,* however, has somewhat improved; and a spirit of economy has very generally succeeded the reckless extravagance which so long prevailed in New South Wales.

The large Mercantile Firm of "Hughes and Hosking" has at length been brought into the Insolvent Court. This is the firm alluded to in my Despatch, No. 40 of the 31st March, 1843, as having been supported to a very large extent by the Bank of Australia. Mr. Hosking, the second partner in the firm, was the first Mayor of Sydney, but has, in consequence of his Insolvency, been forced to retire from the Corporation. It was the attempt to support this firm, which led to the ruin of the Bank of Australia; and I believe it may be said that the Banks owe generally their present peculiar position to the extreme indiscretion with which they have supported or "bolstered up" firms or individuals, in the vain hope that, if time were allowed them, they might be able to retrieve their affairs.

In the midst of so much gloom, I am happy to say that the season has continued propitious; and Sheep shearing and Harvest, both of which are now approaching, will I hope tend in some degree to revive the spirits of the Colonists.

Though the New Legislative Council has now been sitting more than two months, the amount of business transacted by it is as yet but trifling. A great deal of the time of the Council has been occupied in debating on the state of the Colony, and in attempting to devise means for relieving the present distress. For this purpose, three Bills were introduced by Mr. Wentworth (Member for Sydney), forming a series of measures, of which the following is an outline:—

The first Bill was to facilitate the raising of money by proprietors of Sheep on their forthcoming clip of Wool; also to facilitate the pledging or mortgaging of Sheep or Cattle. This Bill has passed the Council, but no very salutary effect† is anticipated from it by any party.

* Note 19. † Note 20.
The second Bill was to prevent the waste of property of Insolvent persons, in cases wherein it might be hoped that, by proper management, the Insolvents would ultimately be able to meet all their engagements. This Bill the Council has also passed (after striking out some objectionable Clauses), and it is now before me for my assent, which I probably shall give, though I cannot expect much benefit to be derived from the measure, the tendency of it being to increase the "bolstering up," as it is called, of persons in a tottering condition.

Mr. Wentworth's third Bill was by far the most important of the whole; but it has failed altogether; and, had it even been passed by the Council, I could not have given my assent to it. It was in fact a proposal for a Usury Law, fixing the Interest of money at 5 per cent.; but, as it was to be retrospective in its operation, it would (if carried) have violated nine tenths or more of the engagements now existing between man and man in the Colony. There was in it a clause also (if possible) of a still more objectionable nature, namely, that the Government should immediately buy up all the Mortgages in the Colony, borrowing for the purpose as much money as might be required, and which was supposed to be about £500,000.

I am happy to say that the Bill was rejected by a large majority, there being for the second reading of it, only 12, and against it 21.

Among the Bills, which I myself presented to the Council at the commencement of its sitting, was one amending in some slight degree the Post Office Act of the Colony, for the better securing the delivery of ship-letters. Into this Bill, the Council has inserted a clause, taking away the privilege of franking from the Military, Commissariat and Convict Departments, the Departments that is to say, which are paid for out of the Military Chest. I hope yet to be able to have the clause struck out; and, if it be not struck out, I shall either disallow or reserve the Bill. I cannot, however, but regard the insertion of such a clause as an indication of bad feeling towards Her Majesty's Home Government, or more properly perhaps, I should say, that I believe it to have been done in the spirit of retaliation on the Home Government for the numerous charges, which since the year 1834 have been transferred from the Home to the Local funds, and especially the charge for Police and Gaols, the opposition to which still continues to be as decided and as general as ever.

The Council is now proceeding with the Estimates for 1844; but the progress they make is very slow, and they have not yet arrived at the items which are likely to produce the warmest discussion.
Immediately on the rejection of Mr. Wentworth’s Usury Bill, two out of the four remaining Banks in Sydney voluntarily reduced their rates of discount to six per cent. on Bills having less than one hundred days to run, and to eight per cent. on Bills for more than one hundred days. These Banks are the “Commercial” and the “Union Bank of Australia”; the other two, namely, the “New South Wales Bank” and the “Bank of Australasia,” still retain their old rates, which are in each case two per cent. higher.

I am still under the necessity of giving employment to a number of Mechanics and Labourers, who would otherwise be out of work in Sydney. The number now employed is:

Carpenters and Joiners, 87; Masons, 46; Quarrymen, 17; Smiths, 27; Labourers, 90; Total, 267.

The Legislative Council voted on the 3rd instant the sum of £2,500, in order to enable the Government to pay them. No men, however, are employed, who have not Families.

I have completed the issue of Charters establishing District Councils under the Clauses 41 to 50 of the Act for the Government of New South Wales (5th and 6th Vict., Ch. 76). The number of Councils established is 28, it having been found necessary to establish one nearly in every Police District.

In consequence of the depression of the times, a very general desire has been expressed for postponing, until the year 1845, the operation of the 46th clause of the Act, under which each District Council is required to defray one half of the expenses of the Police of the District. Whether or not I shall feel justified in acceding to this general desire, I am scarcely in a condition as yet to determine.

I have, &c.,
GEO. GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 164, per ship Anne.)

My Lord,
Government House, 11th October, 1843.

I have the honor herewith to enclose a Copy of a letter from the Commissioners of Colonial Lands and Emigration to Mr. La Trobe, informing him that a Mr. B. Bucknall had paid to Mr. Barnard £200 towards the purchase of Lands at Port Phillip, and that, in virtue of such payment, he had nominated and they (the Commissioners) had approved ten persons for a free passage to Port Phillip by the ship “Lord Keane.”
I enclose also a copy of a Return, which I have received from Mr. La Trobe, shewing that the ten persons, so named for a free passage, arrived at Port Phillip in the ship "Lord Keane" on the 14th ultimo.

My object in making this report to Your Lordship is to point out that, according to the Regulations of this Government, three persons only out of the ten would be eligible for Bounty, namely, Samuel Martin, who is described as a Labourer, Harriet, his wife, and Jessie Selling, a Carpenter. The remaining persons consist of the wife of a person named Edward G. Bucknall, who is described as a Farmer (and may be presumed to be a relative of Mr. B. Bucknall), five children of the same Edward G. Bucknall, and a Governess named Anne Mary Tucker.

I have no knowledge of these persons beyond what is contained in the report; and I observe that the Officers, who compose the Board of Examination at Port Phillip, certify that they have found the parties "to be of the proper description." I think it, however, right to state to Your Lordship that, if properly described, they would not, under the Regulations of this Government, be entitled to a free passage.

I have, &c.

GEO. GIPPS.

[Enclosure No. 1.]

LAND AND EMIGRATION COMMISSIONERS TO MR. C. J. LA TROBE.

Colonial Land and Emigration Office,

Sir, 9 Park Street, Westminster, 1st May, 1843.

With reference to our letter of the 6th April, 1842, we have the honor to inform you that Mr. B. Bucknall has deposited with Mr. Barnard, the Agent General for Crown Colonies, under the 9th Paragraph of the enclosed Regulations, the sum of two hundred pounds towards the purchase of Land at Port Phillip, and that we have granted him a certificate according to the usual Form, a copy of which accompanied our letter above referred to.

In virtue of this Deposit, Mr. Bucknall has nominated and we have approved for a Free passage Ten persons, equal to eight adults computed according to the Passengers act, for whom conveyance has been provided by us to Port Phillip in the Ship "Lord Keane," under an agreement with the owner and Master Mr. John Roberts, of which enclosure No. 2 is a copy.

With respect to two of the parties mentioned in the 11th Clause of the Agreement, named Edward Gillins Bucknall and one of the children under 7, who were ineligible for a Free Passage under the 8th and 10th Clauses of the Established Regulation (Enclosure No. 3), we have consented that they should accompany their Family on payment of the Contract Price, amounting to twenty seven pounds, which sum will be paid over to the Agent General.

We have, &c,

T. FREDK. ELLIOT.
EDWARD E. VILLIERS.
[Enclosure No. 2.]

List of Immigrants brought to the Colony by Mr. B. Bucknall, per the Ship "Lord Keane," which sailed from London on the 7th May, and arrived at Port Phillip on the 14th September, 1843, Embarked under the Regulations of the Commissioners of Land and Emigration.

<table>
<thead>
<tr>
<th>No.</th>
<th>Name</th>
<th>Sex</th>
<th>Occupation</th>
<th>Status</th>
<th>Remarks</th>
<th>£ s. d.</th>
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<tbody>
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<td>1</td>
<td>Edwd. G. Bucknall</td>
<td></td>
<td>Farmer</td>
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<td>2</td>
<td>Sarah</td>
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<td>Wife</td>
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<td>3</td>
<td>Stephen</td>
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<td>Son</td>
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<td>4</td>
<td>Caroline</td>
<td></td>
<td>Daughter</td>
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<td>5</td>
<td>Henry</td>
<td></td>
<td>Son</td>
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<tr>
<td>6</td>
<td>Frederick</td>
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<tr>
<td>7</td>
<td>Edgar</td>
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<td>8</td>
<td>Edward</td>
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<td>Son</td>
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<td>9</td>
<td>Samuel Martin</td>
<td></td>
<td>Labourer</td>
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<tr>
<td>10</td>
<td>Harriet</td>
<td></td>
<td>Wife</td>
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<tr>
<td>11</td>
<td>Ann Mary Tucker</td>
<td></td>
<td>Governess</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>12</td>
<td>Jessie Selling</td>
<td></td>
<td>Carpenter</td>
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</tr>
</tbody>
</table>

Recapitulation of the number of Immigrants.—2 Families consisting of 10 souls, 1 single Male. 1 single Female.

Sir, We beg leave to inform your Honor that, according to your directions, we have inspected the Immigrants named in the accompanying List, and have found them to be of proper description.

We are, &c.,

D. McIvor, Capt., late 75th Btg.

John Paterson,
SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 165, per ship Anne.)

My Lord,
Government House, 12th Octr., 1843.

In my Despatches, Nos. 117 and 167 of the 10th July and 14th Septr., 1842, I incidentally alluded to a seizure in this Colony of a large quantity of Spirits, or rather of mixed Wine and Spirits, which had been introduced into the Colony under the name of Benecarlo Wine; and I have now to report that a question, requiring the decision of Her Majesty's Government, has grown out of the way in which this mixed liquor has been disposed of.

The case having been taken by the Collector of Customs into the Admiralty Court, the proceedings in it were very tedious; but, at length, the mixed Liquor was condemned, and in consequence offered for sale; but, having been condemned for not being Wine, it could not be sold as such; and, not being worth the duty with which it was chargeable as Spirits, it proved to be absolutely unsaleable.

Under such circumstances, it was, with the advice of my Executive Council, sold for Distillation; and the question, which has unexpectedly arisen, is whether the Seizors (Custom House Officers) are entitled only to half the amount for which the liquor was sold, or whether in addition to such half they can also claim half of the sum (about £6,280), which will be payable to the Local Government on the spirits which are to be distilled from it.

The case is more fully detailed in the Minutes of the Executive Council, of which Copies are enclosed.

It may be right for me to explain that the inducement to smuggle Spirits into the Country under the name of Wine arises out of the fact that the duty on Wine is low, whilst that on Spirits is very high.

The circumstances of the case have, I believe, been reported by the Collector of Customs in Sydney to the Commissioners of Customs in England.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

EXTRACTS from Minutes of Proceedings of the Executive Council
on the 30th May, 21st August and 5th September, 1843,
Minutes Nos. 9, 17, 18.

SALE for distillation of "Benecarlo Wine" seized by the Collector of Customs.
Application of the Collector, as seizing Officer, for a moiety of the duties paid on the Spirits distilled.

(Min. 43/9. 30th May, 1843.)

Present:—His Excellency the Governor; The Right Rev. the Lord Bishop of Australia; The Honorable the Colonial Secretary; The Honorable the Colonial Treasurer.
His Excellency the Governor informed the Council that a seizure had been made some time since of a large quantity of Benecarlo wine (about 300 Pipes), in consequence of its being so strongly brandied as no longer to answer the description of wine, and being clearly not imported for consumption as such. The wine so seized had, after condemnation in the Vice Admiralty Court, been lying in store for a very considerable time in consequence of the Importers of it having given notice of an appeal to the Privy Council; but, the time limited for their appeal having expired without their having taken due means to prosecute it, their right of appeal was lost, and as the charges on the wine, as well for Law Proceedings as for Storage, etc., amount to upwards of £750, the necessity of disposing of it in some way or other had become very urgent. It had been already offered for sale for exportation, but no Bidder had been found for it at any price. It cannot, His Excellency said, be sold for the Colony, because, having the Colony and the Vice Admiralty Court not to be wine, it cannot be admitted for consumption at a less duty than that payable on foreign spirits, viz., Twelve shillings per Gallon; whereas the highest price that could be expected for it, if sold for consumption in the Colony, would be about £16 per Pipe or less than 1s. 6d. per gallon, which is not nearly the amount of the duty. Under these circumstances, therefore, it would seem that the only choice in disposing of it lies between selling it for Distillation in the Colony, and throwing it into the Sea. There are but two Distilleries in the Country, the owners of one of which have declined to make any offer for it. The owner of the other has offered £5 10s. per Pipe, and to distil it in Bond under the Superintendence of the Officers of Government, by which means the duty on the spirit produced will be secured to the Government, viz., 9s. per gallon. His Excellency added that, after enquiry into the matter, He felt satisfied that the wine could not be disposed of in any other way; but the Council were aware that Government property was in no ordinary case sold by private contract, and He did not therefore feel Himself justified in so effecting a sale in the present instance without the advice of the Council.

The Collector of Customs (Col. Gibbes) being in attendance was introduced, and stated to the Council that, when the seizure was made, the importation of wine for the purpose of distillation was unlawful, but that now there was nothing in the Law to prevent such distillation. To sell the so-called wine, under the name of wine, for use in the country in place of rum and other spirits, might be more advantageous to the Government than the mode of disposing of it now proposed; but it would not be consistent for the Government to sell as wine what had been seized because it was not wine. The wine might be distilled for the Government and the Spirits sold at the Customs; but he (the Collector) feared that it would be long before the sale of such a quantity could be effected. The sale of it off hand was out of the question. Even the Distiller with all his advantages of connection would not be able to get rid of the quantity in less than six months. Besides which consideration, the Customs had no store suitable for its reception. If the wine were advertised for sale by Auction, there would be no competition, and, in the delay which must necessarily take place if this course were adopted, the present chance of sale might be lost. There was only one distiller, besides Mr. Cooper, and he was not in a condition to make the purchase; indeed he (Col. Gibbes) knew that he would not buy the wine at any price.
Col. Gibbes having withdrawn, the Council expressed their opinion that the proposed sale to Mr. Cooper on the terms mentioned by His Excellency was the only possible mode of disposing of the wine, and they advised therefore that it be so disposed of.

(Min. 43/17. 21st August, 1843.)

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.

With reference to the proceedings of the 30th May last, respecting the disposal of a large quantity of spirits, which had been imported into the Colony under the name of Benecarlo Wine, and had been subsequently seized by the Customs, His Excellency the Governor laid before the Council a Letter from the Collector of Customs, and in explanation thereof made the following statement:

The Liquor imported under the name of Benecarlo wine had been seized because it was not wine, and consequently the Government could not sell it, or allow it to be sold, for consumption in the Colony as wine; and it could not be sold as spirits for consumption in the Colony at a less price than the duty payable on it, which as Spirits would be twelve shillings per Gallon, a much higher price than any body would offer for it. And lastly it could not be sold for exportation, because, when offered for sale on condition of being exported, nobody would give anything for it at all. Hence the Liquor (call it Wine, Brandy or anything else) was absolutely unsaleable, and of so little value was it considered, that it was seriously contemplated to throw it into the sea.

It was suggested, however, that a value might be given to it, by considering it as neither wine nor Brandy, but simply as an article for distillation; and accordingly as such it was sold to Mr. Cooper in the same way as any quantity of damaged wheat or sugar might have been sold to him, which though unfit for any other purpose might have been capable of being distilled into spirits.

When this arrangement was under consideration in the Council, He (the Governor) fully understood that Mr. Cooper was to pay to the Government the full duty of nine shillings per Gallon on all the spirits which he might procure from the Liquor by the process of distillation, and he had not the remotest idea that any portion of the duties, thus payable by Mr. Cooper, could or would be claimed by the officers of Customs who had made the seizure. In the letter, however, then laid before the Council, the Collector claims half the duties, and adduces arguments in support of his claim, on which He (the Governor) felt it necessary to ask the opinion of the Council.

The case was deferred for further consideration on a future day.

(Min. 43/18. 5th September, 1843.)

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.

With reference to the Proceedings on the 21st August last, the Council resumed the consideration of the question raised by the Collector of Customs as to the seizing Officer's right to one half of the duty on the Spirits distilled from the Benecarlo Wine.
The Council felt it necessary first to record that the application from the Collector of Customs came upon them entirely by surprise; and that, when they advised that the liquor called Benecarlo wine should be sold to Mr. Cooper, they had no idea that such a claim as the present would have been advanced. They could scarcely feel any difficulty in further declaring that, had the case come before them accompanied by the demand now made, they should have hesitated in advising the sale of the liquor to Mr. Cooper.

It had appeared to the Council that the liquor was unsaleable and consequently valueless, unless some means of disposing of it, consistently with law, could be devised; and the Council were anxious to devise such means of giving it a value, principally in order that the seizing officers might not go wholly without reward, which of course they must have done, had the liquor been thrown into the sea. But it was not within the contemplation of the Council to give to it a value at the expense of the Public, or to the detriment of the Revenue.

Upon every gallon of Spirits distilled in the Colony, the Government is entitled to a duty of nine shillings; but, if the application of the Collector of Customs were acceded to, it was clear that the Government would get only 4s. 6d. on each of the 13,956 gallons distilled from the liquor, and consequently would lose £3,140 2s. And, as the Queen’s share of the money to be received from Mr. Cooper was £731 10s., it was evident that the Government would in consequence of the advice of the Council suffer a loss of £2,408 12s.

Looking at the whole of the case, and supposing it to have come originally before the Council in the shape which it had now assumed, the Council felt that they could not have advised any course of proceeding, which would have put the Government into a worse position than that in which it would have been had the liquor been destroyed, or cast into the sea. Had this been done, there would evidently have been no proceeds from the seizure and consequently the Government would have received nothing, whilst it would probably have had to pay all the expenses attendant on the proceeding; though these latter might legally have been thrown on the zealous. The utmost therefore that the Council could recommend, and that subject to the approval of the Commissioners of Her Majesty’s Customs, was that the entire expenses should be defrayed by this Government, and that the whole amount realized by the sale of the liquor should be handed to the seizing officer.

FRANCIS L. S. MEREWETHER,
Clerk of the Council.

[Enclosure J 1 to Minute No. 17 of 1843.]

Mr. J. Gibbes to Colonial Secretary Thomson.

Sir,

After a lapse of two years from the time of seizure, the Benecarlo wine case is now brought to a close; and, as it has throughout been a very singular one, and the article has been disposed of in an unusual way by the direction of the Executive Council, I beg to know in what manner the proceeds arising from the forfeiture are to be brought to account, and how it is intended the seizing officer should be rewarded.

This question would be quite unnecessary, was it not that a doubt may arise as to how far that party is entitled to participate in the advantages of the arrangement made with the purchaser for paying nine shillings a gallon for every gallon of spirits produced from the wine, over and above the £5 10s. per pipe for the wine; because those nine shillings are equivalent to the Colonial Duty, and will in fact come in under that character by being paid to the Colonial Treasurer. Nevertheless, they
are to all intents and purposes a part of the proceeds arising from the forfeiture, inasmuch as it is an established maxim that the Crown cannot have the forfeiture of the goods and the duties too.

I scarcely need point out to you the cause of seizure in this case, as you will remember that the article, which was spirits mixed with wine and liable to a high rated duty, was attempted to be imported as Benecarlo wine at a moderate ad valorum Duty, for the purpose of being put into the hands of the Distiller.

It was therefore seized as spirits; as such it was condemned in the Vice Admiralty Court, and as such it consequently should have been sold.

The Regulation for the sale of condemned goods is that they shall not be sold for less than the duty.

They are accordingly always put up at the duty price, and, whether they fetch that sum or more, the Crown only takes one half, and gives the other half as a reward to the seizing officer.

Had then this Liquor been sold (as it ought to have been) as spirits 45 per cent. under proof, at the foreign spirits duty price of 12s. the gallon, it would have produced about £8,000; deduct from gross proceeds the expenses, say £1,000, and there would have been £7,000 coming to the seizing Officer, as a matter of absolute right and law, paid to the Queen for the use of the Colony.

The same result would have followed, had the article been kept in the hands of Government, and, after being distilled, been sold by them (as was proposed at the sitting of the Executive Council), only with this difference, that the whole amount of sale would have been paid into my hands, and been divided by me in the way laid down by the 81st Section, 3d Victoria, No. 3, without reference to anyone.

As it is, the liquor has been sold to a Distiller, to be distilled under the supervision of Government, a very trifling difference of arrangement, but which might, if wrong construed, be fatal to the interests of the seizing officer, which however did not occur to me at the time the Council decided on the case.

The number of Pipes was 266. The spirits produced 13,956 gallons.

This at 9s. the gallon will net £6,280, which added to £1,463, the nominal price of the wine, will make £7,743, which is very nearly the sum stated above as the probable gross proceeds of the Liquor, if sold like all other seizures; and, although the property of this will, by the arrangement entered into, have the appearance of coming in in the shape of duties, it is still a part of the proceeds arising from the discovery and forfeiture, and must, I submit, be divided according to law, for the Crown is entitled to no duties in the case of a seizure.

I therefore trust that the Governor will not misconstrue the nature of the transaction, that His Excellency will not refuse to concede to the seizing officer his established right, or consider that he ought to be debarred from it, because from the novelty of the case he did not oppose the arrangement.

Of all the seizures which I have ever had to deal with, this has been the most vexatious and annoying.

In the outset, I was insulted, locked up, and resisted in the execution of my duty by certain parties who were fined for so doing.

During the nine months which the case occupied in the Admiralty Court, the consultations and references gave me infinite trouble; and, although the goods were finally condemned, the owners brought an action against me for trespass, laying the damages at £10,000.

Two other actions for trespass were brought against me by Joubert and Murphy, in one of which I narrowly escaped being cast; and, although they took nothing by their actions, I was much harassed and annoyed.

I think it right to mention these circumstances, because after all, and notwithstanding that the attempted fraud was discovered by my vigilance and perseverance, I should get little or nothing from the seizure, if the proceeds were confined to the mere selling price of the article in the first instance.

The gross Proceeds of the sale as wine are £1,463. The expenses about £1,000 and the Queen's share £231 10s., so that the seizing officer would get out of the forfeiture, brought about by his exertions, no more than that sum, while the Queen would get £6,511 10s., which, I think, it must be admitted would not be an equitable division, or one that could be considered as being in accordance with any of the rules for the distribution of seizures.

I will conclude by observing that, was the seizing officer not to share in the whole of the proceeds after distillation, the Crown would be taking that which the law does not give it, and the article must be considered as having been sold as wine only.

If it was to be sold as wine, I could have procured £18 and £20 a Pipe for it, which would have realised £5,000, and given the seizing officer about £2,000.

I have, &c.,

J. GIBBES, Collr.
[Enclosure J 2 to Minute No. 17 of 1843.]

**Extract from the general orders of the Board of Customs.**

Dozens having arisen at several of the Ports in the West Indies, respecting the disposal of foreign Sugars and other goods liable to Duty, which have been seized and condemned for illegal importation.

You are to take notice that Duties are imposed upon goods imported voluntarily in the ordinary course of trade, and are not paid upon goods condemned, unless the forfeiture is expressly chargeable by law with the Duty, as in the case of goods taken from an enemy and condemned as Prize, where the whole produce is usually given to the captors, and by the same law are declared not to be exempt from duty.

In the case of forfeitures incurred by the Acts of Trade, the duties are not charged; and it is held that the Crown cannot have the duty and forfeiture upon the same goods; therefore when a duty has been paid upon the importation of Goods, which have been afterwards seized and condemned either for not having paid the full duties or for an illegal importation, the duties are returned to the persons who paid them.

Goods seized in this Kingdom are, upon the condemnation, sold by public auction at the Custom House to the best bidder, and the whole produce arising therefrom, after deducting the charges of condemnation and sale, is divided and paid in the proportions between the Crown and officers, as directed by the law on which the forfeiture is incurred; and the duties are not deducted from the produce, nor otherwise paid by the purchaser of the goods.

Condemnations in the Plantations are, by the 4th of His Majesty Cap. 35, and subsequent Acts, subject to the same regulations.

Compared J. M. Cashman.

**Sir George Gipps to Lord Stanley.**

(Despatch No. 166, per ship Anne; acknowledged by lord Stanley, 23rd March, 1844.)

My Lord,

Government House, 13th Octr., 1843.

In compliance with the enactments of the Imperial Statute, 9th Geo. IV, C. 83, S. 16, and of the Local Act of this Colony, 4th Vict., No. 22, I have the honor to forward hereunto, for the Gracious allowance of Her Majesty, certain Rules made by the Judge of the Supreme Court of New South Wales, Resident in the District of Port Phillip; and, in so doing, it may perhaps be convenient for me to refer to my own Despatch to Your Lordship, No. 108 of the 9th July, 1843.

I have, &c,

Geo. Gipps.

[Enclosures.]

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

**Sir George Gipps to Lord Stanley.**

(Despatch No. 167. per ship Anne; acknowledged by lord Stanley, 29th March, 1844.)

My Lord,

Government House, 14th Oct., 1843.

In the concluding part of my Despatch to Your Lordship of the 7th instant, No. 161, I reported that, in consequence of the great depression of the times, a very general desire had been expressed for postponing, until the year 1845, the operation of the 47th Clause of the 5th and 6th Vict., C. 76, under which each District Council is required to defray one half of the expense of
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Postponement of charge for police on district councils.

GIPPS TO STANLEY.

1843.

14 Oct.

Postponement of charge for police on district councils.

the Police of the District. I have now to report to your Lordship that a formal application to this effect has been made to me by the Legislative Council, and that I have acceded to it.

I enclose for your Lordship's information copies of the three following documents connected with this matter:

1. Address from the Legislative Council to myself;
2. Message in reply, acquiescing in the proposal of the Council;
3. Address of thanks from the Council.

Your Lordship may observe that, in my Message to the Council, I allude to a misprint in the 48th Clause of the 5th and 6th Vict., C. 76. On the subject of this misprint, I shall have the honor to address your Lordship in a separate Despatch.

I have, &c,

[Enclosures.]

GEO. GIPPS.

[Copies of these papers will be found in the "Votes and Proceedings" of the legislative council.]

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 168, per ship Anne; acknowledged by lord Stanley, 29th March, 1844.)

My Lord,

Government House, 14th Octr., 1843.

Referring to my Despatch of this day's date No. 167, I beg leave to draw your Lordship's attention to the 48th Clause of the Act for the Government of this Colony, 5th and 6th Vict., C. 76. This clause is as follows:—

XLVIII. "And be it enacted, that the Treasurer of each District Council, to whom any such Warrant shall come, shall pay the amount mentioned in the Warrant out of any monies in his hands belonging to the District, or, if there be no monies or an insufficient sum in his hands, the District Council shall assess and levy the amount by a fair and equal rate upon all property within the District, which the Legislative Council, or until a Bill for that purpose shall have been passed by the Legislative Council and assented to by the Governor, with the advice of his Executive Council, shall declare to be liable thereto."

And I submit to your Lordship that the sense of it can only be rendered complete by the repetition of the words, "the Governor," where they occur towards the end of the clause, thus:—"or until a Bill for that purpose shall have been passed by the Legislative Council and assented to by the Governor, the Governor with the advice of his Executive Council shall declare to be liable thereto."

The sense of the Clause is, by the repetition of the words "The Governor," rendered complete; and I find that in the Bill,
as passed by the Commons and sent up to the Lords, the words were repeated.

As the Clause is intended to confer a power on the Governor, which it is very necessary he should have, I beg to submit to Your Lordship the importance of having the misprint corrected in such manner as may remove all doubt in this Colony of the existence of the Power in question.

I have, &c.,
GEO. GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 169, per ship Anne; acknowledged by Lord Stanley, 15th April, 1844.)

My Lord,

Government House, 16th Octr., 1843.

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 1844-5, as prepared by Lieutt. Colonel Gordon, the Commanding Royal Engineer.

To this Estimate, I have added the sum of £1,000 to cover the expenses, which will probably be required at Norfolk Island, in consequence of the instructions which I have recently received respecting the intended formation of an increased Establishment on the Island under the direction of Major Childs (see my Despatch of this day's date, No. 170).

In my general Report (No. 43 of the 1st April, 1843) on Norfolk Island, I expressed a strong opinion against the practice recently adopted of erecting only temporary buildings; and, as it seems now to be settled that a strict system of penal discipline is to be re-established at Norfolk Island, I think it still more essential that whatever new buildings may be required, should be substantially built, and of durable materials.

I have, &c.,
GEO. GIPPS.

[Enclosure.]

[A copy of this estimate is not available.]

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

My Lord,

Government House, 16th Octr., 1843.

I have had the honor to receive your Lordship's Despatches, Nos. 37 and 64 of the 22d March and 29th April, 1843, communicating to me the decision of Her Majesty's Government, in respect to the establishment to be maintained at Norfolk Island under Major Childs.
I am in daily expectation of the arrival of Major Childs; but as yet I have no certain knowledge of his movements.

As I find, by the last mentioned of your Lordship's Despatches, that Norfolk Island is still (and for an indefinite period) to remain attached to this Government, and that the new Establishments are to be formed under my direction, I cannot but esteem it fortunate that I visited the Island in March last, as reported in my Despatch to your Lordship, No. 43 of the 1st April, 1843.

I have, &c.,
GEO. GIPPS.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 160, per ship Alfred; acknowledged by Sir George Gipps, 27th July, 1844.)

Sir, Downing Street, 17th October, 1843.

With reference to my Dispatch, No. 158 of the 30th Ultimo, I transmit to you, herewith, for your information, Copies of a further Correspondence with Mr. Percy Simpson, relative to his claim on the Government of New South Wales. I am, &c.

STANLEY.

[Enclosure No. 1.]

MR. P. SIMPSON TO UNDER SECRETARY STEPHEN.
Sir, Whitehall place, 9th October, 1843.

Absence from Town hitherto prevented me replying to your Letter* of the 30th Ultimo. I now do myself the honor of drawing my Lord Stanley's favorable attention to two passages in that communication, the first of which is as follows:

"The Governor has means which His Lordship has not of appreciating the real effects of which any such decision might be productive in other cases."

The next passage is: "That, in the event of Sir Geo. Gipps being satisfied of the justice of my claim, etc., the propriety of admitting it," etc.

As I am satisfied Lord Stanley does not contemplate, either on grounds of expediency or convenience, vesting Sir George Gipps with discretionary power (as from that passage may be implied) to withhold payment of what in good faith may be justly due me; may I hope that that Officer, or his successor, may be instructed to do justice in the case, according to the true spirit and meaning of General Sir Thomas Brisbane's agreement with me and the existing order of those days, without consideration to future contingencies or present convenience.

I would further most respectfully intreat his Lordship to direct that whatsoever sum may be awarded as due, that that amount may be transmitted or made payable to me in London, as it is my intention to remain in this Country and withdraw my Family from New South Wales until more favorable times.

I have, &c.,
PERCY SIMPSON.
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[Enclosure No. 2.]

UNDER SECRETARY STEPHEN TO MR. P. SIMPSON.

Downing Street, 17th October, 1843.

Sir.

I have laid before Lord Stanley your Letter of the 9th inst., and I am directed to acquaint you, in reply, that the expressions to which you refer, as contained in the Letter addressed to you on the 30th Ultimo, were of course meant not to imply that any considerations of mere convenience or inconvenience should be permitted to weigh against any strict legal right or strict legal justice or good faith; but that supposing, as would seem not improbable, that your claim is untenable on those high and conclusive grounds, and that it becomes a question of mere liberality or discretion to admit or to reject it, then in deciding on the admission or the rejection of it, it will become not merely the right but the duty of the Local Government to advert to the considerations of convenience and propriety to which reference is made in my former Letter.

Copies of this further correspondence will be communicated to the Governor of New South Wales. I have, &c.

JAS. STEPHEN.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 161, per ship Alfred: acknowledged by Sir George Gipps, 3rd March, 1844.)

Sir, Downing Street, 18th October, 1843.

I have received your Despatch, No. 73 of the 15th of last, in which, with reference to your former Despatch No. 60 of the 28th of April, you transmit further documents on the case of Mr. James Ralfe, late Member of the Survey Department of your Government.

I perceive nothing in these documents which would lead me to alter the views of Mr. Ralfe's case communicated to you by my Dispatch No. 150 of the 20th Ultimo, to which I have now to refer you.

I have, &c.

JAS. STEPHEN.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 171, per ship Anne.)

My Lord, Government House, 18th Octr., 1843.

The last Despatch, in which I specifically addressed myself to your Lordship respecting the Finances of the Colony, was dated the 10th May last (No. 68); but, in a subsequent Despatch of the 19th August, No. 131, I incidentally mentioned that the Revenue, in the first seven months of the year, had fallen off to the extent of about £25,000; and the general tenor of that Despatch, as well as my Financial Minute addressed to the Council

Principle for settlement of claims of P. Simpson.

Decision confirmed in case of J. Ralfe.

Despatch acknowledged.

Previous despatch re revenue.
on the 23rd August last (transmitted with my Despatch, No. 134 of the 25th August) was such as to lead your Lordship to expect a still more rapid decline.

I have now the honor to enclose comparative statements of the revenue during the first three Quarters of the years 1842 and 1843, by which the deficiency in the first nine months of the present year is shewn to be £43,438 19s. 8d.*

I am nevertheless happy still to be able to report to your Lordship that, in consequence of our diminished expenditure, the Government is under no immediate pressure for want of funds. As however we sell no Land, we of course have no funds applicable to Immigration.

I have, &c.,
Geo. Gipps.

[Enclosures.]
[Copies of these papers will be found in the "Votes and Proceedings" of the legislative council.]

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 162, per ship Alfred.)

Sir,
Downing Street, 19 October, 1843.

I have received your Dispatch No. 74 of the 16th of May last, enclosing a Copy of a Letter which you had caused to be addressed to Captain Macconochie on the subject principally of the Agricultural Department of Norfolk Island, and I have to express my approval of the instructions which that Communication conveyed.

I am, &c.,
STANLEY.

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

Sir,
Downing Street, 20th October, 1843.

I have received your Dispatch No. 66 of the 9th May last, enclosing a Copy of a Letter addressed to you by Captain Macconochie, with reference to Convict Discipline at Norfolk Island.

In reply, I have to acquaint you that I perceive nothing in the statement now before me which affects the decision, conveyed to you by my Dispatch No. 130 of the 29th of August last.

I am, &c.,
STANLEY.

*Marginal note.—Sydney District, £34,350 18s. 5d.; Port Phillip, £9,088 1s. 3d.; £43,438 19s. 8d.
Refusal by council of vote for surveyor-general's department.

Appropriation of revenue from quit rents.

1843.
21 Oct.

Refusal by council of vote for surveyor-general's department.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 172, per ship Anne; acknowledged by Lord Stanley, 25th April, 1844.)

My Lord,

I have the honor to report to Your Lordship that the Legislative Council, having come on the 3d instant to the consideration of the Estimate for the Surveyor General's Department, decided to grant nothing for this service, alleging that, according to the Land Act (5th and 6th Vict., C. 36), the expenses of it ought to be defrayed out of the Land Fund.

In my Despatch No. 91 of the 13th June last, I reported that the expense of the Department was, in 1842, £26,384 17s. 10d.; but that I had reduced the estimate for 1844 to £15,000.

In my Financial Minute of the 23d August last, I, in a particular manner, drew the attention of the Council to the various duties of this Department, many of them being in no way connected with the sale of Land; the Council nevertheless has refused to make any provision for it, well knowing at the same time that the moiety of the Land Fund, which is alone applicable to any purpose save Emigration, cannot be expected in 1844 to produce more than £5,000; whilst there is another charge, on account of the Aborigines, which will require a considerable portion of the money.

But, in addition to the Land Fund, there is in this Colony a Revenue arising from Quit Rents and other sources, which is entirely at the disposal of the Crown; and it was on this fund that I proposed, in my Despatch above mentioned of the 13th June last, to charge the salaries of some Officers whom I had removed from the Survey Department, to what I then for the first time called the administration of the Domain of the Crown.

I have now to express my hope that neither your Lordship nor the Lords of the Treasury will object to my applying a further portion of this revenue to the maintenance of the Surveyor General's Department on such a reduced scale as may be suitable to the present circumstances of the Colony.

On this subject I shall report further, as soon as I can lay before Your Lordship the arrangements which I propose.

I have, &c.,
GEO. GIPPS.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 164, per ship Ganges.)

24 Oct.

Sir,
Downing Street, 24th October, 1843.

I transmit to you, herewith, for your information and guidance, the Copy of a Report from the Commissioners of
Colonial Land and Emigration, enclosing the copy of an Answer, returned by them, to a series of Appeals made by Messieurs Masson and Hoggins against the refusal of Bounty by the Government of New South Wales in various cases.

I have, &c,

Stanley.

[Enclosure.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Colonial Land and Emigration Office, 19th October, 1843.

Having received from Messrs. Masson and Hoggins a series of appeals upon decisions on Bounty cases in New South Wales, we have the honour to enclose herewith, for Lord Stanley's information, the copy of an answer which we have returned to them, proceeding on the same general principles that have been sanctioned by his Lordship in other similar cases; and we would request that this letter may be forwarded to the Governor for his information.

We have, &c,

T. Frerek, Elliot.

J. G. Shaw LeFevre.

[Sub-enclosure No. 1.]

Mr. S. Walcott to Messrs. Masson and Hoggins.

Gentlemen,

Colonial Land and Emigration Office, 19th October, 1843.

In reference to the appeal offered in your letters of the 18th, 22nd, 24th, 26th and 30th of August, and of the 1st, 6th, 14th and 15th Ultimo, against the refusal of Bounty by the Government of New South Wales in various cases in which refusal of you are interested, I am directed by the Colonial Land and Emigration Commissioners to transmit to you the enclosed Memorandum containing certain general principles, which have been laid down by Lord Stanley for the guidance of the Governor in reconsidering any cases to which they may be found to apply, and, in so far as you have any claims which fall within the scope of these general rules, it will be open to you to bring them before the Governor in the regular manner through your Agent at Sydney.

Regarding any special cases that do not fall under the foregoing rules, it must be a matter for yourselves to consider whether any additional evidence that you can produce is of such a character that you would wish to forward it to your Agents with a view to reconsideration by the Governor.

With respect to the ten single men by the "Queen Victoria," it is not stated by you whether they were in excess at the time of embarkation, or became in excess in consequence of the rejection of Single Women. If the latter, the case would be provided for under the 3rd Head of the enclosed Memorandum; but, if the former, and you had an excess of Females in previous Ships, the question of allowing them to be set off against the deficiency in the "Queen Victoria" must be a point for the consideration of the Colonial Authorities to be decided according to the circumstances of the case.

I am, &c, S. Walcott, Secretary.

[Sub-enclosure No. 2.]

Principles for the reconsideration of any cases of Refusal of Bounty, to which they may apply in the Immigration of 1841 and 1842.

I. Where no reason appears to doubt that single Females were of good character at the time of embarkation, and where their conduct was good during the voyage so as to justify the practical efficiency of the protection under which they were placed, the refusal of Bounty under the strict letter of the Rule on the latter point will, as regards the past, be reconsidered.

II. Payment will not continue to be withheld on widows, if unobjectionable in other respects, upon the ground of their not being unmarried Females.
III. If a single man were in all other respects eligible, the Bounty on him is not to be withheld because a single Female, by whose presence the required equality of the Sexes would have been preserved, was rejected.

III. With regard to Refusals of Bounty because people entered upon a different Trade in New South Wales from that stated in their Certificates, such refusals are not to be maintained in respect of single women described as Female Servants, because they made their election in the Colony to earn their living by needle work. Where obviously incompatible callings were inserted together, and the party entered on the one different from that contemplated in the Rules, the refusal will of course stand good. But in any instances where one of the callings being of the kind required by the Regulations, both were nearly related together so that fitness for the one was a presumption of qualification for the other, the Colonial Government will be prepared to take such cases into consideration according to the respective merits of each.

V. If an Immigrant was duly passed by the Immigration Board, the Bounty on him is not to be withheld because he may have afterwards left the Colony or Died.

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**SIR GEORGE GIPPS TO LORD STANLEY.**

(Despatch No. 173, per ship Anne; acknowledged by lord Stanley. 13th March, 1845.)

My Lord, Government House, 27th Octr., 1843.

I have the honor to forward herewith Requisitions for Medicines, Stationery, Printed Forms, etc., for the use of the Convict services in New South Wales for the year ending the 31st March, 1845, accompanied by a copy of an explanatory letter from the Principal Medical Officer.

I forward at the same time returns from the Principal Medical Officer, of the expenditure of Medicines, Materials, and Stationery, in the Convict Medical Departments in New South Wales, for the year ending the 31st March, 1843; as also, returns of the diseases treated in the Convict Hospitals in New South Wales and at Norfolk Island for the year ending the 31st December, 1842. These several Returns reached me only on the 26th instant, and are forwarded with the Requisitions in obedience to the directions contained in Lord Bathurst's Despatch No. 9 of the 13th March, 1824.

I have, &c.,

GEO. GIPPS.

[Enclosures.]

[Copies of these papers have been omitted.]

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**SIR GEORGE GIPPS TO LORD STANLEY.**

(Despatch No. 174, per ship Anne; acknowledged by lord Stanley. 29th March, 1844.)

My Lord, Government House, 28th Octr., 1843.

In my Despatch to your Lordship of the 7th instant, No. 161, I mentioned that a bad feeling towards Her Majesty's Government had been manifested in the New Legislative Council of this Colony by the introduction into a Post Office Act of a clause, depriving the Departments, which are supported by the
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Military Chest, of the privilege of franking; and I led Your Lordship to expect that similar ill will might be manifested in a stronger degree, in the course of the discussion then in progress (and still unfinished) on the estimates for 1844.

I am sorry now to have to report to your Lordship that two additional cases have arisen, in which I am at issue with the Council. The first has reference to the question long agitated respecting Police and Gaols; the second, to the extent of the power granted to the Crown by the Schedules A and B, appended to the 5th and 6th Vict., C. 76.

On each of these subjects I shall report separately to Your Lordship, and in my present despatch offer only some few observations to account, as far as I am able, for the existence in the Council of feelings so opposite to those which might be expected to exist in a body, recently indebted to the Queen and Her Parliament for all the powers and privileges it possesses.

Your Lordship must be aware that many of the acts of the Home Government, affecting this Colony during the last ten or twelve years, have been received by the Colonists with more or less disfavor; such were, the discontinuance of Free Grants of Land; the abolition of Transportation and Assignment (which deprived the Colony of cheap labour); the throwing on the Colony the whole expense of maintaining its Police and Gaols; and, more recently, the passing of the Land Act, 5th and 6th Vict., C. 36, by which the minimum price of Land was raised to £1 per acre. And, though the Act for the Government of the Colony and the enlargement of the Council was better received, objections to it were raised, and especially by the Public Press, in two particulars; The first of these was, the large infusion of Government Nominees into the Council, the second, the amount of the Civil List, or of the Schedules A, B, and C.

The introduction into the Council of Nominees of the Crown was scarcely so much objected to as a positive wrong, as it was represented to the People to cast on them the obligation of electing none but men who would oppose the Government; the cry indeed became general throughout the Colony that, as the Government would have an united band of Nominees, it was the duty of the Colonists to elect no men as their Representatives, who would not pledge themselves to oppose them; and the result was, as reported to your Lordship in my Despatch No. 112 of the 18th July last, that only one person (Mr. Therry) in any way connected with the Government was elected a Representative of the People.

On the second point, or that of the Civil List, the outcry against the Act of Parliament was more decided; and the enactment
of the Schedules was denounced as an infringement on the constitutional privileges of the Representatives of the people, as implying a distrust in them, and as putting the loyal Colony of New South Wales on a par with rebellious Canada.

But another, and perhaps a still more unfavorable circumstance, attendant on the elections of the first Representatives of the People in New South Wales was that the Elections took place at a time when the Colony was (as it still unhappily is) labouring under very heavy monetary depression. Many men have been placed in the Council, I might I believe say that the majority of the Council is composed of men, who have suffered severely in their fortunes by the great depreciation which has lately taken place in the value of all Colonial property, and who partake largely of the disposition, so prevalent in the Colony, to ascribe their losses or disappointments to the measures of the Home Government, and especially to the want of cheap labour and the passing of the recent Land Act.

There are, nevertheless, symptoms, I am happy to say, of a reaction in the public mind; and many of the recent proceedings of the Council have been condemned throughout the Colony, condemned also by the Public Press, and altogether without my interference; for I have inflexibly abstained, ever since my arrival in the Colony, from connecting myself either directly or indirectly with any Newspaper.

I have, &c.,

GEO. GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.

(My Lord, Government House, 28th Octr., 1843.)

Having, in my Despatch of this day's date No. 174, reported to Your Lordship that the question so long agitated in this Colony respecting the expenses of Police and Gaols has been revived in the Legislative Council, I now propose to bring this matter more immediately under your Lordship's notice.

Your Lordship is aware that, since 1834, the whole expense of maintaining the Police and Gaols of the Colony has been defrayed out of the Local Revenue; and that consequently Convicts, when committed to Gaol, are, like any other inmates of the Prison, fed at the expense of the Colony. The Council, however, when the estimate for the support of the large prison near Sydney (Darlinghurst) was before them, struck off the sum of £457, being the amount which it was supposed would be necessary for the maintenance of the average number of Convicts confined in the Gaol; and the Council informed me by an Address that they
GIPPS TO STANLEY.

had passed a Resolution, declaring that Convicts, when confined in the Gaols of the Colony, should not, in the opinion of the Council, be maintained at the expense of the Colony. To this Address, I replied by a Message, informing them that I had no funds out of which I could maintain Prisoners of any description in the Gaols of the Colony, except such as might be placed at my disposal by the Council, and reminding them that the Magistrates could commit offenders (whether bond or free) to no other place than the common Gaols of the Colony. My Message was taken into consideration by the Council on the 27th Instant, and on that day a second address to me was agreed on; of these several documents I enclose copies.

Your Lordship will perceive that, in their second Address, the Council adduce, in support of their argument, the words included in a parenthesis near the beginning of the 47th Clause of the 5th and 6th Vict., C. 76 ("exclusive of the Convict Establishment"); the question, therefore, between the Council and myself rests at present on the proper interpretation of these words; and I need scarcely observe to your Lordship that, if construed in the sense which the Council would attach to them, they will have the effect of throwing on the Home Government charges of a far heavier nature than that of the maintenance of Convicts in Colonial Gaols. I apprehend indeed that the Council has abstained from raising as yet any question on the more important subject of the Police, solely on account of my having acquiesced in the proposal respecting the Police, made by the Council itself, and reported in my Despatch No. 167 of the 14th instant.

The parenthetical words in the 47th Clause of the Act should, I apprehend, be construed to relate only to Convict Establishments properly so called, such as Norfolk Island, Cockatoo Island, Hyde Park Barracks, the Female Factory at Parramatta, and the Ironed-Gangs; but I nevertheless cannot help regretting the insertion in the Clause of the words in question, as they are at any rate sufficiently vague to afford ground for the re-opening of the old contest.

As I cannot admit a Colonial Gaol to be a Convict Establishment, I shall continue to consider myself absolutely prohibited from paying anything out of Convict funds towards the maintenance of Prisoners in the Gaols of the Colony; and, though I shall endeavour to reduce the number of Convicts in the Colonial Gaols to the lowest number possible, I know of no means by which I can prevent the committal to Gaol of men in assigned service, or holders of Tickets of Leave, for offences committed when they are wholly beyond the control of the Convict Establishment.
Not having as yet received the second Address of the Council, I am unable at present to say more on this subject; but I shall not fail to keep your Lordship informed of whatever may occur.

Before I conclude, I think it right to refer your Lordship to the following documents, as containing the grounds on which Her Majesty’s late Government decided that the whole expense of the Police and Gaols of the Colony ought to be defrayed out of the Local Revenue; These are: Mr. Spring Rice’s Despatch to Sir Richard Bourke, of the 15th November, 1834, No. 27, and the Treasury letter enclosed in it of the 23d Sept. in the same year; also Lord John Russell’s Despatch to myself of the 25th June, 1840, No. 88.

I have, &c,

Geo. Gipps.

P.S.—Leave has been obtained (by Mr. Windeyer) to bring a Bill into the Legislative Council to declare Hyde Park Barracks and Cockatoo Island to be common Gaols; and to direct Magistrates to commit Convicts to those places, instead of the ordinary Gaols of the Colony; but, as such an arrangement would be not only expensive and inconvenient, but would also involve an evident attempt, in an indirect way, to compel Her Majesty’s Government to do that which it has directly and repeatedly refused to do, I shall deem it my duty to withhold my assent from such a Bill, even though it be passed by the Council.

3rd Novr.

G.G.

[Enclosures.]

[Copies of these papers will be found in the “Votes and Proceedings” of the legislative council.]

Sir George Gipps to Lord Stanley.

(Despatch No. 176, per ship Anne; acknowledged by Lord Stanley, 29th March, 1844.)

My Lord,

Government House, 28th Oct., 1843.

In my present Despatch, I propose to detail to Your Lordship the occurrences, which have taken place in the Legislative Council up to the present day, in respect to the Schedules A and B, appended to the Act for the Government of the Colony, 5th and 6th Vict., C. 76.

In my Despatch No. 174, I have reported to Your Lordship that these schedules were greatly objected to immediately on the arrival in the Colony of the Act to which they are appended. During the Elections it was generally declared that the first efforts of the representatives of the People ought to be directed to get rid of them; and, though I privately endeavoured to defend the Schedules on the principles afterwards set forth in my Message to the Council, my arguments did not at that time appear to have much effect on the parties to whom they were addressed.
GIPPS TO STANLEY. 203

It was in some measure to remove the general dislike to the Schedules that I pointed out, in my Financial Minute of the 23d Augt. (transmitted with my Despatch No. 134), the extensive control which the Council would acquire over Schedule A by the necessity, which the Government was under of applying to the Council for a sum in addition to it. If it be stated that I ought at the same time to have explained (as I did in my second message) that the Schedule gave to the Queen the power of keeping faith with the Officers, who had been appointed by Her Majesty to certain situations in the Colony, I can only reply that it did not occur to me as possible that the Council would seek to make Her Majesty’s Government break faith with the Servants of the Public; and in anything which did not involve a breach of faith, or greatly impair the efficiency of the Courts of Justice, I was prepared to yield to the wishes of the Council. The Council, however, having arrived at that division of the Estimates which relates to the Judicial Establishment, asserted its right to abolish Offices or reduce salaries at its pleasure, without entering in any way on the question of compensation to the holders of Office, and without reference to any promises given or expectations held out to them either by the Imperial or the Local Government.

It was then pointed out by the Colonial Secretary (the Chief organ of Government in the Council, and acting under my instructions) that the Council could not reduce Salaries which had been granted to certain Officers by the Crown, and more especially the Salaries of persons, who had been induced to leave England by the promise of a certain emolument; and the reason, why I had not specifically adverted to this in my Financial Message, was at the same time explained to the Council by the Colonial Secretary under my authority. The Council, however, refused to accept the explanation of the Colonial Secretary as my explanation; and professing to act in conformity with my views, as explained in my first Message, adopted by a Majority of 15 to 7 a Resolution proposed by Mr. Windeyer (of which I enclose a Copy) to the effect that, in consequence of my having asked for a supplementary grant, the Council had a right to appropriate the whole of the £20,000 granted to the Queen for the Administration of Justice by Schedule A; and on the following day further resolved that, in their opinion the Master in Chancery (Mr. Milford), to whom a salary of £1,000 a year was assigned by your Lordship’s Despatch, No. 175 of the 26th August, 1842, ought only to have £800. During the debate on this question, the Colonial Secretary and other Government Officers were taunted with holding opinions different from mine; and it was urged that, if I had in reality changed my mind, I ought myself to communicate my altered views to the Council.
It then appeared to me that the time was arrived at which I ought to explain myself directly to the Council; and I accordingly sent to them a Message, of which a Copy is enclosed.

My Message was received by the Council on the 19th instant; and they immediately after the delivery of it decided that the Prothonotary, Mr. Gregory, who lately came out from England with an appointment from Your Lordship of £800 a year, ought only to have £650.

On the motion of Mr. Wentworth, it was on the same day decided that my Message should be taken into consideration on Friday, the 27th, and accordingly, on the 27th (which was yesterday), Mr. Wentworth brought forward in Council a set of Resolutions, of which I enclose a Copy. After some debate on these Resolutions, the further consideration of them was postponed until Tuesday next; and as the Vessel, which is to take this Despatch, is expected to sail on that day, it will not (unless she should be accidentally detained) be in my power to report the result until the next opportunity.

Thinking it of importance to make the Officers of Government, who are Members of the Legislative Council, fully aware of the extent to which only I differed from the Majority of the Council, I addressed to them on the 25th instant a memorandum, in further explanation of my views respecting the Schedules, and of this Memorandum I have also the honor to enclose a copy.

I have, &c,

GEO. GIPPS.

1st November, 1843.

P.S.—The detention of the vessel ("The Ann"), which is to carry this Despatch, enables me to report to your Lordship that Mr. Wentworth's Resolutions were rejected last night, but only by a Majority of two, and after a debate of Six hours. The Council divided as follows:—

Against the Resolutions: 14; The Colonial Secretary; The Commander of the Forces; The Treasurer; The Attorney General; The Auditor; The Collector of Customs; Mr. Jones, Mr. Berry, Mr. Elwin, Mr. Teely, Crown Nominees; Mr. Therry, Mr. McArthur, Mr. Foster, Mr. Panton, Elected Members.

In favor of the Resolutions: 12; Mr. Blaxland, Crown Nominee; Mr. Wentworth, Proposer; Mr. Lawson, Seconder; Mr. Windeyer; Revd. Dr. Lang; Mr. Walker; Mr. Bradly; Mr. Bowman; Mr. Cowper; Major Wentworth; Captain Dumaresq; Mr. Lord.

Absent: One Crown Nominee (Mr. Hamilton); Eight Elected Members.

The question on this debate having been one principally of Privilege, I take the liberty of enclosing a Copy of some Remarks which I have committed to paper on the subject.
MEMORANDUM from His Excellency The Governor to the Official Members of the Legislative Council, in further explanation of His views respecting the Schedules A and B, attached to the Act of the 5th and 6th Vict., Ch. 76.

The Council has affirmed, "that, if called upon to vote more for any particular service than is appropriated thereto in the Schedules, it has and ought to have power to fix the amount to be appropriated to every detail of such service, except such as may be specifically provided for in such Schedule."

The only services, specifically provided for by Schedule A, are the salaries of the Governor, the Superintendent of Port Phillip and the Judges: consequently, the Council, by the above Resolution, assumes to itself the right, under existing circumstances, of fixing the sum to be appropriated to every other Service, or in other words to appropriate the whole of the money named in the Schedule, with the exception of £13,000; and the question at issue is, whether this claim can be supported by the Clauses in the Act, which relate to the Schedules. These Clauses are the 37th and the 38th.

Clause 37 expressly states that, out of the said Revenue fund (that is to say, the fund arising out of taxes, duties, rates and imposts), there shall be payable every year to Her Majesty, Her Heirs and successors, for defraying the expenses of the several services and purposes in the Schedule marked A, the sum of £33,000; and, lower down in the same Clause, it is said that such sum of £33,000 shall be issued to the Treasurer of the said Colony in discharge of such Warrant or Warrants, as shall be from time to time directed to him by the Governor of the said Colony. Everything in this clause is distinct and plain; there is nothing in it conditional, ambiguous, or obscure; and certainly (as far as I can see) nothing in it to justify the claim of the Council to appropriate any part of the £33,000, the whole of which is expressly granted to the Queen, and is to be expended by the Governor, acting under the orders of Her Majesty.

The succeeding 38th Clause directs that an account in detail of the expenditure of the sums, granted by Schedule A, shall be laid before the Council after they have been expended. As little therefore can I see anything in this Clause to support the claim of the Council to fix, by previous enactment, the manner in which they shall be expended.

I do not, however, on this account mean to say that the Council has no right to enquire into the way in which the Money is expended, and to exercise, by the expression of their opinion, even a very extensive control over the expenditure of it. Had the Council worded its Resolution in the following manner, no objection to it would have been raised by me:

"Resolved, that, whenever this Council is called on to Vote any sum of money in excess of any one of the Schedules, it will, before
Memo, by Sir G. Gipps re claims of legislative council to allocate amount appropriated in schedules to constitution act.

A Resolution of this nature would have been perfectly in accordance with the views developed in the second, no less than in the first of my financial Messages to the Council; in accordance also with all that is maintained in the present paper.

The Council has drawn a distinction between such services as are specifically provided for by the Schedules, and such as are not; and it may be assumed that, by Services, Salaries are signified. That there is a distinction between Salaries which are specified in the Schedules, and those which are not, is quite clear; but the nature of the distinction has not, I think, been correctly perceived by the Council. The real distinction seems to me to be that, whilst Her Majesty can of Her own sole authority reduce or increase the Salaries which are not charged specifically on the Schedules, Her Majesty cannot, of Her own sole authority, increase or diminish salaries which are specifically fixed by the Schedules. Speaking with all possible respect, I would say that it is not within the power of the Queen to reduce the Salaries of the Governor, the Judges, or the Superintendent, of Her own sole authority. Her Majesty may change a Governor, or dismiss a Judge; but the Successor (if she appoint one) of such Judge or Governor will be by Law entitled to the same salary, as that which was enjoyed by his Predecessor.

The way, in which the Salary of a Governor or a Judge may be altered, is pointed out in the Act (Sec. 38); but it is not by Her Majesty's sole authority. In respect, therefore, to the disposal of the first £13,000 of Schedule A. Her Majesty's Power is not unlimited; but in respect to the remaining £20,000, Her power is, by Law, unlimited, so long as Her Majesty appropriate no part of it to any other purpose than one connected with the Administration of Justice. Her Majesty cannot of Her sole authority take £1,000 from the Salary of the Governor, or even from that of his successor, and divide it amongst the Judges; but, if the present Attorney General were to die or vacate his office, the Queen might of Her own sole Authority appoint a Successor with a salary of only £1,000 a year instead of £1,200, and divide the £200, which would be saved, among the Tipstaffs of the Judges.

But, though Her Majesty's power over the appropriation of the £20,000, secured for the Administration of Justice, is thus complete and absolute by Law, it is very far from my intention to maintain that it is unlimited in practice. Even were the sum of £20,000 sufficient to meet all the expenses incidental to the Administration of Justice, it would still be quite competent to the Council, after knowing how the Money had been spent, to point out by a respectful Address to Her Majesty anything which might appear to the Council to involve an extravagant expenditure, or a misapplication of any part of the money; and it is not to be doubted that any such respectful Address would receive Her Majesty's consideration; and still stronger is the case, when in consequence of the insufficiency of the sum (£20,000), the Governor is compelled to go to the Council

proceeding to vote such money, strictly enquire into the manner in which the sums, secured to the Government by such Schedule, have been or are intended to be expended; and the Council will vote no larger sum in excess of any such Schedule than may appear to the Council to be necessary, after such reductions shall have been made in the items charged on the Schedule, as in the opinion of the Council may be effected consistently with the good faith of the Government, and the efficiency of the public service."

A Resolution of this nature would have been perfectly in accordance with the views developed in the second, no less than in the first of my financial Messages to the Council; in accordance also with all that is maintained in the present paper.
in Her Majesty's name, and ask for an addition to it. The Council, before it grant such addition, may most justly enquire into the way in which the original sum is intended to be expended; and thus the Council acquires an indirect control over the expenditure of the whole money, a control which though indirect must be very extensive, and which will in practice be found to have scarcely any other limit than that which is imposed on Her Majesty, by the obligation of keeping inviolate her faith with those to whom it has been pledged, an obligation from which, so long as she is supported by Her Parliament, no power on earth can compel her to recede. I stated in my first financial Minute that, whenever a supplementary grant was asked for, the control of the Council over the Schedules was, for all practical purposes, as great as if the Schedule had not been passed. I did not then think it necessary to say that to compel Her Majesty to break Her faith was impracticable, was impossible.

But even supposing (which I, however, do not admit) that, in my first financial Minute, I placed the Schedule A too unreservedly under the control of the Council, was it, I may ask, generous, was it nobleminded, was it just, to take advantage of the confidence which I reposed in the Council, to endeavour to bring me in as a party to a breach of faith? If it be said that it is not the faith of Her Majesty, but that of Her Minister, which is pledged to Mr. Milford or Mr. Gregory, I reply that I know of no distinction; the most solemn engagements with Foreign Powers are made by Her Majesty's Ministers, not by Her Majesty in person; but no one on that account has ever doubted that Her Majesty's faith and the faith of the Nation is pledged to the observance of them.

It is quite true that the Council, failing to compel me to break faith with the gentlemen whom I have just named, may refuse to vote any sum in addition to Schedule A and thus cramp or impede the Administration of Justice to an extent greatly injurious to the Colony, to an extent indeed so great as to compel Her Majesty's Ministers, for the benefit of the Colony, to have recourse to Parliament. But would it not be lamentable, would it not be humiliating, if in the first session of a Council, which owes its existence to an Act of the British Parliament, introduced by Her Majesty's present Ministers, and passed without opposition, a case were to arise such as the one contemplated? if it should arise too out of a question involving only a consideration of £350 a year.

But it may be asked of me, why, the consideration being so small, do I magnify it into one of so great importance? To which I reply, that, whilst, to the Council and to the Colony, it is a consideration of only £350 a year, it is to me a consideration of whether or not I will maintain the good faith of Her Majesty or of Her Majesty's Government; it is to me a question, whether or not I will uphold what I in my conscience believe to be an important right of the Crown.

25th October, 1843. G.G.

REMARKS on the alleged Breach of the Privileges of the Legislative Council by the Governor's explanatory Message of the 19th Oct., 1843.

In the House of Commons, the leading Member of the Government is always admitted to be the organ of the Crown. Frequent Messages from the Crown to the House are therefore not necessary;
indeed Messages to either House of Parliament have of late years become almost matters of form. The Heads of the Executive Government have places in the Houses of Parliament; and no one ever questions the fact that they speak the sentiments of the Crown. The case is different in New South Wales; the Head of the Executive Government is not in the Council; Messages, therefore, from him to the Council must of necessity be more frequent than at home, and still more frequent if the Council refuse to receive statements made by the official organ of the Government (the Colonial Secretary) as the statements of the Head of the Government.

On the occasion which has given rise to the present question, the Colonial Secretary, in his official capacity, expressly informed the Council that the construction, put by the Council on my Message of the 23d August last, was not the construction I intended it to bear. As clearly as the forms of debate would allow, he informed the Council that I did not acquiesce in the construction put on my Message, and would not admit the right of the Council to compel Her Majesty, or Her Majesty's Government, to break faith with Servants of the Public, in cases wherein the Schedules gave me power to prevent it.

The Council, however, would not receive this statement as coming from me; but, adhering to their own interpretation of my Message of the 23d August, passed the Resolution, assuming to themselves powers which are not borne out by law, and followed up that Resolution by another, intended to compel Her Majesty's Government to break faith with a public Officer recently appointed to the Colony (Mr. Milford, the Master in Equity), notwithstanding that his Salary had been distinctly charged on Schedule A, by the concluding part of the Secretary of State's Despatch, No. 223 of the 15th Decr., 1842.

In such a position was I to remain silent? was I to stand by and see the explanation which I had given, through my own official organ, disregarded, and an attempt made to bring me in as a party to a breach of faith? was I to affect an ignorance of occurrences, which took place in open Council; and, in deference to supposed precedents, drawn from the bad times of England's History (the Reign of Charles the 1st*) to allow these occurrences to pass unnoticed? I claim, in the most unqualified manner, the right of communicating with the Council, as often as I may deem it necessary to do so. In my communications, it is my desire, as much as my duty, to observe all possible courtesy towards the Council; and, as far as circumstances allow, I am anxious that the forms and observances, which have long been established in Parliament, should be transferred to the Council. But New South Wales, I must observe, is not England; the Council is not Parliament; nor does it enjoy the whole of the powers and privileges of Parliament; and the Colonial Secretary, though he is the organ of the Government, is not the Head of it. The Council may, or may not receive his statements, as those of the Head of the Government; but, if it decline receiving them as such, it cannot prevent the Governor from making his own statements to the Council, whether they relate to matters still under the discussion of the Council or not. As often as the rights of the Crown are invaded, I hold it to be his business to interfere.

G.G.

* Marginal note.—The precedent, most relied on by the Speakers in favour of the Resolutions of Mr. Wentworth, was that recorded by Hatsell in his appendix No. 7, Vol. 2 (quarto edition of 1796).
LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 165, per ship Ganges.)

Sir,
Downing Street, 30th October, 1843.

I have to acquaint you that, in the exercise of the statutory authority vested in Her Majesty by the Act of the Imperial Parliament, 6 and 7 Vict., C. 35, herewith enclosed, directions have been given for the immediate preparation of Letters Patent to sever Norfolk Island from the Government of New South Wales, and to annex it to Van Diemen's Land, and that, in accordance with this measure, the Lords Comrs. of the Treasury have given directions for transferring the charge of the management and responsibility of the Commissariat duties to be performed in Norfolk Island from the Chief Officer of the Commissariat in New South Wales to the Chief Officer of the Department in Van Diemen's Land.

I have, &c,

STANLEY.

[Enclosure.]
[This was a copy of the statute, 6-7 Vict., c. xxxv.]

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch marked "Confidential," per ship Ganges.)

Sir,
Downing Street, 31st October, 1843.

I have received your Despatch, No. 70 of the 12th of May last, with its Enclosures relative to the proceedings in the Society Islands.

Having communicated on the subject with the Secretary of State for the Foreign Department, I transmit, for your information and guidance, a copy of a Letter written by direction of the Earl of Aberdeen, containing copies of Instructions which have been addressed by His Lordship to Mr. Pritchard, Her Majesty's Consul at Tahiti, with reference to those proceedings, and for the future guidance of his conduct under the altered circumstances in which that Country is placed on the assumption of the Protetoral power of the French.

I have, &c,

STANLEY.

[Enclosure.]

MR. H. U. ADDINGTON TO UNDER SECRETARY STEPHEN.

Sir,
Foreign Office, 18 October, 1843.

I am directed by the Earl of Aberdeen to acknowledge the receipt of your letter dated the 17th Instant, covering a communication from the Governor of New South Wales, relative to late proceedings in the Society Islands; and I am to transmit to you, for Lord Stanley's information, copies of Instructions, as marked in the margin,* which have been addressed by Lord Aberdeen to Mr.

*Marginal note.—To Consul Pritchard, Decr. 1/42; Do., June 14/43; Do., July 12/43; Do., Sept., 25/43; Do., Sept. 29/43.
Pritchard, Her Majesty's Consul in Tahiti, with reference to those proceedings, and for the future guidance of his conduct under the altered circumstances in which that Country is placed by the assumption of the Protectoral power by the French,

I am, &c.,

H. U. Addington.

[Sub-enclosures.]

[These were printed letters and papers, presented to the house of commons in pursuance of their address, dated 18th May, 1848.]

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Lord Stanley to Sir George Gipps.

(A circular despatch, per ship Ganges.)

Sir, Downing Street, 1st November, 1843.

The original Edition of the Rules and Regulations for Her Majesty's Colonial Service being in many respects obsolete, defective, or erroneous, a revision of these Rules and Regulations has been compiled by my directions, and printed for the information and guidance of the Governors of Her Majesty's Colonies, and of all Her Majesty's Officers subordinate to them.

I now transmit to you Six Copies of the revised Edition.

I have, &c.,

Stanley.

Sir George Gipps to Lord Stanley.

(Despatch No. 178, per ship Anne; acknowledged by Lord Stanley, 18th March, 1844.)

My Lord,

Government House, 3d Novr., 1843.

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. Severin Kanute Salting, a native of Copenhagen, but now carrying on business as a Merchant in Sydney.

I enclose the Memorial which I have received from Mr. Salting; and, as he is personally known to me, and a gentleman of high respectability, I consider him in every way eligible for admission to the privileges which he now solicits from your Lordship.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

The Memorial of Severin Kanute Salting of Sydney in the Colony of New South Wales, Merchant,

To the Right Honorable Her Majesty's Principal Secretary of State for the Colonies,

Humbly Sheweth.

That your Memorialist was born at Copenhagen of Danish Parents and thereby became a Subject of the Danish Government.
That your Memorialist having qualified himself for Mercantile pursuits in the office of Messieurs Thomas Wilson and Company, Merchants of Extensive business in London, has since been himself engaged as a Merchant in this Colony in Copartnership with British Subjects, and has now been domiciled in the British Dominions for upwards of twenty years.

That your Memorialist was married in London, in the year 1833, to a Lady, who, though the daughter of Danish Parents, is the native of a Settlement in the East Indies, which at the time of her birth was in possession of the British Government. That by this marriage he has two children born in New South Wales, whose education is at present wholly English, and is likely to lead to their permanent residence within the British Dominions.

That, under these circumstances, your Memorialist is desirous of being relieved from the disabilities attaching to Aliens, and prays that he may be declared a Denizen of Great Britain and its Dependencies by Her Majesty's letters Patent.

And your Memorialist will ever pray.

S. K. Salting.

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Sir George Gipps to Lord Stanley.

(Despatch No. 179, per ship Anne; acknowledged by Lord Stanley, 29th March, 1844.)

My Lord,

Government House, 4th Novr., 1843.

In continuation of the subject of my Despatches of the 19th August and 7th October last, Nos. 131 and 161, I have the honor to report to Your Lordship that no essential alteration has, since the date of the last of these Despatches, taken place in the Depreciation state of this Colony; the improvement, which I mentioned in the price of Sheep, has not been maintained; and property in general is still more depreciated than it was when I last wrote.

During the last two years, a great contraction has taken place in the Currency, which must, I fear, independent of other causes, tend to the depression of prices. In June, 1841, the notes of the different Banks in circulation amounted collectively to £223,608. In Deer., 1842, they had fallen to £181,652. And in Sept. last (1843) to £151,626; and, in addition to this great reduction, another species of circulating Medium has almost altogether disappeared; I allude to what are called in the Colony “Orders,” and which in fact are drafts or checks, payable to bearer. The reason why drafts or checks of this description abounded more in New South Wales than elsewhere, may easily be traced to the Convict character of the Colony, which rendered it unsafe for any person to have money either on his person or in his house. In the interior of the Country until very recently, accounts have all been settled, and Servants' Wages paid by “Orders” or Checks payable in Sydney; and even Travellers have used the same Medium in respect to their Bills at Inns on the Road. These Checks or Orders
often passed through numerous hands, before they were presented for payment, and so formed, as already stated, the chief circulating Medium of the Interior; but a general distrust has now succeeded the unbounded confidence of other times; and Orders of this description will scarcely be taken by any one.

The affairs of the Banks remain unaltered; the Season, I rejoice to say, continues favorable; and, in consequence of the commencement of the Hay Harvest, the demand for labour in the Country has increased.

I have reduced the number of men in the employment of Government, with a view to compel them to proceed into the Interior; but this measure, whilst it gives satisfaction to the Country Settlers, who are in want of labour, is greatly complained of by the Labourers or Mechanics affected by it. The number of persons at present employed by the Government in Sydney, solely for the purpose of supporting them, and not because their labour is wanted, is as follows:

Carpenters and Joiners, 51; Smiths, 20; Plasterer 1, Slater 1, 2; Quarrymen, 12; Stonecutters, 26; Labourers, 26;
Total, 137;

being a decrease since my last report of 130. They are all married men with Families.

I am sorry to have to state to your Lordship that a desire has lately manifested itself among the unemployed Mechanics and Labourers to proceed to Valparaiso, and that the following number of persons have actually sailed from Sydney for that place, in the undermentioned Ships:

<table>
<thead>
<tr>
<th>Ships</th>
<th>Date of Sailing</th>
<th>Men.</th>
<th>Women.</th>
<th>Children</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>&quot;Sarah Birkett&quot;</td>
<td>23rd Sept.</td>
<td>31</td>
<td>8</td>
<td>6</td>
<td>45</td>
</tr>
<tr>
<td>&quot;Artemis&quot;</td>
<td>27th</td>
<td>7</td>
<td>4</td>
<td>0</td>
<td>11</td>
</tr>
<tr>
<td>&quot;Alexr. Johnson&quot;</td>
<td>28th</td>
<td>19</td>
<td>5</td>
<td>9</td>
<td>33</td>
</tr>
<tr>
<td>&quot;Frances&quot;</td>
<td>30th Oct.</td>
<td>59</td>
<td>28</td>
<td>35</td>
<td>122</td>
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<td><strong>Total</strong></td>
<td><strong>116</strong></td>
<td><strong>45</strong></td>
<td><strong>50</strong></td>
<td><strong>211</strong></td>
<td><strong>211</strong></td>
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At Melbourne, it has been found necessary also to give employment to some Mechanics and Labourers; but their number does not, I believe, exceed 60; and the men have been thrown out of work by the corporation, in consequence of disagreements which it would be foreign to my present purpose to enter on.

The proceedings of the Legislative Council have formed the subjects of separate Despatches.

I have, &c.,

Geo. Gipps.
SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 180, per ship Anne; acknowledged by lord Stanley, 29th March, 1844.)

My Lord,

Government House, 4th Novr., 1843.

In continuation of the subject of my Despatch of the 28th ultimo, No. 175, I have the honor herewith to enclose a copy of the reply, which I made on Thursday last to the second Address of the Legislative Council, relating to the maintenance of Convicts in the Gaols of the Colony.

I have to report that the Message, which conveyed this reply, having been taken into consideration last night, the Council declined to make any alteration in their Resolution, but, on the contrary, determined to apply the principle of their Resolution to the Watchhouses and other places of confinement in the Colony.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

[A copy of this reply will be found in the "Votes and Proceedings" of the legislative council.]

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 167, per ship Ganges.)

Sir,

Downing Street, 6th November, 1843.

With reference to my Despatch No. 148 of the 18th of September last, notifying the terms on which the Contractors for Bounty Emigration to New South Wales would be permitted to receive payment of one moiety of the Bounty in this Country, I have now to acquaint you that I have received a communication from the Colonial Land and Emigration Commissioners, intimating that the Applicants, on being apprized of those conditions, have finally preferred to receive the whole of the Bounty through their Agents in the Colony.

I have, &c.,

STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 181, per ship Reflector; acknowledged by lord Stanley, 5th May, 1844.)

My Lord,

Government House, 6th November, 1843.

In compliance with the enactments of the Imperial Statute, 9th Geo. IV, C. 83, S. 16, and of the Local Act of this Colony, 4th Vict., No. 22, I have the honor to forward herewith, for the gracious allowance of Her Majesty, certain Rules made by the
1843.
6 Nov.

Refusal of charter for Union bank of Australia.

Judge of the Supreme Court of New South Wales, resident in the District of Port Phillip; and in so doing, I request reference may be made to my own Despatch to your Lordship, No. 108 of the 9th July, 1843.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

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

LORD STANLEY TO SIR GEORGE GIPPS.

(A circular despatch, per ship Ganges.)

Sir, Downing Street, 8th November, 1843.

Referring to my Circular Despatch of the 9th September, 1842, respecting the propriety of granting a charter to the Union Bank of Australia, I have now to acquaint you that, after taking into consideration the reports* on that subject which have been received from the Governors of the different Australian Colonies, Her Majesty's Government have resolved not to advise The Queen to issue any such Charter. Our decision has been founded mainly on the considerations that there are Five unincorporated Banks in New South Wales, each of which has as valid a claim as the Union Bank of Australia to a Charter of Incorporation; that the Union Bank has traded without such a charter for three years; that the grant of a charter to it would diminish rather than increase the security of the Creditors; and that there is no longer any inducement to promote the introduction of Capital into Australian Colonies, as there is every reason to conclude that the Capital already introduced there is more than can find an adequate and secure investment.

I have, &c.,

STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 182, per ship Reflector; acknowledged by lord Stanley, 30th April, 1844.)

My Lord, Government House, 8th Novr., 1843.

I have the honor to request your Lordship's permission to issue Letters of Denization, under the Local Act of New South Wales, 9th Geo. IV, No. 6, to Mr. Nathan Mandelson, a native of Poland, but now carrying on business as an Inn Keeper at Goulburn in this Colony.

I enclose the Memorial, which I have received from Mr. Mandelson; and, from the number and respectability of the recommendations which are attached to it, I feel no hesitation in certifying to your Lordship as to Mr. Mandelson's eligibility for the privilege he solicits.

I have, &c.,

GEO. GIPPS.

* Note 22.
The Humble Petition of Nathan Mandelson, To His Excellency Sir George Gipps, Knight, Captain General and Governor in Chief in and over the Colony of New South Wales.

Respectfully sheweth,

That Your Petitioner is a Native of Warsaw in the Kingdom of Poland of the age of thirty nine years and by profession a Pastry Cook.

That Your Petitioner arrived in this Colony in the year one thousand eight hundred and thirty three, and has since carried on Business in Sydney and as a Licensed Victualler in the town of Goulburn in the said Colony.

That Your Petitioner intends still to continue a Resident of the said Colony and has agreed to purchase Lands therein, but is advised that he cannot legally hold the same until "Letters of Denization" are granted to your Petitioner.

Your Petitioner begs to refer Your Excellency to the accompanying certificates of Character and humbly requests that Your Excellency will be pleased to grant "Letters of Denization" to Your Petitioner under the seal of the Colony, in pursuance of the Act of Council in such case made and provided.

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

NATHAN MANDELSON.

[Sub-enclosure.]

CERTIFICATE.

We, the undersigned, hereby certify that we have known Mr. Nathan Mandelson since Certificate of his arrival in the Colony, that he is a person of respectable character and repute, character for and we recommend the Prayer of his Petition to the favorable consideration of His Excellency the Governor. Dated April 10th, A.D. 1843.

FRANCIS MCARTHER, J.P.  F. A. MURRAY.
WM. BRADLEY, J.P.  J. K. KINGHORNE.
WM. SHELLEY, J.P.  WM. H. HOOSLEY.
O. GORMAN, J.P.  FRAS. COOPER.
S. TOLFPSTY CHRISTIE, J.P.  LAURENCE HARNETT, J.P.
P. L. CAMPBELL, J.P.  H. BALCOMBE.
WM. SOWENBY, Episcopal Minr.  DAVID REID.
WM. HAMILTON, Presbyterian Minister.  JOHN MURPHY, J.P.
MICHAEL BRENNAN, C.C.  JAS. H. STYLES.
J. SHELLY.  RONALD CAMPBELL.
H. McGRAFTH, R.C.C.  G. C. CURLEWIS, J.P.
ROBERT BOURNE.  A. MITCHELL.
JAMES HALL.  WILLIAM MELVILLE.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 170, per ship Ganges; acknowledged by Sir George Gipps, 20th July, 1844.)

Sir, Downing Street, 10 November, 1843.

With reference to former correspondence, I have now to acquaint you that the necessary Instrument has been prepared for separating Norfolk Island from the Government of New South Wales, and for annexing it to Van Diemen's Land from and after the 29th day of September, 1844.
That period has been chosen in order to allow the necessary time for the completion of the necessary preliminary arrangements.

The Instrument has been transmitted to the Lieutenant Governor of Van Diemen's Land, with whom you will concert such measures as may be necessary for giving effect to that arrangement.

I have, &c,

STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.

My Lord,

Government House, 10th Novr., 1843.

I have the honor to inform your Lordship that Mr. Richard Jones, one of the Nominee Members of the Legislative Council, whose appointment I reported in my Despatch, No. 113 of the 18th July last, tendered to me his resignation on the 3d instant.

I regret to say that Mr. Jones' retirement from the Council was rendered necessary by the embarrassment of his affairs, and that he has since become Insolvent.

Subject to the approval of Her Majesty, I have appointed Mr. Robert Lowe, a Barrister of England and of New South Wales, to the seat vacated by Mr. Jones. Mr. Lowe has been but a short time in the Colony, but he was for many years a distinguished Member of the University of Oxford, where he was a Fellow of Magdalen College, and for some time one of the Examining Masters.

He is a man of first rate abilities and a forcible speaker. I have appointed him solely in consideration of the support which I think he will be able to afford to my Government; and your Lordship will judge from the contents of my recent Despatches, Nos. 174, 175 and 176 of the 28th ultimo, relating to various proceedings of the Council, that the Government is greatly in want of strength, and especially of ready debaters in that Assembly.

Mr. Lowe is a married man, and upwards of 30 years of age. I trust, on your Lordship's recommendation, Mr. Lowe may be graciously confirmed by Her Majesty.

I have, &c,

GEO. GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.

My Lord,

Government House, 13th Novr., 1843.

With reference to my Despatch No. 156 of the 1st Octr. last, wherein I reported the discovery of frauds at the Female
Factory, committed by the Storekeeper, Mr. Bell, in collusion with the Contractor, Mr. Hamilton, I have now further to report that these two persons have been fully committed for Trial by the Bench of Magistrates of Parramatta, and that their trial in the Supreme Court will come on in January next.

The Contractor (Hamilton) has been further committed on a second charge of a similar nature, namely, for fraudulent overcharge for Sugar and Firewood at the Convict Hospital at Parramatta. The Overseer of the Hospital (named Hannan) was a party to this fraud, and has also been committed.

I have, &c.

GEO. GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 186. per ship Reflector; acknowledged by Lord Stanley, 1st May, 1844.)

My Lord, Government House, 15th Novr., 1843.

Having, agreeably to the directions contained in Your Lordship's Despatch of the 29th May, 1843, No. 80, called on Captn. Lewis of the 80th Regt. for a Copy of the letter addressed by him to Your Lordship from Melbourne on the 1st November, 1842, I have the honor to enclose a copy of the reply, which I have received from Captn. Lewis, stating the substance of the letter in question, though it is not in his power to furnish a copy of it.

I am informed by Captn. Lewis that he administered for a short time the Government of the Island of St. Lucie; and he has furnished me with a copy of the letter, dated the 24th January, 1834, in which he reported to the Secretary of State his assumption of the Government of that Island, on the death of Major General Farquharson.

I have no reason to doubt that Captain Lewis would satisfactorily fill any civil situation to which he might be appointed by your Lordship; but I regret to say that, owing to the great reductions now in progress, I see no prospect of my being able to provide for him in this Colony.

I have, &c.

GEO. GIPPS.

[Enclosure.]

CAPTAIN LEWIS TO COLONIAL SECRETARY THOMSON.

Sir, Military Barracks, Sydney, 9th November, 1843.

I have the honor to acknowledge the receipt of your letter of the 7th Instant, requesting me to forward to you for the information of His Excellency the Governor the Copy of a letter, which I had the honor to address to the Secretary of State for the Colonies, dated Head Quarters, Melbourne, Port Phillip, 1st November,
1842, for the purpose of being forwarded to Lord Stanley with
His Excellency's observations thereon, as desired by His Lordship.

I now beg to acquaint you in reply for the information of His
Excellency the Governor that I have made a diligent search among
my letters and papers for the copy of the communication referred
to with the view to a prompt compliance with your request, but
without being able to discover the copy of that letter. It is, there­
fore, with very deep regret I find myself unable to do so; and I
conclude that, in recently removing from Melbourne to Sydney, it
has with other missing articles been lost or mislaid.

I therefore very much regret the error, I have committed, in not
having in the first Instance made my application to the Secretary
of State through His Excellency the Governor, and which I now
beg to submit was entirely owing to my being unacquainted with
the established Regulations of the Department.

Under these circumstances, I trust His Excellency the Governor
will permit me to state the substance of my communication to the
Secretary of State, and also a copy of a despatch which I had the
honor to address to him in his official capacity of Secretary of State for the Colonies in January, 1834, which, to­
gether with distinguished length of service, Staff and otherwise, for
nearly thirty years in most quarters of the Globe, gave me, I con­
ceived, some claim to His Lordship's Notice; and, finding upon my
arrival here that a new Settlement was about to be established at
Moreton Bay, I addressed the letter referred to, submitting that I
was desirous of retiring from my present Military profession, pro­
vided His Lordship would be pleased to give me a civil appointment
in the new Settlement, which request I now respectfully beg leave to
reiterate through His Excellency the Governor for the favorable
consideration of the Secretary of State. I have, &c,

CHARLES LEWIS, Capt., 80th Regt.

SIR GEORGE GIPPS TO LORD STANLEY.

(My Lord,
Government House, 15th Novr., 1843.
I have had the honor to receive your Lordship's Despatch
No. 80 of the 29th May, 1843, in the concluding part of which
it is incidentally mentioned that your Lordship has received no
detailed report of the proposed Establishment at the new Settle­
ment of Moreton Bay; and I consequently beg leave to report to
Your Lordship that the only appointments, which I have yet
made at Moreton Bay are the following:—

Police Magistrate, Capt'n. Wickham, whose appointment was
reported in my Despatch, No. 245 of the 31st December, 1842;
Commissioners of Crown Lands, Stephen Simpson, Esq.,
Christopher Rolleston, Esq.; appointments reported also in my
Despatch, No. 245 of the 31st December, 1842, Clerk of the
Bench, Mr. G. M. Slade. I regret to find that the appointment
of Mr. Slade has not been reported. Mr. Slade held under this Government the Office of Commissioner of Assignments, with a salary of £300 a year, from June, 1836, to Jan'y., 1842, at which latter date his appointment ceased in consequence of the discontinuance of Assignment. He was appointed by me to the situation of Clerk of the Bench at Moreton Bay on the 20th August, 1842, at a salary of £150 a year; and he acts as Deputy Post Master in the District, for which he receives the usual Commission of 20 per cent. on the small amount of his collections.

A Court of Requests has recently been established at Moreton Bay under the powers given to me by the Act of Council, 6th Vict., No. 15; and it was intended by me that the Police Magistrate should act as Commissioner or Judge of the Court, and the Clerk of the Bench as Registrar, the former with an additional allowance (as has hitherto been usual in the Colony) of £50 per annum, and the latter of £30; but these allowances must depend on a Vote of Council, and it is doubtful whether such Vote will pass.

The Pilot Establishment, formerly paid out of Convict Funds, has been transferred from the Military Chest to the Colony, the expense of which is £193 2s. lid. per annum.

I propose also, as soon as possible, to reduce the Convict Hospital at Moreton Bay; but the number of Convicts still in the District prevents my doing so immediately. The Hospital is the only Establishment now chargeable on convict funds; and the expense of it will not exceed £200 per annum beyond the sums paid by assignees for the treatment of their assigned servants, or by the Local Government for that of free Paupers.

The quantity of Land sold at Moreton Bay is up to the present date, 831 acres Country Land, £1,240; 21 Do. Town Allotments, £4,280.

I have, &c.,

GEO. GIPPS.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 171, per ship Ganges; acknowledged by Sir George Gipps, 16th July, 1844.)

Sir, Downing Street, 16 November, 1843.

I have received through Viscount Landon a representation from Mr. Carter, bearing date 5 June, 1843, relative to the payment of his Salary as Registrar of the Colony of New South Wales.
I have acquainted Lord Landon that it is impossible to dispense with the general rule, which requires the transmission of representations from Colonists through the Local Government.

You will, therefore, call on Mr. Carter for a copy of his letter, although the instructions, contained in my Despatch No. 223 of the 15th of December last, would have had the effect of removing any hesitation, which you may have felt in regard to the payment of Mr. Carter's salary.

I have, &c.,

STANLEY.

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Sir George Gipps to Lord Stanley.

(Despatch marked “Private,” per ship Reflector.)

My Lord, Government House, 17th Novr., 1843.

I have had the honor to receive your Lordship's Despatch, marked "Private" of the 2d June, 1843, making enquiries, at the instance of Mr. Swanston, respecting a Miss Augusta Maddock, supposed to be residing in Sydney with her Brother in Law, Dr. Litchfield; and, in reply, I have to state that I have reason to believe that Miss Augusta Maddock left Sydney with Dr. Litchfield in the Ship "Persian," which sailed for England on the 2d March, 1843.

The reason why I cannot speak with absolute certainty of Miss Maddock's having left the Colony is that her name does not appear in the List of Passengers by the "Persian"; but the Police Magistrate of Sydney reports that she was entered on the Passengers' List by Dr. Litchfield as one of his Children.

I enclose a List of Passengers by the "Persian," and also a Copy of the Report of the Police Magistrate.

I have, &c.,

Geo. Gipps.

[Enclosure No. 1.]

RETURN of the Passengers that proceeded in the barque "Persian" Capt. Millman, bound to London, on the 5th of March, 1843, from the Port of Sydney (viz.).

Mr. P. Simpson, Mr. E. Hollingworth, Mr. Levy, Dr. Litchfield, Mrs. Litchfield and 2 children, Mr. F. Hollingworth, Mrs. F. Hollingworth, 5 children and 1 servant.

H. H. Browne, J.P.

Water Police Office, Sydney, 16th Novr., 1843.

[Enclosure No. 2.]

Mr. W. A. Miles to Mr. H. W. Parker.

Sir,

Police Office, Sydney, 16th Novr., 1843.

In attention to the directions of His Excellency the Governor on the List of Passengers by the Ship "Persian," herewith returned, I have the honor to state, for His Excellency's information, that
after due enquiry I have been informed that Miss Maddock, the young Lady concerning whom enquiry is now made, sailed for England in the “Persian” on the 5th March, 1843, in company with Dr. Litchfield’s family; and that the cause of her name not being inserted in the List of Passengers is presumed to arise from the circumstance of Dr. Litchfield having included her as one of his Family, in order to save expense, and that one Cabin might serve for the Family.

I have, &c.,
W. Aug. Miles, J.P.,
Commissioner of Police.

Lord Stanley to Sir George Gipps.
(Despatch No. 172, per ship Ganges.)

Sir,
Downing Street, 18 November, 1843.

I transmit to you, herewith, for your information, the enclosed copy of a letter from the Colonial Emigration Commissioners, reporting the assistance which had been afforded to the Emigrants who had been wrecked in the “Burhampooter,” and are now on their voyage to Port Phillip in the ship “Royal Consort.”

I am, &c.,
Stanley.

[Enclosure.]

Land and Emigration Commissioners to Under Secretary Stephen.

Colonial Land and Emigration Office,
Sir,
9 Park Street, Westminster, 11 November, 1843.

We have the honor to report, for Lord Stanley’s information, that we have received intelligence of the safe arrival of the “Royal Consort” at Cork, on her way to Port Phillip, with the Emigrants who were shipwrecked in the “Burhampooter.”

We think it may be satisfactory to Lord Stanley to learn that, owing to the benevolent exertions of the Bounty Contractors and of some Members of this Establishment, aided by the Rector of Deptford, a subscription was raised for these poor people amounting to a net sum of about £190. The Contractors liberally made good from their own funds the quantity of substantial clothing which, by regulation, Emigrants in ordinary cases are required to bring for themselves. A large quantity of Clothing was also collected for them at Deptford. Of the pecuniary subscription above mentioned, upwards of £100 has been applied to the use of the Emigrants in this Country, and £76 has been remitted to the Colony, with directions for its appropriation towards the purchase of tools for the different Parties, according to the wants of their respective trades. As only a moderate number of her Passengers had embarked in the “Burhampooter” in the River, the foregoing amount of assistance has proved very grateful. The Emigrants were grateful for what was done for them, and started in good spirits.

We have, &c.,
T. Fredk. Elliot.
J. G. Shaw Lefevre.
Lord Stanley to Sir George Gipps.

(Despatch No. 173, per ship Ganges.)

Downing Street, 18 November, 1843.

SIR,

I have to acknowledge the receipt of your Dispatch dated the 21st of April, 1843, No. 56, reporting the circumstances under which you had sanctioned the Establishment of a Custom House Station at Broken Bay Harbour in New South Wales.

Having communicated on the subject with the Lords Commissioners of the Treasury, I transmit to you herewith for your information and guidance the copy of a letter from the Assistant Secretary to that Board with a copy of a Report from the Commissioners of Customs, from which you will perceive that the arrangement in question has been sanctioned as a temporary measure for one year.

I have, &c.,

STANLEY.

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

Sir,

Treasury Chambers, 10 November, 1843.

I am commanded by the Lords Commissioners of Her Majesty's Treasury to transmit to you, for the information of Lord Stanley, the enclosed copy of a Report from the Commissioners of Customs, dated the 4th Ultimo, relative to the establishment of a Custom House Station at Broken Bay in New South Wales.

I am, &c.,

C. E. TREVELYAN.

[Sub-enclosure.]

Report by Commissioners of Customs.

May it please your Lordships,

Your Lordships having referred to us a letter from Mr. Stephen transmitting, by desire of Lord Stanley, a Copy of a Despatch from the Governor of New South Wales, respecting the circumstances under which we had sanctioned the formation of a Custom House Station at Broken Bay.

We report,

That we have recently received a Report from the Collector of this Revenue at Sydney, New South Wales, dated the 23rd April last, stating that, at his recommendation, His Excellency had been pleased to sanction the employment with a view to the prevention of smuggling at Broken Bay (distant about 20 miles from Sydney) of the following Customs Establishment, vizt., Coastwatcher at £175 pr. annum, and a Boat's Crew, consisting of a Coxswain and five Convict Boatmen.

That, in reply to the Collector's representation, we signified our approval of the arrangement above referred to, as a temporary measure for one year; at the expiration of which time, He (the Collector) has been directed to report the effect of the same; and, upon the receipt of that Officer's Report, we will not fail to report fully to your Lordships upon the subject; and, under these circumstances, it would not appear to be necessary to transmit any special Instructions to the Governor upon the subject.

E. Stewart.

CUTLING C. SHIP.

J. G. SPRING RICE.

G. R. DAWSON.

Custom House, 4 October, 1843.

Sir George Gipps to Lord Stanley.

(Despatch No. 188, per ship Reflector.)

My Lord,

Government House, 19th Novr., 1843.

I received, on the 6th instant by the Ship "Clara," your Lordship's Despatch No. 82 of the 3d June, 1843, informing me
that an advance of £1,200 had been made by the Lords of the Treasury to Mr. Barnard on account of this Colony, and desiring me to repay that sum into the Military Chest; and I have to report that the sum was repaid accordingly on the 17th instant.

I have, &c.,

GEO. GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 189, per ship Reflector.)

My Lord,

Government House, 23rd Novr., 1843.

I have to request your Lordship's permission to issue Letters of Denization to Francis Rossi, Esq., a Native of Corsica, who entered the British Military Service in the year 1795, and, after serving more than 28 years in Military and Civil capacities (especially under Governor Farquhar in the Mauritius), was appointed by Lord Bathurst (by Despatch No. 3 of the 2nd January, 1825), Superintendent of Police in New South Wales.

Captn. Rossi has acted as a Magistrate of this Territory for nearly 20 years; and no doubt seems, until very lately, to have been entertained, in any quarter, of his being a British subject; he appears himself to have considered that he had doubly become such, first by the assumption of the Crown of Corsica by King George the Third in 1794, and, secondly, by his service of 28 years in the British Army; but, having been lately undeceived in these respects, and finding himself still an Alien, he has become anxious as to his power to dispose of the Lands, which he possesses in this Colony or even to bequeath them to his Children; and I consequently have further to request from your Lordship authority to receive from Captn. Rossi a surrender to the Queen of all the Lands, which he holds in New South Wales, for the purpose of regranting them to him, after he shall have been made a Denizen.

I cannot conclude without expressing to Your Lordship the high esteem, which I personally entertain for Captain Rossi, and assuring you that, amongst Her Majesty's natural Born subjects, there is not one who, in my opinion, is more deserving of all the privileges of an Englishman.

Captain Rossi is now a Widower, but his Wife was an Englishwoman; and he has two sons, both born within Her Majesty's Allegiance.

I have, &c.,

GEO. GIPPS.
SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 190, per ship Reflector; acknowledged by lord Stanley, 8th May, 1844.)

My Lord,

Government House, 24th Novr., 1843.

I had the honor to receive, on the 5th June last, your Lordship's Despatch No. 212 of the 22d November, 1842, and, agreeably to the instructions therein contained, a letter was written on the 8th of the same month to John Chubb of Sutton Forest, calling on him for a copy of the Petition which he addressed to the Queen on the 7th November, 1841; it was not, however, until after a second and a third letter had been written to him that an answer was obtained. From this answer, it appears that John Chubb has no copy of the Petition, which he addressed to the Queen, but his own statement of his case is as follows:

That he enlisted as a Private in the 46th Regt. of Foot on the 5th November, 1810; that he was thence in the year 1818 transferred to the 48th, and from this latter Regiment he was discharged in 1821 in New South Wales; that on his discharge he was entitled to a gratuity; but that he refrained from applying for it in consequence of a promise made to him of a grant of land by Governor Macquarie; that he never has obtained a grant of Land, and consequently now applies either for a grant or for a free passage to England.

In the year 1821, it certainly was the practice of this Government to give grants of Land to discharged Soldiers; and I can only account for John Chubb not having received a Grant by supposing that either he did not take the proper means to obtain one, or that there was something in his case to render it, in the opinion of the Governor, proper to withhold from him what was then an ordinary indulgence.

It is scarcely necessary, however, for me to say that I cannot, after a lapse of 22 years, recommend that a Grant of Land should be made to him.

I have, &c,

Geo. Gipps.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 191, per ship Reflector; acknowledged by lord Stanley, 8th June, 1844.)

My Lord,


By a Despatch from Lord John Russell, dated the 25th April, 1841, No. 250, I was informed that the Lords of Her Majesty's Treasury were desirous that the Government Herds and Flocks at Moreton Bay should be sold, and that, as soon as they
were disposed of, their Lordships would be prepared to grant a gratuity to Mr. Kent, proportioned to the success of his management.

I have, since the receipt of that Despatch, had frequent communication with Mr. Miller, the Deputy Commissary General (and consequently Mr. Kent's immediate superior) on the subject of these Flocks and Herds; and, though I have been anxious on many accounts that they should be disposed of, I have constantly agreed with Mr. Miller in postponing the sale of them. As Mr. Miller has reported to the Lords of the Treasury the reasons why the Sheep and Cattle could not have been and cannot now be advantageously disposed of, I do not think it necessary to go at length into this subject.

Mr. Miller has now, however, represented to me that the postponement of the sale should scarcely in fairness be made a reason for any longer postponing the consideration of Mr. Kent's gratuity; and, as I cannot but concur in this opinion, I have now the honor to certify to your Lordship that, considering all the circumstances attendant on Mr. Kent's management, and having myself visited several of the Cattle Stations when at Moreton Bay in the month of March, 1842, I am of opinion that the gratuity of £150 per annum, proposed to be granted to Mr. Kent, is a reasonable one; and that it should commence from the 19th July, 1839, as recommended by the Deputy Commissary General to the Lords Commissioners of the Treasury in a letter, dated the 6th February, 1840, No. 2,594.

I have the honor to annex a copy of a letter which I have recently received from Mr. Miller on this subject.

I have, &c,

GEO. GIPPS.

[Enclosure.]

DEP. COMMISSARY-GENERAL MILLER TO COLONIAL SECRETARY THOMSON.

Sir, Commissariat Office, Sydney, 13th November, 1843.

For the information of His Excellency the Governor, I have the honor to transmit herewith a copy of a letter addressed by Mr. Trevelyan to Mr. Stephen, dated 10th April, 1841, respecting the Cattle and Sheep, the property of Government at Moreton Bay, and in which it is stated to be the intention of the Lords of the Treasury to grant a gratuity to Deputy Assistant Comy. General Kent, proportioned to the success of his management when the property shall have been finally disposed of, on the opinion which His Excellency may express of that officer's proceedings.

At that period, it was calculated that the stock would have been sold off and the transaction brought to a close very shortly; but the endeavours made to get quit of them were ineffectual and the altered circumstances of the Colony now render it impossible to
1843.
25 Nov.

Request by J. Kent for payment of gratuity.

Basis for estimating gratuity.

foresee how long they may still remain on hand. In the mean time, Mr. Kent is without any remuneration for the purpose, while the progress of location in the District has added materially to the exertions which he is required to make and to the personal expenses which he must incur in superintending them.

On these grounds, Mr. Kent requests that his claim may be taken into consideration without waiting for the final disposal of the Stock, urging as an additional reason, that, on any other kind of duty, his travelling expenses would be paid, whereas on this they are as yet at his own charge.

I have prepared a letter for the purpose of bringing the subject again under the notice of the Lords of the Treasury, and, should these reasons appear to warrant that measure, I beg His Excellency may be pleased to make the report suggested, that it may accompany the letter alluded to.

His Excellency having had the opportunity of inspecting personally the proceedings of Mr. Kent in regard to the Stock, I shall merely state that he took charge of them in July, 1839, when there were 915 head of Cattle and 4,515 sheep; there are now 1,620 of the former and 12,000 of the latter, the quality of both is also greatly improved. The person previously employed to superintend them was paid a Salary of £200 per annum, and then there was no return beyond the meat required for the Establishment. The wool now produced is worth upwards of £1,000 per annum at the rate of one shilling per pound, and preparations are making to salt Beef during the next winter, which in value will probably be double that amount. These are, therefore, good grounds to estimate Mr. Kent's past success, and also to show an increased necessity for his future exertions.

I have &c.

W. MILLER, D.C.G.

[Sub-enclosure.]

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

Sir, Treasury Chambers, 10th April, 1841.

Adverting to your communication dated 17th December, 1839, by which it appears that the Convict Establishment at Moreton Bay, New South Wales, has been broken up with the exception of a small number of Convicts required for the custody of the Government Herds at that place, I am commanded by the Lords Commissioners of Her Majesty's Treasury to acquaint you, for the information of Lord John Russell, that my Lords have since received communications from the Commissariat Officer in charge at New South Wales, reporting a large increase in the number of the Cattle and sheep composing these Herds, and applying for a special allowance for Mr. Kent, the Commissariat Officer in charge of them.

It appears to my Lords that early measures should be taken to dispose of these Herds to the best advantage, and to pay the proceeds of the sale into the Commissariat Chest; and, should Lord John Russell be of the same opinion, My Lords request that you will move his Lordship to issue instructions to the Governor of New South Wales accordingly.

If however it should appear, after full notice shall have been given of the intended sale at Sydney and elsewhere, that the studs could not be sold, except at a price much below their real value, the Governor might be vested with a discretionary power to postpone the sale either in whole or in part; but it appears to my Lords to be desirable that they should be disposed of as soon as the sale can be effected without any serious loss; When this property shall have been finally disposed of, Their Lordships will be prepared to grant a Gratuity to Mr. Kent proportioned to the success of his management; and I am to request that the Governor may be instructed to report his opinion on the proceedings of that Officer in this matter, and on the reward which it will be proper to confer on him. I am further to add that, when the Herds shall have been sold, the remaining Convicts and Commissariat Establishment at Moreton Bay may, My Lords presume, be finally removed.

I am, &c.

C. E. TREVELYAN.
STANLEY TO GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 192, per ship Reflector; acknowledged by Lord Stanley, 31st December, 1844.)

My Lord,
Government House, 26th Novr., 1843.

I trust I may be excused for representing to Your Lordship that, in consequence of my not having received a reply to my Despatch, No. 47 of the 7th March, 1842, I am left in uncertainty, whether or not the Local Government will be called on to make payment of Drawback on the Rum consumed by the Troops, an uncertainty which, in the present state of our Finances, is very inconvenient.

I beg further to report that I have not acted entirely up to the intention expressed in the concluding paragraph of the Despatch which I have referred to. In that paragraph, I stated that I should not allow any more Rum to be taken out of the Bonded Store duty free, nor pay any more money on account of Drawback, without instructions from your Lordship. The Deputy Commissary General, however, has since taken and still takes, as much Rum as he requires out of Bond free of duty; and, finding that the Military Chest was getting very low, and that the Commissary was drawing on England at a discount, I paid to him on account of Drawbacks the sum of £5,000 on the 10th ultimo.

I am not without hope, however, that, when informed of the decision of Her Majesty's Government on the point at issue, I may receive authority to have this sum repaid to the Local Government.

I have, &c.,
GEO. GIPPS.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 174, per ship Ganges; acknowledged by Sir George Gipps, 23rd July, 1844.)

Sir,
Downing Street, 27th November, 1843.

The Director General of the Army Medical Department has submitted to my consideration the Instructions, which he proposes to address to the Superintendents of the Colonial and Military Hospitals at New South Wales and Van Diemen's Land.

Without the assistance of the necessary local information, I am unable to determine whether these Instructions are right and proper, or in what point they may require modification. I have therefore suggested that the Director General should desire the Principal Medical Officers in those Colonies to communicate their Instructions to the respective Governors in order that any payment to military chest on account of drawbacks.
necessary modifications of them may be arranged between those
Officers and the Governors; so that, whenever their Reports on
this subject shall reach this Country, the Instructions may be
finally cast into that shape, which they are most likely to retain
with advantage to the Colony.

I have, therefore, to desire that you will co-operate with the
Principal Medical Officer in New South Wales in considering
these Instructions and that you will report to me the result of
such consideration.

I have, &c,

STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 193, per ship Reflector.)

My Lord,

Government House, 27th Novr., 1843.

In the present state of this Colony, and with the prospect
before me of an increasing deficiency in the Revenue of it, I feel
it a duty to ask your Lordship's attention to the correspondence,*
which took place in the years 1841 and 1842, respecting a Draft
for £3,000, drawn upon me by the Governor of South Australia,
and paid on the 1st Sept., 1841.

I beg to submit to your Lordship that the debt, thus con­
tracted to this Government by the Governor of South Australia,
should have been considered as strictly one of honor; for it arose
out of no previous transaction whatsoever; and not the slightest
imputation could have been thrown upon me, had I refused (as
perhaps I ought) to advance the money.

It is scarcely necessary to add that, since this debt was con­
tracted, South Australia has received very large grants of money
from Parliament, by the aid of which it is understood to have
been restored to a state of prosperity.

I have, &c,

GEO. GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 194, per ship Reflector; acknowledged by
lord Stanley, 17th October, 1844.)

My Lord,

Government House, 28th Novr., 1843.

I have the honor to report that, agreeably to the direc­
tions contained in your Lordship's Despatch, No. 78 of the 27th May,
1843, I have caused Bounties to the amount of £2,396 to be paid
on the Emigrants brought to this Colony in the ship “Sir
Charles Napier” in 1842.

* Marginal note.—Sir Geo. Gipps, 12th Augt., 1841, No. 154; Lord Stanley,
5th Janv., 1842, No. 50.
I am sorry, however, to inform your Lordship, that, in order to make this payment, I have been forced to issue Debentures to the amount of £2,300, the balance of £96 being paid in cash. These Debentures, however, have been made to bear an interest only of 6 per cent. per annum instead of 8, which those of our first issue still continue to bear.

The amount of Debentures now in circulation is as follows:—

At 8 per cent. interest, £21,600; At 6 per cent., £2,300—£23,900.

I feel it my duty to ask your Lordship's attention to the fact that, whilst we are thus encumbered with a debt of £23,900 bearing an interest of £2,028 per annum, Monies belonging to the Colony, amounting I believe to upwards of £10,000, are detained in England.

In the Despatches numbered and dated as in the margin,* I at different times represented the disappointment which I could not avoid feeling in respect to these Monies; and I now beg earnestly to express to your Lordship my hope that I may be authorized to receive them through the Commissariat Chest, or that they may be paid over to Mr. Barnard for the use of the Colony.

The amount of Land sold in the Colony during the first eleven months of the present year is £9,991 5s. 5d., the half of which, or £4,995 12s. 8d., is, under the 5th and 6th Vict., C. 36, applicable to Immigration.

The amount, actually expended in the Colony on account of Immigration in the same eleven months, is as follows:—

Debentures paid off, £25,600;† Interest on Debentures outstanding, £2,087 10s. 4d.; Carried forward, £27,687 10s. 4d.

Bounties on Immigrants by the following ships, being settlements of former accounts:—

Alan Ker, £418; Achilles, £119; New York Packet, £42 14s.; United Kingdom, £19; Manlius, £1,585 17s. 7d.; Hope, £109 14s. 6d.; Theresa, £95; Ann Milne, £68; Agnes Ewing, £57; Champion, £19; Earl Durham, £3 7s.; Parkfield, £18 10s.; Sir Charles Napier, £2,396; Salary of Agent, and other expenses, £699 19s. 8d.; Total, £33,338 13s. 1d.

I have, &c.,

GEO. GIPPS.

* Marginal note.—No. 91, 11th Apl. 1841; No. 9, 20th Jany., 1842; No. 183, 6 Oct. 1842.
† Marginal note.—The amount of Debentures paid off was £27,900, but, as new Debentures to the amount of £2,300 have been now issued, the amount, by which our debt has been reduced, is only £25,600.
My Lord,

Government House, 29th Novr., 1843.

Early in the present Session of the Legislative Council, a Committee of that Body was appointed, on the Motion of Mr. Windeyer (Member for the County of Durham), to enquire into the pecuniary distress or “Monetary confusion,” which has, during the last two years and more, prevailed in the Colony.

This Committee reported to the Council on the 28th October; and a Bill to carry out the recommendations of the Committee was introduced by Mr. Windeyer a few days afterwards. A Copy of the Report is enclosed.

Throughout the whole course of the Session, I have carefully abstained from encouraging in any manner the idea that I could, on the part of Her Majesty, assent to a Bill of the nature of that produced by Mr. Windeyer; nevertheless, the second reading of it was carried against the Government on Wednesday last the 22d inst.; and, on the following Friday, the Bill went through a Committee. Of the Bill as amended in the Committee, I enclose a Copy.

The essential provisions of the Bill are:

1. That Commissioners shall be appointed to form a Land Board with power to take Mortgages on Land, bearing an Interest of seven per cent. per annum.

2. That the Commissioners are to give to the Mortgagors certain Securities in return for their Mortgages, which Securities are called “Land Board Notes” or “Pledge Certificates.”

3. The “Land Board Notes” are to be of the nature of ordinary Bank Notes, with the exception that they are not to be convertible into Gold or Silver on Demand; they are, however, to be legal tenders, and receivable by the Government in payment of Taxes.

4. The “Pledge Certificates” are in the nature of Debentures; and the Government is to be pledged to the payment of Interest on them; but, as this interest is only to be six per cent. and the Mortgagors are to pay seven, it is alleged that there will be a gain on each Mortgage of one per cent., which it is supposed will be not only sufficient to cover all expenses of management, but will further afford the means of creating a sinking fund for the gradual redemption of the Mortgages and Debentures (or Pledge Certificates).

5. The issue of the “Land Board Notes” is limited to £100,000; but that of “Pledge Certificates” is altogether unlimited.
6. The risk of loss, arising either from the nonpayment of interest by the Mortgagors or from the insufficient value of the Land Mortgaged, is to be thrown on the Government. Upon the Government also must fall the odium of foreclosing Mortgages and of recovering, by distress, interest whenever it may be in arrear.

The whole system is modelled on that of the "Pfand briefe" of Prussia,* a detail of which will be found in the evidence of Mr. Holt, taken by the Committee (pages 43 to 49); the object of the scheme seems, however, to be substantially the same as that of the Bill, which, in my Despatch of the 7th Octr. last, No. 161, I alluded to as the third of Mr. Wentworth's proposals, namely, to force the Government to become the Mortgagee General of the Colony.

I need scarcely say to your Lordship that I shall not feel at liberty to give my assent to this Bill. I am given, however, to understand that the Council will not press the Bill to a third reading; but feeling that, by the 34th Clause of the 5th and 6th Vict., Ch. 76, it would be illegal for them to pass it, unless it were previously recommended by the Government, they will vote an Address to me, praying that I will either myself adopt the Bill, or recommend to their consideration some measure of a similar nature. Should the Council adopt this course of proceeding, the opportunity will be afforded me of explaining why I think that, in the present posture of affairs, the Government cannot, without risk to itself and danger to the Public, interfere in the manner proposed.

I have, &c.,

Geo. Gipps.

[Enclosures.]

Copies of these papers will be found in the "Votes and Proceedings" of the legislative council.

Sir George Gipps to Lord Stanley.

(My Lord, Government House, 29th Novr., 1843.

I have the honor to forward to your Lordship a Copy of a Report, which I have received this day from Captn. Macarthur, the Commandant of the Settlement of Port Essington.

This report is of a very distressing nature, and shews how desirable it is that the little Garrison at Port Essington should be relieved without loss of time.

Your Lordship is, however, aware that I have no means of relieving them from Sydney; and, as the Garrison consists of

* Note 23.
Marines, I can scarcely doubt its being the intention of Her Majesty's Government that it should be changed from time to time, as occasion might require, by the Admiral on the station.

I have, &c.,

GEO. GIPPS.

P.S.—I shall communicate with the Admiral on the subject of Captain MacArthur's Report.

G.G.

[Enclosure.]

[A copy of this report, dated 24th August, 1843, will be found in a volume in series III.]

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 197, per ship Reflector; acknowledged by Lord Stanley, 17th June, 1844.)

My Lord,

Government House, 30th Novr., 1843.

I have the honor herewith to forward a letter, which has been addressed to Your Lordship by Mr. Roger Therry, a gentleman already known (at least by reputation) to Your Lordship.

Mr. Therry has held, since the year 1829, the office of Commissioner of the Court of Requests in New South Wales, with a Salary of £800 a year and travelling expenses at the rate of 40s. a day, when travelling beyond the County of Cumberland.

By an Act of Council (6th Vict., No. 15), transmitted for Her Majesty's approval with my Despatch No. 215 of the 17th Novr., 1842, the jurisdiction of the Court, over which Mr. Therry presides, was extended to sums not exceeding £30; and, at the time when this Act was passed, an increase in the Salary of Mr. Therry was recommended by the late Legislative Council.

Accordingly, in the Estimates which I presented to the New Council at the commencement of the present session, I caused the Salary of Mr. Therry to be set down at £1,000 per annum, and added a further sum of £200 to cover his travelling expenses.

The Council has voted the salary of £1,000, but refused to vote the travelling expenses.

Mr. Therry's object in addressing your Lordship is, I believe, to have his Salary fixed at £1,200, which he states may be done under the power given to Her Majesty by the concluding part of the 18th Sect., of the 9th Geo. IV, Ch. 88.

A further question, however, presents itself, which is whether, if so fixed, it would be payable out of the sum of £20,000, secured for the Administration of Justice by Schedule A of the 5th and 6th Vict., C. 76, or whether it would be in addition to or independent of that Schedule.
On the subject of the Schedules appended to that Act, I beg leave to refer to my Despatch No. 176 of the 28th October last. The Despatch from Your Lordship to myself, alluded to in Mr. Therry's letter, is dated the 23d March, 1843, and confirms the appointment of Mr. A'Beeckett as Solicitor General.

I have only to add that Mr. Therry is, in my opinion by his services to this Government, well entitled to the most favorable consideration which your Lordship can give to his claim.

I have, &c,

GEO. GIPPS.

[Enclosure.]

MR. R. THERRY TO LORD STANLEY.

Court of Requests Office,

Sydney, 27th November, 1843.

My Lord, I venture to take the liberty of inviting your Lordship's attention to the disallowance of my claim by a vote of The Legislative Council for an augmentation of Salary, proportionate to the augmented duty imposed upon me by the recent Act for regulating Courts of Requests.

It is manifest to Your Lordship, by an extract from the proceedings in Council which I annex to this letter, that, were it not that thro' motives of perhaps a mistaken forbearance and delicacy, I abstained from voting on the occasion, the vote of £200 to defray my travelling expenses placed in the Estimates by His Excellency The Governor would have been carried.

As Your Lordship, in Your despatch appointing Mr. A'Beeckett to the office of Solicitor General in preference to the pretensions which I may have deserved from long and faithful public service, distinctly stated as a ground for such appointment that Your Lordship understood "the office of Commissioner was placed under the recent Act on a higher footing as regarded emolument than heretofore." I fully relied on Your Lordship's intention being carried into effect, especially as, by the jurisdiction of The Court having been raised from £10 to £30, the arduous and augmented duty thus imposed upon me gave reasonable assurance of the fulfilment of Your Lordship's wishes on the subject.

It only remains for me to respectfully request Your Lordship's sanction of the payment of £1,200 a year as the annual Stipend of my office, covering both salary and travelling expenses.

By the 15th section of 9th Geo. 4, c. 83, the office of Commissioner is declared to be one which shall be held "by a Commissioner appointed by Her Majesty with such Salary as Her Majesty shall think proper to appoint." I, therefore, confidently and earnestly solicit Your Lordship's interposition for fixing the salary of my office at that rate which His Excellency The Governor recommended to the Legislative Council as a suitable and proper one.

I have, &c,

R. Therry.

P.S.—I have the honor to mark an extract from the "Sydney Morning Herald"* which with sufficient accuracy states what occurred in Council on the subject.

* Marginal note.—Oct. 21, 1843.
Sir George Gipps to Lord Stanley.
(Despatch No. 199, per ship Reflector; acknowledged by Lord Stanley, 8th May, 1844.)

My Lord,

Government House, 1st December, 1843.

On the 20th July last, I had the honor to receive your Lordship's Despatch, No. 14 of the 26th January, 1843, enclosing Copies of three Despatches addressed by Your Lordship on the 25th Novr., 1842, to the Lieut. Governor of Van Diemen's Land, respecting the system of Convict Discipline which it had been determined by Her Majesty's Government to establish in that Colony; and, on the 23d Septr. last, I received the Duplicate of a Despatch, No. 64 dated the 29th April, 1843, the original of which will, I apprehend, be delivered to me by Major Childs. I also, on the 6th ulto., received your Lordship's Dispatch, No. 67 of the 7th May last, enclosing a Copy of a Despatch, dated the 24th April, addressed to Sir Eardly Wilmot on his departure from England to assume the Government of Van Diemen's Land, and further explaining the measures which are to be adopted in that Island.

These Despatches, in conjunction with the one announcing to me the appointment of Major Childs (No. 37 of the 22d March last), sufficiently explain the system of Convict Management, which is to be adopted in Van Diemen's Land and Norfolk Island; but, as they are not sufficiently explicit in respect to New South Wales, I think it right to report to Your Lordship that, after an attentive consideration of the Despatches themselves and of the papers enclosed in them, in which I have been assisted by the Colonial Secretary and the Deputy Commissary General, I have come to the conclusion that, except wherein special allusion is made to this Colony, the instructions contained in them are not intended to apply to New South Wales.

The documents, which specially mention this Colony or seem to have undoubted reference to it, are chiefly those contained in the Parliamentary Paper (No. 159 of 1843) headed "Convict Discipline and Estimates," and the following passages in that Paper have especially attracted my attention, namely the passages at page 21, which relate to the future formation of Convict Estimates; those in pages 29 and 30, relating to the reduction of Expenditure and a revision of the Establishment in New South Wales, and the conclusions drawn in Mr. Stephen's letter to Mr. Phillips of the 5th January, 1843 (pages 14 to 21), that the Governors of Penal Colonies are under a constant inducement to expend the funds of the Home Government for the advantage of the Colonies they govern.
On this latter subject, I trust I may be permitted respectfully to observe that the Lords of Her Majesty's Treasury, when they threw upon the Local Government in 1834 the whole expense of maintaining the Police and Gaols of the Colony, and subsequently withdrew many advantages which theretofore had been enjoyed by the Colony, left to the Governor of New South Wales very little power to gratify any disposition he might be supposed to entertain, of the nature of that alluded to in the Letter, and nothing to effect in the way of economy by transferring expenses from the funds of the Home to those of the Local Government.

The following statement of the reduction, which has been effected in the expenditure for Convict Services in the Colony during the last five years, will moreover, I trust, shew that in other respects I have not been mindful of the interests of the Colony alone:—

<table>
<thead>
<tr>
<th>Years</th>
<th>Expenditure</th>
</tr>
</thead>
<tbody>
<tr>
<td>1839</td>
<td>£173,474 6 2</td>
</tr>
<tr>
<td>1840</td>
<td>£161,019 15 4</td>
</tr>
<tr>
<td>1841</td>
<td>£128,635 15 4</td>
</tr>
</tbody>
</table>

For the 12 months ending 30th Sept.,

<table>
<thead>
<tr>
<th>Years</th>
<th>Expenditure</th>
</tr>
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<tbody>
<tr>
<td>1842</td>
<td>£89,891 7 5</td>
</tr>
<tr>
<td>1843</td>
<td>£88,403 4 9</td>
</tr>
<tr>
<td>Estimate for</td>
<td>£65,000 0 0</td>
</tr>
</tbody>
</table>

Transportation to New South Wales ceased in 1841; but of course many years must elapse before the Colony can entirely be divested of its Convict Character.

In respect to a revision of the Convict Establishments of New South Wales, my Despatch of the 1st Jany., 1843, No. 1, will, I trust, shew that such a revision is in progress, though it can, I would submit, be only a gradual one.

I regret to say that the present state of the Colony is such as to forbid my looking for any profit to the Home Government from the employment of Convicts, either on Colonial Works or by private Settlers. The only gain or rather relief, which could be effected, would be by a return to the system of assignment; and this (even if other objections to it did not exist) I could scarcely recommend, seeing that the Convicts, whose maintenance still remains a charge on the Home Government, consist in great part of men, who have, on account of their bad behaviour, failed to receive the indulgence of Tickets of Leave, and who could not with safety to society be placed beyond the control of Government. The Act of the last Session of Parliament, 6th and 7th Vict., C. 7, will enable me to issue Tickets of Leave to men of a different class, and thereby to effect a further reduction of expense to the Home Government.
HISTORICAL RECORDS OF AUSTRALIA.

1843.
1 Dec.
Preparation of estimates.

2 Dec.
Transmission of letter from W. Cohen.

6 Dec.
Instructions re payment for emergency ordnance services.

The instruction respecting the formation of Estimates, contained in Pages 21 and 22, will be observed in future years; but the Estimates for the year 1844-5 were despatched by the Deputy Commissary General, before I received the Parliamentary Paper in which those instructions are contained. I have, &c.,

GEO. GIPPS.

P.S.—I beg to add that I am still without any news of Major Childs.

G.G.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 175, per ship Hindoo; acknowledged by Sir George Gipps, 31st August, 1844.)

Sir, Downing Street, 2 December, 1843.

I transmit to you herewith the Copy of a letter, which I have received from Mr. W. Cohen; and I have to request that you will furnish me with any information which you may be able to obtain respecting the Individual mentioned therein.

I have, &c.,

STANLEY.

[Enclosure.]

MR. W. COHEN TO LORD STANLEY.

My Lord, Hastings, 27th Novr., 1843.

Some three years since, the son of a man named Lawrence emigrated to Port Phillip in the Colony of New South Wales. A report of his having been murdered by Aborigines of that Colony in May, 1841, or thereabouts, has reached his parents through an indirect channel.

From motives of humanity, I am induced to enquire of your Lordship if there are any means through the Colonial Government of ascertaining if any person of the name of John Lawrence met his fate under the circumstances above described, and so to terminate the present painful suspense of his family.

I have, &c.,

W. COHEN.

LORD STANLEY TO SIR GEORGE GIPPS.

(A circular despatch, per ship Ganges.)

Sir, Downing Street, 6th December, 1843.

With reference to my Predecessor's Circular Instruction of the 8th of December, 1840, relating to the mode of providing for Ordnance Services in all such cases of peculiar emergency and pressing necessity as would not admit of delay, or of previous reference to Her Majesty's Government, I now transmit to you for your information and guidance a copy of a Letter which has been received from the Assistant Secretary to the Board of
GIPPS TO STANLEY.

Treasury, expressive of the desire of the Lords Commissioners that, in all such cases, the expense of the Services to be undertaken be defrayed by means of a draft issued by the Ordnance Officers upon the Military Chest.

I have, &c.,

STANLEY.

[Enclosure.]  

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

Sir,

Treasury Chambers, 28th November, 1843.

I am commanded by the Lords Commissioners of Her Majesty's Treasury to refer you to the correspondence, which passed in the year 1840, upon the occasion of revising the Regulations relating to Expenditure Abroad for Ordnance Services, authorized by Governors or Officers commanding the Forces; and I am to request you will state to Lord Stanley that much difficulty has been experienced in the adjustment of the Accounts between the Commissariat and the Ordnance Department for services undertaken upon the responsibility of Governors or Officers Commanding, in consequence of the want of definite instructions as to the mode in which expenses so incurred are to be paid; and, with a view to obviate the recurrence of such difficulties, it is desirable that fresh instructions should be given to Governors and Officers commanding Abroad, strictly enjoining them, in cases wherein they find themselves under the necessity of ordering the execution of Ordnance Services on their own responsibility, to issue directions to the Ordnance Officers to defray the expenses of these services by means of a Draft on the Commissariat Chest; and the Officer Commanding will authorize the Commissariat Officer at the same time to meet such Draft; but, on no account, in cases of expenditure for Ordnance Services, is a Warrant to be given direct on the Commissariat Chest.

The Master General and Board of Ordnance have been requested to direct their Officers Abroad, on no account to decline giving such Drafts, when required to do so by the Governor or Officer Commanding the Forces, who, in such special cases, is the person responsible for the expenditure; and you will move Lord Stanley to give instructions to the respective authorities Abroad to adopt the course prescribed.

I am, &c.,

C. E. TREVELYAN.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 202, per ship Constant; acknowledged by Lord Stanley, 17th May, 1844.)

My Lord,

Government House, 6th Decr., 1843.

I have the honor to forward herewith A Memorial, which has been addressed to Your Lordship by Mrs. Green, Widow of Captn. Green, late Paymaster of the 57th Regiment, requesting that she may be allowed the benefit of a remission in the purchase of Land in this Colony, to which her husband would have been entitled as a Military Settler, had he lived to make good his claim.

Captain Green arrived in this Colony from India in February, 1836, and applied on the 16th March in the same year for the
1843.  
6 Dec. 

Report re application of H. Green.

indulgence usually granted to Military Settlers; but, not having provided himself with the Certificates required by the regulations, he could only be permitted (according to the practice of the day) to select Land under an engagement from the Government that it should be kept vacant for him for a time sufficient to allow him to receive the requisite papers. But, though expressly told by a letter from the Colonial Secretary, dated the 29th April, 1836, that this course was open to him, he did not avail himself of it; and he died on the 12th December in the same year.

Three years later (or in December, 1839), Mrs. Green, the Memorialist, made an application to this Government for the advantage, which her husband might, had he survived, have been entitled to, but the application was not entertained; and, after a lapse of nearly four years more, she now appeals to your Lordship.

Mrs. Green accompanied her husband to New South Wales in 1836; and there can be no doubt that, had he brought with him the Certificate required by the Regulations, he would have been entitled to the usual remission in the purchase of Land.

The reasons, why the required Certificate has never been produced even to the present day, are set forth in Mrs. Green's Memorial.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

The Humble Memorial of Honoria Green, Widow of Paymaster George Henry Green, Late of Her Majesty's 57th Regiment.

To The Right Honorable The Secretary of The Colonies, etc., etc., etc.,

Humbly Sheweth.

That your Memorialist's late Husband, having served as a Paymaster in several of Her Majesty's Regiments during a period of twenty-nine years, and finding at the end of that period that the climate of India did not agree with his constitution, and having moreover a large Family to provide for, resolved upon becoming a Settler in this Colony, being induced thereto by the Indulgence then held out to Officers Settling in these Colonies, viz., the remission allowed in the purchase of Land, and the privilege of Selection at the minimum price of five shillings an acre from any land previously put up and not purchased. That, under these circumstances, your Memorialist's late Husband made application to the Home Government to be allowed to retire from the Service by the Sale of His Commission, and in the meantime obtained Leave of absence and embarked with His Family for this Colony where He arrived on the 4th February, 1836. That, on his arrival, He made application to His Excellency Sir Richard Bourke to be allowed to select certain land to the amount of Remission money which His
rank and Service entitled Him on His actually becoming a Settler in the Colony, which was refused, as will be perceived by the accompanying copy of a letter from the Colonial Secretary, dated 29th April, 1836, for the reasons stated. That unfortunately the ill health of your Memorialist's late Husband, although contracted on service in India, was, in the opinion of The Honble. the Secretary at War, a bar to the sale of His Commission being effected, or any commutation allowed; and a Communication from the Commanding Officer of His Regiment, a copy of which is annexed, was received in which it stated that, although Mr. Green's application to Sell out could not be complied with, any application to retire on Half Pay would be entertained. That, in consequence of the great expense to which Mr. Green had gone in bringing His Family to this Colony, and the very unexpected refusal of an indulgence so frequently granted to Officers of much less Standing in the Service, He was compelled by His pecuniary circumstances to accept of the offered terms and retire on Half Pay, provided this unmerited hardship could not be averted; and he had written home to that effect; but, ere any answer could be received, the pressure of accumulated misfortune occasioned principally by this disappointment acting on His already impaired constitution brought him to the grave at the age of forty seven years; that in consequence of this the requisite documents to entitle your Memorialist to the selection of the land before mentioned never arrived. Memorialist has since made application to His Excellency the Governor on this subject and received in reply His Excellency's regret that it was out of His power to do anything respecting Her petition, as it would be necessary for Her to make application to the Home authorities on such a subject.

Memorialist would have placed these circumstances under your Lordship's consideration long ere this time, but having entertained some hopes that the Secretary at War would allow the commutation for the benefit of Her Family (two of whom are now Settlers in this Colony, and endeavouring to contend with the difficulties of progressing in a new country at a time when its affairs are in so embarrassed a State, and without the assistance they would obtain by the remission in purchase of Land, which was originally one of their greatest inducements, and to which Memorialist humbly submits they are entitled) having made application to that effect, Memorialist was anxious to receive a reply, and it being necessary for the correspondence to go through the commanding Officer of the Regiment in India, to which Mr. Green belonged, for the purpose of obtaining necessary documents, will account to Your Lordship for so long a period having been allowed to elapse.

Under these circumstances, your Memorialist humbly begs that Your Lordship will take into consideration this Her just claim for the remission to which Your Lordship must plainly perceive that Her Family is entitled, their Father having been an actual and Bona fide Settler some months previous to His death and having incurred all the expense attached there to, without having received any of the benefits which were His original inducements for Settling His family in the Colony. The fact of Mr. Green being an actual
Settler in the Colony will appear more plain to your Lordship from the circumstance of His having been appointed by His Excellency Sir Richard Bourke a Magistrate of the territory.

Trusting to the justice of Her claim and that of Her family, and to your Lordship's kind consideration, Your Memorialist as in duty bound will ever pray.

H. GREEN.

Black Creek, Hunter's River, New South Wales, 1843.

[Sub-enclosure No. 1.]

MR. L. SULIVAN TO MAJOR HUNT.

Sir, War Office, 11 September, 1835.

Having laid before the Secretary at War your letter of the 24th March last, enclosing an application from Paymaster Green of the Regiment under your command, praying for leave to retire from the service by a sale of a Commission with a view to settle in New South Wales, I am directed to acquaint you that the only mode, by which such an arrangement could be made, would be by the grant of commuted allowance, the amount to be regulated by the service, the age, and the state of Health of the officer.

The services of Mr. Green are such as to entitle him to a favorable consideration; but, with reference to his age and state of Health as shown in the application you have transmitted, the case is not one in which the Secretary at War would think it expedient to recommend a commutation.

If Mr. Green desires to retire upon Half pay the Secretary at War will be prepared to take any application to that effect into consideration.

I have, &c.

L. SULIVAN.

A true copy:—ROBT. HUNT, Major Commanding H.M. 57th Regt.

[Sub-enclosure No. 2.]

MAJOR HUNT TO CAPTAIN GREEN.

Sir, Cunamore, 30 Jany., 1836.

I have the honor to annex a copy of a letter from the War Office 54,687/2, dated 11th September, 1835, in reply to your application to be allowed to retire from the service by the sale of a Full pay Company, which I received on the 25th Inst.

I have, &c.,

ROBT. HUNT, Major, Commanding H.M. 57th Regt.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch marked "Military, No. 5," per ship Ganges; acknowledged by Sir George Gipps, 10th June, 1844.)

Sir, Downing Street, 7th December, 1843.

I transmit, herewith, for your information and guidance, copies of a correspondence which has passed between myself and the Lords Commissioners of the Treasury, in explanation of the grounds upon which it is deemed necessary to make a change in the distribution of the force at present allotted for the protection of the two Settlements of New South Wales and Van Diemen's Land.

It will devolve on Lieutenant General Sir Maurice O'Connell, after he shall have consulted yourself and the Lieutenant Governor of Van Diemen's Land, to fix the amount of the force to be stationed in future in the two Colonies and to decide upon the removal of his Head Quarters to Hobart Town. But it will
devolve upon you, after you shall have consulted the Lieutenant Governor of Van Diemen's Land, to regulate the distribution of the Engineer Department with reference to the present and future wants of the Convict Establishments in both Colonies.

I shall be glad to receive from you, at your earliest convenience, a full and circumstantial report of such proceedings as you may adopt, in pursuance of the present instruction, for giving effect to the views and wishes of Her Majesty's Government, including any observations which may occur to you touching the practicability and advantage of disposing of those Ordnance lands and buildings in New South Wales, which may no longer be required for the Public Service.

I have, &c.,

STANLEY.

[Enclosure No. 1.]

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

Sir, Downing Street, 7th August, 1843.

I am directed by Lord Stanley to request you will state to the Lords Commissioners of the Treasury that his Lordship has had under his consideration, in connection with the changes which have recently been adopted as regards transportation and Convict discipline, the distribution of the Military force stationed in New South Wales and Van Diemen's Land.

According to the most recent accounts, the population of New South Wales amounts now to some 150,000 persons, of whom 120,000 neither are nor ever have been Convicts—while an end has been put to any further addition of Convicts to that Colony by transportation. Thus the chief motive, which has made it necessary to maintain a considerable Military force in that Colony, is rapidly disappearing. Moreover, of late years, the Police has been greatly increased in every District, and local laws have been enacted for establishing and paying a Civil Police at Sydney and elsewhere from rates to be levied by the Corporations.

At Van Diemen's Land, on the other hand, the Convict population amounts now to something more than one half of the free population, and the new system of transportation will rapidly increase the proportion of Convicts from year to year. There is therefore no Quarter in any of Her Majesty's possessions, in which at no distant period the necessity will be equally urgent for the Government to have in constant readiness a physical force sufficient to prevent or if necessary to subdue the slightest attempt to disturb the public tranquillity.

Under such circumstances, Lord Stanley proposes to instruct the Lieutenant General Commanding in New South Wales to make arrangements in concert with the local Authorities for distributing the Troops under his command, with reference to the altered circumstances of the Settlements of New South Wales and Van Diemen's Land, involving probably a change of the Head Quarters of the force from Sydney to Hobart Town; and, in accordance with these contemplated arrangements, his Lordship desires me to request that you will move the Lords Commissioners of the Treasury to

1843.
7 Dec.

Report on disposal of military force.

Removal of necessity for large military force in New South Wales.

Necessity for increased military force in Tasmania.

Proposed instructions for redistribution of military force.
authorize the Master General and Board of Ordnance to make the best temporary provision, which may be found practicable, for the shelter and protection of the Troops in Van Diemen’s Land, should their number be increased, until permanent accommodation can be secured for them.

The steps to be taken for this last purpose, it will no doubt be thought desirable to consider carefully with reference to the resources which are understood to be more immediately available for establishing Barracks at or near Hobart Town. Independently of an unlimited supply of Convict labour, there is a great abundance of building Materials on the public Lands, besides a great variety of Sites which could be appropriated to the objects proposed. It is possible that it may eventually be found unnecessary to erect any new Barracks, as the present Government House and Female Penitentiary, both standing in very good situations, will be set free on the completion of new corresponding Buildings partly commenced or in the course of execution.

In connexion with these arrangements, the Lords Commissioners will probably think it advisable that the Civil and Military Authorities at Sydney should be instructed to consider whether it would not be practicable and advantageous to sell as much of the Barracks and Ordnance lands in or near to that City as the reduction of the force stationed there would allow to be dispensed with, the proceeds of the Sale being applied in reduction of the expense of the proposed works at Hobart Town.

I am, &c,

G. W. Hope.

[Enclosure No. 2.]

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

Sir,

Treasury Chambers, 18th October, 1843.

I am commanded by the Lords Commissioners of Her Majesty’s Treasury to transmit herewith, for the information of Lord Stanley, Copy of a Letter from this Board to the Master General and Board of Ordnance of the 10th August last on the subject of the new distribution of the Military Force in New South Wales and Van Diemen’s Land, consequent upon the changes in the Transportation Settlements, and of the reply of that Department thereto of the 29th Ulto.; and I am to request that you will observe to his Lordship that it is necessary, in order to enable the Master General and Board to take the measures which the case may require, that they should receive some information as to the probable amount of Force to be retained in New South Wales, and of that to be provided for in Van Diemen’s Land; and it is the more necessary that an early understanding should be come to on this point as extensive Barracks are being built in New South Wales, which may possibly not be required, either in whole or in part, under the new distribution of the Force.

I am also to state that My Lords will not reply to the Letter from the Board of Ordnance until they shall receive a further communication from Lord Stanley on the subject in the hope that his Lordship will be able to furnish information which will enable the Master General and Board to make arrangements applicable to the whole of the Case.

I am, &c.

C. E. TREVELYAN.
STANLEY TO GIPPS.

[Enclosure No. 3.]

MR. C. E. TREVELYAN TO SECRETARY TO THE ORDNANCE.

Sir,

Treasury Chambers, 10th August, 1843.

I am commanded by the Lords Commissioners of Her Majesty's Treasury to transmit to you the enclosed copy of a communication from Her Majesty's Secretary of State for the Colonies, dated the 7th instant, relative to a distribution of the Military Force stationed in New South Wales and Van Diemen's Land, and the providing Barracks for the same; and I am to request that you will lay Lord Stanley's Letter before the Master General and Board of Ordnance, and move them to favor my Lords with any observations which they may have to offer on the important subject to which it relates.

I am to add that it occurs to my Lords that, considering the great distance of the Australian Colonies from this Country, it may be advisable to authorize the Ordnance Officers in Van Diemen's Land to incur, under such regulations and restrictions as the Master General and Board may think fit to prescribe, but without waiting for further special directions from this Country, any expense that may be absolutely necessary to adapt existing Government Buildings to the accommodation of the Troops; but that no new Buildings should be erected without previous sanction from this Country upon plans and Estimates to be submitted to the Master General and Board in the usual course.

I am, &c.,

C. E. TREVELYAN.

[Enclosure No. 4.]

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

Sir,

Office of Ordnance, 29th Sept., 1843.

The Master General and Board of Ordnance having had under consideration your letter of the 10th Ult. and accompanying Copy of a Communication from the Colonial Secretary of State relative to the distribution of the Military force stationed in New South Wales and Van Diemen's Land, and the provision of Barracks for the same, in reference to the changes which have been adopted as regard Transportation and Convict Discipline,

I have the honor by command of the Master General and Board to state in reply, for the information of the Lords Commissioners of Her Majesty's Treasury, that, although the Colonial Secretary of State contemplates an alteration of the distribution of the Military Force and Establishments consequent upon the discontinuance of New South Wales as a penal Settlement and the greater influx of Convicts into Van Diemen's Land, it will not be possible for the Ordnance Department to recommend the precise measures that may be necessary without receiving some information as to the probable amount of Force to be retained in New South Wales, and of that to be provided for in Van Diemen's Land; neither can the Master General and Board at present recommend, as they would have been disposed to do, a transfer of the Engineer Military and Civil Establishments from the former to the latter Settlement to meet the exigencies of the Service, because they have reason to believe that the authorised extensive New Barrack at Sydney is still in progress "as an Ordnance Service" to the extent of £60,000; and they are not aware what Stations, if any, have as yet been relinquished or reduced in New South Wales, nor consequently to what extent the Engineer Departmental Duties may have been diminished.
Regardless of the new arrangements, consequent upon the alteration of the Transportation Settlements of 1840, may eventually render superfluous any part of the Newcastle Barrack lately completed at an expense of £20,000 or of the Sydney Barrack now in progress, as above alluded to, or any of the other Stations in New South Wales with a view to meet the expenditure which will be required in Van Diemen's Land as suggested by the Secretary of State, cannot now be determined by this Department; but, under all the circumstances of the case, The Master General and Board submit that they may be authorised to instruct the Ordnance Officers at Van Diemen's Land to carry into effect whatever Services may be necessary for providing accommodation for changes of Troops ordered by the Commander of the Forces upon Funds being provided by His Excellency's Warrant, and which will eventually have to be repaid by Ordnance Department; and, for the purpose of Superintending those Services, I have to request you will be pleased to obtain the sanction of their Lordships to an immediate augmentation of the Engineer Establishment in Van Diemen's Land to the extent of 2 Officers of Royal Engineers and 2 Clerks of Works.

I have the honor to add that, should the Head Quarters of the Command be removed from Sydney, as anticipated by the Secretary of State, some change may be necessary in the Engineer Command; but this, as well as the reductions in New South Wales, must, it is apprehended, remain to be considered when the Military Distribution shall be developed.

I have, &c,

R. BYHAM.

[Enclosure No. 5.]

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

Sir,

Downing Street, 9 November, 1843.

Having laid before Lord Stanley your letter of the 18th Ultimo, I am directed to request you will state to the Lords Commissioners of the Treasury that his Lordship is of opinion that the question as to the new distribution of the Military Force in New South Wales and Van Diemen's Land must be left for the consideration and determination of Her Majesty's Civil and Military Authorities in those Colonies; but that it will be necessary of course to put a stop for the present to all expenditure for Barracks at Sydney, and, indeed, in New South Wales.

The Establishment of the Royal Engineers, which it may be necessary to maintain in New South Wales, would of course depend in a great degree on the extent of the Buildings connected with the Convict Establishments in that Colony, which may hereafter be kept up, and which will decrease with the number of Convicts. Sir George Gipps had already been called upon to report his opinion how far it might be practicable to effect immediate reductions in the Convict Establishments in consequence of the discontinuance of transportation to New South Wales. His report, which accompanied my letter to you of the 14th of July last, did not contain such information as would enable Lord Stanley to express an opinion on the present question; and his Lordship conceived that, in this case also, it will be impossible to do so without a further report from the local authorities. His Lordship is of opinion that it will be desirable to pursue a similar course with regard to Van Diemen's Land.

I have, &c,

JAS. STEPHEN.
GIPPS TO STANLEY.

[Enclosure No. 6.]

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

Sir, Treasury Chambers, 1st December, 1843.

I am commanded by the Lords Commissioners of Her Majesty's Treasury to transmit to you for Lord Stanley's information, with reference to your letter of the 7th August, and to the communication from this Board of the 18th October last, copy of a letter dated 20th Instant addressed by My Lords to the Board of Ordnance relating to the Expenditure for Barracks in New South Wales.

I am directed to add that their Lordships concur in the arrangements which Lord Stanley proposes to adopt as described in your letter above acknowledged.

I am, &c,

C. E. TREVELYAN.

[Enclosure No. 7.]

MR. C. E. TREVELYAN TO SECRETARY TO THE ORDNANCE.

Sir, Treasury Chambers, 26th November, 1843.

I am commanded by the Lords Commissioners of Her Majesty's Treasury to acquaint you that, on the receipt of your letter acknowledged of the 28th September last, My Lords communicated with the Secretary of State for the Colonies upon the question of the distribution of the Military Force in New South Wales and Van Diemen's Land; and I am to transmit to you herewith, for the information of the Master General and Board of Ordnance, copy of a letter received from Mr. Stephen upon the subject.

My Lords request you will draw the attention of the Master General and Board to that part of Mr. Stephen's letter, in which he signifies Lord Stanley's opinion that it will be necessary to put a stop for the present to all expenditure for the erection of new or the enlargement of previously existing Barracks in New South Wales; and you will move them to cause Instructions to that effect to be given to the Officer of Ordnance in New South Wales.

I am, &c,

C. E. TREVELYAN.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 203, per ship Constant; acknowledged by Lord Stanley, 12th May, 1844.)

My Lord, Government House, 7th December, 1843.

I have the honor to report to Your Lordship that, on the 3d October last, a Committee was appointed by the Legislative Council, "to enquire into the practicability of a design for an overland route to Port Essington, and the means whereby it may be carried into effect."

The Motion was brought forward by Dr. Nicholson, M.D., one of the Members for Port Phillip, without any previous communication with me. On the 20th of the same month (October), the Committee reported, and a Copy of their Report is enclosed.

On the 1st November, an Address was voted to me by the Council, praying that I would cause the sum of £1,000 to be
1843.
7 Dec.
Disapproval of vote by Sir G. Gipps.

Desire of Sir G. Gipps for discovery of overland route.

Proposals re expedition to Port Essington.

Estimated expenditure on expedition.

Expedition proposed by direct route to Port Essington.

placed on the Estimates, for the purpose of defraying the expense of the expedition; and, on the 9th November, I, in reply, stated that, considering the condition of our Finances, I doubted whether I could with propriety undertake an expedition of so hazardous and expensive a nature, without the knowledge and consent of Her Majesty’s Government. Copies of this Address, and of my reply to it, are also enclosed.

On the subject of an overland journey to Port Essington, I beg leave to offer the following observations:

That an attempt should be made to reach Port Essington by an overland route is, I think, most desirable; and it has long been a matter of regret to me that I have not as yet found myself in a condition to undertake one. My desire to do so was mentioned in my Despatch, No. 139 of the 28th September, 1840; and, not long after the publication of that Despatch, I received proposals for the undertaking from Captn. Stuart* and Mr. Eyre, gentlemen already distinguished in the field of Australian Discovery. The route proposed by them was to start from the neighbourhood of Moreton Bay, and to proceed northward along the great dividing ridge (which generally more or less partakes of the nature of a Table land), until they should arrive opposite Halifax Bay, in Latitude about 19° South; that they should communicate in Halifax Bay with a small Vessel to be sent from Sydney for the purpose of meeting them there, and that the same Vessel should afterwards meet them at the bottom of the Gulf of Carpentaria, and again at Port Essington. The land journey would thus be broken into three portions, of which the longest would scarcely exceed 700 English Miles.

An Expedition of this nature appears to me far more feasible than one by a direct route; but the expense of it (including the hire of a Vessel, and the services of competent men of Science) was estimated at from £4,000 to £5,000, and on this account the project was (for the time at least) abandoned.

A direct expedition, such as is proposed by the Committee, would be less expensive, though it would, I think, cost considerably more than the sum mentioned in the Address of the Council, whilst the hazard of it would be very much greater. Indeed, looking at the result of the attempts† already made, and especially from South Australia, to penetrate into the interior of New Holland, I must confess that I could entertain but very slender hopes of the success of an attempt to reach Port Essington by a direct route, and still less of the opening of a communication which should be of practical utility to the Colony.

* Note 24. † Note 25.
GIPPS TO STANLEY.

1843. 7 Dec.

Opinion of
Sir T. Mitchell
re proposed
expedition.

Your Lordship will, however, perceive by the evidence of Sir
Thomas Mitchell, Surveyor General of New South Wales, that
that Officer not only considers the project a practicable one, but
is himself ready to lead the Expedition; and the opinion of an
Officer, who has already so greatly distinguished himself by his
travels in Australia, is entitled without doubt to the highest
degree of consideration.

I have, &c.

GEO. GIPPS.

[Enclosures.]

[Copies of these papers will be found in the "Votes and Pro-
ceedings" of the legislative council.]

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 204, per ship Constant; acknowledged by
lord Stanley, 16th June, 1844.)

My Lord,

Government House, 8th Decr., 1843.

Mr. George Cooper, formerly Comptroller of Customs in
this Colony, was by me, in the early part of the year 1840, ap-
pointed Collector of Customs in New Zealand, and subsequently
confirmed in that appointment.

By a letter from the Board of Customs dated the lst April,
1843, the Collector of Customs in this Colony was directed to
enforce against Mr. Cooper a disallowance of £145 1s. 7d., with
which he had been charged in his capacity of Comptroller at
Sydney, but against which he had protested.

On the 16th August last, an application was made by this Gov-
ernment to that of New Zealand to recover this sum of £145 1s. 7d.
from Mr. Cooper; and, in reply, I have received an answer to the
effect that Mr. Cooper has been informed of the demand; but I
have since learned that Mr. Cooper has been removed from Office
in New Zealand and is insolvent. There appears, therefore,
but little prospect of recovering the sum of £145 1s. 7d. from him,
and I think it consequently right to report the circumstances to
Your Lordship.

I have, &c.,

GEO. GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 205, per ship Constant; acknowledged by
lord Stanley, 7th July, 1844.)

My Lord,

Government House, 9th Decr., 1843.

I have the honor to report to Your Lordship that, on the
7th instant, a Copy was received in the Colony of the Adver-
sitement, issued by the Commissioners of Colonial Lands and

9 Dec.

Notice received
re proposed
immigration.
Emigration on the 15th July, 1843, from which I learn that it is the intention of Her Majesty's Government to send to this Colony from 3,000 to 5,000 Emigrants, and that the first of them may be expected to arrive almost immediately.

Reports of such an intention had been prevalent for some time; but, until the arrival of the "Andromeda" on the day above mentioned, I did not know what degree of credit was to be attached to them.

From my financial Despatches of the present year, Your Lordship will be aware that there are no funds in the Colony, out of which Bounties on these Emigrants can be paid. I trust, however, that some arrangement will have been made in England, which will relieve me from any embarrassment on this account.

In the Despatches marked as in the Margin,* I have informed Your Lordship that considerable bodies, both of Artificers and Labourers, have been for some time past out of employment in Sydney; and I herewith enclose a Copy of a Report made by a Committee of the Legislative Council, recently appointed to ascertain the number of the unemployed, and the way in which relief could best be afforded to them. The Committee report the number of adult Males unemployed in the City of Sydney to be about 1,240, and that, with their wives and children, the whole number may amount to about 3,748.

I further enclose a Copy of the Annual Immigration Report, made by another Committee of the Legislative Council.

The two Committees concur in thinking that there is yet sufficient employment in the Country, though there is none in Sydney; in the Country, however, Shepherds only or Farm Servants are in demand.

Wages vary much according to the locality in which a demand for labour occurs; in some distant Districts, Shepherds still receive from £20 to £30 per annum with rations; but new comers will scarcely obtain on an average from £10 to £15.

I cannot but fear that, if among the Emigrants, who may now daily be expected, there be any large proportion of Tradesmen, or of men with large families, the Government will be forced to maintain them.

I have, &c.,
Geo. Gipps.

[Enclosures.]

[Copies of these papers will be found in the "Votes and Proceedings" of the legislative council.]

Sir George Gipps to Lord Stanley.

(Despatch No. 206, per ship Constant; acknowledged by Lord Stanley, 9th May, 1844.)

My Lord,

Government House, 11th Decr., 1843.

By Your Lordship's Despatch No. 116 of the 26th May, 1842, I was informed that Her Majesty's decision on an Act passed by the Governor and Council of this Colony, namely, the 5th Vict., No. 4, would be suspended, until an explanation should have been afforded by me of the 11th Clause of it, by which the appointment is sanctioned of District Sheriffs.

In explanation, I have to inform your Lordship that the Clause in question was inserted in the Act contrary to my wishes, and that I at the time declared I would never act upon it, unless the circumstances of the Colony should be greatly altered.

I have further to report that, in a Bill to regulate the Office of Sheriff, which has passed the Council and is now waiting my assent, the Attorney General proposed to insert a Clause repealing the 11th Clause of the 5th Vict., No. 4, but the Council refused to entertain it, though it was explained, that, by rejecting it, the last mentioned Act would be endangered.

Under these circumstances, I have respectfully to express my hope that the 5th Vict., No. 4, may be confirmed, for the disallowance of it would occasion considerable inconvenience; and, though I differ from the Majority of the Council, and also from the Judges, in respect to the necessity of having District Sheriffs, it may be sufficient for me to adhere to the determination, which I have avowed, of not appointing them under the Clause in question, without the previous sanction of Her Majesty's Government.

Your Lordship will perceive that the Clause is not imperative, but merely gives the power to the Government to appoint District Sheriffs, should it be deemed proper to do so.

I have, &c.,

Geo. Gipps.

Sir George Gipps to Lord Stanley.

(Despatch No. 207, per ship Constant; acknowledged by Lord Stanley, 31st May, 1844.)

My Lord,

Government House, 12th Decr., 1843.

At the request of Mrs. Chisholm, I enclose herewith a letter, which has been addressed by that lady to the Commissioners of Colonial Lands and Emigration.

Mrs. Chisholm is the wife of a Military Officer now serving in India; and, during the course of the great Immigration into this Colony in 1841 and 1842, she rendered essential services to the Government by her exertions in taking care of unmarried females and in providing them with situations.

* Note 26.
She has devoted a great deal of her time to subjects connected with Immigration; and her untiring zeal in the cause of it is deserving of the highest commendation. I feel bound, however, to say that I cannot myself adopt all Mrs. Chisholm's views; and it may be, in consequence of my not having done so to the extent which she expected, that she now addresses herself to the Commissioners.

I have, &c.,

Geo. Gipps.

[Enclosure.]

[A copy of this letter is not available.]

Lord Stanley to Sir George Gipps.  
(Despatch No. 177, per ship Hindoo.)  

13 Dec.

Sir,

Downing Street, 13 December, 1843.

I have received a Letter from Mr. William Jeffcott, bearing date the 28th June, 1843, containing an application for confirmation in his provisional Appointment on the Bench of the Supreme Court of New South Wales. You will acquaint Mr. Jeffcott that, until the case of Mr. Justice Willis shall have been finally settled, and unless his removal from his Office shall be finally Confirmed, it will be impossible for me to adopt any decision respecting the choice of his Successor. But, pending the discussion of Mr. Willis's case in this Country, I approve Mr. Jeffcott's provisional Appointment to act as one of the Judges of the Supreme Court of New South Wales.

I am, &c.,

Stanley.

Lord Stanley to Sir George Gipps.  
(Despatch No. 178, per ship Hindoo.)  

13 Dec.

Sir,

Downing Street, 13 December, 1843.

I have received your Dispatch of the 4th of June last, No. 85, forwarding a copy of an application which you had received from Mr. C. F. Solling, a native of Denmark, to be admitted to the privileges of a Free Denizen of New South Wales. I have to convey to you my authority for issuing to that Gentleman Letters of Denization under the Local Act of the Colony to which you refer.

I have, &c.,

Stanley.
LORD STANLEY TO SIR GEORGE GIPPS.  
(Despatch No. 179, per ship Hindoo.)

Sir,  
Downing Street, 13 December, 1843.
I have received your Dispatch, dated the 6th of June, Letters of 1843, No. 86, forwarding a Copy of an application which you had denization received from Mr. G. Peterson, a Native of Germany, to be authorised for admitted to the privileges of a Free Denizen of New South Peterson. 
Wales.

I have to convey to you my authority for issuing to that Gentleman Letters of Denization under the Local Act of the Colony to which you refer.  
I have, &c.,  
STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.  
(Despatch No. 180, per ship Hindoo.)

Sir,  
Downing Street, 14th December, 1843.
I have received your Dispatch, No. 91 of the 13th of June last, reporting the arrangements which you proposed to carry into effect with a view of reducing the expense of the Survey Department. And I have to convey to you my approval of those arrangements.  
I am, &c.,  
STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.  
(Despatch No. 181, per ship Hindoo.)

Sir,  
Downing Street, 14 December, 1843.
I have to acknowledge the receipt of your Dispatch dated the 15th of July last, No. 111, enclosing a letter addressed to me by the Judges of the Supreme Court of New South Wales, resident in Sydney, in which they propose an arrangement for the distribution of the business of the Court and the appointment of an Additional Judge.
You will acquaint the Judges that I can express no opinion on the question of increasing their number in anticipation of that which may be formed by the Legislative Council of the Colony.  
I have, &c.,  
STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.  
(Despatch No. 182, per ship Hindoo.)

Sir,  
Downing Street, 14 December, 1843.
I have to acknowledge the receipt of your Dispatch, Despatch No. 112 of the 18 July, 1843, containing a Report of the result of the first Elections for the Legislative Council of New South Wales.  
I have, &c.,  
STANLEY.
HISTORICAL RECORDS OF AUSTRALIA.

1843.
14 Dec.

Report required re G. S. Airey.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 183, per ship Hindoo.)

Downing Street, 14 December, 1843.

Sir,

The Lords Commissioners of the Admiralty having made application to me for information as to the amount of Salary received by Lieutenant George S. Airey, R.N., as Commissioner of Crown Lands at Port Phillip, I have to request that you will furnish me with that information, stating at the same time the date of his Appointment.

I am, &c.,

STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 208, per ship Constant; acknowledged by Lord Stanley, 6th May, 1844.)

My Lord,

Government House, 14th Dec., 1843.

Referring to my Despatch of the 29th ultimo, No. 195, on the subject of a Bill then before the Legislative Council, intituled,

“A Bill to restore public confidence, and to provide for and regulate the issuing and lending of Land Board Notes, and Pledge Certificates, and for other purposes therein contained.”

I beg in continuation to report that the following Resolution was moved on the 5th instant by Mr. Charles Cowper, Member for the County of Cumberland, but that it was rejected on a division by 9 to 7.

“We, Her Majesty’s most dutiful and loyal subjects, the Members of the Legislative Council of New South Wales in Council assembled, beg respectfully to inform your Excellency that a Bill, intituled, ‘A Bill to restore public confidence, and to provide for and regulate the issuing of Land Board Notes and Pledge Certificates, and for other purposes therein contained,’ has passed the first and second reading, and has also been considered by a Committee of the whole Council; but, as doubts still exist in the minds of several Members of the Council, whether the Council is not incapacitated by the 34th Clause of the Act of the Imperial Parliament, 5th and 6th Vict. Regina, Cap. 76, from originating any measure involving the responsibility of the General Revenue, we respectfully request that your Excellency will be pleased to remove such supposed legal incompetency on the part of the Council, in such way as may appear advisable to your Excellency, previously to the Council proceeding to a third reading; or that your Excellency will be pleased to cause some measure to be laid before the Council, having for its tendency to alleviate the great distress which at this time pervades the Colony.
"We transmit herewith a Copy of the Report from and the evidence taken before the Select Committee, appointed to consider of the means of staying the further evil consequences to be apprehended from the monetary confusion, lately and still prevalent in the Colony, together with a Copy of the Bill as amended in Committee."

The Address being thus lost, the Council proceeded on the 6th instant to the third reading of the Bill; and it was then read a third time, and passed by a majority of eleven to nine.

The division on the third reading stood thus:

For the third reading (11): Mr. Berry, Crown Nominee; Mr. Bland, Mr. W. C. Wentworth, Mr. Murray, Mr. Windeyer, Mr. Cowper, Mr. Lawson, Capt'n Dumaresq, Mr. Macarthur, Dr. Lang, Dr. Nicholson, Elected Members.

Against the third reading (9): The Colonial Secretary; The Commander of the Forces; The Colonial Treasurer; The Attorney General; The Collector of Customs; Mr. Elwin, Mr. Lowe, Crown Nominees; Mr. Foster, Mr. Therry, Elected Members.

The Bill was brought up to me by a Deputation on the 7th instant, and I returned it on the 12th with the following words written on it, below the signature of the speaker, and signed by myself.

"In the name, and on behalf of Her Majesty, I withhold Her Majesty's assent from this Bill."

I enclose a Copy of the Bill as sent up for my assent.

No further explanations have taken place between the Council and myself on the subject of the Bill; I may add, however, that the Mercantile Interest and the public Press have generally approved of my rejection of it.

Mr. Berry, a Crown Nominee in Council, having addressed to me a letter, in which amongst other things he advocated the passing of this Bill, I replied to it on the 12th instant; and as this letter contains the only written declaration which I have made of my opinions of the proposed measure, and Mr. Berry will very probably make it public, I enclose herewith a Copy of it to Your Lordship.

I have, &c,

[Enclosure No. 1.]

[Enclosure No. 2.]

SIR GEORGE GIPPS TO MR. A. BERRY.

Sir, Sydney, 12th Decr., 1843.

I had the honor some days ago to receive your letter of the 5th instant, and should have replied to it earlier, had I not considered it inexpedient to do so, whilst my decision was still pending

* Note 27.
Objections to protective duty on corn.

Necessity for discretion of government in times of stress.

on a Bill passed by the Legislative Council, from which I have now reluctantly felt compelled to withhold my assent.

I lament that my views in respect to that Bill, and the probable effects which would have been produced by it, are widely different from your own.

I equally lament that I cannot adopt your views in respect to a protective duty on Corn than which nothing could, in my opinion, be more fatal to this Colony, so long as its prosperity depends (as it now mainly does) on the cheap production of Wool.

I trust I need not say that I sympathize deeply with the sufferers whom I see around me, or that I greatly deplore the want of confidence now so generally felt in the Colony. I must declare, however, that nothing appears to me more certain than that the only way in which the Government can, in times like the present, itself deserve the confidence of the People, or aid in restoring confidence between man and man, is by conducting its own affairs in a prudent manner, and by not suffering itself, in the pursuit of a doubtful or temporary advantage, to be led into engagements hazardous in their nature and foreign from any object of legitimate Government.

P.S.—I have now also to acknowledge the receipt of your second letter dated this day.

GEO. GIPPS.

P.S.—I have now also to acknowledge the receipt of your second letter dated this day. G.G.

Despatches acknowledged.

Costs to be refunded in Queen v. Nowlan.

Resignation of F. T. Rusden.

Lord Stanley to Sir George Gipps.

(Lord Dispatch No. 184, per ship Hindoo.)

Downing Street, 15 December, 1843.

Sir,

I referred to the Lords Commissioners of the Treasury your Dispatch No. 47 of the 5th of April last, reporting that you had caused payment to be made out of the Funds of New South Wales of the sum of Two hundred and Twenty four pounds, Three shillings and Ten Pence, being the amount of the Taxed Bill of Costs of the Civil Crown Solicitor in the case of The Queen versus Nowlan. They have also had before them your further Despatch No. 70 of the 13th of May, forwarding a Copy of the Bill of Costs in question.

I have been informed by the Lords Commissioners that, as the proceedings originated in Ireland, they have directed the Agent General for New South Wales to draw upon Mr. Kemmis, the Crown Solicitor in Ireland, for the amount of the costs, and to place the same to the credit of the Colonial Revenue on account thereof.

I have, &c.,

STANLEY.

Resignation of F. T. Rusden.

Lord Stanley to Sir George Gipps.

(Lord Dispatch No. 185, per ship Hindoo.)

Downing Street, 15 December, 1843.

Sir,

I have received your Dispatch No. 92 of the 15th of June last, notifying the final resignation of Mr. Rusden of his Office of Assistant Surveyor.
I should not have considered it necessary to advert further to this case, had it not been for the incidental notice, which occurs in your Dispatch, of the practice of requiring from the parties submitting representations duplicate, and even triplicate, copies of their Petitions and accompanying enclosures for transmission to this Department. I do not think that such a practice can be justified. The Regulation, which compels an Individual to transmit his representations through the Head of the local Government, creates some little hindrance, though a very justifiable one, to the right of Petitioning; but the further demand for a multiplication of copies appears to me to create a hindrance which cannot be justified. A Petitioner may indeed accumulate much superfluous matter into his petition; but, if it is drawn up in good faith, and with no wish to make it the vehicle for superfluous or improper matter, it appears to me that the burthen of transcribing it should be undertaken by the local Government, especially as the transcript is usually required for the use of the Government in this Country, and the task imposed on the Petitioner of furnishing multiplied copies of his representation may in some cases, where the documents are voluminous, amount to a denial of justice.

I am, &c.,
Stanley.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 209, per ship Constant; acknowledged by Lord Stanley, 5th July, 1844.)

My Lord,
Government House, 15th Decr., 1843.

I have had the honor to receive Your Lordship's Despatch No. 92 of the 21st June, 1843, desiring to be informed what steps I may have taken in reference to the case of a Convict, named Abraham Freeman, respecting whom I addressed a Despatch to Lord John Russell on the 13th June, 1841, and received an answer from your Lordship, dated the 21st December in the same year.

In reply, I have to state that I have done nothing more in the case of Abraham Freeman, and I am not aware that anything more can be required of me, as I have already furnished a Certificate of his having been in the condition of a Convicted felon since the 22nd March, 1838, on which day he was tried at Bombay (being then a Soldier) for shooting at a Serjeant and sentenced to Transportation for Life.

It seems that Freeman's Wife died in Ireland in the year 1839 (that is to say after his conviction) and left a Will disposing of
Questions involved in will of wife of A. Freeman.

Conduct of A. Freeman in colony.

Request for power of attorney from A. Freeman.

1843.
15 Dec.

Questions involved in will of wife of A. Freeman.

Questions involved in will of wife of A. Freeman.

1. Whether Freeman was or was not her husband?
   A question on which I can afford no information.

2. Whether, having a husband naturally alive though dead in law, Mrs. Freeman could make a Will and dispose of her property?
   This appears to me a question of law, on which I can scarcely be required to express an opinion.

3. Whether her husband, notwithstanding his Conviction, could claim the property of which she died possessed?
   This also is a question of law, though I apprehend it is beyond doubt he could not.

4. Whether the Crown could interfere and claim the property in consequence of Freeman's Conviction?
   This appears to be a question for the determination of Her Majesty's Government alone.

I may, however, certify that, though Freeman's offence was (and especially in a Military Point of view) a very heinous one, namely, that of shooting at his superior Officer, his conduct in New South Wales has been good.

GEO. GIPPS.

P.S.—Among the early papers in this case, I find a letter from Mr. Tully, a Solicitor in Dublin, requesting me to obtain and forward to him a Power of Attorney from Abraham Freeman; but to forward a Power of Attorney from a convicted Felon would, I apprehend, be to make myself a party to an illegal act.

G.G.

16 Dee.

Transmission of memorial from J. Acers.

Report required.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 186, per ship Hindoo; acknowledged by Sir George Gipps, 22nd July, 1844.)

Sir,

I transmit to you herewith the Copy of a Memorial, which I have received from Jane Acers, together with one addressed to yourself, respecting a sum of money alleged to have been remitted to her by her daughter Sarah Acers through the hands of Mrs. McCready of Sydney, and which it appears has not been received; and I have to request that you will cause enquiries to be made on the subject, and report the result to me by an early opportunity.

I have, &c.,

STANLEY.
STANLEY TO GIPPS.

[Enclosure.]

THE humble Memorial of Jane Acres, Widow, of Tullamore, King's County, Ireland.

To The Right Honorable Lord Stanley, Colonial Secretary, etc., etc., etc.,

THAT Memorialist most respectfully begs to solicit your Lordship's grave consideration to a marked portion of the enclosed letter which Memorialist has received from her daughter Sarah Acres, who emigrated to New South Wales. Memorialist most respectfully states that her daughter left money in the hands of a Mrs. McCready in Sydney, to be forwarded to Memorialist, omitting in her letter to state the amount or upon whom the Draft was payable; whether that has come to England Memorialist cannot state; yet Memorialist humbly implores Your Lordship will cause such enquiry to be made in the several banking houses and Offices where such Bills are cashed, and that you will forward the enclosed Memorial to the Governor, Mayor and Magistrates of Sydney, in order to ascertain if Mrs. McCready has forwarded any money and what amount was left by my daughter Sarah Acres to be forwarded to Memorialist.

And Memorialist will be in duty bound to ever pray.

4th December, 1843. JANE ACRES.

P.S.—The enclosed letter to be returned if not forwarded to Sydney, Your Lordship will please direct to Jane Acres, Willington Terrace, Tullamore, King's County, Ireland.

[Sub-enclosure No. 1.]

THE humble Memorial of Jane Acres, of Tullamore, King's County, Ireland. Sir G. Gipps.

To The Right Honorable the Governor or Governor General of New South Wales.

THAT Memorialist most respectfully begs to draw your Most Serious attention to the nature and Circumstance of Memorialist appeal, which is that Memorialist's Daughter Sarah Acres, Emigrated to Sidney sometime since and lived with a Mrs. McCready, an Inhabitant of Sydney; and, residing there, it appears, by a Letter which Memorialist forwarded to the Colonial Secretary, London, that Memorialist's Daughter has left money in Mrs. McCready's hands to be forwarded to Memorialist, not mentioning the amount; Memorialist implores you will cause Enquiry to be made of Mrs. McCready to know, if she did forward any Money and to whom; was the Bill Consigned and the Amount; also, if she has not put the Bill in Course of payment to ascertain the amount left by my Daughter and send the Sum to the Colonial office, London, payable to Memorialist as Memorialist will Ever pray.

4th December, 1843. JANE ACRES.

P.S.—direct to Jane Acres, Widow, Willington Terrace, Tullamore, King's County, Ireland.

[Sub-enclosure No. 2.]

MISS S. ACRES TO MRS. ACRES.

My ever dearest Mother, Brothers and Sisters,

I suppose you think that I Never think of you by My neglect of you; but, my Statement by the help of god that you will soon see that I am not the ungrateful child that you have every reason to think I am; but but god who Seeth the heart knoweth best; dear Mother, I hope you got that little that My Mrs. at that time sent to you; i was leaving then and i am now 5 hundred miles from Sydney, up in the bush, where i scarce see any but blacks nakid. My Master and Mrs. is very kind to them, which caues them to be kind to us, for the next gentlemen that lives at glenden, ship Mates of mine, the were killed and there children; i would not have left Sydney but having only 15£ per year and shoes that cost 8 shillins only lasts a forth night;

SIR. I. VOL. XXIII—R
and it would scarce keep me in shoes; so I have hired with a very rich Master and Mrs. and good; I have twenty pound for the first year, and if I continue with them, I shall have thirty the following years; and then dear Mother you shall be comfortable, if God will dispose as I propose; we are always traveling about; we are after coming from the red sea; we are now in Liverpool plains; we are going to stop at Jerys plains for some time; I do not know where we shall go next; the are talking of going to live on the Wollombine river; but, dear mother, let me go where I will; I shall never forget you. I am writing to Mrs. McCready with this letter for she has made me promise to write often to her to let her know where I am, for she is to watch the Sydney post office for me and to forward your letters to me. My dear mother, I wish you were all here but the danger is great; but, my dearest mother, I hope that the Lord will spare you to me and me health and prosperity for ten years or so, and then dear mother I hop with the blessing of God that I will cross the raging seas to see you. My dearest mother, brother and sisters, and have what will keep us comfortable. I hope that Thomas is a good boy and obedient; do dear Thomas be kind to our dear mother and sisters; I hope God will bless you; I would not encourage you to come here until I can send you what would make my mother comfortable; the wages is 10 shillings a day; but, if you got employment, you would do better at home.

I suppose you think I forget you dear brother, but you are very dear; I shall send home ten pound this year, and next the same, and that would help my mother, until then you would comb out, and then I would be very happy dear mother; give my best love to James and Marame and Kate; tell them that I love them tenderly; do not let them forget me, dear mother, for I am counting the day and night until I see you again; I hope that dear Mr. and Mrs. Leaver is well; if I could hear the voice of the angel again, I never heard a voice that I loved so dear as his, since I left home; I think I see youse and here and see him. Still if you his people at home were or felt the want of him as I do, how dearly would you love him for his work sake; give my love to aunt Mary and Jane and Henry; if the were her, they would do well and to all them that you know that I love I have not room to say any more I never heard from you yet.

No more at present but remains your affectionate daughter Sarah Acres.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 210, per ship Constant.)

17 Dec.

My Lord,

Government House, 17th Dec., 1843.

I have had the honor to receive your Lordship's Despatch, No. 88 of the 12th June, 1843, enclosing a copy of a letter from Major Lusby, and desiring me to furnish any information in my power respecting the fate of his son William Lusby, supposed to have accidentally lost his life in New South Wales; and I have the honor in reply to furnish copies of all the documents connected with the fate of this young man, which have reached the Government.

Your Lordship will perceive that the accounts, already received by Major Lusby, are unfortunately correct; and that his son was accidentally killed by the discharge of his own fowling piece at a Cattle Station near the Macintyre River. The Station, where this unfortunate accident occurred, is one of the most remote from the Seat of Government in the Colony; and is supposed to be not less than 450 miles north west of Sydney, in about Latitude 30° South, and Longitude 149° East.

I have, &c.,

Geo. Gipps.
List of documents enclosed.

1. Letter from Mr. John Browne to the Attorney General, 3d April, 1843.
2. Reply from the Attorney General to Mr. Browne, 15th May, 1843.
3. Letter from the Attorney General to Mr. Mayne, Commissioner of Crown Lands for the District (of Liverpool Plains) within which the accident occurred.
4. Mr. Mayne's reply, 3d June, 1843.

[Enclosure No. 1.]

MR. J. BROWNE TO ATTORNEY-GENERAL THERRY.

Sir, Patrick's Plains, 3d April, 1843.

A Servant of mine, named William Lusby, having met his death at my Station on the MacIntyre River, where the deceased was my overseer, I beg to know from you whether you have received a communication from the Commissioner, Edward Mayne, Esquire, in whose District it happened; the following is nearly the particulars, viz., A dispute arose about the identity of a Calf, in which Lusby was correct as afterward seen.

William Slator was Stock-Keeper, and with him the dispute arose with the deceased. Slator, being an ill tempered person and wicked inclined, kicked the deceased on the posteriors and Belly, and in defence the deceased, who had a Gun in his hand at the time, in defence Struck Slator in the Head with the Butt-end; the Gun was supposed to be cocked, and from the concussion it went off; the contents went through the deceased body, who lived only a few hours afterwards. The third person, that was at the Station, went to the next Station where the Police was, and arrived in time to hear the deceased Statement. I feel it my duty to an honest, upright and good Servant that it will be thoroughly inquired into; the deceased was only a few years in the Colony, and appears from his Letters that his Friends and Relations at home are respectable. I have enclosed one to you.

JOHN BROWNE.

[Enclosure No. 2.]

ATTORNEY-GENERAL THERRY TO MR. JOHN BROWNE.

Sir, Attorney General's Office, 15th May, 1843.

With reference to your communication of the 5th Inst., I beg to state that I have not yet heard from Mr. Mayne respecting the death of William Lusby, though I have been in daily expectation of doing so. I shall, therefore, now transmit your Letter to him, requesting to know whether the Inquiry you so properly desire has taken place.

R. THERRY, Attorney General.

[Enclosure No. 3.]

ATTORNEY-GENERAL THERRY TO MR. E. MAYNE.

Sir, Attorney General's Office, 17th May, 1843.

I beg leave to send you a letter, which I have received from Mr. Browne of Patrick's Plains, respecting the death of William...
[Enclosure No. 4.]

MR. E. MAYNE TO ATTORNEY-GENERAL THERRY.
Commissioner of Crown Land's Office.

Sir,

I have the honor to acknowledge the receipt of your letter date 17th May, relative to the death of the man named in the margin at a Station of Mr. John Browne, near the McIntyre River, where the deceased was employed as Overseer and Stockman.

The Station, where the Occurrence took place, is a very remote one, about 10 miles to the North of the McIntyre River, and distant upwards of two hundred miles from my Head Quarters; a considerable time after the occurrence took place. I received from Corporal Rhian Turner a Report of the case. He having been called upon to attend immediately after it had occurred. The Report was accompanied by a document signed by the unfortunate man Lusby, which perfectly exonerated the man Slator in the affair.

From a considerable time having elapsed, and the Report of the case with the accompanying document being so clear, I did not consider it necessary at the moment to institute further enquiry, particularly as it was my intention to visit that part of the District in a short time; and, when at Mr. Browne's Station, caused a further investigation to take place, and by which I became satisfied that the unfortunate man was mainly instrumental in his own death. The Corporal's Report remained at my late Brother’s Station since the time I was in that part of the District, having been hastily called to another part of the District. It has been sent for and shall be forwarded to your Office.

The substance, however, of it and the after Statement of parties is as follows:—

William Lusby was Overseer and Stockman at Mr. Browne’s Station, near the McIntyre River. William Slator, a free man, was assistant Stockman, etc.: a dispute arose between the parties in the Stockyards as to the identity of a calf, and, on the following day, both being again in the Stockyard, Lusby proved correct; and, on his turning to Slator and saying so, accompanied by some further expression, Slator told him “to give him no more of his jaw”; thereupon both parties commenced a very abusive dialogue and in very high words (It appeared that the two men had agreed well together). Lusby, after some time, turned to go away; he had his Gun in his hand. Slator made a kick at him which struck him behind; Lusby immediately turned round and aimed a blow at Slator with the Butt end of the Gun, the force of which brought Slator to the ground on his knees, and broke the Stock of the Gun. He then repeated the blow, when the Gun went off, the contents going through the body of the unfortunate man in whose hands it was. When the Police arrived, it was doubtful to them which of the parties would die the soonest, the man Slator having been
most dreadfully cut in the head, etc.; he did eventually recover, Lusby dying in a few hours, having signed a Statement freeing Slator from blame in the transaction.

I must here remark that the unfortunate deceased was known in the District as a most irritable and violent tempered man, as also an overbearing one, and from one or two of his acts had brought down my strong animadversion on him. I knew him previous to his entering Mr. Browne's Service, who I believe knew little or nothing of him, as he never visited the Station in question during the whole of the time that Lusby was acting as his Overseer at it. He had been originally in the service of Mr. Goggs in this District. Such are the circumstances of the case, and, altho. at present reported from memory, I believe they will be found accurate.

I have, &c.,
Edward Mayne.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 211, per ship Constant; acknowledged by lord Stanley, 2nd June, 1844.)

My Lord,

Agreeably to the directions contained in your Lordship's Despatch of the 20th May, 1843, No. 75, I have caused enquiry to be made into the complaint, preferred to Your Lordship by Mr. H. N. McDougall, of ill usage experienced by his son in the Port Phillip District from Mr. G. D. Smythe, a Government Land Surveyor; and I enclose a Copy of a Report on the case from Mr. La Trobe.

From this report, your Lordship will perceive that Mr. G. D. Smythe is not an Officer of the Surveyor General's Department of this Government, but simply a Surveyor who was employed for a particular purpose (or job) at a time when land was demanded of the Government faster than it could be surveyed by its own Officers.

The Government has no longer any control over Mr. Smythe; and it does not appear that the person injured made any complaint during the time that Mr. La Trobe might have had the power to afford him assistance or relief.

It may be proper to point out that there was a Mr. Smythe, a Member of the Surveyor General's Department at the same time in the Port Phillip District; but he is not the person who ill used Mr. McDougall, and his name is Henry William Hutchinson Smythe.

I have, &c.,
Geo. Gipps.

[Enclosure.]
HISTORICAL RECORDS OF AUSTRALIA.

Lord Stanley to Sir George Gipps.

(Despatch No. 189, per ship Mary Sharp; acknowledged by Sir George Gipps, 18th June, 1844.)

Downing Street, 20 December, 1843.

In transmitting to you the enclosed copy of a Letter from the Revd. C. W. Robinson, I have to request that you will furnish any information which you may be able to obtain respecting the Individual named therein.

I am, &c.,

Stanley.

[Enclosure.]

Revd. C. W. Robinson to Secretary at War.

Sir, Loughbro', 12 Dec, 1843.

James Willmott, the Father of William Willmott of the Mounted Police at Liverpool near Sydney, New South Wales, is very anxious to hear if he be alive. The young man was formerly a Private in the 4th Foot. Any information to be obtained respecting him will oblige.

Sir, &c.,

C. W. Robinson, Curate of Loughbro'.

Lord Stanley to Sir George Gipps.

(Despatch No. 190, per ship Mary Sharp; acknowledged by Sir George Gipps, 25th August, 1844.)

Downing Street, 21st December, 1843.

I transmit to you, herewith, a Copy of a Letter from the Secretary to the Board of Treasury with a copy of a Letter from Deputy Commissary General Miller at Sydney, relative to the provision of extra clothing for the Convicts; and I have to request that you will furnish me with a report explanatory of the arrangement referred to.

I am, &c.,

Stanley.

[Enclosure.]

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

Sir, Treasury Chambers, 12th December, 1843.

I am directed by the Lords Commissioners of Her Majesty's Treasury to transmit herewith, for the information of Lord Stanley, a Letter dated 28th July last from D. Commissary General Miller at Sydney, together with its enclosures relative to the providing extra clothing to Convicts; and I am to request that you will move His Lordship to cause my Lords to be informed whether the arrangement therein referred to has been reported by Governor Sir George Gipps, and whether His Lordship approves thereof. I am also to request that the papers being in original may be returned.

I am, &c.,

C. E. Trevelyan.
DEP. COMMISSARY-GENERAL MILLER TO SECRETARY TO THE TREASURY.

Sir,  
Commissariat Office, Sydney, 28th July, 1843.

For the information of The Lords Commissioners of Her Majesty's Treasury, I have to report that the Surgeon in charge of the Convict Hospital and the Officer in charge of the Gangs in the vicinity of Sydney made to the Governor a representation of the allowance of clothing to the Convicts being insufficient; and His Excellency having referred the same to the Ordnance Storekeeper and myself for enquiry and report, we found that the discontinuance of the assignment of Convicts to private service, by depriving them of the numerous chances which they formerly had of a change of clothing, has effected a material alteration in their Situation, and that an additional Shirt and pair of Shoes to each in course of the year had become urgently necessary. This His Excellency was pleased to approve and to direct being carried into effect from the 1st Instant.

Copies of the Report referred to and of the Colonial Secretary's Letter in answer are herewith enclosed.

W. MILLER, D.C.G.

MESSRS. MILLER AND ROGERS TO COLONIAL SECRETARY THOMSON.

Sir,  
Commissariat Office, Sydney, 24th March, 1843.

In reply to your Letter of the 13th Inst., No. 45/22, enclosing a Letter from Colonial Surgeon Harnett and Captain Innes, in which they represent the expediency of some alteration in the Regulations for the supply of clothing to prisoners in the ordinary service of Government in Hyde Park Barracks and the vicinity of Sydney, and requesting our joint opinion and report thereon; We have the honor to state, for the information of His Excellency the Governor, that the Clothing now supplied to the Convicts employed in the service of Government or remaining in Barracks was authorised by the Regulations of the 15th April, 1828, and 19th February, 1833, and consists of two suits in the year, and to Convicts in Irons or 2nd Class Convicts one pair of Shoes and one shirt additional, as detailed in the report, the Shirt and shoes to the latter being issued at three periods of the year, viz.: 1st March, 1st July and 1st November; and, with regard to the expediency of extending the same allowance to all convicts in Hyde Park Barracks and the Vicinity of Sydney, we would observe that, Convicts being no longer assigned to private service their employment by Government, it is now of a more permanent nature than formerly; that the supply of a shirt and pair of Shoes half yearly is insufficient, and must be worn out before the period at which a further supply is allowed by the existing regulation; and that the allowance of a shirt and pair of shoes may be supplied every four months to all convicts, as now received by men in Iron'd Gangs; but, if this extra allowance is granted to Convicts in Sydney and its vicinity, it may be found necessary to extend it to all out stations, excepting Port Macquarie and Norfolk Island, the Convicts at the former place consisting chiefly of Invalids, not performing hard labor or exposed to the weather, and at the latter station materials are supplied for repairing shoes.

In conclusion, we beg to add that should the arrangement proposed be approved and carried into effect, the additional supply, according to the general issue in November last, will amount to about 1,800 Shirts and pairs of Shoes for Convicts employed by Government and clothed at the expense of the Treasury and which may be estimated as follows:—

<table>
<thead>
<tr>
<th>Item</th>
<th>Quantity</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shirts</td>
<td>1,800</td>
<td>150</td>
</tr>
<tr>
<td>Shoes</td>
<td>1,800 pairs</td>
<td>405</td>
</tr>
<tr>
<td></td>
<td></td>
<td>£555</td>
</tr>
</tbody>
</table>

and, if the arrangement is to have a retrospective effect as recommended, it will be necessary that requisitions be immediately sent to the Ordnance Storekeeper for the additional clothing which would be due to the men on the 1st Instant, in which case no further issue of Shirts and shoes will be made until the 1st of July next, instead of their receiving the regulated half yearly supply consisting of a whole suit on the 1st May.

We have, &c.,

W. MILLER, D.C.G.
Rt. ROGERS, O.S.

COLONIAL SECRETARY THOMSON TO DEP. COMMISSARY-GENERAL MILLER.

Sir,  
Colonial Secretary's Office, Sydney, 3rd June, 1843.

Referring to the joint report, dated 24th March, 1843, made by yourself and the Ordnance Storekeeper, on the representation made by Colonial Surgeon Harnett and Captain Innes, of the expediency of some alteration in the Regulations for the supply to Prisoners in the ordinary service of the Crown: I am directed
1843. 21 Dec.

by His Excellency the Governor to inform you that in compliance with your recommendation, He approves of such men being supplied with a shirt and pair of shoes every fourth month, the same being issued on the 1st March, 1st July and 1st November.

E. DEAS THOMSON.

Despatch acknowledged.

Interpretation of agreement re military barracks at Sydney.

Payment ordered to military chest.

1. I have the honor, by Command of the Master General and Board of Ordnance, to acknowledge the receipt of yours dated 20th October last, transmitting the copy of a Despatch, dated 20th May preceding, from the Governor of New South Wales, in which His Excellency expresses apprehensions that the sum of £60,000 originally estimated as the cost of the new Barracks* at Sydney, now erecting at the expense of the Colony (in consideration of the relinquishment by this Department of the site of the old Barracks* for Colonial purposes), will be exceeded.

2. And I am directed by the Master General and Board to observe to you in reply, for the information of Lord Stanley, that, by the Copy of the Governor's Despatch No. 151 which accompanied your letter of the 16 March, 1839, it would appear that His Excellency's view then was to put the Ordnance in legal possession of a new site and a sum of money to pay for the new Barracks upon an equivalent scale of accommodation, if this Department would transfer to the Colony the old Barrack and its advantageous site:

* Note 28.
and, towards carrying out this arrangement, to which the Master General and Board, by their letter of the 31 May, 1839, S. 34, had assented, the Colonial Government authorised the expenditure of £60,000 according to your communication of the 23 January, 1841.

3. The Governor subsequently requested that the Work should be performed as an Ordnance Service, and the Master General and Board, on the 27th October, 1841, assented to His Excellency's proposition; but the Master General and Board are not aware of any stipulation that shall relieve the Colony from paying a sum of money for the construction of the new Barracks at Sydney upon a scale of accommodation equivalent to the Old Barrack.

4. His Excellency's impression that Slates were not provided for in the Estimate, is erroneous; and the other alterations alluded to by His Excellency will probably be explained by a Report, which the Master General and Board expect to receive from the Commanding Royal Engineer, in reply to a reference they have already made to that Officer on the subject, dated 26th Sepr. last.

5. In respect to the new Hospital proposed to be included in the new Barrack Buildings, the Master General and Board beg to state that the original Barrack Estimate certainly did not provide for it, there being, it was then presumed, sufficient accommodation in General Military Hospital in the Town of Sydney, which formed no part of the old Barrack transferred to the Colony. Lord Stanley is, however, aware that the Colonial Government have preferred repeated claims upon this Hospital, which have, the Master General and Board conceive, been shewn to be groundless, although every disposition has been evinced by this Department to accommodate the Colony as much as possible without detriment to the Military Service; but, if the Colonial Authorities require the whole of such Hospital, the Master General and Board, of course, expect them to provide funds for another, equivalent to the scale of Barrack accommodation; and consequently, this part of the arrangement has no connexion (as the Governor apprehends) with the conditions under which this Department relinquished the old Barracks.

6. The Master General and Board beg further to observe that the foregoing statement is submitted only in explanation of the existing arrangements at New South Wales, so far as the Ordnance Department is concerned, which may be materially affected by the intended discontinuance of that Colony as a Penal Settlement; and that the Commanding Royal Engineer has been instructed to put a stop, for the present, to all Barrack Expenditure, agreeably to your letter of the 23d October last, in reply to mine of the 29th September, S. 1,586, on the subject of the proposed appropriation of the South Wing of the General Hospital as a Public Dispensary.

I have, &c.,

R. BYHAM.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 212, per ship Constant.)

My Lord, Government House, 21st Decr., 1843.

I have had the honor to receive your Lordship's Despatch, No. 113 of the 19th July, 1843, wherein I am directed to report on the claim of Capt'n. Wetherall, R.N., to a Grant of Land in

* Note 29.
HISTORICAL RECORDS OF AUSTRALIA.

1843.

21 Dec.

Documents transmitted re claim of F. A. Wetherall.

this Colony; and, in reply, I beg leave to enclose copies of the following documents:—

1. Letter from Captn. Wetherall to the Colonial Secretary, dated the 12th October, 1826, asking for a Grant of Land;
2. Minute on the above letter by the then Governor (Darling) proposing some queries to Captain Wetherall;
3. Letter from Captn. Wetherall, replying to the above queries;
4. Minute on the last mentioned letter by General Darling, authorizing a Grant of 2,560 acres, "provided it was stocked and improved, and a free manager placed on it within eighteen months."

This Minute is dated the 16th February, 1827, and an Official letter was written to Captain Wetherall on the same day, informing him of the Governor's decision.

It is scarcely necessary for me to add that Captn. Wetherall’s claim to a grant of Land in this Colony expired in August, 1828, more than fifteen years ago.

Mr. Augustus William Kulme, mentioned by Captn. Wetherall as the person in whose charge he intended to place the Land, was an Officer of the Commissariat serving in Sydney in the year 1827. Mr. Norton, the Solicitor, is still resident in Sydney; but, in reply to my enquiry, he states that a reserve of 2,560 acres of Land was made in favor of Captn. Wetherall, subject to the approval of the Home Government; that, although £400 was left in the Colony by Captn. Wetherall for the purpose of effecting improvements upon the Land, the money had been employed at interest, and that the Grant to Captn. Wetherall had been disallowed.

Of Mr. Norton’s reply, I also enclose a copy to your Lordship.

I have, &c.

[Enclosure No. 1.] Geo. Gipps.

APPLICATION for a Grant of Land without purchase.

Sir, Sydney, 12th October, 1826.

I beg you will submit to His Excellency the Governor my request that I may receive a Grant of Land under the Regulations, contained in the Government order No. 35, dated 5th September, 1826. The means, which I propose appropriating to Agricultural Purposes, being as follows, viz.;—

Two Thousand Pounds and a further sum if necessary.

I have, &c.

F. A. Wetherall.

[Enclosure No. 2.] Copy of Sir Ralph Darling’s Minute on Captain Wetherall’s application of 12th October, 1826, for a Grant of Land

REQUEST he will state whether he proposes Stocking or improving it immediately, and whom he proposes placing in charge of it.

R.D.
[Enclosure No. 3.]

CAPTAIN WETHERALL TO COLONIAL SECRETARY MACLEAY.

Sir,  
  
In reply to your letter dated the 14th of October last, communicating His Excellency the Governor's desire that I should state whether, in the event as I imagine of my being assigned the Grant of Land for which I made application on the 12th of the same Month before alluded to, I proposed Stocking or improving it immediately, and the name of the person whom I intended placing in charge of it, may I request you to make it known to His Excellency that it is my intention to place Stock immediately upon, and otherwise to improve such proportion of land as may be granted me, and that Mr. Aug. Wm. Kulme, who at present resides in Sydney, is the person whom I should wish to leave in charge of it.

I have, &c,

F. A. WETHERALL.

[Enclosure No. 4.]

COPY of Sir Ralph Darling's Minute on Captain Wetherall's letter of 3rd February, 1829.

LET him receive authority to select four square miles as a Reserve, Conditional on condition of its being Stocked and improved, and a free manager employed upon it, or it will be resumed at the expiration of 18 months.

16 Feby.

R.D.

[Enclosure No. 5.]

MR. J. NORTON TO MR. H. W. PARKER.

My Dear Sir,  
Sydney, 18th December, 1843.

In February, 1827, Captain Wetherall obtained a reserve of 2,560 acres of Land subject to the approval of the Home Government; and, in order to make the requisite improvements, he left in the hands of Mr. Richard Jones a sum of £400 to be expended on the Land in such manner as Captain Coghill and I might direct. Mr. Jones in the mean time with my concurrence employed the Money at Interest, and it was lent first to Mr. T. C. Harington, and subsequently to Mr. A. P. Onslow, who repaid the amount with interest, through me, by remittances from India at different times, and which was paid over to Mr. Jones as under:

£300, 9th Sept., 1831; £257 5s. 8d., 1st Jany., 1836; £557 5s. 8d.

The Grant was disallowed.

I am, &c,

J. NORTON.

SIR GEORGE GIPPS TO LORD STANLEY.  
(Despatch No. 213, per ship Constant.)

My Lord,  
Government House, 22nd Decr., 1843.

I have the honor to report to Your Lordship that the Annual Appropriation Act has been passed, and that I propose to prorogue the Legislative Council in the course of a few days.

I have, &c,

GEO. GIPPS.
1843.
23 Dec.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 191, per ship Mary Sharp.)

Sir,
Downing Street, 23d December, 1843.

I have received your Dispatch, No. 101 of the 29th of June last, enclosing Copies of a Correspondence which had taken place between yourself and the Chief Justice on the subject of his appointment to a Seat in the new Legislative Council.
I approve of the Course taken by you on this subject.

I am, &c.,
STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 214, per ship Persian.)

My Lord,
Government House, 23rd December, 1843.

I have the honor to enclose herewith the "Standing Orders" which, under the 27th Clause of the Act for the Government of this Colony (5th and 6th Vict., Ch. 76), have been framed by the Legislative Council for the orderly conduct of their business, and which I have approved, subject to the confirmation or disallowance of Her Majesty.

The Standing Order No. 140 was amended at my suggestion, in a manner which will be explained by the accompanying Copy of a Message, which I sent to the Council on the 22d November last.
I am not aware of anything that can now be considered objectionable in these "Standing Orders"; and therefore I beg to recommend them for Her Majesty's confirmation.

I have, &c.,
GEO. GIPPS.

[Enclosures.]

[The standing orders and message will be found in the "Votes and Proceedings" of the legislative council.]

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 215, per ship Persian.)

My Lord,
Government House, 24th Decr., 1843.

I have the honor to enclose herewith a copy of an address presented to me by the Legislative Council of this Colony, wherein I am requested to convey to your Lordship the opinion of the Council:

"That the excess in any one of the Schedules in the Act of Parliament, 5th and 6th Vict., Ch. 76, should be applied to make good the deficiencies in any other of the Schedules, before any application should in future be made to the Council for any sum in aid of such deficient Schedule."
STANLEY TO GIPPS.

By the 38th Clause of the 5th and 6th Vict., Ch. 76, it is expressly enacted that the amount of saving, which may accrue from either of the Schedules A or B, shall be appropriated to such purposes connected with the Administration of the Government of the Colony, as to Her Majesty shall seem fit.

The Estimates laid before the Council (of which Copies were transmitted with my Despatch, No. 134 of the 25th Augst. last) will shew that the only Schedule, in which there is likely to be at present any Surplus, is Schedule B; though by possibility there may be a surplus on Schedule C. In respect to the appropriation of any Surplus on Schedule C,* the Act of Parliament is silent.

The questions, which have arisen between the Council and myself on the subject of the Schedules, are explained in my Despatch to Your Lordship of the 28th Octr. last, No. 176.

I have, &c.,
GEO. GIPPS.

[Enclosure.]

[A copy of this resolution will be found in the “Votes and Proceedings” of the legislative council.]

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 192, per ship Mary Sharp; acknowledged by Sir George Gipps, 29th June, 1844.)

Sir,
Downing Street, 26th December, 1843.

I transmit to you, herewith, Copies of a Correspondence with Lieutt. Colonel Verner, M.P., relative to the position of his Son as Insolvent Commissioner in the District of Port Phillip; and I should be glad to be informed under what circumstances he received his Appointment, and whether he still retains that Office.

I am, &c.,
STANLEY.

[Enclosure No. 1.]

LIEUT.-COLONEL VERNER TO LORD STANLEY.

My Lord,
49 Cadogan Place, 13th Decr., 1843.

I hope the circumstances of the Case as regarding my Son will authorise the liberty of enclosing a Letter which I received from Mr. Justice Willis, just returned from New South Wales.

This Gentleman was so kind as to appoint my Son, William Verner (as your Lordship may see by his Letter), to be a Chief Commissioner of Insolvents at Port Phillip; the exact time he does not say, but 2 or 3 years since, long enough to prove his Capability and efficiency. The recall of Justice Willis has occasioned an apprehension of the removal of my Son. Whatever may have been the differences in the Colony, I believe my Son has been totally...

* Note 30.
unconnected with them, confining himself to the duties of his Office, which he fulfilled, as I am informed, without just complaint or reproof. I trust, therefore, that your Lordship may think that there would be not alone a hardship but also an injustice in depriving him of his appointment, and that you may take such steps as may appear to you to be right and just in having him continued in it, or, in the event of removal, to place him in some other adequate Situation.

Allow me to observe that he has received the best education, first at Eton, next in T.C., Dublin, an indefatigable Man in business, an active upright Magistrate, bearing a high and honorable character in the Colony, with a Wife and family to support by his industry.

Submitting the case to your Lordship's consideration.

I have, &c,

THOMAS VERNER.

[Enclosure No. 2.]

UNDER SECRETARY HOPE TO LIEUT.-COLONEL VERNER.

Sir, Downing Street, 23rd Dec., 1843.

I am directed by Lord Stanley to acknowledge the receipt of your Letter of the 15th Inst., and to acquaint you in reply that His Lordship has received no report from the Governor of New South Wales of the appointment of your Son to the Office of Insolvent Commissioner in the District of Port Phillip. Lord Stanley will call upon the Governor for a report, altho' his Lordship is not at present aware of any circumstance which would lead to the conclusion that the removal of Mr. Justice Willis would involve that of your Son.

I have, &c,

G. W. HOPE.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 216, per ship Persian.)

My Lord,

Government House, 26th Decr., 1843.

I have herewith the honor to forward to Your Lordship a Paper, shewing the Establishment of the Legislative Council of this Colony, as provided for in the Estimates for 1844 and voted by the Council.

Your Lordship will observe that the Salary of the Speaker is set down at £750; but I should explain that this sum is to be allowed only, when the Speaker may hold no other Office, and receive no Pension from the Local Government.

As the present Speaker (Mr. Macleay) received from the Colony in the year 1839 a sum of money in commutation* of a Pension of £250 a year, his Salary will be only £500 a year in lieu of £750.

I have, &c,

GEO. GIPPS.

[Enclosure.]

[This establishment will be found in the "Votes and Proceedings" of the legislative council.]

* Marginal note.—See Secretary of State's Despatch, No. 79, 25th June, 1839.
STANLEY TO GIPPS.

LORD STANLEY TO SIR GEORGE GIPPS.  
(Despatch No. 157, per ship Mary Sharp.)

Sir,

Downing Street, 27 December, 1843.

I have received your various Dispatches of the numbers and dates enumerated in the Margin* relative to the suspension of Mr. Justice Willis, and I transmit to you, for your information and guidance, Copies of a Correspondence,† which has taken place between my Under Secretary of State and Mr. Willis since his arrival in this Country. I am, &c.,

STANLEY.

[Enclosure No. 1.]

MR. J. W. WILLIS TO LORD STANLEY.

My Lord,  
Euston Hotel, 29th Novr., 1843.

I take leave most respectfully to enquire whether my Official Communications of the 27th June and the 14th July last have hitherto been received by Your Lordship; they were written in consequence of the notification "that it was unnecessary to call upon me for any explanation as I might write to your Lordship."

I avail myself of the present opportunity of stating my perfect readiness to explain all or any part of my conduct, public or private, that may have been assailed. If indeed, after the testimonials mentioned in my Letter of the 14th July, more should be required.

No specific cause has been assigned, nor could I obtain from Mr. Superintendent La Trobe any disclosure of his confidential communications, on which Sir George Gipps seems to rely. I believe the attempt, which has been made to remove me from office to be contrary to an express Statutory provision and altogether illegal. Am I, under these circumstances I would ask with all deference and respect, now to be deprived of the Salary attached to an office conferred on me by Her Majesty, and from which Her Majesty, according to the Stat. 9 Geo. 4, C. 83, can alone remove me?

I am desirous if possible to ascertain whether your Lordship, as Her Majesty's Secretary of State for the Colonies, will decide this matter. Your Lordship did so in Captain Montague's case (as appears by a Copy of your Lordship's Despatch now in my possession), and a similar course was taken with regard to Mr. Justice Montague of Van Diemen's Land, Chief Justice Sanderson of Grenada, Judge Ridout of upper Canada, and in very many other instances not dissimilar to the present.

I am aware that your Lordship may refer this case to the Lords of the Judicial Committee of Her Majesty's Privy Council; but I also know that I am by law entitled not only to appeal to this Tribunal but also to institute criminal as well as civil proceedings in Her Majesty's Court of Queen's Bench and likewise to seek for the fullest Parliamentary investigation.

A reference to the Privy Council is attended with much expense and frequently with great delay; their Lordships may decline (as I know they have) to give the reasons for their decision, and their

*Marginal note.—No. 99, 26th June, 1843; No. 100, 26th June, 1843; No. 103, 2d July, 1843; No. 105, 2d July, 1843; No. 114, 19th July, 1843; No. 117, 22nd July, 1843.

†Marginal note.—J. W. Willis, 29 Nov., 1843; G. W. Hope, 7 Decr., 1843; J. W. Willis, 8 Decr., 1843; J. W. Willis, 9 Decr., 1843; C.O., 27th Decr., 1843.
power, in a case like this, to award compensation or do more than advise Her Majesty, may possibly be doubtful. Any prolonged excitement in the present very precarious state of my health may be productive of the worst result; and I cannot submit to remain for a moment longer than can possibly be avoided under what I conceive to be unmerited obloquy; if therefore I am not to hope for a speedy determination by your Lordship, or if the slightest imputation be permitted to remain on my character, I must with all deference and respect beg leave to say that I shall be compelled to take such immediate steps as the Law permits, independently of any reference to the Judicial Committee of Her Majesty's Privy Council.

I have, &c,

JOHN WALPOLE WILLIS.

[Enclosure No. 2.]

UNDER SECRETARY HOPE TO MR. J. W. WILLIS.

Sir, Downing Street, 7th Decr., 1843.

I am directed by Lord Stanley to acknowledge the receipt from you of the various Letters enumerated in the Margin* on the subject of your suspension by the Governor of New South Wales on the advice of his Executive Council from the Office of one of the Judges of the Supreme Court of Justice in that Colony.

Lord Stanley apprehends that the right and constitutional course of proceeding under the circumstances of your case is that of a Petition from yourself to the Queen in Council for such relief as you may think yourself entitled to claim. Lord Stanley presumes that any such Petition, if preferred by you, would be referred by Her Majesty to the Judicial Committee of the Privy Council for their report to Her Majesty; and his Lordship further presumes that the Judicial Committee would on such a reference being made to them afford to you and to your accusers a full opportunity of being heard on the merits of the whole question at their Lordships' Bar.

It is, of course, not in Lord Stanley's power to give you any assurance that such steps would be taken by the Lords of the Privy Council. But, until his Lordship shall be informed that such an application has been made by you, and that the Lords of the Privy Council have refused to entertain the question, he must decline to enter on the consideration of it.

I have, &c,

G. W. HOPE.

[Enclosure No. 3.]

MR. J. W. WILLIS TO UNDER SECRETARY HOPE.

Sir, Euston Hotel, Euston Square, 8th Decr., 1843.

Before leaving Town for Old Brixworth, Northampton, I beg to acknowledge the receipt of your Letter of yesterday's date, and to inform you that I was not merely suspended, but actually endeavored to be removed from my Judicial Office by the Governor of New South Wales, in direct opposition to the Statute, 9 Geo. 4, C. 30, without being made acquainted with any accusation against me, or permitted any opportunity of explanation or defence.

I was quite aware of my right to appeal to Her Majesty in Council, and am well acquainted with the manner in which cases of a similar nature have been disposed of by the Judicial Committee of Her Majesty's Privy Council.

* Marginal note.—27th, 30 June; 14, 15 July; 29 Novr., 1843.
STANLEY TO GIPPS.

It now, however, merely remains for me to place the whole matter in the hands of my Lawyers, who will, of course, advise me to take such measures as they may deem best adapted to the exigency of the case.

I have, &c.

JOHN WALPOLE WILLIS.

[Enclosure No. 4.]

MR. J. W. WILLIS TO UNDER SECRETARY HOPE.

Old, near Brixworth, Northampton, 9th December, 1843.

Sir,

As Lord Stanley was out of Town on the date of your letter of the 7th Instant, and not expected to return till the Tuesday following, I delayed till now again asking (as I now do with much respect) whether, in consequence of what I believe to be and am well advised is an illegal Act on the part of the Governor of New South Wales, I am to be deprived of the Salary attached to an Office conferred upon me by The Crown and from which the Crown, according to an express Act of Parliament, can alone remove me? I have now before me a letter from Mr. C. Greville, Clerk to the Council, relative to a case like the present, in which he says, “That it has not been the practice for their Lordships, in similar cases, to assign the reasons for their decisions.” I regret that I should have been urged to appeal to this Tribunal, especially as “no assurance can be given of the course of proceeding that will be pursued,” according to your letter, and as the delay and costs are almost infinite. I would add that Mr. Clarke in his Colonial Law, P. 35, Note 1, shows the limited power of Her Majesty in Council and more ample powers of the Court of Queen’s Bench and of the Imperial Parliament. Sir Thomas Picton’s case was brought forward in the Court of King’s Bench, as well as before the Privy Council. In Judge Ridout’s case. Lord Glenelg (the then Colonial Secretary of State), notwithstanding that gentleman’s removal from Office by the Lieutenant Governor of Upper Canada by the advice of his Executive Council, at once restored him to his Judicial Station, and declared in his Dispatch to Sir Francis Head “That it was impossible for him to advert to any other ground of accusation than that which had been made known to Mr. Ridout as the cause of his dismissal.” I hope for the like consideration, more especially as the present precarious state of my health and the danger of prolonged excitement was so well known. I would with all deference distinctly inquire whether in case I prefer very serious accusations, which I am prepared to prove against Sir George Gipps and Mr. Charles Joseph La Trobe to Her Majesty’s Secretary of State for the Colonies, they will be placed in a similar position to that in which I now stand, and desired to appeal to Her Majesty in Council?

I again also most respectfully repeat the question respecting the Salary attached to my Office. It has, as I am advised and believe, been illegally stopped by the Local Executive; am I, therefore, to be now deprived of it, and, by reason of the absence of the parties from England, of the advantage which the Law provides for the Damages I have sustained, and forced into a course of proceeding where adequate relief cannot be obtained, before Her Majesty’s Secretary of State will interfere. I have, &c.

JOHN WALPOLE WILLIS.
HISTORICAL RECORDS OF AUSTRALIA.

[Enclosure No. 5.]

UNDER SECRETARY HOPE TO MR. J. W. WILLIS.

Downing Street, 27th December, 1843.

Sir,

Having laid before Lord Stanley your letter of the 9th Instant, I am directed to acquaint you in reply, that, until the act of the Governor and Council of New South Wales, removing you from the exercise of your office, shall have been declared by the Judicial Committee of the Privy Council to be illegal, his Lordship must assume the legality of it; and, assuming it to have been legal, Lord Stanley cannot authorize the payment of any Salary to you.

In answer to the further inquiry contained in your letter, I am directed to state that, in the event of any charges being preferred by you to Lord Stanley against Governor Sir George Gipps and Mr. La Trobe, His Lordship will take such measures respecting any such charges as he may then see to be just and right; but that he can enter into no prospective pledge or engagement on the subject.

I am, &c.,

G. W. Hope.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 193, per ship Mary Sharp.)

28 Dec.

Despatch acknowledged re female factory.

Sir,

Downing Street, 28th December, 1843.

I have received your Dispatch, No. 76 of the 20th of May last, containing a Report of the Changes which have taken place in the Establishment of the Female Factory at Parramatta since the date of your Dispatch addressed to Lord John Russell of the 1st of October, 1840. I have read this Report with great regret as exhibiting a very unsatisfactory account of the state of the Factory and the condition of the Prisoners confined in it; and I cannot perceive in your Report any sufficient reasons assigned for the continuance for so long a period of the extraordinary abuses, which appear to have been permitted.

I perceive that you have found it necessary to recur partially to the System of assigning Female Convicts to Private Service. I have already, in my Correspondence with the Lieutt. Governor of Van Diemen's Land, which has been communicated to you, directed the adoption in that Colony of a modified system of Assignment as regards Female Convicts; and it appears to me that the practice to be observed there of hiring the Females from the Penitentiary to Private Service, and especially that of impounding for a period a given portion of their Wages for their ultimate benefit may be applied with advantage to this Assignment temporarily renewed in New South Wales.

I will suggest to the Lords Commissioners of the Treasury to consider the propriety of making some alteration in the present practice of the local Commissariat to which you advert in regard to the Supply of rations to the Convicts.
GIPPS TO STANLEY.

I have requested the Secretary of State for the Home Department to obtain the opinion of the Inspectors of Prisons on the Regulations which you have framed for the Government of the Factory.

I shall also address you again relative to the gratuities which you propose should be given to the Principal Officers of the Factory, when I shall have had an opportunity of communicating with the Lords Commissioners of the Treasury on the subject.

I am, &c.,

STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.

(My Lord,
Government House, 29th Dec., 1843.

I have the honor to report that I yesterday prorogued the Prorogation Legislative Council of this Colony; and I enclose a copy of the Speech with which I closed the Session. I have, &c.,

GEO. GIPPS.

[Enclosure.]

[This speech was printed in the "Votes and Proceedings" of the legislative council.]

LORD STANLEY TO SIR GEORGE GIPPS.

(Sir,
Downing Street, 30 December, 1843.

Having referred for the consideration of the Lords Commissioners of the Treasury a Copy of your Dispatch, dated the 8th of July, 1843, No. 107, I have been informed by their Lordships that they have signified to the Commissioners of Audit their sanction to the admission of the payment to the Revd. Mr. Handt, out of the Land Revenue Fund of New South Wales, of the sum of one hundred Pounds as reported in your Dispatch. I have, &c.,

STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.

(My Lord,
Government House, 30th Dec., 1843.

I have had the honor to receive your Lordship's Despatch, No. 102 of the 7th July, 1843, informing me that an advance of £2,000 had been made to Mr. Barnard by the Lords of the
Repayment to military chest.

Treasury for the service of this Colony; and I have to report that I caused this sum of £2,000 to be repaid into the Military Chest on the 23d instant.

GEO. GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 219, per ship Persian.)

My Lord,

Government House, 31st Decr., 1843.

I herewith forward a List of the Officers of this Government, who will be displaced on the 1st January, 1844 (tomorrow), in consequence of the reductions in the Estimates made by the Legislative Council.

I also enclose a similar List of reductions made during the year 1843, and a Copy of a Resolution of the Legislative Council, passed on the 8th instant, respecting the allowance of a year's salary to each Officer so reduced, as well as a Copy of my reply to the same.

I at the same time think it right to enclose to your Lordship a copy of an explanatory paper, which, though not presented to the Council, was shewn to several of its Members.

Your Lordship will also understand that these reductions are exclusive of the Surveyor General's Department, on which I reported in my Despatches, Nos. 91 and 172, of the 13th June and 21st Octr., 1843.

I have, &c,

GEO. GIPPS.

[Enclosures Nos. 1 to 4.]

[Copies of the two lists are not available; copies of the resolution and reply will be found in the "Votes and Proceedings" of the legislative council.]

[Enclosure No. 5.]

MEMORANDUM on the claims of Police Magistrates to compensation for loss of Office.

The following passage occurs in a Despatch, which was addressed by the Governor to the Secretary of State on the 20th January, 1843; and, though it was written with reference to the claim of a Police Magistrate to half salary when on leave of absence, it may be taken to apply equally to a claim for compensation for loss of Office.

The number of Police Magistrates receiving pay from the Government in June last, when the Estimates for 1844 were framed, was as follows:

<table>
<thead>
<tr>
<th>Rate</th>
<th>Number</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>£300 per annum</td>
<td>10</td>
<td>3,000 0 0</td>
</tr>
<tr>
<td>£250</td>
<td>10</td>
<td>2,500 0 0</td>
</tr>
</tbody>
</table>

£5,500 0 0
Subsequent to the formation of the Estimates, a remarkable falling off in the Revenue occurred, which rendered further reductions necessary; and if, in consequence of the necessity for greater economy which thus arose, a reduction had been made of—£ s. d.

<table>
<thead>
<tr>
<th>Description</th>
<th>£</th>
<th>s</th>
<th>d</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Police Magistrate at £300</td>
<td>300</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>4 &quot; &quot; &quot; £250</td>
<td>1,000</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td><strong>£1,300</strong></td>
<td><strong>0</strong></td>
<td><strong>0</strong></td>
</tr>
</tbody>
</table>

the expenditure on account of Police Magistrates might have been reduced from £5,500 to £4,200, without in any very material degree affecting the efficiency of the Police, and without raising the question of compensation to the displaced Officers.

By the sudden and unexpected reduction, however, of Eleven Magistrates, the question of compensation has been raised; and of compensation not only to the Officers about to be displaced, but also to those who were displaced a year ago, and who have not even asked for it.

As a question of economy, therefore, the matter stands thus; If, instead of dismissing Eleven Magistrates at once, Five only had been dismissed, and the other six warned that their employment would cease on the 1st January, 1845, the number to be employed in 1844 would have been—£ s. d.

<table>
<thead>
<tr>
<th>Description</th>
<th>£</th>
<th>s</th>
<th>d</th>
</tr>
</thead>
<tbody>
<tr>
<td>9 at £300</td>
<td>2,700</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>6 at £250</td>
<td>1,500</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td><strong>£4,200</strong></td>
<td><strong>0</strong></td>
<td><strong>0</strong></td>
</tr>
</tbody>
</table>

But, as Eleven are to be reduced, the number to be retained is only—

<table>
<thead>
<tr>
<th>Description</th>
<th>£</th>
<th>s</th>
<th>d</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 at £300</td>
<td>1,800</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>3 at £250</td>
<td>750</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td><strong>2,550</strong></td>
<td><strong>0</strong></td>
<td><strong>0</strong></td>
</tr>
</tbody>
</table>

and there will consequently be a saving of .......... £1,650 0 0

But, if compensation were granted to all who have been displaced since the 1st Jan., 1842, viz.:

<table>
<thead>
<tr>
<th>Description</th>
<th>£</th>
<th>s</th>
<th>d</th>
</tr>
</thead>
<tbody>
<tr>
<td>5 at £300</td>
<td>1,500</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>12 at £250</td>
<td>3,000</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td><strong>£4,500</strong></td>
<td><strong>0</strong></td>
<td><strong>0</strong></td>
</tr>
</tbody>
</table>

Instead of a saving of ................................... 1,650 0 0

there would be a loss of ................................... £2,850 0 0

in addition to the loss of the services for one year of the Six Magistrates, who would have been continued to the 1st January, 1846, and then removed instead of being removed on the 1st January, 1844.

List of places from which Magistrates have been removed since the 1st Jan., 1842, without obtaining other employment:

Cassilis, Paterson, Dungog, Carcoar, Singleton. £ s. d.

Queanbeyan. 6 at £250 ................................ 1,500 0 0

List of places, from which Magistrates are proposed to be removed on the 1st January, 1844:

Windsor, Newcastle, Goulburn, Muswellbrook, Gee­ long, 5 at £300 ................................ 1,500 0 0

Wollongong, Yass, Mudgee, Brisbane Water, Scone and Murrurundi, The Grange, Pt. Phillip, 6 at £250 ................................ 1,500 0 0

<table>
<thead>
<tr>
<th>Description</th>
<th>£</th>
<th>s</th>
<th>d</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>£4,500</strong></td>
<td><strong>0</strong></td>
<td><strong>0</strong></td>
</tr>
</tbody>
</table>
The following despatches,* written in the year 1844, have been omitted:

<table>
<thead>
<tr>
<th>Date</th>
<th>Number</th>
<th>Despatch</th>
</tr>
</thead>
<tbody>
<tr>
<td>15th Jan</td>
<td>7</td>
<td>approval of eight absolute and eighty-one conditional pardons</td>
</tr>
<tr>
<td>17th Jan</td>
<td>9</td>
<td>petition from Robert Oliver for commutation of sentence</td>
</tr>
<tr>
<td>25th Jan</td>
<td>15</td>
<td>conditional pardon for William Rolan</td>
</tr>
<tr>
<td>28th Jan</td>
<td>16</td>
<td>petition for reduction of sentence on John Hayes</td>
</tr>
<tr>
<td>10th Feb</td>
<td>19</td>
<td>report re forfeiture of property by Thomas McCoy, convict</td>
</tr>
<tr>
<td>11th Feb</td>
<td>20</td>
<td>approval of four absolute and one hundred and thirteen conditional pardons</td>
</tr>
<tr>
<td>14th Feb</td>
<td>22</td>
<td>testimonials in favour of Michael Robinson, convict</td>
</tr>
<tr>
<td>29th Feb</td>
<td>25</td>
<td>free pardon for John Day</td>
</tr>
<tr>
<td>29th Feb</td>
<td>29</td>
<td>petition from Edward Brophy for mitigation of sentence</td>
</tr>
<tr>
<td>24th Mar</td>
<td>46</td>
<td>acknowledgment of report re delay in issue of pardon to James Farrell</td>
</tr>
<tr>
<td>30th Mar</td>
<td>48</td>
<td>conditional pardon for Henry Laws, alias Marsh</td>
</tr>
<tr>
<td>30th Apr</td>
<td>64</td>
<td>request for report re Charles Bennett, convict</td>
</tr>
<tr>
<td>17th May</td>
<td>74</td>
<td>instructions for report re Samuel Reilly, convict</td>
</tr>
<tr>
<td>21st May</td>
<td>80</td>
<td>conditional pardon for Ann Wilson</td>
</tr>
<tr>
<td>22nd May</td>
<td>82</td>
<td>instructions for return of James Farrell, convict to England</td>
</tr>
<tr>
<td>27th June</td>
<td>95</td>
<td>request for report re estate of Patrick Dunn, convict</td>
</tr>
<tr>
<td>5th July</td>
<td>101</td>
<td>report re claim of Abraham Freeman, convict, property</td>
</tr>
<tr>
<td>6th July</td>
<td>102</td>
<td>free pardon for Joseph Challinor</td>
</tr>
<tr>
<td>11th July</td>
<td>105</td>
<td>do Benjamin Mott</td>
</tr>
<tr>
<td>19th July</td>
<td>109</td>
<td>do James Hills</td>
</tr>
<tr>
<td>5th Aug</td>
<td>113</td>
<td>report re sentence on Luke Reilly</td>
</tr>
<tr>
<td>8th Aug</td>
<td>114</td>
<td>approval of compensation paid to Hiram Quinn, convict</td>
</tr>
<tr>
<td>15th Aug</td>
<td>120</td>
<td>refusal of pardon for David Dundas</td>
</tr>
<tr>
<td>31st Aug</td>
<td>132</td>
<td>conditional pardon for Miles Reilly</td>
</tr>
<tr>
<td>6th Sept</td>
<td>135</td>
<td>do Samuel Crewe</td>
</tr>
<tr>
<td>7th Oct</td>
<td>144</td>
<td>approval of five absolute and one hundred and sixty-five conditional pardons</td>
</tr>
<tr>
<td>30th Nov</td>
<td>166</td>
<td>conditional pardons for James Read and Job Willis</td>
</tr>
<tr>
<td>3rd Dec</td>
<td>168</td>
<td>authority for free pardon for Benjamin Mott, convict</td>
</tr>
<tr>
<td>4th Dec</td>
<td>169</td>
<td>conditional pardon for John Collier</td>
</tr>
<tr>
<td>6th Dec</td>
<td>173</td>
<td>petition from John McLeod Gillies, convict</td>
</tr>
<tr>
<td>13th Dec</td>
<td>178</td>
<td>conditional pardon for George Phillips, convict</td>
</tr>
<tr>
<td>14th Dec</td>
<td>179</td>
<td>do Marie Smith alias Caroline Dalmas</td>
</tr>
<tr>
<td>22nd Dec</td>
<td>184</td>
<td>report re Thomas McCoy, alias John Williams, convict</td>
</tr>
</tbody>
</table>

* Note 31.
The following despatches, written in the year 1844, have been omitted:—continued.

<table>
<thead>
<tr>
<th>Date</th>
<th>Numbered</th>
<th>Despatch</th>
<th>Transmittting</th>
</tr>
</thead>
<tbody>
<tr>
<td>25th Feb</td>
<td>49</td>
<td>report re property left by John Kenny, expiree.</td>
<td></td>
</tr>
<tr>
<td>27th Feb</td>
<td>60</td>
<td>quarterly schedule of appointments, and of special payments by deputy commissary-general.</td>
<td></td>
</tr>
<tr>
<td>6th Mar</td>
<td>54</td>
<td>report re issue of pardon to John Scutes.</td>
<td></td>
</tr>
<tr>
<td>23rd Mar</td>
<td>72</td>
<td>petition from David Dundas for free pardon.</td>
<td></td>
</tr>
<tr>
<td>27th Mar</td>
<td>74</td>
<td>returns of pardons granted in 1843.</td>
<td></td>
</tr>
<tr>
<td>6th Apr</td>
<td>77</td>
<td>schedule of appointments to public offices and of special payments from colonial funds.</td>
<td></td>
</tr>
<tr>
<td>26th Apr</td>
<td>59</td>
<td>report re pardons issued to Canadian convicts.</td>
<td></td>
</tr>
<tr>
<td>2nd May</td>
<td>95</td>
<td>&quot;blue book&quot; for year 1843.</td>
<td></td>
</tr>
<tr>
<td>3rd May</td>
<td>96</td>
<td>lists of convicts recommended for pardons.</td>
<td></td>
</tr>
<tr>
<td>18th May</td>
<td>105</td>
<td>reports on immigrants per ships Elizabeth and Nelse.</td>
<td></td>
</tr>
<tr>
<td>31st May</td>
<td>115</td>
<td>annual returns re convicts.</td>
<td></td>
</tr>
<tr>
<td>14th June</td>
<td>118</td>
<td>report re Robert Oliver, convict.</td>
<td></td>
</tr>
<tr>
<td>20th June</td>
<td>120</td>
<td>inquiry re sentence on William Maher.</td>
<td></td>
</tr>
<tr>
<td>21st June</td>
<td>121</td>
<td>reports on immigrants per ships Royal Consort, Wallace, William Metcalfe, and Elizabeth.</td>
<td></td>
</tr>
<tr>
<td>22nd June</td>
<td>122</td>
<td>quarterly abstract return re immigrants.</td>
<td></td>
</tr>
<tr>
<td>27th June</td>
<td>127</td>
<td>report re departure of Canadian convict from colony without his pardon.</td>
<td></td>
</tr>
<tr>
<td>28th June</td>
<td>128</td>
<td>report re Michael Robinson, convict.</td>
<td></td>
</tr>
<tr>
<td>2nd July</td>
<td>136</td>
<td>do re conduct of John Hayes, convict.</td>
<td></td>
</tr>
<tr>
<td>10th July</td>
<td>141</td>
<td>do re issue of pardon to Michael Connor.</td>
<td></td>
</tr>
<tr>
<td>14th July</td>
<td>143</td>
<td>half-yearly return of steam boats.</td>
<td></td>
</tr>
<tr>
<td>15th July</td>
<td>146</td>
<td>estimates for convict works for 1845-6.</td>
<td></td>
</tr>
<tr>
<td>19th July</td>
<td>150</td>
<td>report re Thomas McCoy, convict.</td>
<td></td>
</tr>
<tr>
<td>24th July</td>
<td>156</td>
<td>do re Canadian prisoners unpardoned.</td>
<td></td>
</tr>
<tr>
<td>25th July</td>
<td>157</td>
<td>inquiry re sentence on Thomas Cullen.</td>
<td></td>
</tr>
<tr>
<td>2nd Aug</td>
<td>164</td>
<td>list of convicts recommended for pardons.</td>
<td></td>
</tr>
<tr>
<td>4th Aug</td>
<td>165</td>
<td>report re Lindsay Crawford, convict.</td>
<td></td>
</tr>
<tr>
<td>9th Aug</td>
<td>168</td>
<td>return of intestate estates.</td>
<td></td>
</tr>
<tr>
<td>15th Aug</td>
<td>171</td>
<td>report on immigrants per ships Sea Queen, United Kingdom, Briton, and Royal Saxon.</td>
<td></td>
</tr>
<tr>
<td>17th Aug</td>
<td>173</td>
<td>report re confession by Ellis Williams at Norfolk island of murder.</td>
<td></td>
</tr>
<tr>
<td>24th Aug</td>
<td>180</td>
<td>report re Charles Bennett, convict.</td>
<td></td>
</tr>
<tr>
<td>25th Aug</td>
<td>184</td>
<td>do re Michael Quinn, convict.</td>
<td></td>
</tr>
<tr>
<td>5th Sept</td>
<td>192</td>
<td>do re death of Theophilus Mills, convict.</td>
<td></td>
</tr>
<tr>
<td>7th Sept</td>
<td>195</td>
<td>do re Edward Brophy, convict.</td>
<td></td>
</tr>
<tr>
<td>10th Sept</td>
<td>198</td>
<td>schedules of appointments and special payments by deputy commissary-general.</td>
<td></td>
</tr>
<tr>
<td>19th Sept</td>
<td>199</td>
<td>requisition for stationery.</td>
<td></td>
</tr>
<tr>
<td>19th Sept</td>
<td>200</td>
<td>do for convict stores.</td>
<td></td>
</tr>
<tr>
<td>4th Oct</td>
<td>217</td>
<td>report on immigrants per ships St. Vincent, Dale Park and Templar.</td>
<td></td>
</tr>
<tr>
<td>21st Oct</td>
<td>230</td>
<td>report re Samuel Keys, convict.</td>
<td></td>
</tr>
<tr>
<td>26th Oct</td>
<td>233</td>
<td>do re claim of Patt Cullen to property of Peter Pidgeon, convict.</td>
<td></td>
</tr>
<tr>
<td>28th Oct</td>
<td>236</td>
<td>requisition for convict medicines, etc.</td>
<td></td>
</tr>
<tr>
<td>30th Oct</td>
<td>237</td>
<td>list of convicts recommended for pardons.</td>
<td></td>
</tr>
<tr>
<td>6th Nov</td>
<td>240</td>
<td>report on immigrants per ships Lord William Bentinck and Abberton.</td>
<td></td>
</tr>
<tr>
<td>16th Nov</td>
<td>243</td>
<td>requisition for convict clothing.</td>
<td></td>
</tr>
<tr>
<td>23rd Nov</td>
<td>245</td>
<td>report re Charles Bennett, convict.</td>
<td></td>
</tr>
</tbody>
</table>

Sir George Gipps to Lord Stanley.

(Despatch No. 1, per ship Persian; acknowledged by Lord Stanley, 28th October, 1844.)

My Lord,

Government House, 1st January, 1844.

I have the honor herewith to transmit for the Gracious allowance of Her Majesty the Acts passed by the Legislative Council of New South Wales in the Session, which commenced on the 1st August, 1843, and terminated on the 28th ultimo.

* Note 31.
1844.
1 Jan.
Australian auction company’s act.

7th Vict., No. 1.—“An Act for continuing until the first day of September, one thousand, eight hundred and forty five, an Act of the Governor and Council of New South Wales, made and passed in the fifth year of the Reign of Her Majesty Queen Victoria, and intituled, 'An Act to facilitate proceedings by and against the proprietors of a certain Joint Stock Company, lately carrying on business in Sydney, in the Colony of New South Wales, under the name, style, or firm of the Australian Auction Company, and for other purposes therein mentioned.'"

In my Despatch No. 209 of the 16th Octr., 1841, I explained that the Act, No. 10 of the year 1841, was passed for allowing the late Australian Auction Company to wind up its affairs.

I certainly then considered that the period of two years ought to be sufficient for the purpose of bringing the affairs of the Company to a conclusion; and I declared, in 1841, that I would not recommend any extension of the time allowed. The present Act, however, was passed without my intervention; and, being the first Act of the New Council, I did not like to withhold my assent from it, and on the same ground I now recommend it for confirmation by Her Majesty.

7th Vict., No. 2.—“An Act to amend an Act for regulating the Slaughtering of Cattle.”

The sole object of this Act is to transfer to the Mayor and Council of the City of Sydney the power of appointing an Inspector of Slaughterhouses, which power was, until the passing of the Act, vested in the Governor.

It may be right to explain that the chief duty of an Inspector of Slaughterhouses in New South Wales is to keep a register of the brands of all Cattle slaughtered; and that the object of the appointment is to establish a check upon Cattle Stealing. The Salary of the Inspector in Sydney is £100 a year; and it has hitherto been nearly but not quite covered by the small fees collected by the Inspector.

The passing of the Act will afford a relief to the Government of from £10 to £20 a year.

In many of the Country Districts, there are Inspectors of Slaughterhouses, but they receive no remuneration beyond the fees which they are authorized to receive under the 5th Wm. IV, No. 1.

7th Vict., No. 3.—“An Act to give a preferable lien on Wool from Season to Season, and to make Mortgages of Sheep, Cattle and Horses valid, without delivery to the Mortgagee.”

This Act is one of a series of measures introduced at the commencement of the Session by Mr. Wentworth (Member for Sydney) for the purpose of alleviating the pecuniary distress, which
has of late pressed so heavily on the Pastoral and Agricultural Interests of the Colony. The Act No. 4, presently to be spoken of, is another of the same measures; and a Bill to reduce the interest of money (which did not pass) was the third. On the subject of this latter measure, I beg to refer to my Despatch No. 161 of the 7th October last.

The object of the Act under consideration (No. 3) is to facilitate to the farmers (or Settlers as they are more generally called) the raising of money on the security of their flocks and herds, or on that of their forthcoming crop, or rather clip of Wool. Under ordinary circumstances, I should have objected to the measure, as tending to increase the indebtedness of the Settlers, and the evils which have been found to arise from the too prevalent practice of trading or farming on borrowed Capital; but it is to be borne in mind that, within the last two years, a great revulsion has taken place in the Colony, and that Credit on personal security, which was only a short time ago so lavishly granted, is now almost entirely denied by the Banks or money lenders. It has already been rather extensively acted upon, there being up to the 31st December, 1843, 167 transactions under it registered, agreeably to the fourth clause of it, viz., 104 Mortgages on Sheep or Cattle, and 63 liens on Wool.

In the 3d Clause of the Bill, as it passed the Council, a power of an extraordinary nature was given to the occupiers of Crown Lands (Squatters) beyond the Boundaries of Location, namely, that of Mortgaging their Stations, or, in other words, of Mortgaging the Lands of the Crown. This objectionable part, however, of clause 3 was struck out on my proposing an amendment in the Bill, under the power given to me by the 30th Clause* of 5th and 6th Vict., Ch. 76.

7th Vict., No. 4.—"An Act to prevent the waste of the property of debtors under process of Law."

This, as already stated, is another of the measures introduced by Mr. Wentworth; the object of it being to facilitate the granting of Letters of License to persons who, though unable to meet their immediate engagements, may be in possession of property, which, if fair prices only could be obtained for it, would be sufficient to satisfy all their Creditors. A Letter of License has, under this Act, the effect of protecting the individual receiving it from the operation of the Insolvent Law, and of leaving him in the management of his own property; whereas, if he became Insolvent, it would be handed over under the Insolvent Law to the management of Trustees. The granting of such Letters of Licence is by no means new; but before the passing of this Act, any individual Creditor could stand out against a majority,

* Note 32.
however great, of the Creditors, whereas the present Law allows a majority of the Creditors, if composed of three fourths both in number and value, to control the Minority. This is the essential part of the Act; and the chief debates on it in the Council occurred in respect to the Majority in number and value, which ought to be sufficient to control the Minority; but it was finally fixed as already stated at three fourths both in value and number.

It was not without considerable hesitation that I gave my Assent to this Act; for I considered it not only like the preceding Act, No. 3, calculated to increase or rather to prolong the indebtedness of the Colony; but the principle also of it scarcely appeared to me to be sufficiently justified, the principle, I mean, of forcing the Minority of Creditors to bow to the decision of the Majority since among the Minority there might be individuals, who would themselves be rendered insolvent, by having their claims deferred, in order to save from insolvency the person indebted to them.

I was moreover, and still am persuaded, that a restoration of high prices, such as those which prevailed in the Colony from 1836 to 1840, is neither to be expected nor wished for; and that the Colony cannot regain a healthy state, until a large portion of the engagements entered into, whilst those high prices prevailed, shall be cleared off, as they only effectually can be by the operation of the Insolvent Court; nevertheless, when I saw the ruinous prices at which property was occasionally sacrificed by forced sales, I felt myself compelled to yield, and (though reluctantly) gave my assent to the Act. Land has been sold as low as 1s. 3d. per acre, full grown Oxen fit for the Butcher and weighing from Six to Seven Cwt. at a guinea, and Sheep with a year's Wool upon their backs at 2s. each.

In this Act also, I proposed two amendments to the Council, the first, not of a very important nature, was adopted, but the second was rejected. This second amendment related to the 13th Clause of the Act, by which it is enacted that, if a person forfeit his Letter of License, his whole property shall be sold by the Sheriff, but that, on such sale, the Sheriff shall be only entitled to one fourth of the fees or charges which are authorized by law in other cases.

I annex to this Despatch a Copy of the Message, which I sent to the Council on the subject of this Clause, as also of the reply of the Council, and a copy of a report from the Sheriff on the way in which the Clause may by possibility affect the revenue of his Office.
I must confess, that I still consider the Clause to be an improper one, though, having got over the objections which applied to the principle of the measure, I did not think an imperfection in one of its minor details ought to occasion the rejection of it.

7th Vict., No. 5.—“An Act to provide for the Summary discharge, in certain cases, of persons under committal for felony and misdemeanour.”

This Act was passed to legalize a practice which (though hitherto illegal) has long prevailed in the Colony, and of which the continuance is desirable.

Your Lordship is aware that there are no Grand Juries in New South Wales, and that all crimes are prosecuted on informations, filed either by the Attorney General or in his name. In every case of Committal for trial therefore throughout the wide extent of New South Wales, the depositions taken by the Committing Magistrates are sent to the Attorney General; and, in the event of its appearing to the Attorney General that any person or persons have been committed improperly or on insufficient evidence, it has been usual for the Attorney General to order their discharge; and, in cases where the parties happen to be convicts, the Attorney General frequently advises with the Government as to the further disposal of them. It will scarcely be denied that such a power is useful, and even necessary, in a Country like New South Wales, where the Gaols are constantly overflowing, and the Magistracy in great measure composed of gentlemen having but little acquaintance with the Law; the present Act has consequently been passed to legalize the practice, requiring however, the Act of the Attorney General to be performed under the control of the Supreme Court, or at least with the cognizance of a Judge.

7th Vict., No. 6.—“An Act to amend the laws relating to the Savings Bank of New South Wales and Port Phillip respectively.”

My intention of introducing this Act was announced to your Lordship, in my Despatch No. 130 of the 19th August last.

It is a measure to which I have been compelled by the force of circumstances; and it will, I hope, have the effect of saving the Bank, without any ultimate cost to the Colony, whilst without it I believe the Bank must have stopped payment.

Two great errors have been committed in the management of the Bank, which will hereafter be avoided; the first was the payment to depositors of far too high an interest; the second, the receipt of deposits of too large an amount, and from persons not belonging to the Class, for the benefit of which Savings Banks are properly instituted.
In respect to the future disposal of the funds of the Savings Bank, I shall address your Lordship in a separate Despatch (See Despatch No. 7).

I enclose a Copy of the Report on this Act (Appendix No. 5) made by a Select Committee of the Legislative Council, of which Mr. Hastings Elwin was Chairman.

7th Vict., No. 7.—"An Act to amend an Act intituled, 'an Act for consolidating and amending the laws relating to the licensing of Public houses, and for further regulating the sale and consumption of fermented and spirituous liquors in New South Wales.'"

This Act has been passed further to encourage the making of Wine, and the gradual substitution of it for ardent spirits in the consumption of the Colony. It enables the producer of Wine to sell it in quantities smaller than they formerly could do, without taking out a Publican's License.

It also relieves Magistrates, who cultivate the Grape, from inability (see 2d Vict., No. 18, S. 10) of acting in any matter respecting the licensing of Publichouses, an inability which in some Districts is now beginning to be inconveniently felt, as it throws the licensing of Public houses into the hands of a very limited number of persons.

7th Vict., No. 8.—"An Act to explain and amend the Laws relating to Distillers and Rectifiers in the Colony of New South Wales."

This Act was introduced into the Council by the Government; and the immediate cause of introducing it was an erroneous decision of the Bench of Magistrates in Sydney, who held that it was not unlawful for a Rectifier to mix Wine with Spirits in the process of Rectification. In so deciding, the Magistrates seem to have been guided by the evidence of parties who deposed that it was the practice in England for Rectifiers to do so, and that the prohibition contained in the 102d clause of the 6th Geo. IV, Ch. 80, did not extend to Wine. The Magistrates were, I think, evidently in error; but even supposing Rectifiers in England, in order to give a flavor to their rectified spirits or compounds, be allowed to make use of Wine, the Revenue can scarcely be injured by their so doing, because Wine is itself very highly taxed; in fact, the Alcohol contained in Wine is, in England, taxed higher than Alcohol contained in Rum; but in New South Wales the contrary is the case; Wine and especially Cape Wine is introduced at a very low duty, and a considerable loss would arise, if Rectifiers were allowed to use Wine instead of Spirits in making their Compounds.
In so far as the use of Wine, Wort, Wash, etc., is concerned, the present law is only a declaratory one; but advantage was taken of the occasion of introducing it to pass some additional Clauses to check fraudulent practices, which have recently been discovered among the Rectifiers.

7th Vict., No. 9.—“An Act to provide for the maintenance of Lighthouses at Port Macquarie, Newcastle and Port Phillip in the Colony of New South Wales.”

The object of this Act was, as its title imports, to enable the Government to establish Lighthouses at Port Macquarie and Newcastle; and it was already before the Council when I read in a public Newspaper a Despatch from your Lordship to the Lieut. Governor of New Zealand, objecting to the powers which had been given in that Colony to certain Municipal Corporations to establish Lighthouses, and pointing out that the Establishment of Lighthouses, being a matter in which the navigation not only of the British Empire but of all Nations is concerned, it should be reserved for the control of the General Government.

The Bill would, in consequence of my knowledge of this Despatch, have been withdrawn but for the third clause of it, which your Lordship will perceive is of an indemnifying nature, the Government having already erected a Lighthouse at Port Phillip, and levied dues under the doubtful authority of a Local Act for the preservation of Harbours.

In requesting, therefore, that this Act may be allowed by Her Majesty, I feel it necessary to point out that nothing will be done under it in respect to Lighthouses at Port Macquarie and Newcastle, without the consent of Her Majesty’s Government, and that the Lighthouse which has been erected at Port Phillip is within the Harbour, and visible only after Ships have entered it; consequently, that it cannot by possibility mislead Ships which are not bound for the harbour. The Harbour, Your Lordship is aware, though pretty closely landlocked, is a sheet of water nearly circular, and about 20 miles in diameter.

7th Vict., No. 10.—“An Act to regulate Friendly Societies in the Colony of New South Wales.”

This Act for the regulation and protection of Friendly Societies is framed very closely upon the English Acts relating to the same subject, namely, 10th Geo. IV, C. 56, and 4th and 5th Wm. IV, C. 40. It follows these Acts indeed so closely that I do not feel any observations to be required on it.

It departs only from them in cases wherein they cannot be applied, as, for instance, in the clauses which relate to the Bank of England, etc.
This Act was introduced into the Council by Mr. Wentworth, Member for Sydney, on the application of the Mayor and Council of that City, and is in fact supplementary to the Act, 6th Vict., No. 31, by which the City of Sydney was Incorporated.

There is a Rider* attached to this Act which requires explanation, and the more so, as it has little or no connection with the main object of the Bill. It arose out of the following circumstances.

Mr. Hastings Elwin, a Member of the Legislative Council, was, on the 24th Novr. last, without his consent or even knowledge, elected Auditor of the City of Sydney, and, under the 54th Clause of the Sydney Incorporation Act, would have had to pay a fine of £50 for not accepting the Office, had he not been able to prove that he was exempt on the score of Age. Being so exempt, a new election was rendered necessary; and a report (I trust a false one) was industriously circulated that the Electors would elect another Member of the Legislative Council, and so on in succession throughout the entire Body, in order to get a fine of £50 from each. It was to defeat any contemplated manoeuvre of this nature that the Legislative Council adopted the Rider; and, the matter being one in which the Members were personally concerned, I did not like to object to it.

This is a re-enactment of the 5th Vict., No. 18, the disallowance of which Act was announced to me in Your Lordship's Despatch of the 14th April, 1843, No. 51.

I trust that the Act has been so altered, as no longer to be open to the objections therein urged against it; as all Vessels having British Registers, and all Vessels entitled to the privileges of British Registered Ships, are now placed on an equality with Vessels registered within the Colony conformably with the 14th Sec. of the Possessions Act, 3d and 4th Gul. IV, Ch. 59.

This Act was introduced by the Government agreeably to the opinion expressed in the concluding paragraph of my Despatch of the 31st October, 1841, No. 211. Considerable alterations were made in it by the Council, as will be seen by comparing the Act with the Bill (of which I enclose a Copy, Appendix No. 6)

* Note 33.
as it was presented; and the parts were struck out, namely, the 8th Clause and the latter part of the 9th, which were intended to guard against a repetition of what occurred on the death of Mr. Macquoid, when the Government was unable to recover the fees due to his Office, and was called on to make good his debts. The latter claim, however, having been successfully resisted, and precautions taken against allowing in future any arrears in the collection of fees, I did not think it necessary, on account of the loss of these Clauses, to withhold my assent from the Bill.

The third Clause is an important one, as it materially diminishes the risks to which the Sheriff is exposed. Clauses 2, 4 and 5 also effect material alterations and amendments.

I enclose (Appendix No. 7) Printed Copies of the Papers, which were laid by me before the Council in relation to this Act.

In my Despatch No. 206 of the 11th Decr. last, I have reported that the Attorney General proposed to introduce a Clause into it, repealing the power given to the Governor by the 11th Clause of the 5th Vict., No. 4, to appoint District Sheriffs, but that the Council would not entertain it.

7th Vict., No. 14.—"An Act to make provision for the safe custody of, and prevention of offences by persons dangerously insane, and for the care and maintenance of persons of unsound mind."

The following is a Copy of the Message with which I introduced this Bill to the Council; and it will, I hope, be found sufficient to explain the nature and object of the measure.

Copy.

Message from His Excellency the Governor to the Legislative Council, on presenting to the Council the Draft of an Act to make provision for the safe custody of, and prevention of offences by persons dangerously insane, and for the care and maintenance of persons of unsound mind.

Gentlemen,

No Law having at any time been passed by the Legislature of the Colony for the Custody or management of insane persons, the Government has hitherto kept the direction of the Lunatic Asylum at Tarban Creek in its own hands, and has conducted it, or at any rate always desired or intended to conduct it, on the principles of the Law of England, as that Law existed prior to the passing of the Act of the 9th Geo. IV, Ch. 83.

An Action, however, having been recently brought, and damages recovered against a Magistrate of the Territory for an act performed under the authority of the Government, I deem it
necessary to lay the present Draft of a Law before you, that no uncertainty may remain as to the course of proceeding, which is to be adopted in respect to the custody of insane persons.

By the last clause of the Bill, it is proposed that the expense of maintaining persons supposed to be dangerously insane, shall be chargeable on the public funds of the District, from which such insane persons may be sent to the Asylum, a provision which seems to me a necessary one,* now that it is proposed to transfer from the Government to any two Magistrates the power of ordering insane persons into confinement.

Geo. Gipps.

Government House, Sydney, 28th Novr., 1843.

The proviso at the end of the 7th Clause, enabling the Legislative Council to appoint two Visitors in addition to the five named by the Government, was added by the Council. How far such an enactment should be considered an assumption of the powers of the Executive, I am scarcely prepared to say; but I think it right to draw your Lordship's attention to it.

By the Appropriation Act, a salary of £50 is given to the Visitor who may be appointed and required to visit the Asylum weekly; and the appointment of this Officer is left to the Governor.

7th Vict., No. 15.—"An Act to separate Campbelltown and Appin from Camden, Narellan and Picton, and to erect Campbelltown and Appin into a District, having a Council for itself."

In my Despatch No. 161 of the 7th October, 1843, I reported that I had, under the provisions of the Clauses from 41 to 50 of the Act for the Government of New South Wales, 5th and 6th Vict., Ch. 76, issued Charters, establishing 28 District Councils.

The limits assigned by me to the various Districts have been objected to in the single case of Campbelltown; but as objections were raised in this case, I offered no opposition to the present Bill, the object of which simply is to divide the District into two, of which one is to be called the District of Campbelltown and Appin, and the other the District of Camden, Narellan and Picton. The Act is altogether of a local nature.

I enclose (Appendix No. 8) a copy of the original Charter for the District, which I simply called Campbelltown; also (Appendix No. 9) a copy of a Report of a select Committee of the Council, appointed to consider and report on the Bill.

7th Vict., No. 16.—"An Act to consolidate and amend the Laws relating to the Registration of Deeds and other Instruments in that part of the Colony of New South Wales, not comprehending the District of Port Phillip."

* Marginal note.—This Clause was, however, struck out by the Council.
This Act has been passed, in order to separate the Registry of the Colony from that of the Supreme Court, as proposed in my Despatch, No. 7 of the 16th Jan., 1842, and approved by your Lordship’s Despatch, No. 223 of the 15th Decr., 1842.

The Judges at first were disinclined to the measure, as will be seen by my Despatch above mentioned and the correspondence which accompanied it; but their Honors are, I am happy to say, now satisfied with the Bill, many of their suggestions having been adopted.

7th Vict., No. 17.—“An Act to alter and amend the Law, respecting the competency of the jurisdiction of Magistrates in certain cases, within the City of Sydney and Town of Melbourne respectively.”

This is an Act precisely of the same nature as the 6th Vict., No. 18, reported on in my Despatch of the 17th April, 1843, No. 53. The object of it is simply to remove some difficulties of a technical nature, which arose out of the separate jurisdiction given to Borough Magistrates under the Acts which incorporated Sydney and Melbourne. It was introduced by the Attorney General.

7th Vict., No. 18.—“An Act to amend the manner of charging duties in the Colony of New South Wales.”

The duties imposed on all articles imported into New South Wales, with the exception of Spirits and Tobacco, are ad valorem; and the method in which the duties are to be raised, or, in other words, the method in which the value of the imported article is to be ascertained is fixed by the 26th and 27th Clauses of the Local Act, 3d Vict., No. 3, copied from the 23d and 24th Clauses of the Possessions Act, 3d and 4th William 4th, Ch. 59. The Possessions Act, however, is not in force in New South Wales, and, even if it were, the clauses, which I have referred to in it, apply only to America. By these Clauses, the duty is made to depend on the Invoice prices; and this has led (I think I may without hesitation assert) to the practice of falsifying Invoices to a large extent, or, perhaps I should more correctly say, to the practice of making two Invoices, one for production at the Custom House, the other and real one for the Consignee. It is true that the clause gives to the Governor the power of appointing persons to value the Goods, in the event of its appearing to the Collector that they have been undervalued in the Invoice; but, during the six years that I have administered this Government, no such application has ever been made to me by the Collector.

The object of the Bill, which I now submit for approval, is to abolish the method of ascertaining the value of imported goods,
1844.
1 Jan.
Ad valorem duties act.

and to adopt that which, under the 21st Sec. of the 3d and 4th Gul. IV, Ch. 52, is in use in England; and, as this latter method is unquestionably English, I trust there can be no constitutional objection to the change.

The Act, being one affecting the duties of Customs, ought, under the 31st Clause of the 5th and 6th Vict., Ch. 76, to have been formally reserved for Her Majesty's assent; but, as it contains a clause declaring that it shall not come into force until allowed by Her Majesty, it is virtually reserved. The difference (if there be any) was not perceived until it was too late to remedy it.

Insolvency act.
7th Vict., No. 19.—"An Act to amend an Act, intituled, 'an Act for giving relief to Insolvent persons, and providing for the administration of Insolvent Estates, and to abolish Imprisonment for debt.'"

In consequence of the directions contained in Your Lordship's Despatch No. 30 of the 27th Febry., 1843, a Bill was presented by me to the Council for amending the Insolvent Law of 1841 (5th Vict., No. 17). Of this Bill, I enclose a Copy (Appendix No. 10), and it will be seen that it was limited to the carrying out of your Lordship's instructions.

The Council, however; being of opinion that further alterations in the Insolvent Law were required, the Bill was referred to a Committee; and, on the Report of the Committee, numerous other clauses were added to those which I had proposed.

Of the clauses introduced by the Council, many are important. Clause 8 re-establishes voluntary assignment, or *cessio bonarum*, which was abolished by the 5th and 6th Clauses of the Act of 1841.

It may perhaps be necessary to explain that Voluntary Assignments were frequent in the Colony before 1841, though not till then regulated by law; that, by the 33d and three following clauses of an Act passed on the 28th Sepr., 1841 (intituled an Act for the further amendment of the Law, and for the better advancement of Justice, 5th Vict., No. 9), Voluntary Assignments were legalized; that, by the 5th and 6th clauses of the Insolvent Act, passed on the 29th December in the same year (5th Vict., No. 17), they were abolished; and that now again, by the 8th and three following clauses of the Act under consideration, they are restored. Clause 12 authorizes the appointment of Official Assignees, a measure which was called for by the public in consequence of the frequent mismanagement and occasional dishonesty of Trustees elected by the Creditors themselves.
It was proposed that the appointment of Official Trustees should be given to the Governor; but I declined it on the ground that the Government has nothing to do with the Administration of Insolvent Estates, and that, if the Government appointed the Trustees (who are to be paid by a per centage out of the Estates they administer), it would be scarcely possible to make the Public believe that the Government was not responsible for their good conduct, and for any losses or deficiencies which might arise out of their misconduct. The appointment of Official Trustees was then given (see clause 12) to the Chief Justice. Clauses 16 to 18 relate to the Insolvent Certificate, the granting or withholding of which rested, under the Act of 1841, entirely with the creditors. By these clauses, however, the power is transferred (and I think wisely) to the Commissioner and Judges. The 19th Clause gives to a Judge the power of punishing a fraudulent Insolvent by imprisonment for any term not exceeding a year. This power has been objected to on the ground that it is to be exercised without the intervention of a Jury; but, in England, the same power exists, and in a greater degree, the Commissioner being empowered to remand an Insolvent even for three years.

But by far the most important addition made to this Bill is that contained in the 26th Clause, by which Imprisonment for Debt, even after final process, is (except in certain cases) abolished. I at first thought that I could not give my assent to this enactment; and it was only after considerable doubt and hesitation that I did so. It appeared to me that, in a matter of so much importance, a Colonial Legislature ought scarcely to take the lead of Parliament; and I even doubted whether an enactment, which went to deprive creditors of a right, which (whether it be a barbarous one or not) the Law of England has for Centuries allowed to them, might not be repugnant to the Law of England. On the score of repugnancy, however, my scruples were removed by the Law Officers of the Crown and Mr. Justice Burton, who, as your Lordship is aware, has taken a leading part in everything relating to the Laws of Debtor and Creditor in the Colony.

The Judges (including Mr. Justice Burton) were opposed to the alteration, though not on the ground of repugnancy to the Law of England; and I could not avoid feeling some apprehension that the Legislature of the Colony would be exposed to the imputation of having learnt during the Session too much to the interest of Debtors and too little to that of Creditors.

The measure, however, grew in favor every day with the Public. I waited as long as I could for objections from any quarter.
but none came; and I consequently, though only on the same
day that I prorogued the Council, gave in Her Majesty's name
my assent to the measure.

I enclose a copy of the Report (Appendix No. 11) made by
the Select Committee of the Council; and also a copy of a Note
(Appendix No. 12) which I received from Mr. Justice Burton
on the subject of the Bill.

7th Vict., No. 20.—"An Act for applying certain sums arising
from the Revenue receivable in New South Wales to the service
thereof, for the year one thousand, eight hundred and forty four,
and for further appropriating the said Revenue."

For an explanation of this Act, I beg to refer to my Despatch
No. 3 of this day's date.

7th Vict., No. 21.—"An Act to amend an Act, intituled, 'An
Act for the further and better regulation and government of
Seamen within the Colony of New South Wales and its Depen­
dencies, and for establishing a Water Police,' and further to
amend the law relating to the government of Seamen in the
Merchant Service."

By your Lordship's Despatch No. 187 of the 10th Septr., 1842,
I was directed to propose various modifications in the Act of
1840 (4th Vict., No. 17), by which a Water Police was established
in this Colony; and I accordingly laid before the Council a Bill,
of which a copy is annexed (Appendix No. 13).

The matter being thus brought before the Council, a proposal
was made, and ultimately carried, though not without strenuous
opposition, to abolish the Office of Superintendent, greatly to
reduce the Police, and also to reduce the Tonnage duty from
6d. to 3d. per ton.

A reference to my Despatch, No. 1 of the 1st January, 1841,
will show that the institution of the Water Police was a mea­
sure not undertaken voluntarily by the Government, but almost
forced upon it. Bearing this fact in mind, I did not think it
right to oppose myself to the alterations subsequently judged
necessary in it.

In 1840, the seamen were and had been for some years in a
state of great insubordination; the Merchants and Shipowners,
therefore, had no objection to (they indeed even petitioned for)
a tax of 6d. a ton to cover the expense of a Water Police. In
1843, the Seamen being in excellent order, the tax of 6d. a ton
came to be complained of. The change was doubtless chiefly
brought about by the Police itself, and the vigilance of its Super­
intendent (Mr. Brown); but it is also in part to be ascribed to
another cause which ought to be mentioned. In 1840, the wages
or earnings of Seamen in the Coasting or Whaling Trade of New
South Wales were nearly double what Seamen received, who had made their engagements in England; and consequently, Seamen arriving in Sydney from England had a strong inducement to desert their Ships for the purpose of engaging in the Coasting or Whaling Trade; many too were tempted to desert by the high wages which they could obtain in almost any employment ashore. Wages, however, both ashore and in the Coasting Trade, have so fallen, that this inducement to desert is no longer in existence, or, at any rate, exists in a very reduced degree.

I further transmit (Appendix No. 14) a copy of a Report on the Water Police, made by a Committee of the Legislative Council.

7th Vict., No. 22.—"An Act to continue an Act, 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.'"

This is simply an Act to continue for one year longer the Act (5th Vict., No. 8), which was passed in 1841 in consequence of the difficulty of disposing of doubly convicted Prisoners (see my Despatch No. 207 of the 13th October, 1841, in reporting on the Act 5th Vict., No. 8).

The difficulty has been removed by the recent instructions which I have received in respect to Norfolk Island; and the necessity for continuing the Act has solely been caused by the unexpected delay in the arrival of Major Childs.

Two other Bills were passed by the Council, which I have reserved for the pleasure of Her Majesty; and on the subject of them I beg to refer to my Despatch of this day's date, No. 2.

I have, &c.,
Geo. Gipps.

P.S.—The certified Copies on Parchment are not yet ready, but they will be sent by an early opportunity.

[Enclosure No. 1.]

[The acts of council formed this enclosure.]

[Enclosures Nos. 2, 3, 5, 6, 7, 8, 9, 10 and 11.]

[Copies of these papers will be found in the "Votes and Proceedings" of the legislative council.]

[Enclosure No. 4.]

MR. A. W. YOUNG TO MR. H. W. PARKER.

Sir, Sheriff's Office, Sydney, 20th Novr., '43.

I have the honor to acknowledge the receipt of your letter of the 18th Instant, drawing my attention to the 13th Clause of the Act to prevent the waste of the property of Debtors under process of Law, and requesting me to report for the information of His Excellency the Governor, in what manner and to what extent the
Report by A. W. Young re effect on revenue of debtors' property protection act.

1844. 1 Jan.

In reply, I beg to report that no person has up to the present time taken advantage of the provisions of the Act, nor am I inclined to think that it will come into very extensive operation. But, should it be otherwise, I cannot but think that clause 13 will materially diminish the revenue of the Office, for I am of opinion that the provisions contained in clause 9, which directs that judgment shall be entered up in the name of the Principal Creditor for the full amount of the Debts specified in the verified statement, will not produce a revenue at all equivalent to the amount of poundage, which would be received under the present Law, upon the various Writs which would be issued against the Defendant. For His Excellency will observe that the poundage now received on 10 Writs each for £100 is £50, but on one for £1,000 the poundage is £27 10s., that is 5 per cent. on the first hundred, and 2½ upon the residue; and, under clause 13 as it stands now, all the poundage, which would be received on a Writ for £1,000 issued under this Act, will be £6 17s. 6d., that is ½ of what we now receive on a similar Writ and about ¼ of the poundage which we should probably be paid on the various Writs making up £1,000, which we might anticipate being issued against the Defendant irrespective of this Act. So that the concentration of liabilities into one Writ must have a prejudicial effect on the revenue of the Office, should the Act come into general operation.

It is likewise to be observed that poundage is only receivable after a sale of the whole or a portion of the effects levied on, and then only for the amount actually realized; so that, supposing the Judgment to be entered up for £10,000, being the amount of the whole liabilities, the property seized and sold might, and I think in most cases would not bring more than £1,000, upon which sum on the reduced scale £6 17s. 6d. only would be receivable; and therefore it is obvious that, if this clause comes into general use, an immediate quantity of laborious business will be thrown on the Department, for which scarcely any poundage will be receivable, and all for the benefit of a Debtor, who by his acting has forfeited the protection the Act had given him.

I have, &c.,

ADOLPHUS WM. YOUNG, Sheriff.

Criticism by W. W. Burton of insolvent act amendment bill.

[Enclosure No. 12.]

MR. JUSTICE BURTON TO SIR GEORGE GIPPS.

My dear Sir,

Fort Street, 27th Dec., 1843.

I return you the Insolvent Act Amendment Bill, which you were so good as to lend me at my request; I shewed it to Mr. Justice Stephen (in the absence of the Chief Justice), and we agreed not to trouble you with any suggestions upon it. It is purely an experiment of the Legislative Council, which can neither be said to be repugnant to the Law of England, nor to the wishes of a great majority of the people here. The secret in fact of nothing having reached your Excellency in the shape of remonstrance against it (which I presume is the case) is that it is palatable to a great many. The Creditors, who are not also largely debtors, are few, and those do not seem to desire to oppose themselves to a popular measure.

I was not aware of the details of the measure until I was favored with the perusal of the Act; But I find them on perusal very ill

HISTORICAL RECORDS OF AUSTRALIA.
digested indeed; but it is not worth while to attempt to stay the completion of the Act for them. Thus the title of the Act, and the preamble to the 26th clause, are "to abolish imprisonment for debt," and the present power of arrest for debt has been found to be oppressive and unnecessary. General terms. The operation of the abolition, however, is confined to cases of "contract," where one has borrowed and promised to pay, and has failed; the numerous class of cases not comprised in actions "ex contractu," viz., those arising, as technically termed "ex delicto," trespass case, etc., in which Is. damages and costs may be recovered, are (but why?) excepted from relief from that which is declared to be oppressive and unnecessary.

The mode of discharge of a person arrested in Sec. 28th is so clumsily contrived, that really we shall find a difficulty in knowing what to do: A party is to be held to Bail, a newly contrived species of Bail, viz., after final judgment; but upon what condition? to do what the Bail Bond is to be taken is not prescribed. There are other points, also shewing that these clauses have not been drawn with sufficient knowledge of the subject, or that knowledge sufficiently carried into the Act.

I regret very sincerely to find the Chief Justice burthened with the sponsor-ship of all Trustees in time to come, having the example of an Official (Mr. Manning) before my eyes. I confess I would prefer the alternative of being Trustee myself to appointing any other person. My objections to these Official Trustees were mainly founded upon an unwillingness that any one, but the Creditors themselves, should be responsible for their own Trustees. The Legislature has, however, thought otherwise; and it only remains for us to bear, like Issachar, the double burthen.

The abolition of Imprisonment in cases of contract will materially lessen the number of Insolvencies in Court, after it takes effect, and all Insolvents of weight and influence, and with anything to divide, will resort to the assignment clauses, which the Creditors will generally admit; this will have a further effect in diminishing the number of "Court Insolvents," and another will be that of leaving only the "vile and refuse" to the Commissioner; whether this is advisable or not, the Legislative Council have determined. But it is quite clear to my mind that the assignment system has been restored, as a more gentlemanlike method of clearing off than the other, which the genteel may resort to without contact with the vulgar.

I remain, &c.,

W. W. Burton.

GIPPS TO STANLEY.

My Lord,

Government House, 1st Jan., 1844.

In my Despatch No. 1 of this day's date, I forwarded the Acts passed by the Legislature of this Colony, to which I had assented on behalf of Her Majesty; I have now the honor to forward herewith two Acts, which have also been passed by the Legislative Council, but which I have reserved for the pleasure of Her Majesty.
1. "A Bill to alter and amend the Duties of Customs payable in the Colony of New South Wales, and on Spirits distilled therein."

It is necessary that I should in respect to this Bill explain, firstly, why I introduced it, and secondly, why I recommend that it should be disallowed.

I introduced it simply because a reduction in the duty on Spirits seemed necessary, in order to put a stop to smuggling. I humbly recommend that it be disallowed; because, by doubling the duty which was proposed by me on Corn and Flour, it has been converted into a Bill for giving protection to Corn grown in the Colony, converted in fact into a Corn Law.

The character of the Bill was also further changed by the Council in respect to refined Sugar, and in such a manner as to make it a Bill for the protection of Sugar refined in the Colony, a sugar refinery on an extensive scale having recently been established in the neighbourhood of Sydney. I proposed that the duty on Refined Sugar should be double that on Raw Sugar, a proportion which I believe is higher than it ought to be for mere equivalence; but, by making the duty thrice as much on refined as on raw Sugar, the Council converted it into what must undoubtedly be considered a protective duty.

I have further to explain to Your Lordship that I should have withheld my assent from this Bill in the usual manner, but that the 31st Clause of the 5th and 6th Vict., Ch. 76, makes it imperative on the Governor to reserve for Her Majesty's pleasure every Bill without exception, affecting the duties of Customs, which may have been passed by the Council.

On the subject of a tax on Corn, I beg to refer to my Despatch, No. 135 of the 27th Augt. last, wherein I stated that the present duty on Wheat, imported from any other place than Van Diemen's Land, is five per cent. ad valorem, and that I considered it desirable to convert it into a fixed duty, which should not be less than 2s. nor more than 4s. per quarter; and accordingly, in the Bill under consideration, I proposed 4s., that is to say, 6d. per bushel.

It was argued in favor of a higher duty that, if 6d. per bushel was not a protective duty, neither was 1s., because a duty sufficient for protection ought to be 2s. 6d. per bushel, or 20s. per quarter; but, to this, the reply is obvious that, if a duty of 1s. be imposed, declaredly on the principle of protection, it will be almost impossible to resist the demand for a higher duty whenever asked for; whereas, the duty of 6d. being proposed by the Government only as a commutation for the existing ad valorem duty, the granting it could lead to no such consequences.
On the policy or impolicy of a Corn Law in New South Wales, I feel it my duty distinctly to state to Your Lordship that, looking at the precarious nature of its climate, the unfitness of its soil, except in favored localities for the production of Wheat, and the distance of every other Market (with the exception of Van Diemen's Land) from which the Colony can obtain grain, it seems to me that there is not on the face of the Globe any Country in which a free trade in Corn is so absolutely necessary, in order to guard against Dearth, as in New South Wales. So lately as in the year 1839, we were on the very verge of famine, and had to send to India (8,000 miles) for Corn; the same thing happened in 1835; and the small ad valorem duty, chargeable on the introduction of Corn, was suspended three times in the last eight years.

I am aware that these very circumstances are adverted to by the advocates of a Corn Law, as reasons why the Colony ought to be made to produce Corn enough for its own consumption; but, without going into controverted points, I believe all sound reasoners may be considered as agreed that, in a Country having a very precarious Climate, and situate at a great distance from foreign Markets, the only security against dearth is to be looked for in the free admission of Corn at all times and from all Countries.

I should explain to your Lordship that there are other reasons why I shall not at all regret the loss of this Bill. It was, I may say, almost forced upon me by the proofs recently afforded of the extent to which Smuggling and illicit Distillation have been carried, and the consequent demand made by fair dealers for a reduction in the duties on Spirits. It is, however, to be remembered that the duties on Spirits have been carried to their present high rates, quite as much for the purpose of diminishing the consumption of them, as for that of Revenue. Drunkenness has undoubtedly greatly decreased; and it was not, therefore, without the greatest reluctance that I could bring myself to propose a measure by which I ran the risk of increasing it. The proposed transfer of the main part of the tax to Sugar was also objectionable on other grounds.

The present duty on Spirits is as follows (4th Vict., No. 11):

<table>
<thead>
<tr>
<th>existing duty on spirits</th>
<th>per gallon</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rum, Gin, etc., imported from England</td>
<td>9 0</td>
</tr>
<tr>
<td>Do made in the Colony</td>
<td>9 0</td>
</tr>
<tr>
<td>Brandy and other Spirits</td>
<td>12 0</td>
</tr>
</tbody>
</table>

*Marginal note.—See my Despatches, Nos. 22, 66, 26th Jany., 8th Apl., 1839.
In order to give the Council an opportunity of reconsidering the question, I proposed to them an amendment in the Bill, restoring the duty on Corn and refined Sugar to that which I at first proposed; but it was rejected on the 27th ultimo, the day only next before that on which I closed the Session.

In my despatch No. 4 of this day's date, I have reported some other difficulties in respect to the Bill, which have arisen out of your Lordship's Circular of the 28th June, 1843.

2. "A Bill to enable the Members of a certain Institution in the Colony of New South Wales, denominated 'The Sydney Dispensary,' to sue and be sued in the name of the Treasurer for the time being, and for other purposes therein mentioned."

This Act has been passed as a measure preliminary to that of converting the Sydney Dispensary into a General Hospital,* to be maintained by voluntary contributions, with such aid as may be given to it from time to time by the Legislature.

A reference to the correspondence, marked and numbered as in the margin;† will shew that the South Wing of the former General or rather Convict Hospital has been handed over to the Committee of the Sydney Dispensary for the purpose of aiding this design.

This Act or rather Bill has been reserved by me, partly because it in some degree partakes of the nature of a private one, and partly on account of the third clause of it which seems to infringe too largely on the Statute of Mortmain, authorizing the Society, as it does, to hold landed property to the value of £40,000. This Clause is framed upon the 17th Section of the Local Act, 4th Vict., No. 3, for regulating the affairs of the Hawkesbury Benevolent Society; but it is my duty to point out that the circumstances of the two cases are not parallel, inasmuch as the Hawkesbury Society is prohibited, by the 6th Clause of the 4th Vict., No. 3, from receiving Land except from the Crown, and that the Society was, at the time the Act was passed, already in possession of a large grant of Land from the Crown, the value of which may possibly come to exceed £40,000.

For further information respecting the Hawkesbury Act, I would beg to refer to my Despatch No. 1 of the 1st January, 1841.

P.S.—The certified Copies on Parchment are not yet ready, but they will be sent by an early opportunity.

[Enclosures.]

* Note 34.
† Marginal note.—Sir Geo. Gipps to the Secretary of State.—107, 25th July, 1839.
Secretary of State to Sir Geo. Gipps.—66, 25th May, 1840; 129, 11th June, 1842.
My Lord,

Government House, 1st January, 1844.

I have the honor herewith to forward the Financial Papers for the year 1843-4, in the form in which it is usual to transmit them from this Colony.

These Papers, as far as Page 85, are Copies of those transmitted with my Despatch, No. 134 of the 25th August, 1843. On the Estimates, however (Pages 9 to 49) are marked the alterations which were made in them, whilst passing through the Council.

The Estimates as presented (page 9) amounted £ s. d.

<table>
<thead>
<tr>
<th>Items transferred.</th>
<th>£</th>
<th>s.</th>
<th>d.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clerks, etc., in the Office of the Superintendent of Port Phillip (transferred to Schedule B)</td>
<td>626</td>
<td>0</td>
<td>6</td>
</tr>
<tr>
<td>Surveyor General's Department transferred to the Land Fund page 19 (see my Despatch, No. 172 of the 21st October, 1843)</td>
<td>15,000</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Sums in aid of the Corporations of Sydney and Melbourne, for which no vote of Council is required, the Monies being appropriated by the Local Acts, 6th Vict., Nos. 5 and 8 (pages 37 and 45)</td>
<td>13,500</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Management of Church and School Estates (Page 15)</td>
<td>495</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>So that the real reductions made in the Estimates amount only to the difference between</td>
<td>£29,950</td>
<td>12</td>
<td>7</td>
</tr>
</tbody>
</table>

The proposed expenditure of 1844 will therefore really stand thus, Voted by the Council, and included in the Appropriation Act | £285,871 | 8 | 4 |

Exclusive of sums chargeable on the Crown Revenue.
In 1844, 1 Jan.,

Estimates of revenue.

Surplus estimated by Sir G. Gipps.

Charges on crown revenue and land fund.

Alterations in estimates of expenditure by council.

In Page 7, it is shown that the Auditor General estimated the gross revenue of the Colony for the year 1844 at £400,000, and after deducting the Crown Revenue of £43,660, the balance was £356,340.

I, however, shall be well satisfied if the Revenue (exclusive of Crown Revenue or Land Fund) amount to £300,000, and this sum will afford a surplus of upwards of £14,000 over the proposed expenditure.

On the Crown Revenue and Land Fund will be chargeable as heretofore:

- The Surveyor General's Department about £12,000
- Aborigines, probably £5,000

the remainder being applicable to Emigration, and other purposes that may be approved by Her Majesty.

The alterations, made in the Estimates by the Legislative Council, are correctly shewn in the documents from Pages 9 to 49; but they may be roundly stated as follows:

**Reductions.**

<table>
<thead>
<tr>
<th>Pages</th>
<th>Reductions</th>
</tr>
</thead>
<tbody>
<tr>
<td>13, 14</td>
<td>In the Department of the Customs</td>
</tr>
<tr>
<td>15</td>
<td>Post Office</td>
</tr>
<tr>
<td>16, 17, 18</td>
<td>Colonial Storekeeper</td>
</tr>
<tr>
<td>21, 22, 23</td>
<td>Public Works and Buildings</td>
</tr>
<tr>
<td>26</td>
<td>Public Worship</td>
</tr>
<tr>
<td>27</td>
<td>Schools</td>
</tr>
<tr>
<td>29</td>
<td>Medical Department</td>
</tr>
<tr>
<td>33 to 36</td>
<td>Administration of Justice</td>
</tr>
<tr>
<td>37</td>
<td>Water Police</td>
</tr>
<tr>
<td>39</td>
<td>Mounted Police</td>
</tr>
<tr>
<td>41</td>
<td>Gaols</td>
</tr>
<tr>
<td>45</td>
<td>Miscellaneous</td>
</tr>
</tbody>
</table>

**£42,415**

And the following are the additions made by the Council:

<table>
<thead>
<tr>
<th>Pages</th>
<th>Additions</th>
</tr>
</thead>
<tbody>
<tr>
<td>13</td>
<td>For the Legislative Council</td>
</tr>
<tr>
<td>37</td>
<td>Police in Rural Districts (see my Despatch No. 167 of the 14th Octr., 1843)</td>
</tr>
</tbody>
</table>

**£12,465**

**Balance in favor of reductions as above stated (about) £29,960**

Supplementary estimates. The Appropriation Act (at the end of the Papers, pages 145) makes a provision of £16,068 6s. 8d. for the supplementary Estimate of 1843, the particulars of which are to be found at page 49 of the Papers.
GIPPS TO STANLEY.

Included in the Papers (Pages 87 to 143) are the Reports of the proceedings of the Council, on every day on which any question of Finance came under consideration.

I have in conclusion to express my hope that the Appropriation Act may be graciously allowed by Her Majesty.

I have, &c.,

[Enclosure.]

GEO. GIPPS.

*Copies of these papers will be found in the "Votes and Proceedings" of the legislative council.*

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 4, per ship Persian.)

My Lord,

Government House, 1st January, 1844.

Having in my Despatch of this day's date No. 2, reported the reasons why I consider that a Bill, passed by the Legislative Council for allowing the duties of Customs in this Colony, should not be allowed to become a Law, I beg leave in connexion with this Bill to point out that Your Lordship's Circular of the 28th for June, 1843, arrived whilst it was under discussion, and gave rise to the following difficulties:

1st. The produce of Van Diemen's Land has, since the foundation of that Colony, been admitted into New South Wales free of duty; but, in consequence of the Circular, it was considered that the Local Legislature could not convert the ad valorem duty payable on Wheat from other parts of the world into a fixed duty, without making that fixed duty payable on Wheat from Van Diemen's Land, as otherwise the duty imposed by the Council would be a differential one in favor of Van Diemen's Land.

2ndly. In respect to Wine, The Government would have proposed a smaller duty on Wine, the produce of the Cape of Good Hope, than on Wine from other parts of the World; but, the Circular appearing to forbid this, a duty was proposed of 9d. a gallon on Wine from all parts of the World, and this was increased by the Council to 1s. but even 9d. would probably have the effect of shutting out Cape Wine altogether from the Market.

My Despatch No. 5 of this day's date will shew that a question of a similar nature exists between this Colony and Van Diemen's Land, in respect to a tax on Tobacco. The Government of Van Diemen's Land has put a tax on Tobacco, the produce of New South Wales; and the Legislature of New South Wales has requested your Lordship's interference to get rid of it; but, under a strict interpretation of the Circular, it would seem that the friendly relations, which have hitherto existed between the two
HISTORICAL RECORDS OF AUSTRALIA.

Sir George Gipps to Lord Stanley.

(Despatch No. 5, per ship Persian.)

My Lord,

Government House, 1st January, 1844.

I have the honor herewith to forward to your Lordship, a Copy of an Address from the Legislative Council of this Colony, wherein I am requested to move Her Majesty to disallow certain Acts of the Government of Van Diemen's Land, imposing duties on Tobacco and Coal imported into that Colony from New South Wales.

The Act of the Government of Van Diemen's Land imposing a duty on all kinds of Tobacco without distinction is, I believe, the 4th Vict., No. 8. I cannot at present refer to the Act (if there be one) imposing a duty on Coal, the produce of New South Wales.

Your Lordship is aware that the produce of Van Diemen's Land is at present imported into New South Wales, free of duty of any kind, though if the Act, which forms the subject of my Despatch of this day's date, No. 2, be allowed (contrary to my recommendation), the same duty will be payable on Grain of every kind, the produce of Van Diemen's Land, as on Grain from other parts of the World.

Connected with this subject, I enclose Copies of the following documents:

Resolution of the Legislative Council of New South Wales, dated the 1st Septr., 1843.

Letter from the Colonial Secretary of New South Wales to the Colonial Secretary of Van Diemen's Land, communicating the above Resolution;

Reply from the Colonial Secretary of Van Diemen's Land.

I have, &c.,

Geo. Gipps.

[Enclosures Nos. 1 and 2.]

[Copies of these papers will be found in the "Votes and Proceedings" of the legislative council.]

[Enclosures Nos. 3 and 4.]

[Copies of these letters are not available.]
SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 6, per ship Persian; acknowledged by lord Stanley, 30th August, 1844.)

My Lord,

Government House, 1st January, 1844.

In my Despatch No. 176 of the 28th October last, I reported the proceedings, which up to that date had taken place in the Legislative Council, respecting the Estimates for the Administration of Justice, for which the sum of £10,577 14s. 6d. was asked by the Government, in addition to the sum of £20,000 provided by Schedule A, appended to the Act of Parliament, 5th and 6th Vict., C. 76.

In continuation of the subject, I have now to inform Your Lordship that the Council, in their subsequent sittings, went through the whole of the items contained in the Estimate, making such reductions in them as they judged necessary, by which they reduced the whole Estimate from £30,577 14s. 6d. to £26,113 17s. 6d.; and subsequently, by the 7th Clause of the Appropriation Act, passed on the 21st ultimo, gave the sum of £6,113 17s. 6d. "to defray the expense of the Administration of Justice for the year 1844, in addition to the amount appropriated to that service in Schedule A."

The Council has, therefore, ultimately followed the course which I always recommended and pointed out as the proper one; for I always admitted, as my Despatches will shew, that, before they voted any sum in addition to the £20,000, they had a right to enquire into the way in which it was proposed to spend that amount.

The only question, therefore, now remaining between the Council and myself, has relation to the Salaries of the Master in Equity (Mr. Milford) and the Prothonotary (Mr. Gregory). The Council calculates the Salary of the former at £800 a year, and of the latter at £650; whilst, under your Lordship's instructions, I consider them entitled to, and mean to pay them respectively £1,000 and £800, the difference on the two Salaries being £350. There will be, I trust, a sufficient saving in Schedule B to cover this difference (£350); but, as any saving on Schedule B can only be appropriated by Her Majesty (see 5th and 6th Vict., Ch. 76, S. 38), I propose, provisionally and waiting Your Lordship's instructions, to charge this sum of £350 on the Crown Revenue; and thus I shall get over all immediate difficulty in respect to Schedule A or the Administration of Justice.

The other reductions, made in the estimate for the administration of Justice, will be seen by the alterations in Red Ink, on the Printed Paper which I enclose.
I will now only offer a few brief observations on these reductions.

The Salaries of the Clerks in the Supreme Court are greatly reduced; but as these gentlemen, whilst acting as Clerks, are in fact qualifying themselves for the lucrative profession of an Attorney (see my Despatch No. 7 of the 16th January, 1842), I cannot say that the reductions are unreasonable.

The allowance for Witnesses is reduced, but neither can I consider this unreasonable.

The disallowance of a Salary to the Crown Prosecutor at Quarter Sessions will, I fear, be attended with inconvenience; but, on this subject, I shall address your Lordship in a separate Despatch.

In the Courts of Request, I also fear that some reductions have been made, which will lead to inconvenience, though it would be premature now to enter upon them.

The Coroners have been transferred to another head of Expenditure; and consequently the whole reduction made by the Council is not the difference between the estimated sum £10,577 14 6 and the sum voted £6,113 17 6

But from it is to be taken the sum voted separately for Coroners £1,909 1 0

making the real reduction only £2,554 16 0

Before I finally dismiss the consideration of the Schedules, I would beg to refer to what I have said in my Despatch No. 8 of this day's date, whilst commenting on various clauses of the Act for the Government of the Colony, 5th and 6th Vict., Ch. 76.

Under the head of clause 34, I have shewn that all difficulty respecting Schedule A would be got rid of, if the fees taken in the Departments connected with the Administration of Justice were reckoned in diminution of the Expenses of the Administration; and, in commenting on Clauses 37, 38 and 39, I have remarked that the difficulties might be got over by simply dividing the £20,000, allowed by Schedule A, into two parts of £10,000 each, one for Salaries, the other for contingencies.

I have, &c,

GEO. GIPPS.

[Enclosure.]

[A copy of this estimate will be found in the "Votes and Proceedings" of the legislative council.]
SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 7, per ship Persian.)

My Lord,

Government House, 1st January, 1844.

In my Despatch No. 1 of this day's date, in reporting on the Act of Council, 7th Vict., No. 6, for amending the Laws relating to the affairs of the Savings Bank of the Colony, I stated that I should have occasion further to ask your Lordship's attention to the Clause (the 5th) of the Act, which authorizes the investment of a portion of the funds of the Banks in the manner provided for by the 11th Sec. of the 9th Geo. IV, ch. 92, that is to say, in the Bank of England, and in the names of the Commissioners for the Reduction of the National Debt, provided the benefit of that Act could be extended to this Colony.

I now beg to bring this subject more formally under your Lordship's notice, in the hope that this advantage may be conceded to the Colony; as, from the difficulty of making safe investments in New South Wales, I think it desirable that a portion at least of the funds of the Banks should be placed out of the reach of danger.

I would further beg leave to suggest that the arrangement would be greatly facilitated, if monies, intended to be invested in the Bank of England in the names of the Commissioners for the reduction of the National Debt, could with the approval of the Governor for the time being be transmitted to England, and again drawn for in case of necessity, through the Agency of the Military Chest, and at par; as thereby the risk of loss or chance of gain on Exchange would be avoided.

GEO. GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 8, per ship Persian; acknowledged by lord Stanley, 30th August, 1844.)

My Lord,

Government House, 1st January, 1844.

The Act for the Government of New South Wales, 5th and 6th Vict., Ch. 76, having now been in force a year, I take the liberty of offering the following observations on such of its clauses as appear to me in any manner obscure, defective, or to require amendment.

 Clause 8.—This clause does not exclude persons in Holy Orders from sitting in the Council. I would beg to submit that it ought to commence thus:

"And be it enacted, that no person in Holy Orders, or being the regular Minister of any religious congregation, shall be
capable of being elected a Member of the Legislative Council, nor any person who shall not be of the full age of twenty one years, etc., etc.

Clause 9.—This is the only clause requiring a Candidate to declare that he possesses the qualification, which entitles him to be elected; and it is only at the election, or as it would seem on the Hustings, that he can be called on to do so. What then is to be done, if the Candidate be not present at the Election? This question arose at Port Phillip, and a Petition was presented against the return of one of the successful Candidates on the ground that he, though called on to make a declaration of his qualification, had not done so, as he evidently could not, being at the time 600 miles off in Sydney. The Petition was not followed up; consequently the point remains undecided; but, as it is of an important nature, I would suggest the following addition to the 9th Clause of the Act, in the shape of a proviso.

"Provided, however, that, if any candidate be not present at such Election, it shall be sufficient that some person on his behalf produce a declaration to the same effect, signed by such Candidate, and duly attested before a Magistrate, within fourteen days next preceding the day of such election."

The Act does not require that a Member, on taking his seat, should make a declaration of his qualification; nor do I think it desirable that he should do so, for it would be evidently inconvenient to require a similar declaration from an Official, or a Nominated Member; and invidious perhaps to require it in one case, and to dispense with it in the other.

Clause 9 (continued).—Considering the vast extent of the Colony of New South Wales, it seems to me desirable that the Candidate should be called on to declare the County or Counties, in which the land forming his qualification is situated; and consequently I would suggest that, in the declaration itself, after the words, Lands or Tenements, the following words should be introduced:

"Situate and being at . . . . . in the County (or Counties) of . . . . . in the Colony of New South Wales," etc., etc.

Clause 31.—The first part of this Clause relates to the giving, withholding, or reserving Her Majesty’s assent to Bills passed by the Council, and is altogether unobjectionable. The second part of the Clause, however, enumerates a Class of Bills which the Governor must in every case reserve for Her Majesty's
pleasure, the power not being given to him to withhold his assent from them, however much he may disapprove of them. My Despatch of this day's date, No. 2, will shew that, during the course of the late Session, I introduced a Bill affecting the duties of Customs, which the Council so altered, that I should have withheld Her Majesty's assent from it, had it not been for the Clause under consideration, which rendered it imperative on me to reserve it.

Another inconvenience in this Clause is that the Governor is absolutely required to reserve a Bill for Her Majesty's pleasure, even though Her Majesty's pleasure may have been previously signified upon it. The Bill, affecting the duties of Customs which I have alluded to, may (notwithstanding the objections which I have urged against it) be allowed by Her Majesty, in which case it will come into operation immediately on the receipt in the Colony of Her Majesty's allowance. The Bill may, on the other hand, be returned to me, and certain alterations in it pointed out as necessary before it can receive Her Majesty's assent; the Council may adopt these alterations; but still, under the 31st Clause, I am prohibited from assenting to it, and the Bill must again be reserved for Her Majesty's pleasure.

Clause 34.—This Clause declares that, with certain exceptions afterwards defined, the whole of Her Majesty's Revenue within the said Colony, arising from Taxes, Duties, Rates and Imposts, shall be appropriated by Ordinances to be passed by the Governor and Council; whence it follows that Monies, which do not arise from Taxes, Duties, Rates or Imposts, may be appropriated without an Ordinance of that sort.

Of the Monies which come into the Public Treasury, not arising from Taxes, Duties, Rates or Imposts, the Fees of Office are the principal, and it seems to me to be clear not only that they may be, but that they ought to be applied in diminution of the expense of the Office in which they are taken, before any provision for such Office is asked for of the Legislature. Such, I believe, is the practice in England; and I find, by the Estimates laid before Parliament, that, in respect to the Chief Offices of Government, Parliament is only asked to make up the deficiencies in the Fee Fund. Nevertheless, the practice to the present time having been to carry all fees to the General Revenue, and to include in the Estimates the whole expense of every Department, I did not like to depart from that practice in the first Estimates laid before the New Council.

The question is an important one, especially in regard to the Administration of Justice; for, if the Fees, taken in the Office
of the Prothonotary, the Sheriff and in the Courts of Request, were applied in diminution of the expense of these Offices or Establishments, the sum of £20,000, granted for the Administration of Justice by Schedule A of the 5th and 6th Vict., Ch. 76, instead of being insufficient for the remaining expenses, would be abundant and even yield a surplus.

Fines imposed by Courts of Justice or by Magistrates in summary jurisdiction belong, I apprehend, to Her Majesty, though in most cases the Acts, under which they are imposed, declare how they are to be appropriated. Licenses I apprehend must be considered to be Taxes.

Clause 36.—This Clause is rendered somewhat obscure by the latter portion of it, which enacts that the costs, charges and expenses incidental to the collection of the Revenue shall be regulated and audited in such manner as shall be directed by any Law of the Governor and Legislative Council.

I have myself considered that the annual Appropriation Act is a Law of the nature contemplated in this Clause; consequently, I included the Revenue Departments (Customs, etc.) in the Estimates, which I laid before the Council, and the expenses have been provided for in the Appropriation Act.

Should in any year the Appropriation Act fail, the Government will, under the 36th Clause of the Act of Parliament, have power to incur the expenses necessary for the Collection of the Revenue, and to charge them on the Revenue collected; but, if the Governor accept an Appropriation Act, and provision in that Act be made for the Collection of the Revenue, I consider he will be bound to confine the expenses of collecting the Revenue to the sums which may be appropriated by the Act. I should be glad, however, to know whether the Commissioners of Customs concur with me in this view of the clause.

Clauses 37, 38, 39.—These Clauses relate to the Schedules.

In respect to A and B, I have already sufficiently explained myself in my Despatches, Nos. 174 and 176 of the 28th October, 1843.

Schedule C provides the sum of £30,000 for Public Worship, without, however, laying down any rule for the division of it among the different denominations now receiving aid from the Government. By Your Lordship’s Despatch No. 181 of the 5th September, 1842, I was led to expect an instruction respecting the division of this Money, but it has not yet reached me.

I apprehend that I shall shortly have occasion to address myself to your Lordship separately on the subject of this Schedule, but am not at present prepared fully to do so.
Another way, by which the difficulties might be removed which have occurred in respect to Schedule A, would be to divide the sum of £20,000, allowed for the Administration of Justice, into two parts, thus:

Salaries of the Law Officers, Master, Prothonotary, Sheriff, Crown Prosecutors, and other Chief Officers engaged in the Administration of Justice...

For the contingent expenses of their Departments...

Clause 48.—I have already, in my Despatch No. 168 of the 14th October, 1843, pointed out what I apprehend to be a misprint in this Clause, and submitted that the words "The Governor" ought to be repeated in the last line but one of it, making it read thus:

"Or until a Bill for that purpose shall have been passed by the Legislative Council, and assented to by the Governor, the Governor with the advice of his Executive Council shall declare to be liable thereunto."

I have, &c.,

GEO. GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.

My Lord, Government House, 1st January, 1844.

In my present Despatch, I propose to submit to Your Lordship a few remarks, which occur to me on a review of the first Session of the New Legislative Council of the Colony.

The early part of the Session was for the most part taken up in discussions on the state of the Colony, the results of which were reported in my Despatches, Nos. 161, 195, 208 of the 7th October, of the 29th November, of the 14th December, 1843.

Next followed the points arising out of the Estimates, and the Schedules A, B and C, attached to the 5th and 6th Vict., ch. 76; and, about the same time, the old question was revived, respecting the expenses of Police and Gaols, as reported in my Despatch No. 175 of the 20th October last.

During the discussion of these questions, I feared that a breach between the Council and myself could scarcely be avoided; later in the session, however, matters went on more satisfactorily; and an Appropriation Act was passed, in which I saw but little to object to.

Several circumstances combined to make the Official Members of the Council weak at the beginning of the Session; the
Attorney General did not return to the Colony until after the Session had commenced, and the Colonial Secretary was prevented by severe illness from attending during the course of some weeks.

From the Unofficial Nominees of the Crown, the Government derived but little assistance, until the accession of Mr. Lowe, whose appointment I reported in my Despatch No. 183 of the 10th November, and whose confirmation I look for with anxiety.

Of the other Unofficial Nominees, Mr. Blaxland has uniformly, and Mr. Berry very frequently, opposed the Government. These Gentlemen were appointed by me principally, if not solely, because they had been Members of the Old Council; and I do not regret having appointed them, because their very opposition has prevented the Nominees of the Crown from appearing in the Council as a distinct body, opposed to the Majority of the Representatives of the People, and has, I think, had a tendency to lessen the dislike, which was at first exhibited, to the presence of Nominees in the Council.

I have felt sensibly the absence of the Solicitor General, and I hope to be able to effect a change among the Official Nominees, by which I may be able to give him a Seat in the Council, before I again call it together.

It is a matter to me of much regret that I cannot, before the next meeting of the Council, have Your Lordship's decision on the points of difference which have arisen on the subject of the Schedules; nevertheless, I hope that the next Session will be an easier one than the last; and, should Your Lordship support me in the view which I took of the Schedules, I think the Act of Parliament may thenceforward be worked easily and satisfactorily, as may also be the case, if the fees taken in the Courts of Justice can be applied in diminution of the expense of the Administration of Justice, as I have suggested they may be, when commenting on the 34th Clause of the 5th and 6th Vict., Ch. 76, in my Despatch of this day's date, No. 8, or even if the sum, granted in aid of the Administration of Justice by Schedule A. were divided into two portions, one for Salaries, the other for contingencies, as suggested in the same Despatch in my remarks on the 37th, 38th and 39th Clauses of the Act.

The Schedules are at any rate, in my opinion, essentially necessary to the form of Government which has been given to the Colony. With them, I think the Constitution to be an improvement upon any that has as yet existed in a British Colony; without them, I do not see how the authority is to be maintained, which the Supreme Government has, I consider, a right to exercise over every Dependency of the Empire.

* Note 35.
There is only one other point on which I will venture a remark to your Lordship; it is that, owing to the absence of a second Legislative Chamber, the Governor is necessarily under this form of Government brought into more frequent and more direct communication with the Representatives of the People, than in the older Colonies he is accustomed to be. I do not allude to this as a disadvantage; but a recollection of it may be necessary in order to satisfy your Lordship that my frequent Messages to the Council during the late Session have neither been unnecessary nor uncalled for.

I have, &c.,

GEO. GIPPS.

Lord Stanley to Sir George Gipps.
(Despatch No. 1, per ship Mary Sharp.)

Sir,

Downing Street, 4th January, 1844.

I have laid before The Queen your despatch, No. 113 of the 18th of July last, reporting the designation of the several public functionaries and the names of the several unofficial persons whom you have judged it proper, subject to Her Majesty's Pleasure, to appoint to be the non-elective Members of the Legislative Council of New South Wales; and I have it in Command from Her Majesty to transmit to you the accompanying additional Instruction under Her Majesty's Signet and Sign Manual approving and authorising the several appointments so made by you.

I have, &c.,

Stanley.

[Enclosures.]

Additional Instructions.

Victoria R.

Additional Instructions to Our trusty and well-beloved Sir George Gipps, Knight, Our Captain-General and Governor-in-Chief in and over Our Territory of New South Wales, or in his absence to Our Lieutenant-Governor, or the Officer administering the Government of the said Territory for the time being. Given at Our Court, at Windsor, this twenty-ninth day of December, 1843, in the Seventh year of Our Reign.

Whereas, in exercise of the powers vested in Us by an Act of Parliament made and passed in the Sixth year of Our Reign, intitled "An Act for the Government of New South Wales and Van Diemen's Land." We did by Our Warrant, under Our Sign Manual, countersigned by one of Our Principal Secretaries of State, and bearing date the twenty-ninth day of August, One thousand eight hundred and forty-two, in the Sixth year of Our Reign, delegate to you the power of nominating and designating the non-elective Members of the Legislative Council of the said Colony: Provided nevertheless, that the power thereby delegated to you should be exercised by you provisionally, and until Our further pleasure should be known.
And whereas it hath been certified unto Us, by one of Our Principal Secretaries of State, that, in pursuance of the power so delegated to you by Us, the following holders for the time being of certain public offices, and other persons, have been nominated by you as the non-elective Members of the said Legislative Council, videlicet:—

The Lieutenant General Commanding Our Forces in the said Colony, the Colonial Secretary, the Colonial Treasurer, the Auditor-General, the Collector of Customs, the Attorney General, or in his absence the Colonial Engineer, together with Our trusty and well-beloved Richard Jones, Alexander Berry, John Blaxland, Thomas Icely, Edward Hamilton, and Hastings Elwin, Esquires. Now know you, that, in further exercise of the powers vested in us by the said recited Act of Parliament, we have thought fit by these Our present Instructions, under Our Signet and Sign Manual, to approve and authorise, and We do hereby approve and authorise the nomination so made by you of the holders of office for the time being, and other persons hereinbefore mentioned, to be the non-elective Members of the Legislative Council aforesaid. And We further declare Our will and pleasure to be that the said non-elective Members, hereinbefore mentioned of the Legislative Council aforesaid, shall be and be taken to be the non-elective Members of such Council, as fully and effectually as though they had been appointed by Us.

V.R.

LOD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 2, per ship Mary Sharp.)
Sir,
Downing Street, 4 January, 1844.

I transmit to you, herewith, for your information a copy of a Letter from the Assistant Secretary to the Board of Treasury, with a copy of a Contract* entered into by the Lords Commissioners of the Admiralty with Messrs. Toulmin for the conveyance of the Mails at the commencement of each month between this Country and Sydney.

I trust that this arrangement will have the effect of remedying the complaint so often made on the subject of irregularity in the delivery of Letters sent from hence to Australia.

I am, &c,

[Enclosure.]

STANLEY.

MR. C. E. TREVELYAN TO UNDER SECRETARY STEPHEN.
Sir,
Treasury Chambers, 28 December, 1843.

I am commanded by the Lords Commissioners of Her Majesty's Treasury to transmit to you, for the information of Lord Stanley, the enclosed copy of the Contract entered into with Messrs. Henry and Calvert Toulmin for the conveyance of the mails between this Country and Sydney, New South Wales.

I am, &c,

C. E. TREVELYAN.

[Sub-enclosure.]

[A copy of this agreement was presented to the legislative council on the 12th of June, 1844; see "Votes and Proceedings"]

* Note 36.
GIPPS TO STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 3, per ship Mary Sharp.)

Downing Street, 5 January, 1844.

I have received your Dispatch, No. 93 of the 17th of June last, inclosing a copy of an application from Mr. Carter to be allowed salary at the rate of £650 a year for the period from the date, at which he was superseded by Mr. Milford in the situation of Master in Chancery, to which he had been provisionally appointed by you, to the date at which he might be appointed Registrar of the Colony.

In reply, I have to acquaint you that I entirely concur in the justice of the view which you have taken of this claim, and that I consider it to be quite inadmissible.

I am, &c.,

STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 9, per ship Persian.)

My Lord, Government House, 5th January, 1844.

I have had the honor to receive your Lordship's Despatch No. 66 of the 6th May, 1843, enclosing a Copy of a letter from Sarah Mather, and desiring me to furnish any information which can be obtained in the Colony respecting her son, Ellis James Mather, who left England in 1823, and was last heard of either in New South Wales or Van Diemen's Land.

I have not been able to obtain any information of Ellis James Mather; but the Water Police Magistrate reports that a person arrived in the Colony under the name of James Metters, and deserted from his ship in December, 1841; I enclose a Copy of his letter.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

MR. H. H. BROWNE TO COLONIAL SECRETARY THOMSON.


In reply to your communication of the 20th Ultimo, respecting the Individual named in the Margin,* I do myself the honor to state, for the information of His Excellency the Governor, that a person named James Metters arrived in this Colony in the Immigrant Ship "Lady Clarke" on the 27th of December, 1841, and deserted from that Vessel in January, 1842, since which time he has not been heard of.

I have, &c.,

H. H. BROWNE, J.P.
Supdt. of Water Police.

* Marginal note.—James Mather.
1844.
10 Jan.

Transmission of correspondence with treasury.

1844.
10 Jan.

Decision required re expenditure of revenue.

Statutory provision re expenditure.

Proposal for absolute control of expenditure by legislative council.

Reasons for proposal.

HISTORICAL RECORDS OF AUSTRALIA.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch marked "Confidential," per ship Mary Sharp.)

Sir,

Downing Street, 10 January, 1844.

I transmit to you, herewith, for your information and guidance, the enclosed copies of a correspondence, which has passed between my Under Secretary of State and the Secretary to the Board of Treasury, on the subject of the course of proceeding to be adopted in reference to the appropriation of, and accounting for, that portion of the Revenue of New South Wales which will be at the disposition of the Local Legislature, after providing for the charges specified in the 37th clause of the Act of 5 and 6 Vict., Cap. 76.

I have, &c.,

STANLEY.

[Enclosure No. 1.]

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

Sir,

Downing Street, 13th December, 1843.

I am directed by Lord Stanley to request that you would move the Lords Commissioners of the Treasury to signify to his Lordship their wishes regarding the course of proceedings to be adopted in reference to the Expenditure in future of the Revenue of the Colony of New South Wales.

Under the Statute 3 and 6 Victoria, Chapter 76, Section 34, the appropriation of the Surplus of the public Revenue, remaining after the deduction of the amount of the Civil List, is transferred to the local Legislature, it being however provided that they shall not apply the money to any public Service for which the Governor shall not first have recommended to them to make provision, and that no part of the Revenue shall be issued, except under Warrants to be addressed by the Governor to the Treasurer.

Considering that the Legislature of New South Wales is now composed to a great extent of Representatives chosen by a large popular Constituency, from whose control a considerable part of the annual Revenue has been withdrawn to provide for a Civil List, Lord Stanley thinks it doubtful whether any good end would be answered by the intervention of the Government in this country regarding the expenditure of the Surplus. There is no case in which that power is exercised in regard to any Colony possessing a Representative Legislature. Throughout the North American Provinces, in all the old British West India Islands, and in Guiana, the local Legislature deliberate and decide on the use to be made of the Funds in their respective Treasuries, without any attempt on the part of any branch of the Government in this Country to decide beforehand what Estimates shall be laid before them, or to decide retrospectively on the propriety of such Estimates. For this forbearance, there are several reasons which Lord Stanley thinks are conclusive.

1st. The intervention of so remote an authority with the pecuniary affairs of a Colony is invariably regarded with jealousy, if not with resentment, by a Legislature so constituted; And, secondly, the effect of those feelings is to provoke opposition to any expenditure, even tho' otherwise unobjectionable or judicious, as a mode of asserting the financial independence of such a Legislature; and,
thirdly, the popular elements, of which such a body is composed, are generally speaking an adequate security against any prodigal expenditure of Public money; And, fourthly, an Estimate, prepared in New South Wales twelve months before it is to be submitted to the local Legislature, will probably cease to be applicable to the real exigencies of the public service when that time shall have elapsed, because henceforward no estimate can be really useful unless it be adapted to the state of public opinion and of public feeling as existing at the time of its introduction; and, finally, in proportion as the Government in this Country interfere in the financial affairs of the Colony, to the same extent they will be regarded by the Colonists as incurring a pecuniary responsibility for whatever may be undertaken or omitted in obedience to their orders.

For these reasons, it is Lord Stanley's opinion that the Financial affairs of New South Wales should henceforth be conducted on the same principle as those of Canada or of Guiana, that is, that the sums appropriated for the Civil List should be applied and accounted for in such manner as the Lords Commissioners of the Treasury may direct; but that, with regard to the surplus of the ordinary Revenue, the Local Authorities, Executive and Legislative, should apply it to the Public service at their discretion upon the clear understanding that the British Treasury is in no way to be held responsible for any deficiency of Ways and Means to meet the demands of the Public Service.

Lord Stanley does not think it necessary that any positive Instructions to this effect should be conveyed to the Governor. His Lordship's view is merely that the general principle thus indicated should be practically though tacitly observed. The result would be that, on questions of local expenditure to be defrayed from the Surplus Revenue, the Secretary of State for the Colonies would cease to apply for the sanction of the Lords Commissioners of the Treasury and from conveying any specific authority to the Governor, and the Governor would of course also cease to apply for any such authority.

If the preceding arrangement is not to be pursued, Lord Stanley at least apprehends that, for the reasons already mentioned, some modification of the system which has hitherto been observed will be indispensable.

I have, &c,

JAS. STEPHEN.

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

Sir,

Treasury Chambers, 30 December, 1843.

The Lords Commissioners of Her Majesty's Treasury having had under consideration a Communication from your Department dated the 13th inst., relative to the course of proceeding to be adopted in reference to the Expenditure, in future, of the Revenue of the Colony of New South Wales, I have it in command to acquaint you, for the information of Lord Stanley, that my Lords concur in the course of proceeding suggested in regard to the appropriation and accounting for that portion of the said Revenue, which will be at the disposition of the Local Legislature, after providing for the charges specified in the 37th Clause of the Act of 5 and 6 Vict., Cap. 76.

I am, &c,

C. E. TREVELYAN.
HISTORICAL RECORDS OF AUSTRALIA.

LORD STANLEY TO SIR GEORGE GIPPS.

(A circular despatch, per ship Mary Sharp.)

Sir,

Downing Street, 10th January, 1844.

I transmit herewith for your information two printed copies of the general report of the Commissioners for Colonial Lands and Emigration for the Year 1843.

I have, &c.,

STANLEY.

[Enclosure.]

[A copy of this report will be found in the "Parliamentary Papers" of the house of commons.]

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 12, per ship Persian.)

My Lord,

Government House, 11th Jany., 1844.

I have the honor to report to Your Lordship that the Ship "Herald" with Emigrants from Greenock arrived here on the 9th instant, having completed her passage in 91 days.

The Emigrants have arrived in good health; and the manner in which they have been brought to the Colony is creditable to the Exporters. Three Children died on the passage, and four were born; no other casualty of any kind is reported.

I am as yet unable to say how these Immigrants can be disposed of.

I have, &c.,

GEO. GIPPS.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 5, per ship Mary Sharp.)

Sir,

Downing Street, 12 January, 1844.

I have had under my consideration your Dispatch, dated the 12th of June, 1843, No. 89, enclosing a Petition addressed to me by Mr. John Reeve, in which he claims compensation for delay in the issue of the Grant of his special Survey at Corner Inlet.

You will acquaint Mr. Reeve, in answer to his Petition, that, considering the distance at which Special Surveys might be demanded, the Government never undertook to execute them within any specific time, nor agreed to pay interest on the price until the Grants should be issued; and, therefore, that the claim which he has preferred to receive such interest cannot be admitted.

I have, &c.,

STANLEY.
SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 13, per ship Persian.)

My Lord,
Government House, 13th Jany., 1844.

I have the honor to report to Your Lordship that Major Arrival of Childs, the Superintendent of Norfolk Island, arrived this day in the ship "Maitland" after a tedious passage of 131 days from Plymouth.

The Convicts by the "Maitland" are stated by Major Childs to be in good order; and I shall not fail to expedite, as far as possible, the arrangements for their departure from this Colony to Norfolk Island.

I have, &c.,
GEO. GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 14, per ship Persian.)

My Lord,
Government House, 13th Jany., 1844.

Almost at the moment of closing my Bag for the Ship Transmission "Persian," a letter from the Judges addressed to Your Lordship has reached me, which I herewith enclose. Their Honors' letter is in reply to various observations affecting the Judges, contained in Your Lordship's Despatch, No. 94 of the 28th June, 1843.

I have, &c.,
GEO. GIPPS.

[Enclosure.]

THE JUDGES TO LORD STANLEY.

My Lord,
Supreme Court, Sydney, 28th December, 1843.

We have been furnished by His Excellency Sir George Gipps with a copy of a Despatch addressed to him by Your Lordship on the 28th June last; in which Your Lordship refers to and observes "among certain communications from us, on the subject of Mr. Manning's defalcations or embezzlement of the moneys in his hands, as Collector of Intestate Estates.

The communications in question, we presume, for we do not call to mind any other, were our letter* to Your Lordship, and the Statement of Facts therein enclosed (with certain annexures, being copies of papers referred to in that Statement) transmitted through the Governor on the 30th November, 1842. Those communications were framed in respectful reply to a remark made by Your Lordship in a Despatch of the 11th June, 1842 (with a copy of which His Excellency had favored us) imputing to the Judges, in effect, a want of vigilance in the supervision of Mr. Manning's proceedings; and to that remark, both the letter and Statement were confined. It is with great concern, therefore, that we find Your Lordship's Despatch putting a different interpretation on those communications; and treating them not as matters offered in our own vindication merely, but as intended to suggest a conclusion, casting the responsibility of the serious losses, occasioned by Mr. Manning, on Her Majesty's Executive Government.

* Note 37.
1844.
13 Jan.

We request permission most distinctly to assure Your Lordship that no part of our communication was intended to suggest any conclusion of that nature. Your Lordship supposed that the Judges had been deficient in caution with respect to Mr. Manning; and that the exhibition by them of a due degree of watchfulness would in all probability have prevented the losses in question. To these points alone we address ourselves; as the recapitulation, which follows, of the matters adduced in our Statement will show. Whatever inference, therefore, may be thought to arise from them, other than or beyond that of our own exculpation, we entirely and unreservedly disclaim.

We stated that Mr. Manning was Curator of Intestate Estates officially, not by specific and separate nomination as such but "as Registrar"; that is, by virtue, if not strictly in right, of the latter Office. First, because he was the Officer specially named in the Act of Parliament for that duty; and secondly, because he was peculiarly the Officer of The Court in its Ecclesiastical Jurisdiction. In other words, admitting the power of the Judges, abstractedly, in cases of Intestacy to select another Officer, the Registrar was the appropriate nominee, indicated alike by his Station, and by Parliament. Responsibility was not therefore incurred (we maintained) by following the path thus marked out, but would have been by deviating from it. To have passed Mr. Manning by, and selected some one else for the duty, in itself an imputation on his character, if not an encroachment on his just rights, would have been on our parts a very serious step; which nothing could have justified but a conviction of his utter unfitness for the Office, or the most grave suspicion of his integrity.

We proceed to show that no adequate grounds for such a selection existed. Mr. Manning not appearing to have been suspected by anyone; but on the contrary, having always enjoyed the confidence and intimacy of the successive Governors of the Colony, of the late Chief Justice, Sir Francis Forbes, and of the several Law Officers; and neither his character nor conduct having been, in point of fact, called at any time in question through the long period of his tenure of Office. If a doubt as to Mr. Manning’s fitness, excited by the result of the investigation of 1838 (which impeached not his honesty but his habits of business), operated on our minds, there were two considerations which counterbalanced it. Of these, one was the stringency of the new Rules, which, at least (had they done nothing else) rendered correct Accounts and periods of accounting unavoidable. The other was that he had (as we were led to suppose) given unexceptionable Security to an amount exceeding any, which, according to our experience, there was any probability of his ever having in hand.

The points next in order, to which we addressed ourselves, were the following:—First, the measures, taken by the Judges from time to time, notwithstanding the representations of Mr. Manning as to his rights and the expectations of emolument which (he said) were held out to him, to supervise his proceedings, and to cause a safe periodical investing of all Intestates’ monies. Secondly, the very peculiar and unforeseen circumstances, which enabled Mr. Manning, without the default of the Judges, in the short space of two years or thereabouts, to retain in his hands and eventually to appropriate to his own use the large amount now discovered to have been misappropriated by him. The narrative of
the former is in paragraphs 7 to 19 of our Statement; and the explanation of the latter in paragraphs 20, 21 and 22, and 25 to 28 inclusively.

From the preceding recapitulation, which, we believe, in substance embraces the whole of our communication, it will be apparent to Your Lordship, on reconsideration, that not only the tendency and objects of our Statements have been misconstrued, but the tenor of the statements themselves misapprehended.

Your Lordship will observe that we never represented Mr. Manning as having been appointed to the charge of Intestate Estates by the Government. By the terms of the Statute, every such appointment is made necessarily by the Court. But our argument was that virtually and in effect the appointment of Registrar carried with it that charge also. We argued that at all events, practically under the circumstances, Mr. Manning's nomination was unavoidable. To the consideration then suggested on this head, we would now add one more. At the several periods in question, Mr. Manning was not only the appropriate, but for such purposes our only Ministerial Officer. By the Sheriff, such a charge could not have been undertaken. The Chief Clerk (a Subordinate of Mr. Manning's), on account of the multiplicity of business in his department, could not have undertaken it. There was no other Officer, of any standing or consideration, attached to the Judicial Department. Your Lordship has recently pointed out The Master as the fittest person for the charge. But, at those periods (a very short portion only excepted) there was no such Officer. Your Lordship will perceive, secondly, that we made no statement on the subject of any assurance given or said to have been given to Mr. Manning, by a Member of Your Lordship's Office. A quotation is made, indeed, of such an assurance in a letter of Mr. Manning to the Judges; which forms one of the annexures to our Statement of Facts. But, on that quotation, no inference was built by us. No argument whatever was drawn. Neither in any part of our communication is it used or alluded to; unless it be in paragraphs 5 and 10 of the Statement. In the former of these, a portion of it probably is alluded to. The words, quoting Mr. Manning, are merely these: "He was also informed (as he stated) on his appointment that this duty was to devolve upon him, and was to form a source of his emoluments." But that information might have been given, correctly enough, by any one. A similar partial citation, purporting to be from Mr. Manning's letter, is in paragraph 10. Each is given, however, not as a fact, but simply as a representation. No one, in the places of citation, is mentioned as the author. The representations themselves, so far even as they extend, are not dwelt on. No weight whatever is attached to them. They are introduced, solely, as forming part of Mr. Manning's arguments and observations, in opposition to the measures then in progress, and which the Judges afterwards, in disregard of his representations, adopted.

Your Lordship's Despatch, however, we regret to perceive, imputed the introduction of these passages to a very different object: as intended to show, namely, that Mr. Manning possessed (or that the Judges believed him to possess) the Official pledge which he insinuated; and that in deference to that pledge, they abstained from effective supervision over him. Not only, however, do we disclaim any such intention or belief, but we would entreat Your Lordship to consider that such an argument in our defence would have been
of the most contradictory and inconsistent nature. It would amount

to this: that we relied on Mr. Manning's representation to excuse us

from not interfering with proceedings, which it is the express

object of our Statement to show that the Judges, notwithstanding,
did interfere with and control.

We certainly stated that Mr. Manning had given security in a

large amount to His Majesty's Government in England; and few

things could have more surprised us than Your Lordship's announce­

ment that the statement is unfounded. Our authority for making

it unquestionably was mainly the assurance of Mr. Manning; but

that assurance came in a shape so little open to distrust that, even

had it stood alone, we might well be excused for having given

implied credit to it. We had, however, other grounds for placing

reliance on the assertion; on a review of which, in connection with

the assurance itself, we feel persuaded Your Lordship will admit

that we were fully justified in our entire belief of the fact.

On the 5th May, 1838, Mr. Manning wrote and sent to the Judges

his letter now before Your Lordship, containing the statement in

question. In that letter, as Your Lordship will perceive, he does

not announce the giving of the security as a fact then for the first
time communicated; but as a matter already known, if not to the

Judges, yet to the Government, and ascertainable, if there were

any doubt, on reference to the Government. He mentions the cause

and occasion of the security being given; first, a demand from

General Darling, then one from the British Treasury. He speaks

of the fact, as known to the late, and having only "escaped the

recollection" of the present Chief Justice. He states the names of

his Sureties; the amount of the security, its nature, and objects.

It would have been difficult to believe, in the absence of any in­

formation to the contrary, that a statement, so made, was made

falsely; and no such supposition was in fact ever entertained by

any of us. The Judges, nevertheless, considered it right to forward

Mr. Manning's letter to the Governor; and it was forwarded accord­

ingly on the 29th of the same month, with a request that it might

be transmitted by His Excellency to the Secretary of State, with

the Rules of Court, against which it remonstrated.

It is proper to observe that certainly the Judges made no distinct

reference to the particular portion of Mr. Manning's letter, now in

question. This circumstance is accounted for by the confidence

with which Mr. Manning's statement had been received by them.

Attention was called, however, by the Judges to Mr. Manning's

arguments in opposition to their Rules, based on the supposed fact

that security had been given; and his assertion was never to our

knowledge repudiated or questioned, until now.

On the other hand, the correspondence in our office tended to

confirm Mr. Manning's representation. On the 29th September,

1830. Governor Darling wrote to Chief Justice Forbes to suggest

the taking of security from Mr. Manning in respect of Intestates' 

Estates, "to such an amount as may be deemed adequate to the

trust, until instructions be received from His Majesty's Govern­

ment." Of that letter, a copy was sent to Mr. Manning by the

Chief Justice. On the 19th of October following, Mr. Manning

writes to the Chief Justice that he was not prepared to give such

security in this Colony; but that he could not object to such being

given by his Friends in England. For this purpose, he "referred

The Home Government to his Brother, Mr. James (now Sergeant)
Manning, of Lincoln's Inn." On the same day, Sir Francis Forbes communicates that reply to the Governor, with his opinion, which (he said) had been expressed before by him, that he had "no power to compel Mr. Manning to enter into any conditions, not required by the Crown on his appointment." Then follows his announcement, as to the depositing of Intestates' moneys in the Banks, which has been cited by Your Lordship. On 25th November, 1830, General Darling writes to the Chief Justice that he should communicate with the Secretary of State on the subject of that letter, "relative to the Registrar's being required to furnish the necessary security for the property lodged in his hands."

Your Lordship will do us the justice, however, to bear in mind that the falsehood of Mr. Manning's assertion, now for the first time brought to our knowledge, does not invalidate our defence on this point. It is equally sustained, if in fact the Judges had reasonable grounds (and we submit that we had very strong grounds) for supposing that his assertion was perfectly true. Our duty as to the Supervision of Mr. Manning was not affected by the question of his security. We relied on the supposed fact for two positions only; First, that for all casual losses, to any extent within our reasonable contemplation, the Public had thus in its hands a sufficient available remedy; Secondly, that, supposing the Judges otherwise to have been justified in depriving him of the charge, the additional circumstance of security being given by him rendered the selection of any other (a measure already sufficiently unadvisable) utterly without excuse. It would have been, to displace the appropriate Officer appointed by the Crown and giving security to the Crown, in favor of some Clerk or other inferior Functionary, giving none. The contingency of actual and extensive fraud, we have shown that we did not, and had no reason to contemplate; and that, against such an event, the circumstances being considered, no vigilance whatever could have guarded.

We have, &c.,

JAMES DOWLING, C.J.
W. W. BURTON.
ALFRED STEPHEN.

P.S.—We may mention that the supposed fact of Mr. Manning's having given security, with the names of his pretended sureties, appeared yearly in the Blue Book from 1837 to 1841 inclusive, from which it is plain that no doubt was entertained of the fact in any quarter.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 4, per ship Mary Sharp.)

Sir,

Downing Street, 14th January, 1844.

With reference to that part of my Dispatch No. 112 of the 18th of July, 1843, which related to an arrangement proposed by the Commissioners of Audit for the adjustment of certain Advances made from the Revenues of New South Wales for

SER. I. VOL. XXIII—X
Emigration Expenses chargeable to other Colonies for the years 1840 and 1841, I transmit to you, herewith, the Copies of a Correspondence between the Land and Emigration Commissioners and this Department, from which you will perceive that the sums of £549 1s. 8d., £56 and £383 8s. 8d. have been transferred to the Credit of New South Wales towards the liquidation of the amount due to that Colony from Van Diemen's Land, Western Australia, and New Zealand respectively, on account of the advances in question.

I have, &c.,

STANLEY.

[Enclosure No. 1.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Colonial Land and Emigration Office, 27th October, 1843.

Sir,

We have the honor to refer to your Letter of the 18th of July last, in which you informed us that the Auditors had ascertained that the sums due from the other Australian Colonies to New South Wales, on account of advances for the expenses of this Office in the years 1840 and 1841, and that the Agent General for Crown Colonies had been directed to make the necessary repayments. The sums to be thus refunded were:

From Van Diemen's Land, £1,452; Western Australia, £56; New Zealand, £410.

We have now the honour to report that we understand Mr. Barnard has been unable to make the transfers that were desired, not being in possession of funds for the purpose; and, on the other hand, we beg to state that we have to our credit the following balances free from any claim upon them in Mr. Barnard's hands:—

Van Diemen's Land, £549 1s. 8d.; Western Australia, £56; New Zealand, £383 8s. 8d.

We would beg therefore to suggest that the best application of these balances would be that we should be authorized to transfer them thro' Mr. Barnard towards the liquidation of the debt to New South Wales, and, should this view be approved, we would request the necessary instructions to our Board and to Mr. Barnard.

We have, &c.,

T. FREDEK. ELLIOT.

JOHN G. SHAW LEFEBVR.

[Enclosure No. 2.]

UNDER SECRETARY HOPC TO LAND AND EMIGRATION COMMISSIONERS.

Gentlemen, Downing Street, 13th January, 1844.

Your Letter of the 27th October last having been referred for the consideration of the Lords Commissioners of the Treasury, I am directed by Lord Stanley to acquaint you that they have signified to him their approval of the appropriation, as suggested by you, of the several Balances of £549 1s. 8d., £56 and £383 8s. 8d. in the hands of the Colonial Agent General, towards the liquidation of the sums due from Van Diemen's Land, Western Australia and
GIPPS TO STANLEY.

New Zealand, respectively, on account of advances made from the Revenues of New South Wales for the support of your Office for the years 1840 and 1841.

Lord Stanley has accordingly instructed Mr. Barnard to transfer the sums in question to the credit of New South Wales.

I have, &c.,

G. W. Hope.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 6, per ship Mary Sharp.)

Sir,

Downing Street, 14th January, 1844.

I have to acknowledge the receipt of your Dispatch dated the 12th of July last, No. 110, transmitting the Copy of a letter from the Committee of the Benevolent Society in New South Wales, in which they request that the contribution from the Military Chest to that Institution, which Her Majesty's Government had restricted to the sum of Two Thousand five hundred Pounds for the year 1843 may be continued at Three Thousand Pounds.

You will acquaint the Committee of the Society that Her Majesty's Government have not seen any ground for altering the opinion, signified to you by my Despatch of the 16th Sept., 1842, that the annual Contribution from the Funds of the Commissariat Chest towards the expenses of the Institution in question should not exceed Two Thousand Five hundred Pounds, altho' the excesses of contribution beyond the provisions made by Her Majesty's Government which had been issued from that Chest were not reclaimed.

I have, &c.,

STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 15, per ship Honduras.)

My Lord,

Government House, 14th Jany., 1844.

Herewith I have the honor to forward the Blue Book for the year ended the 30th Septr., 1843, with the report which, according to Your Lordship's Despatch, No. 101 of the 5th May, 1842, should accompany it.

I regret extremely that I have not been able to forward this Book and the Report on it earlier; but I assure your Lordship that the delay has been inevitable.

The Book came only into my hands on the 27th December last, just at the close of the Session of the Legislative Council, and when my attention was wholly engaged with other and more important matters.
It was with the greatest satisfaction that I received Your Lordship's Circular of the 13th July, 1843, directing that in future the Blue Book shall be made up, as it formerly was, to the end of each year, instead of the 30th September. It would be scarcely possible for me to describe to Your Lordship the inconvenience, which has been occasioned by the change which took place in 1842.

I have, &c.,

GEO. GIPPS.

[Enclosure No. 1.]

[This was the "blue book."]

[Enclosure No. 2.]

REPORT to accompany the Blue Book of the Colony for the year ended the 30th Sept., 1843.

1. Taxes and Duties, Pages 1 to 3.

The only alterations, which have been made in the Duties of Customs since the passing of the Act of Parliament, 9th Geo. IV. C. 53 (in the year 1827), were effected by a Local Ordinance passed in 1840 (4th Vict., No. 11), by which the duties on imported Spirits, and the ad valorem duties on Goods of foreign growth or manufacture were raised to their present amount.

By successive Acts* of Council, passed in the years 1839, 1840 and 1841, the duty on spirits distilled in the Colony was gradually raised to the same amount as that which is payable on Rum from the West Indies, namely, 8s. per Gallon.

The amount of ad valorem duties in the year ending £ s. d.

the 30th Sept., 1841, was 48,365 7 8
In that ending the 30th Sept., 1842 35,339 11 11
and that ending the 30th Sept., 1843 26,919 17 10

The reduction being wholly occasioned by the diminution of our Imports.

£ s. d.
The amount of duty on Spirits imported was in 1842 149,510 17 9
and in 1843 114,533 1 3

The amount of duty on Spirits distilled in the Colony

was in 1842 5,155 6 0
in 1843 13,947 5 0
The Duty on Tobacco in 1842 51,617 0 11
In 1843 44,125 0 3

There has been, therefore, a decrease in all the duties, as indeed there has been in the whole Revenue of the Colony in the year 1843, as compared with the year 1842.

The Wharfage and Harbor duties have also greatly fallen off; collectively they were In 1842 11,498 5 9
In 1843 7,679 5 1

2. Fees of office, pages 3 to 5.

The Fees of Office form a considerable source of Revenue in New South Wales, their amount having been in 1842 34,046 4 10
In 1843 31,987 17 0
In the year 1839, however, they amounted only to 9,812 7 3

* Marginal note.—3d Vict., No. 9; 4th Vict., No. 16; 5th Vict., No. 16.
Of these Fees, a large proportion is raised in the Courts of Justice, and are of course proportional to the amount of litigation carried on.

The Fees, taken in the different branches of the Supreme Court in Sydney, amounted in 1842 to £15,905 15 6 in 1843 to £14,919 2 7

The Fees, taken in the Court of Insolvency, will be carried to the account of the Government, and the Officers be paid by fixed Salaries from the 1st January, 1844, in consequence of the passing of the Insolvent Law Amendment Act, 7th Vict., No. 19; hitherto the Fees have been taken by the Officers of the Court.

Nos. 3 and 4. Revenue and Expenditure, and comparative yearly statements by the same, Pages 7 to 61.

The following Table of the ordinary Revenue and ordinary Expenditure of the Colony is continued to the end of 1842, beyond which period it cannot at present be carried, in consequence of the Blue Book being made up only to the 30th Sept., 1843.

<table>
<thead>
<tr>
<th>Year</th>
<th>Revenue</th>
<th>Expenditure</th>
<th>Excess in Expenditure over Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>1838</td>
<td>£211,988 19 5</td>
<td>£323,736 12 0</td>
<td>£111,747 12 7</td>
</tr>
<tr>
<td>1839</td>
<td>239,740 5 5</td>
<td>346,241 17 9</td>
<td>111,747 12 7</td>
</tr>
<tr>
<td>1840</td>
<td>335,084 9 0</td>
<td>331,775 18 10</td>
<td>3,308 10 2</td>
</tr>
<tr>
<td>1841</td>
<td>409,592 8 2</td>
<td>359,507 8 6</td>
<td>50,084 19 8</td>
</tr>
<tr>
<td>1842</td>
<td>414,156 8 2</td>
<td>339,622 12 5</td>
<td>75,133 15 9</td>
</tr>
</tbody>
</table>

In the above Table, the entire Revenue of the Colony is included, except what is derived from the sale of Land, which Revenue is separately accounted for under the name of the Land Fund; and in the expenditure are included the whole expenses of the Colony, except those which are expressly chargeable on the Land Fund, namely:

1. The expense of the Survey and Sale of Land.
2. Expense incurred in protecting and civilising the Aborigines.
3. Immigration.

In my Report on the Blue Book for 1842, a Table was given showing that, between the 1st January, 1832, and the 30th June, 1842, the sum of £951,241 was expended on Immigration, being upwards of 87½ per cent. on the total amount realized within the same time by the sale of Land. I regret to say that, since the 30th June, 1842, very small sums (comparatively speaking) have been realized from the sale of Land; in the year ending the 30th September, 1843, only £12,141 7s. 9d.

The other branches of the Crown Revenue have, however, well maintained themselves:

\[ \text{£ s. d.} \]

They amount to

1840 20,284 1 10
1841 28,014 18 1
1842 41,971 8 5
1843 43,249 16 11
The total amount of Revenue is made by the Blue Book to have been for the year, ending the 30th Sept., 1843, £513,970 7s. 3d.; but this is evidently fallacious, as repayments and other receipts, which are not Revenue, are included in it (Pages 14, 16 and 20) to the amount of upwards of £132,000.

The expenditure of the year would appear by the Blue Book to have been £521,451 2s. 5d.; but this is equally fallacious with the account of that of the Revenue; for there are, in Page 27 alone, advances, repayments, etc., to the amount of upwards of £120,000.

To judge, therefore, of the comparative expenditure of the two years, ending respectively the 30th Sept., 1842, and the 30th Sept., 1843, it will be better to take a few examples of different Departments or services.

The chief decrease is to be found in the following Departments or Services:

<table>
<thead>
<tr>
<th>Department</th>
<th>£ s. d.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surveyor General's Department</td>
<td>5,322 17 5</td>
</tr>
<tr>
<td>Police</td>
<td>19,876 6 1</td>
</tr>
<tr>
<td>Gaols</td>
<td>1,738 4 5</td>
</tr>
</tbody>
</table>

The following are the principal Services in which an increase has occurred:

<table>
<thead>
<tr>
<th>Service</th>
<th>£ s. d.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries of the Clergy</td>
<td>749 18 9</td>
</tr>
<tr>
<td>Public Works (entirely in the Port Phillip District)</td>
<td>12,974 10 7</td>
</tr>
</tbody>
</table>

These Returns, however, being made up to the end of Sept. instead of the end of the year, are very likely to be in minor particulars incorrect.

Local revenues.

5. Local Revenues, Pages 77 to 85.

The Acts, Incorporating the towns of Sydney and Melbourne, having come into force on the 1st January, 1843, Local Revenues have been raised by way of Assessment in Sydney, amounting to £5,259 16 10, and other revenues have also been received by the Corporation, principally arising out of those (such as Market Dues) ceded to it by the Government £3,032 12 4.

Together £8,292 9 2.

In Melbourne also, rates have been levied to the amount of £1,076 12 2, and other miscellaneous revenues amounted to £1,214 13 1.

£2,291 5 3.

Commissariat expenditure.

6. Commissariat, or expenses defrayed out of the Military Chest, Pages 87 to 94.

The expense on account of Convict Services has further decreased; it was in the year ended the 30th September, 1842 £87,992 10 3, and in 1843 £68,408 4 9.

The number of Convicts in the Colony, exclusive of Norfolk Island, is returned as 20,717.

The amount of expenditure on account of Military protection was:

<table>
<thead>
<tr>
<th>Year</th>
<th>£ s. d.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1841</td>
<td>99,762 5 3</td>
</tr>
<tr>
<td>1842</td>
<td>102,987 6 4</td>
</tr>
<tr>
<td>1843</td>
<td>92,333 18 1</td>
</tr>
</tbody>
</table>
GIPPS TO STANLEY.

The expense of the Troops in New Zealand being in each year included, as there is no Military Chest in that Colony. Excluding New Zealand the expense in 1843 was £84,979 7s. 10d.

7. Public Works, Pages 95 to 103.

The sum expended on Public Works was greater in 1843 than in 1842; but the excess was occasioned by the numerous Works in the Port Phillip District, chiefly undertaken for the employment of Immigrants.

8. Legislation, Pages 105 to 115.

In the early part of the year 1843, the last Session was held of the Old Legislative Council, and an important Act passed for the division of the Colony into Electoral Districts, and to regulate the Election of Representatives of the People under the Act of Parliament for the Government of the Colony, 5th and 6th Vict., ch. 76. This Act was sent home by me with My Despatch, No. 53 of the 17th April, 1843, but sufficient time has not elapsed for me to know whether or not it has met the approval of Her Majesty. It was, however, brought immediately into operation in the Colony; and, the Elections being completed, the New Legislative Council met for the despatch of business on the 1st August, 1843.

Up to the 30th September, only two Acts of any importance were passed, namely, 7th Vict., Nos. 3 and 4, the nature and object of which are explained in my Despatch, No. 1 of the 1st January, 1844.

9. Legislative Council, Pages 119 to 121.

The Names of the Members, composing the New Legislative Council, are to be found at Pages 119 to 121. My Despatches, Nos. 112 and 113 of the 18th July, 1843, explain many circumstances connected with the Election of the Elective Members, and the nomination of those who are non elective.

10. Civil Establishment, Pages 123 to 324.

The List of Civil Officers contains 717 names, being 26 less than 1842.

The expense of the Civil Establishments is very nearly the same as in 1842; but extensive reductions have been made since the 30th September, in consequence of the falling off in the Revenue, which began seriously to manifest itself about the months of June and July, 1843.

The statement of these reductions will properly come into the Report, which will accompany the Blue Book of 1844; but in the meantime I may refer to my Despatch, No. 219 of the 31st December, 1843; and, in respect to the Supreme Court, to that of the 1st January, 1844, No. 6, also in respect to the Survey Department to that of the 13th June, 1843, No. 91.


A question has lately been before the Executive Council, respecting the Security which two Officers recently appointed to the Supreme Court ought to give, namely, the Master in Equity and the Prothonotary; and the Council recommended that each should give Security to the amount of £2,000. They have, however, each demurred to this, alleging that, when appointed in England, they were...
not informed that Security would be required from them, and that in this Country it is quite impossible for them to find Securities. The matter will very shortly be brought by me under the consideration of the Secretary of State.

12. Pensions, Pages 331 to 335.

No new Pension has been granted in 1843; and the Pension List has been reduced £50 by the death of Mr. Harpur.

Its present amount is only £1,300, exclusive of some small pensions payable out of the Military Chest, amounting to £61 16s. 6d.

13. Recapitulation of the Establishment, Page 337.

No observation seems necessary under this head.


The Table at Page 353 shews an estimated increase in the Population during the year of 4,137 souls; bringing the Population up to 164,026. It is remarkable, however, that, whilst there has been this increase by Births and Immigration, there has been a decrease in the Adult population, both Male and Female, which can only, I imagine, be explained by the dying off of Convicts. The Males in the Colony are still in number more than double the Females.

15. Ecclesiastical Return, Pages 355 to 374.

The number of Clergymen of all Denominations receiving Salaries from the Government was, by the Blue Book of 1842, 94; and is by that of 1843, 103.

No alterations of importance have occurred in respect to the Religious Establishments of the Colony during the year; but an important question has arisen, respecting the division of the sum of £30,000, secured by Schedule C of the 5th and 6th Vict., Ch. 75, for the support of Public Worship.

On this subject I shall shortly have to address the Secretary of State.*


No system of general Education for the lower Classes has yet been established; the attempt made in 1837 to introduce the Irish, and subsequently in 1839 the British and Foreign System, not having proved successful.

At present the Public Schools for Children of the poorer Classes are for the most part under the management of the Clergy of the different denominations, assistance being rendered to all equally by the Government, under Regulations dated the 24th Sept., 1841, of which a Printed Copy is annexed.

These Regulations were issued, in order to stop a practice which greatly prevailed in the years 1840 and 1841 (especially in the Presbyterian Schools) of charging the Public with half the expense of educating the Children of persons in a condition of life not such as to require eleemosynary assistance.

On the subject of Education, I would refer to the statements attached to my Financial Minutes of the years 1839, 1840 and 1841, respectively laid before the Legislative Council on the 23d July, 1839, the 29th July, 1840, and the 6th July, 1841, particularly the latter, which fully exposes the abuses to which I have alluded.

* Marginal note.—See my Despatch, No. 21 of the 21st January, 1844.
There are three Establishments for Orphans or Destitute Children, maintained entirely at the expense of the Government, One for Male, and one for Female Protestant Children, and a third for Roman Catholics of both sexes.

There is also a School for the Children of Convicts in the Female Factory at Parramatta.

For Children of the higher Classes, there is no deficiency of places of Education.

Of the Schools which may be called public ones, the Sydney College (erroneously called a College) is the best. The King's School at Parramatta, founded on the principle of a Grammar School in England, has, I regret to say, latterly fallen into disrepute, the late Master (a Clergyman of the Church of England) having become Insolvent. The Australian College, founded by Dr. Lang on the Model of the Scotch Schools of the higher class, has also fallen into disrepute, and at one time almost ceased to exist, though efforts have lately been made to restore it.

Of the Private Schools, many deserve to be mentioned with commendation, particularly that of the Revd. Mr. Forrest at Campbelltown, that of Mr. Cape in Sydney, and of Mr. Woolls in Parramatta.

Of the Ladies' Schools, there are also some which maintain a high character.

The recapitulation of private Schools at page 386, if compared with that of the Blue Book for 1842, shews an increase in the year of 61 Schools and of 809 Males, 498 Females, Scholars.

The number of public Schools is increased by 49; and the number of Scholars by 504 Male and 381 Female.

The total number of Schools in the Colony was in 1842, 257; and in 1843, 306.

The number of Scholars was in 1842, 6,196 Male; 4,978 Female; Total 11,174; 1843, 6,700 Male; 5,359 Female; Total, 12,059; which, out of a Population of 164,026 in the present year, gives rather less than one in'every fourteen.

17. Coins, Exchanges, etc., Pages 359, 407.

The monies and Weights in New South Wales are the same as in England.

The Exchange on England does not vary more than it is presumed to do in other Colonies. Good Bills (and especially Treasury Bills) are seldom at a greater discount than three per cent.; they generally bear a premium of from one to four per Cent.

Since my Report on the Blue Book for 1842 was written, a sad revulsion has taken place in the Banking affairs of New South Wales, and all the evils been fearfully realized, which I foresaw as likely to arise out of the extent to which the business of Banking had been carried in the Colony. Two Banks at Sydney have failed, and one at Port Phillip; see my Despatches of the 31st March, and 6th May, 1843, Nos. 40 and 64.

The Coin in the Colony has decreased from £476,867 in 1842 to £439,772 in 1843. Decrease in 12 months, £37,095.

The paper money in circulation was in September, 1842, £192,577; 1843, £155,521; Decrease, £37,056.

At Pages 397 to 405 are given the quarterly Returns which, under an Act of Council (4th Vict, No. 13), are made by the Banks and published in the Colony. These Returns, however, do not shew (as
remarked in my Report on the Blue Book for 1842) what proportion of the Discounted Bills by the Bank may be bad. It is acknowledged that the greater part of them are renewals.

The quantity of Discounted Paper, held by the Banks collectively, was on Sept. 30th, 1842, £2,562,467; in 1843, £2,000,809; Decrease, £561,658.

The Deposits were in 1842, £988,555; in 1843, £812,600; Decrease, £175,955.

18. Imports and Exports, Pages 409 to 449.

The Imports (Port Phillip included) were in 1842, £1,579,795; in 1843, £1,380,481; Decrease, £199,314.

The exports (Port Phillip Included) were in 1842, £1,005,935; in 1843, £1,116,525; Increase, £20,590.

The export of Wool from the whole Colony was, in 1842, 9,557,905 lbs., value £601,055; in 1843, 11,806,706 lbs., value £659,300; Increase 2,308,801 lbs., value £58,245.

This Return shews a large increase in the quantity, but not a corresponding one in value, the price of Wool having fallen in the English Markets.

19. Agriculture, Pages 451 to 455.

The Agricultural Returns are not, I fear, much to be relied on; they give the produce of the Colony as follows:

<table>
<thead>
<tr>
<th>1842</th>
<th>1843</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wheat</td>
<td>Bushels</td>
</tr>
<tr>
<td>Maize</td>
<td>do</td>
</tr>
<tr>
<td>Barley</td>
<td>do</td>
</tr>
<tr>
<td>Oats</td>
<td>do</td>
</tr>
<tr>
<td>Potatoes</td>
<td>Tons</td>
</tr>
<tr>
<td>Tobacco</td>
<td>do</td>
</tr>
<tr>
<td>Hay</td>
<td>do</td>
</tr>
</tbody>
</table>

Prices of all Colonial Produce have greatly fallen within the year.

Return of Grain Imported,

<table>
<thead>
<tr>
<th>1842</th>
<th>1843</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wheat</td>
<td>Bushels</td>
</tr>
<tr>
<td>Maize</td>
<td>do</td>
</tr>
<tr>
<td>Barley, Oats or Pease.</td>
<td>do</td>
</tr>
<tr>
<td>Flour or Biscuit</td>
<td>lbs.</td>
</tr>
<tr>
<td>Rice</td>
<td>do</td>
</tr>
<tr>
<td>Potatoes</td>
<td>Tons</td>
</tr>
</tbody>
</table>

The increase in the importation of Wheat has been considerable, but in Flour and Bread the decrease has been greater.


The Manufactures of the Colony are few and unimportant, Coarse Cloth from inferior Wool being the only one of any consequence.

The only Mines are those of Coal at Newcastle. The quantity raised has decreased considerably within the year.

The value of Whale Oil brought into the Harbours of the Colony was, In 1842, £117,500; In 1843, £55,611.

The Fishery is rapidly declining.


No free grants of Land have been made during the year, except about six or seven acres for public purposes.
The quantity sold has still further decreased since the year 1842, owing to the distressed state of the Colony. The amount received for Land was only £12,016 7s. 9d., exclusive of remission to Naval and Military Settlers.

The total number of acres sold (including those on which remission was made to Naval or Military Settlers) was 6,010.

In respect to Gaols, I beg to refer to my Despatch, No. 219 of the 17th Novr., 1842.

From pages 487 to 498, are given some Miscellaneous Returns lately prepared for the Legislative Council. The following is a list of them:

- 487, Return of Coin in the Colony in each year from 1836 to 1842.
- 488, Returns of the Increase and decrease of the Population of the Colony in the year 1842.
- 489, Return of the value of Imports from 1826 to 1842.
- 490, Return of the value of Exports from 1826 to 1842.
- 491, Return of the number and tonnage of Vessels Inwards, from 1826 to 1842.
- 492, Return of the number and tonnage of Vessels outwards, from 1826 to 1842.
- 493, Return of Land in cultivation, and of the Population from 1833 to 1842.
- 495, Returns of the Exports of Oil and Timber from 1828 to 1842.
- 496, Return of Live stock Imported from 1828 to 1842, and Return of Wool exported from 1822 to 1842.
- 497, Return of Vessels Built and Registered from 1822 to 1842; and Return of Auction Duty and Sales, from 1824 to 1842.
- 498, Return of the sale of Crown Land from 1824 to 1842.

Immigration into the Colony at the public expense has been entirely suspended during the year ended the 30th September, 1843. My Last Despatch on the subject is dated the 9th December, 1843, No. 205.

Government House, Sydney, 14th Jany., 1844. GEO. GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch marked “Confidential,” per ship Honduras.)

My Lord,


I have the honor herewith to forward a List (for the present year) of persons, who are candidates for Office or for advancement in Office in this Colony, as called for by the 8th Paragraph of the “Regulations relative to appointments to Public Offices in the Colonies,” enclosed in your Lordship’s Circular Despatch of the 15th June, 1842.
The List is divided into four Classes:

1. Is a List of persons already in Office, but considered worthy of advancement, either in their own Departments or in any others.

2. Is a List of Persons resident in the Colony, who have been specially recommended to me for employment, either by Your Lordship or by previous Secretaries of State.

3. Is a List of persons resident in the Colony, who, either from my own knowledge of them or from the way in which they have been recommended to me, I consider eligible for employment.

4. Is a List of persons, who, having been displaced from Office for no fault of their own, are Candidates for re-appointment.

I have, &c,

Geo. Gipps.

[Enclosure.]

CONFIDENTIAL Report on the claims of Candidates for advancement or employment in the Colony, agreeably to the instruction contained in the Enclosure to Lord Stanley's Circular of the 15th June, 1842.

Class No. 1.
PERSONS already holding appointments in the Colony, and deemed eligible for advancement to higher Offices.

<table>
<thead>
<tr>
<th>Names</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Therry, Roger (Commissioner of the Court of Requests)</td>
<td>Well qualified for the Office of an Attorney General, in which he acted for two years during the absence of Mr. Plunkett.</td>
</tr>
<tr>
<td>Elyard, William</td>
<td>Chief Clerk, Colonial Secretary's Office.</td>
</tr>
<tr>
<td>Vallack, William</td>
<td>Clerk of the 1st Class, Colonial Secretary's Office.</td>
</tr>
<tr>
<td>Fitzpatrick, Michl.</td>
<td>Clerks of the 2nd Class, Colonial Secretary's Office.</td>
</tr>
<tr>
<td>Greville, Charles</td>
<td>Clerks of the 2nd Class, Auditor General's Office.</td>
</tr>
<tr>
<td>Townsend, John</td>
<td>Clerk to the Attorney General.</td>
</tr>
<tr>
<td>Beverley, F.</td>
<td>Clerks of the 2nd Class, Auditor General's office.</td>
</tr>
<tr>
<td>Cole, Stephen</td>
<td>Clerks of the 3d Class, Auditor General's office.</td>
</tr>
<tr>
<td>Lane, Henry</td>
<td>Clerk of the 3d Class, Post office.</td>
</tr>
<tr>
<td>Symonds, C. H.</td>
<td>Assistant Surveyors.</td>
</tr>
<tr>
<td>Tingcombe, Henry</td>
<td>Chief Clerk in the Surveyor General's Office.</td>
</tr>
<tr>
<td>Usher, Samuel</td>
<td>Clerk of the Bench, Merton (see Class No. 3).</td>
</tr>
<tr>
<td>Townsend, J. S.</td>
<td>Clerk of the Bench, Raymond Terrace.</td>
</tr>
<tr>
<td>Galloway, J. J.</td>
<td></td>
</tr>
<tr>
<td>Halloran, Henry</td>
<td></td>
</tr>
<tr>
<td>Callender, Henry</td>
<td></td>
</tr>
<tr>
<td>Miller, T. Digby</td>
<td></td>
</tr>
</tbody>
</table>
### GIPPS TO STANLEY.

Class No. 2.

**Resident in the Colony, not as yet employed in the Public Service, but recommended to me for employment by the Secretary of State.**

<table>
<thead>
<tr>
<th>Names</th>
<th>Date of recommendation</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pery, Honble. Wm.</td>
<td></td>
<td>Now Superintendent of Agriculture at Norfolk Island, but recommended for removal to New South Wales, as an opportunity may offer.</td>
</tr>
<tr>
<td>Rolleston, Phillip</td>
<td>4th Jan., 1842</td>
<td>This gentleman and his brother were specially recommended to me by Lord Stanley on the application of Sir Robert Peel. The appointment of Mr. Christopher Rolleston to be a Commissioner of Crown Lands has been confirmed; Mr. Philip Rolleston is still unemployed.</td>
</tr>
<tr>
<td>Massey, Hamon</td>
<td>31st May, 1842</td>
<td>Recommended as well as his brother by Lord Stanley; his Brother has been confirmed as a Commissioner of Crown Lands; Mr. Hamon Massey is still unemployed.</td>
</tr>
<tr>
<td>Gore, St. George</td>
<td></td>
<td>Lately employed as an Inspector of Distilleries, a situation far beneath what by birth and Education he had a right to expect, though the best which I could give him. He resigned it in order to take Office under the District Council of Parramatta.</td>
</tr>
<tr>
<td>Gore, Ralph</td>
<td>28th Aug., 1839</td>
<td></td>
</tr>
<tr>
<td>Gore, Robert</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maxwell, Alexr.</td>
<td>17th March, 1840</td>
<td></td>
</tr>
<tr>
<td>Russell, Captn. Wm.</td>
<td>5th July, 1838</td>
<td>Late of the 28th Regt.</td>
</tr>
<tr>
<td></td>
<td>7th March, 1839</td>
<td></td>
</tr>
<tr>
<td></td>
<td>June, 1840</td>
<td></td>
</tr>
<tr>
<td>Jesse, Charles</td>
<td>4th May, 1841</td>
<td></td>
</tr>
<tr>
<td>Clarke, Charles</td>
<td>17th Aug.,</td>
<td></td>
</tr>
<tr>
<td>Kearney, Edwd. B.</td>
<td>3d Augt., 1841</td>
<td>(Mr. James Stephen.)</td>
</tr>
<tr>
<td>Thompson, James</td>
<td>2d Sept.,</td>
<td></td>
</tr>
<tr>
<td>Sladen, Charles</td>
<td>10th June</td>
<td></td>
</tr>
<tr>
<td>Robertson, J. C.</td>
<td>17th June, 1843</td>
<td></td>
</tr>
<tr>
<td>Williams, Charles</td>
<td>8th Decr.</td>
<td></td>
</tr>
</tbody>
</table>
Class No. 3.

Residents in the Colony who are considered eligible for employment, though not specially introduced to my notice by the Secretary of State.

Names. Remarks.

Firebrace, Major These gentlemen were the bearers of the usual Lithographed letters from the Secretary of State, though not specially recommended for employment.

Wiseman, —


Stirling, John Eligible for any superior appointment. He would have been made by me Acting Sheriff on the death of Mr. Macquoid, but that the Chief Justice advised the appointment of a Professional Lawyer.

Smythe, George Late a Merchant in Sydney.

Callender, Henry Now Clerk of the Bench at Merton (see Class No. 1); recommended to me by Sir James Graham. He is a steady, well behaved young man, but not yet sufficiently experienced for advancement to a post much higher than that which he now fills.

Shadforth, Robert Son of Lieut. Colonel Shadforth, late of the 57th Regt.

C. T. Chrichton Well qualified for any employment, and a Member of one of the English Universities.

Class No. 4.

Candidates for employment, or re-appointment, in consequence of having been displaced from Situations, either by reductions or appointments from home.

Names. Remarks.

Johnstone, Major Police Magistrates reduced (See my Despatch No. 219 of the 31st Decr., 1843).

Sullivan, Major

Faunce, Captain

Cook, Thomas

Browne, H. H.

Stewart, George

North, Samuel

Crummer, Major

Allman, John

Plunkett, Patrick

Hardy, John R.

Furlong, Capt.

Holden, Alfred

Robertson, J. A.

Raymond, Saml. Late Deputy Sheriff at Port Phillip superseded from home by Lord Stanley's Despatch No. 65 of the 23d February, 1842. See my Despatch No. 219 of the 31st December, 1843.

Cheeke, Alfred Lately Crown Prosecutor

Fenwick, N. A. Police Magistrate, Geelong

French, Acheson do Grange

Agnew, Edward Clerk

Ginn, Henry Clerk of Works

In addition to the above there are several Officers (six or eight at least) who are in reality supernumerary in the Surveyor General's Department, and for whom I am very anxious to find other employment.
STANLEY TO GIPPS.

LORD STANLEY TO SIR GEORGE GIPPS.  
(Despatch No. 8, per ship Mary Sharp.)

Sir, Downing Street, 16th January, 1844.

I transmit to you herewith the Copy of a letter addressed by the Board of Treasury to Deputy Commissary General Miller in New South Wales, announcing his appointment to succeed Deputy Commissary General Foote at Hong Kong; and I have to request that you will do everything in your power for giving effect to the intentions of the Lords Commissioners of the Treasury in regard to the transfer of Mr. Miller's charge to the officers next in rank on the station, and to his early departure from New South Wales to Hong Kong.

I have, &c.,

STANLEY.

[Enclosure.]  

MR. O. E. TREVELYAN TO DEP. COMMISSARY-GENERAL MILLER.

Sir, Treasury Chambers, 6th January, 1844.

I am commanded by the Lords Commissioners of Her Majesty's Treasury to acquaint you that my Lords having received intelligence of the decease of Deputy Commissary General Foote at Hong Kong, they have been pleased to select you for service at that Station, with a view to your eventually succeeding to the charge of the Department, whenever it may become no longer necessary to employ an Officer of the rank of Commissary General in the management of the Commissariat duties in the China Command.

You will immediately on receipt of this Letter solicit the permission of the Officer Commanding and the Governor for your transferring to the Commissariat Officer, next in rank to you upon the Station, the charge of the Commissariat Department in New South Wales, as early as the convenience of the service will admit, and for your then proceeding without loss of time to Hong Kong. On your arrival at that Station you will report yourself to Commissary General Coffin.

My Lords have been induced to select you for this new and important service in consequence of the able and satisfactory manner in which you have conducted the service which, for several years past, has been confided to you in New South Wales.

Upon this occasion, my Lords authorise you to retain from the Balance of Cash in your hands such sum, by way of Imprest and upon account, as you may deem to be necessary for defraying your voyage to Hong Kong, and a further sum equal to three months' pay in advance if you should wish to receive it.

My Lords have appointed Deputy Commissary General Ramsay for the charge in New South Wales, and he will proceed to his destination by an early opportunity; but, as the service at Hong Kong pressingly requires that the vacancy at that station should be filled without delay, you will not wait for Mr. Ramsay's arrival at Sydney, but will repair to China by the first opportunity that may occur after you shall have delivered over temporarily the charge to the next Senior Officer upon the Station.

You will notify to this Board the receipt of this communication and the date of your departure from New South Wales for Hong Kong.

I have, &c.,

C. E. TREVELYAN.
SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 17, per ship Honduras; acknowledged by lord Stanley, 30th November, 1844, and 29th January, 1845.)

My Lord, Government House, 17th January, 1844.

I have the honor to transmit herewith a copy of an Address to myself from the Legislative Council of this Colony, voted on the 20th December last, and presented to me a few days afterwards, wherein are embodied certain Resolutions of the Council on the subject of the Sale of Crown Lands in the Colony. The Address was adopted on the Report of a Select Committee appointed by the Council on the 15th August, "to enquire into the provisions of an Act passed in the 5th and 6th years of the Reign of Queen Victoria, for regulating the price of Land in the Australasian Colonies, so far as they apply to New South Wales."

I also enclose a copy of the Report of the Committee, with the evidence taken before it.

The principal points contained in the Report of the Committee are the following:—

1st. The Committee entirely disapprove of the upset price of 20s. per acre, established by the Crown Lands Act of 1842.

2ndly. The Committee consider "that the principle, upon which the Crown Lands of this Colony have been appropriated to the introduction of Immigrants, is radically wrong," and that "a fatal error" was committed in the appropriation of the Revenue derived from the sale of Land to the purposes of Immigration.

3rdly. The Committee recommend that no part whatever of the Land Fund be applied to that purpose; but that the Crown Lands be made the medium of introducing Immigrants, without reference to sale.

4thly. The Committee also recommended that a remission in the purchase of Land be made to persons arriving in the Colony for the purpose of settling in it, in the following proportions:—

To a Cabin Passenger, £80; To an Intermediate do, £40; To a Steerage do, £25.

On comparing the Resolutions of the Council with the Report of the Committee, your Lordship will perceive that the Council adopt the opinions of the Committee, in respect to the first and last of the above mentioned points; but pass over in silence the Committee's unqualified disapproval of the system, which has been established in this Colony for many years, the system, I mean, of applying the proceeds of the sales of Crown Lands to the purposes of Immigration.

I would willingly confine myself to the bare transmission of these documents to Your Lordship, if I thought my public duty did not require me to offer some comments on them; Your
Lordship, however, will, I apprehend, expect me to express my own opinions on the points brought into discussion by the Documents, which I forward; and I feel that I ought not to withhold them.

The Report may, I believe, be considered as a protest on the part of the Committee against the doctrines on Colonization, which led to the passing of the Crown Lands Act, 5th and 6th Vict., Ch. 36; in commenting on it, therefore, it may be convenient that I should commence by reminding Your Lordship that I have never been a blind follower of what is called the Theory of Systematic Colonization, or the South Australian System; and that, though I fully admit many of the principles on which that theory is founded, I have ever regarded as visionary the attempt to carry out the principles of the theory equally in all Colonies, notwithstanding the differences which they present to the most superficial observer. I have particularly, in respect to New South Wales, objected (and objected successfully) to the abolition of Sales by Auction; and still more strongly have I endeavoured to shew how inapplicable to New South Wales, or indeed to any pastoral Country, is what is called the theory of concentration or the anti-dispersion principle. I am also strongly persuaded that the business of Colonization should be retained in the hands of Government, and not delegated to Companies; but with these exceptions (and perhaps a few others of minor importance), I have, during the whole course of my Government, expressed my adherence to the principles which have grown into public favor during the last 12 or 14 years, and which may now, I believe, be said to be adopted by Her Majesty’s Government. Your Lordship consequently will not be surprised to learn that I am constrained to differ, in many particulars, from the Report of the Select Committee, and also from the Resolutions of the Council.

The Report nevertheless speaks, I readily acknowledge, the sentiments of a vast majority of persons of all Classes in New South Wales, and especially it does this in respect to the upset price of land. The persons may be comparatively few, who go the length of ascribing the present embarrassments of the Colonists to the rise in the Minimum price of Land; but the opinion very generally prevails that the Colony will not prosper, until the old Minimum price be reestablished. There are few perhaps who, like the Surveyor General of New South Wales (see his evidence page 5), wish to see the old system of free grants re-established; but there are very many who think that the prosperity of the Colony will be proportioned to the facility which may be afforded in it for the acquisition of Land.
The following passage in the Report of the Committee may perhaps be taken as a fair illustration of the principle, which pervades it:

"The Waste Lands of the Territory cannot be considered a source of profit to the Community, until they fall into the occupation of private individuals. If, by the application of private means and industry, they become sources of profit to individuals, they will benefit the Community at large. The Country at large therefore, and even the Empire itself, is interested in bringing all its Territory under the management of private industry; and that can only be done by allowing a certain facility in obtaining it to private individuals. So far, however, as Australia is concerned, there is no such facility; on the contrary, there is a prohibitory price on the soil, and, until it is withdrawn, the Australian Colonies cannot prosper."

I need scarcely observe that this is a revival of the arguments, which led to the excessive grants to individuals, now generally considered to form in nearly every Colony the greatest bar to improvement.

What the Committee moreover wish for is, I apprehend, not a facility in the mere occupation of land, for that is made easy enough under the Crown Lands Occupation Act (2d Vict., No. 27), but a facility in the acquisition of the fee simple of it. The meaning of the term "certain facility" is not explained by the Committee; but it may perhaps be gathered from a preceding paragraph, in which the Lands are divided into four classes, estimated respectively at 6d., 2s. 6d., 5s., and 20s. per acre. This classification and valuation cannot be strictly correct; because, allowing the poorest Land in the Colony to be worth 6d. an acre, and the richest only 20s., there must still be Land of every intermediate value; but, even if for the sake of argument the classification be adopted, it does not seem to me to be in any way conclusive against the policy of a high Minimum price.

Many Persons in New South Wales fall into the strange error of considering the establishment of a Minimum price of 20s. equivalent to a declaration on the part of the British Government that the generality of the Waste Land of Australia is worth 20s. an acre; whereas the Government has done no more than declare it will not for the present sell any Land which is not worth 20s. an acre.

Daily complaints are put forth of the hardship of being governed by a Secretary of State, who does not know that 3 acres of land are required in Australia to feed a Sheep; or who, knowing this fact, persists in maintaining that these three acres are worth 20s. each; and the barren rock or scrub, as it is called, is
derisively pointed at as the Land, which Parliament at the in-
stance of the Secretary of State has declared to be worth 20s. an
acre. I, however, on the contrary consider the Minimum price
of 20s. per acre to amount only to a declaration on the part of
Parliament that none but the best Land shall at present be sold;
and I am not prepared to admit that such a determination on the
part of the Legislature is unwise. If the object were solely to
raise a revenue, I might say otherwise; but I stated, in my place
in the old Legislative Council on the 9th Sept., 1842, that “I
am entirely opposed to the selling of large breadths of Land at a
low price, for the purpose of raising a temporary Revenue. I am
an advocate for selling at a comparatively high price, or not at
all”; and the events, which have occurred in this Colony since
Sept., 1842, are not of a character to cause me to alter these
opinions. The quantity of Land in the market, the property of
individuals, is not diminished; nor is it, in my opinion, in any
way desirable to revive (if that were possible) the spirit of
speculation, which led to such extensive sales of land between
the years 1835 and 1841.

The main argument advanced by the Council is that Land for
grazing purposes is not worth 20s., or even 5s. per acre; and this
may very readily be admitted; but it does not thence follow that
the Government should sell it for 5s. It seems to me premature
to pronounce that Land in Australia is valuable only with refer-
ence to its capacity for feeding Sheep; and I see no reason to
conclude that the Proprietor of Sheep, which are fed upon any
Land, ought to be the proprietor also of the Land itself. If in-
deed Settlers were positively prohibited, or effectually precluded
from depasturing their Stock on Crown Lands without pur-
chasing them, then there would be reason to demand that the
price of Crown Lands should be reduced; but so long as the
present system is followed, which permits the occupation of
Crown Lands on easy terms, the demand for a reduction in the
price of them cannot in my opinion be supported; at any rate,
it cannot be supported on the principle, advanced by the Com-
mittee, “that the Waste Lands of the territory cannot be con-
sidered a source of profit to the Community, until they fall into
the occupation of private individuals,” for it is notorious that, by
means of the system of authorized squatting, the waste Lands of
the territory are a source of great profit to the Community.

It is undoubtedly very much to be desired that the Colonists,
and even the Squatters, should possess a fixed interest in some
portion of the Lands they occupy, for otherwise they will have
no inducement to improve them; but it is, in my opinion, by no
means desirable for them to become the proprietors of extensive tracts of Land, which they have no means whatever of improving.

A high Minimum price acts as an inhibition on the Sale of Land, which is not worth improving; and Lands, which are destined for ages to remain in an unimproved state, are in my opinion better in the hands of Government than of private individuals. I am not at all prepared to admit that a tract of unimproved Country, say any tract of 10,000 or 20,000 acres of unimproved Land, yields at the present moment more profit to the community in the hands of an individual than the same tract of Land would in the hands of the Government; I rather believe the contrary to be the fact. The chief cause of the prosperity of New South Wales is perhaps that a profit can be derived from land even in its unimproved state, and without the outlay on it of any Capital. Instead of complaining that three acres of unimproved land are required to feed a Sheep, we ought to be thankful that, from nearly every acre of land, a pound of Wool can be annually produced, without the necessity of improving it. I doubt whether any article, equal in value to a pound of Wool, can be derived with equal facility from an acre of unimproved land in the thickly wooded parts of America. The Wool of New South Wales may, under this point of view, be compared to the Timber of Canada, each being the produce of unimproved land; but Timber is only available in the neighbourhood of Navigable Rivers, whilst Wool will, in Australia, bear a land carriage of 300 Miles. It is the superior productiveness of unimproved Land, which will long continue to form the chief attraction which Australia presents to Emigrants from Europe, an attraction greater, I believe, than any which Canada, even with Land at 1s. 6d. per acre, can offer.

The Squatting System has its evils no doubt; and I shall take an early opportunity of bringing the most prominent of them under Your Lordship's notice; but one (and a very great) advantage of it is that it enables and, so long as it be persevered in, will enable the Government to uphold a high upset price of Land (without injury to the Community), and thereby to prevent the premature alienation from the Crown of vast tracts of Land, as yet only valuable for its pasturage. The high price of land and the Squatting System seem to me naturally to go together, the one supports the other, and either would be indefensible without the other. Together they form (as far as I can judge) the best system on which the Domain of the Crown can, under existing circumstances, be administered; Sheep increase with great rapidity, and consequently new lands are occupied to a vast
extent every year. If it be once admitted that the price of the Fee simple of these Lands is to be fixed with reference only to the profit which they yield to the owners of the Sheep, the price must, and especially as we recede from the Sea coast, rapidly decline, until it become less per acre than the smallest Coin in use in the Country.

The increase in the upset price of Land has, it may be admitted, been one of the causes of the diminished productiveness of the Land Fund during the last two years; but it is far from having been the sole cause of it. So long as the Mania for speculating in Land lasted, Land was purchased without much reference to the price placed upon it by the Government. The Mania has happily passed away, and but little Land would now be sold, even were the upset price reduced to what it was in 1837, 5s. per acre. If the raising of the upset price of Land tended in any degree to abate the Mania, then it must be considered to have conferred a most important benefit on the Colony.

It is argued by many that a high upset price is unnecessary, because Land will always fetch its value, let the upset price be what it may. But even the Surveyor General of New South Wales admits (see his answer to question No. 67, page 7) that this can only be the case when the supply is regulated by the demand, not when large quantities of land are forced into the market; and the bringing of Land into the market in proper quantities is a matter so intimately connected with the question of an upset price, that I trust I may be allowed to refer to what I stated on this head to the Council on the 9th Sept., 1842; "It is well known to you all, gentlemen, that I have never myself advocated a very high Minimum price. What I have always laboured to establish is, that the distinction should be well preserved between the Minimum price and the upset price.* I think the Government should abstain from bringing large quantities of Land into the Market; and that the upset price of all land should be regulated by what was the last selling price of land in the same locality, or of equal value; and, if this principle were steadily acted upon, it would be of little importance what the Minimum might be. A Minimum price, however, has the effect of relieving the Government from the inconvenient pressure which would without it be felt, so long as the present erroneous views respecting the sale of land prevail in the Colony. Public opinion is in favor of a low price; the Officers of the Government, as Members of the Public, and partaking of the feelings of the Public, are in favor of a low price; and, under such circumstances, I esteem it

* Marginal note.—The Act of Parliament (5 and 6 Vict., ch. 36) does not, however, do this.
fortunate that the Parliament of Great Britain is about to take out of my hands a discretionary power, which I cannot exercise in a manner to satisfy my own conscience, or in the way which I verily believe most advantageous to the Public, without placing myself in opposition to the wishes of the Colonists, and being obliged constantly to overrule the opinions of those Officers, upon whose assistance and cordial co-operation I must mainly rely in carrying on the business of Government. I have no doubt that the increase in the Minimum price will ultimately be found beneficial."

I will advert to only one other of the arguments, which are advanced in favor of a reduction in the Minimum price of Land. It is said that the high Minimum price deters people of capital from now coming to this Colony. I fear there are far more powerful causes at present in operation to deter people of Capital from coming to New South Wales; and that our frightful Insolvent List has more to do with it than the refusal of Government to sell bad Land, whilst there is in the Market an immense quantity of the same article, the property of Individuals unsaleable at almost any price. Nevertheless, when vast numbers of persons agree in any opinion (however erroneous), the mere concurrence of opinion will (for a time at least) produce an effect nearly as great as if the opinion were well founded; and I consequently am not prepared to deny that the opinion, so generally expressed, that the Colony has been, or is about to be ruined by the rise in the Minimum price of Land, may deter some people from adopting it as their home.

As I shall have occasion in another Despatch to address your Lordship on the subject of the Administration of the Wild Lands of the Colony, particularly of those beyond the Boundaries of Location, I will now pass to the consideration of that part of the Report of the Committee, which relates to Emigration.

The Committee roundly and unhesitatingly condemn everything which has been done during the last ten years; and denounce, as a fatal error, the appropriation of the Revenue derived from the sale of Land to the purposes of Immigration. It was forgotten, says the Report, that Capital and Labour, as elements of Colonization, should exist in a new Country in proportion to each other; and it was a fatal mistake to send the one out of the Country to bring the other in. With all possible respect for the gentlemen who composed the Committee, I must maintain that no such forgetfulness is chargeable on the Government, and that no such mistake was committed; the chief cause of all the evil that occurred was not the sending of Capital out of the Colony, but the too rapid flow of Capital into it.
Capital was not sent out of this Colony to bring Emigrants in; the only Capital sent out of it during the last ten years has been exported in the shape of Wool, Oil, or Commodities of a similar nature, which it was desirable to export; which if retained in the Colony could not have enriched it; and there is now, after three years of reaction, a greater quantity of Capital of every kind in the Colony, in proportion to its population, than there was ten years ago. The Committee do not apparently distinguish between Capital and Credit. The real mischief is not that the Colony has got too little Capital, but that it has had too much Credit, not that it has exported too much Capital, but that it has imported too much on Credit; that Individuals (not the Government) have become deeply indebted during the course of the last eight or ten years to parties for the most part resident in England. The evil is that individuals were found in New South Wales weak enough to accept Loans offered to them at a higher rate of Interest than they could afford to pay. The proceeds of these Loans were applied in part by the borrowers to the purchase of Lands from the Crown; and, after they had thus passed into the hands of the Crown, were by the Crown applied to the introduction of Emigrants. That the Land Mania was an evil may be allowed; but an evil which the Government had neither the power to raise, nor to stop; it arose partly out of the unwise vauntings, which were made of the Colony, by individuals in England, and especially before the Transportation Committee of 1837, but was more immediately caused by the eagerness with which Capital was sent here for investment by Companies, as well as private individuals; but the Mania, whilst productive of many evils, has at least had the good effect of adding 50,000 souls to our population, and of changing, in the almost incredibly short space of six years, the whole character of the Colony, of converting it in fact from a Convict Colony to a free one. Had there been no mania, the Government could only have got these 50,000 souls by incurring a debt of perhaps £500,000; but by aid of the Mania, and the intervention of Banks and Loan Companies, the Government has got them in exchange for Land. A debt indeed has been incurred; but it is a debt, or rather a collection of debts, owing by one set of individuals to another set of individuals, instead of a debt owing by the Colony collectively or in other words by the Government. Had a measure* been adopted, which was brought forward in the late Session of the Legislative Council for the purpose, as was stated, of "bringing to the aid of individuals the Credit of the Colony," the effect of

* Marginal note.—See my Despatch No. 208 of the 14th Dec., 1843.
1844.
17 Jan.

General result of land mania.

it would probably have been to reverse the present state of things, and to transfer to the public in general, the debts now owing by individuals.

Though, therefore, it is in my opinion incorrect to say that Capital has been sent out of the Colony in order to bring Emigrants into it, it would be quite correct to say that the money, now owing by individuals in New South Wales to individuals or companies in England, has in great part been expended in bringing Emigrants into the Country; the ultimate effect is indeed the same, or nearly the same, as if the borrowers had received, not money but Immigrants from the Lenders; The Government has only acted as an Agent between the parties, Land being the medium through which it conducted its agency; but Land has fallen in value, and consequently the parties, who received it from the Government, or rather those who now hold it, are losers.

But had no Emigrants been imported, would the Colony have been in a better position than it now is? I confidently answer, No. Had the money received by Government for Land not been spent on Immigration, it must either have been hoarded, or spent in some other way. It is needless, however, to consider what might have been the effect of hoarding it; for the Colony demanded that it should be spent. My Predecessor pursued for a time the hoarding system, but was obliged to relinquish it at the call of the Public.

But it is now said by some that the money, produced by the sale of Land, should have been spent on improvements, and Emigrants brought to the Colony by means of money borrowed in England. To this I can only answer that, if in 1839 or 1840, when the Government had very large sums of money in the Sydney Banks, it had been proposed not to spend that money, but to raise a Loan in England for the purposes of Immigration, the Party proposing it would have been laughed at.

Again it is said by others that the Government encouraged the Mania by keeping large balances* in the Banks, and by demanding interest on them. That the existence of these large balances tended to keep the Land Mania alive is, I fear, true; but, as these balances existed, the Government was bound to demand interest on them, interest being at that time (I will not say whether wisely or not) paid by the Banks on the smallest balances belonging to individuals. What would have been thought or said of the Government, if it had not demanded interest? As, however, a good deal of importance has of late been attached

* Note 39.
to the fact of the Government having demanded interest on these balances, it may be well to state that the whole amount credited to the Government by the Banks collectively, was too small to have produced any great effect on the immense speculations which were then going on in the Colony. The amount of interest received was as follows:—

1837, £2,502 1s. 11d.; 1838, £2,987 13s. 1d.; 1839, £1,568 1s. 6d.; 1840, £1,543 16s. 6d.; 1841, £9,318 10s. 3d.; 1842, £3,949 0s. 9d.; 1843, £1,262 3s. 6d.—£23,131 7s. 6d., or on an average of £3,304 9s. 3d. per annum.

It is not necessary for my own defence, or the defence of this Government, that I take up this argument; for it would be quite sufficient for me to say that, in spending the Money on Immigration, I obeyed not only the Mandate of Her Majesty's Government, but also the call of the People of the Colony; for there certainly never was in any Colony so direct an agreement between the public voice and the voice of the Government, both Local and Imperial, as that which existed in New South Wales from 1838 to 1842, in respect to the expenditure on Immigration of the funds derived from the sale of Land.

It is not without the greatest surprise that I see the propriety of the proceeding now called in question; and I cannot help recording my solemn repudiation of the new doctrine.

The proposal to make the Crown Lands the Medium of introducing Emigrants, without reference to sale, seems not only to involve a contemplated return to the System of Free Grants, and to all the inconveniences, collusions, frauds and evasions, which have invariably arisen, whenever it has been attempted to enforce any other condition in the alienation of Crown Lands than the single one of payment in ready money; but it further seems almost equivalent to a proposal to return to a system of Barter, the direct exchange, that is to say, of Land for Immigrants, and to a renunciation of the use of the universal Medium of Civilized Life, Money.

The Committee, nevertheless, do not seem to contemplate the entire abolition of the sale of Land; for they recommend that a remission of £80 in the purchase of Land should be made to each Cabin Passenger arriving in the Colony; a remission of £40 to an intermediate one, and of £25 to a Steerage Passenger; but how remission in the purchase of Land is to be made altogether without reference to the sale of it is not explained. The adoption of remission on the Scale proposed would increase by about 20 per cent. the expense of introducing ordinary Immigrants, and would extend the Bounty System to a class of persons, never as yet in New South Wales considered entitled to
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the benefit of it. Moreover, as the mere fact of having come to the Colony as a Cabin Passenger would entitle the Emigrant to the higher bounty, a door would be opened to numerous kinds of fraud; and it is not easy to conceive, with what variety of persons the Cabins of Vessels coming to New South Wales would thenceforward be filled.

I have, &c.,

Geo. Gipps.

[Enclosures.]

[Copies of these papers will be found in the "Votes and Proceedings" of the legislative council.]

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 21, per ship Honduras; acknowledged by Lord Stanley, 24th August, 1844.)

My Lord,

Government House, 21st Jan., 1844.

In my Despatch No. 8 of the 1st instant, I stated that I should have occasion separately to address your Lordship respecting the distribution of the £30,000, appropriated by Schedule C of the 5th and 6th Vict., Ch. 76, to the support of Public Worship in New South Wales. I now propose to bring this subject under your Lordship's consideration.

On the first day of the present year, a meeting of the Roman Catholic Inhabitants of the Colony took place in the Church of St. Mary at Sydney, the most Revd. Dr. Polding being in the chair, at which various Resolutions were passed in support of the position maintained by the Roman Catholics that the funds, granted by Parliament, should be divided amongst the different religious communities in proportion to the numbers of each. On the 8th of the same month, Doctor Polding and three other gentlemen, deputed by the meeting, waited upon me in order to communicate to me the Resolutions, which had been adopted, and to ascertain whether I would support the principle on which they were founded. In the course of the conversation which ensued, I expressly stated that I could pledge myself to no particular course of proceeding, but must await the directions of Her Majesty's Government. I added, however, that, if the different communions could agree on any principle of division, I should feel very much disposed to accede to and support that principle. The substance of my reply was communicated to an adjourned meeting of the Catholics on the 9th of the present month, and, on the 11th, I received from Dr. Polding the letter, of which I enclose a Copy.
I received, likewise, on the 18th instant, a letter from the Lord Bishop of Australia on the same subject, namely, the division of the Parliamentary grant of £30,000; and of this letter I also enclose a copy.

In order to enable your Lordship fully to judge of the question which is at issue, it may be proper that I should briefly recapitulate the manner in which aid for the purposes of Public Worship is at present extended to the four principal religious Communities in the Colony, namely: The Church of England; The Presbyterians; The Wesleyan Methodists; The Roman Catholics.

Prior to the passing of the Church Act in 1836 (7th Wm. IV, No. 3), the sums appropriated from year to year out of the Public Revenue for the support of Public Worship cannot be said to have been distributed among the different denominations on any fixed principle.

I find that, in 1835, the sums stood thus:

- Church of England, £8,759 18s. 8d.;
- Presbyterians, £1,757 8s. 3d.;
- Wesleyans, ———;
- Roman Catholics, £1,256 1s. 1d.—£11,773 8s. 0d.

The principle of the Church Act of 1836 was:

1st. That, thenceforward Salaries should be granted equally to Clergymen of all denominations, provided they obtained Churches and Congregations, the Maximum salary to any Clergyman being £200 a year.

2ndly. That aid should be given out of the public funds towards the building of Churches and Parsonages of any denomination, provided that the aid so given should not be more than £1,000, nor ever exceed the sum raised by voluntary donations for the same purpose.

3rdly. That all then existing Salaries or advantages should be guaranteed to the Clergymen actually in possession of them (Sec. 11).

Your Lordship, therefore, will perceive that, though this Act prospectively placed the different Churches on the same footing in respect to the pecuniary assistance from the Government, it did not actually or immediately do so; neither did it establish the principle that aid from the Government should be afforded to the different Communions, in proportion only to the numerical strength of each; for,

1st. It left the Clergy of the Church of England in possession (at least for their lives) of higher emoluments, which they enjoyed prior to the passing of the Act;

2ndly. It gave to a Clergyman, who had 5,000 Parishioners, a Salary no higher than to one who had only 500;
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1844.
21 Jan.

Effects of church act.

Expenditure under church act.

Estimates for 1844.

Reduction of estimates by council.

Refusal to consider new claims under church act.

Proposed guarantee of superior salaries.

3rdly. It afforded aid towards the building of Churches, not in proportion to the numbers for whom such Churches were to be built, but in that of the sums raised towards the building of each Church by private subscription.

Under the system established by the Church Act, the Expenditure went on yearly increasing, until, in 1842, it amounted to £31,092 11s. 9d., being,

For Salaries ... ... ... ... ... ... £21,276 16 4
For aid towards the building of Churches ... 9,815 15 5

£31,092 11 9

In the Estimates laid before the Council for 1844, these sums respectively were increased to,

Salaries ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... 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England; and the emoluments, which they receive beyond the
Maximum Salary (£200 a year) of the Church Act, are as
follows:—

<table>
<thead>
<tr>
<th></th>
<th>Salary</th>
<th>Excess above £200 a year.</th>
</tr>
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<tbody>
<tr>
<td>Bishop of Australia</td>
<td>£2,000</td>
<td>£1,800</td>
</tr>
<tr>
<td>2 Clergymen at £460</td>
<td>920</td>
<td>520</td>
</tr>
<tr>
<td>1 &quot; £350</td>
<td>350</td>
<td>150</td>
</tr>
<tr>
<td>7 &quot; £290</td>
<td>1,780</td>
<td>350</td>
</tr>
</tbody>
</table>

Total £3,120

Upon the same principle, I think it would be
right (though not required by the Church
Act) to secure to the Head of the Roman
Catholic Church, the Salary, which he
actually receives (£500 a year), being £300
in excess of the highest Salary allowed
under the Church Act £300

Total £3,420

So that, even if the principle of numerical proportion be
adopted, it seems to me that for the present at least the sum of
£3,120 should be deducted from the £30,000 before the division
is made, and the remainder or £26,880 only be divided among the
different Communions in proportion to their numbers. A divi-
sion, however, according to numerical proportion only, would
have, I fear, a tendency to introduce a spirit of proselytism
amongst us; and to add importance to the question already
agitated, respecting the proportions in which persons of different
Communions are sent to the Colony in Emigrant ships.

The Bishop of Australia has urged upon Your Lordship some
other objections to the principle of mere numbers, which will not
escape Your Lordship's observation.

All Protestant States encourage Matrimony amongst their
Clergy; the Church of Rome absolutely prohibits it; and this dif-
ference may perhaps be justly taken into consideration, when a
Protestant State is making provision for a Catholic Clergy. It
might not be unreasonable, under this point of view, to allot to
Catholic Ministers in general two thirds only, or at most three
courths, of what would be allotted to an equal number of Pro-
testant Clergymen. Between individual Ministers of the same
Church, I, however, would not advise that any difference be made
on account of their being married or single.

Another principle, which might be suggested, is that which is,
I believe, in diplomacy called the “Uti possidetis,” that is to say,
that the division should be made in proportion to what each Com-
munion received either during the year 1843, or on the average
of the eight years which have elapsed since the Church Act came
into operation.
The principle, on which the division is made, being once established, it should, I think, either be perpetual or subject only to revision after intervals not less than ten years each.

I will only beg permission to add that, though on general principles disposed to advocate religious equality, I am not prepared to maintain that, in a matter of this nature, a distinction in favor of the Established Religion of the Empire could not be made without injustice to the rest.

I have, &c.,

GEO. GIPPS.

P.S.—According to my first suggestion, vizt., that of continuing to existing Clergymen the rights secured to them by the 11th Cl. of the 7th Gul. IV, No. 3, the division for the next ten years would stand thus:

Church of England, £18,573; Church of Scotland, £2,810; Wesleyans, £691; Roman Catholics, £7,926—£30,000.

[Enclosure No. 1.]

MOST REVD. DR. POLDING TO SIR GEORGE GIPPS.

Sir, Sydney, 11th January, 1844.

As Chairman of a Meeting of the Catholic Community, commenced on the 1st and adjourned until the 9th Instant, I have the honor to transmit the following Resolutions to Your Excellency:

Resolved,

"That the thanks of this Meeting are due and hereby respectfully tendered to His Excellency the Governor, for the statement and exposition courteously made by His Excellency to the Deputation on the 8th Instant, and now communicated to the Meeting."

Resolved,

"That a copy of the third and fourth Resolutions passed at our Meeting on the first Instant, be submitted to His Excellency the Governor, as expressing the feelings of the Catholic Community regarding the appropriation of the Funds reserved for Public Worship, with a respectful request that He may be pleased to transmit them to the Right Honorable Her Majesty's Principal Secretary of State for the Colonies."

I beg leave to assure your Excellency of the great pleasure I derive from the discharge of this duty, and I have, &c.

J. B. POLDING.

[Sub-enclosure.]

Third Resolution.

THAT the only principle which ought in equity to be adopted or admitted in the distribution of those Funds raised from the People at large, and intended for their benefit in general, is to dispense them, according to the numerical proportion of the several denominations claiming a right to them under the Church Act; this we hold to be a doctrine not to be controverted; it is founded in natural justice, which dictates "to give every man his due"; it is in accordance with the great law of Revelation "that we should deal unto others as we would that others deal unto us."

Fourth Resolution.

THAT, according to the last Census of 1841, the population of the Colony amounts to 130,856.

Of these 125,806 claim and receive aid under the Church Act, consisting of 73,727 Church of England, 35,690 Catholics, 13,153 Presbyterians, 5,690 Wesleyans.
GIPPS TO STANLEY.

That, £30,000 being allocated by Act of Parliament for Public Worship, the Estimates presented by His Excellency for 1844 are:

<table>
<thead>
<tr>
<th>宗教派别</th>
<th>金额</th>
</tr>
</thead>
<tbody>
<tr>
<td>Church of England</td>
<td>£14,022 10 0</td>
</tr>
<tr>
<td>Presbyterians</td>
<td>3,500 0 0</td>
</tr>
<tr>
<td>Wesleyans</td>
<td>1,250 0 0</td>
</tr>
<tr>
<td>Catholics</td>
<td>5,000 0 0</td>
</tr>
</tbody>
</table>

leaving a surplus of £6,227 10s.; and whereas the just and equitable distribution, if founded in numerical proportion, should be—

<table>
<thead>
<tr>
<th>宗教派别</th>
<th>金额</th>
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<tbody>
<tr>
<td>For the Church of England</td>
<td>£17,581 2 4</td>
</tr>
<tr>
<td>Presbyterians</td>
<td>3,136 9 11</td>
</tr>
<tr>
<td>Wesleyans</td>
<td>771 13 3</td>
</tr>
<tr>
<td>Catholics</td>
<td>8,510 14 4</td>
</tr>
</tbody>
</table>

£29,999 19 10

That, whereas the Wesleyans and Presbyterians are to receive by the Estimates of 1844 more than by their numerical proportion they are entitled, and whereas the Church of England and the Catholic Church receive less than they may justly claim, be it resolved that a Deputation wait upon the Governor to request His Excellency to reserve such part of the surplus of £6,227 10s. as "pro rata parte" the Catholics may claim according to their numbers, viz., £3,092 13s. 1d. to provide for the Salaries of Clergymen, and the building of Places of Worship, under the Church Act in the year 1844.

[BEnclosure No. 2.] BISHOP OF AUSTRALIA TO SIR GEORGE GIPPS.

Sir,

Sydney, 18th January, 1844.

Since the promulgation of the Act (5 and 6 Vict., Cap. 76) by which, under Schedule C, the annual sum of £30,000 is devoted from the revenues of the Colony to the service of "Public Worship," I have been sensible of the necessity of addressing Your Excellency upon the subject of the distribution of that amount. But my almost continual absence since June last, and my occupation in so many various quarters in the affairs of the Church, have hitherto interfered with my carrying that purpose into effect. Until my return to Sydney on Monday last, I did not become fully acquainted with the proceedings of the Roman Catholic body, proposing that the amount allotted for the support of religion should be divided proportionably to the respective numbers of the adherents of each form of religion as determined by the last Census.

I. It will be necessary first of all to free the question from the risk of misapprehension by observing that this proposal involves a direct departure from the principle of the Act of Council, 7 Will. 4, No. 3. That Act made in effect a perpetual appropriation of an indefinite portion of the General Revenue towards the erection of Churches, and the maintenance of Clergymen and Teachers, and the distribution of this amount was not immediately dependent on the relative numbers attached to one or the other communion, but upon the extent to which their separate congregations might comply with the conditions fixed by the Act.

II. Under this State, the Roman Clergy could not but attain great comparative advantage from their state of celibacy, when the means of support allowed them were the same as were enjoyed by others who had liberty to marry. Still more will the advantage be turned to their side if they obtain, in common with others, the command of an annual sum, fixed only with reference to population. As parties are circumstanced, it evidently appears that to grant a sum of money in proportion to the numbers of adherents on either side is a totally different thing from providing fairly for the maintenance of Clergymen in the same proportion.
III. I decline calling any public meeting for the purpose of addressing the Government upon this subject; because the spectacle of different branches of the Church engaging in a public controversy upon such a question would be very unseemly. But I am enabled to state that the prevailing opinion among persons, who have most carefully studied the question and are most firmly attached to the Church of England, is that, whatever may nominally be the case, it will be impossible, in practice, by legislative skill or administrative care, to make the proposed system work otherwise than injuriously to our interests. I have myself long since arrived at this conclusion as to the operation of the Church Act, from having observed that what we account the errors of the Church of Rome become the very means by which, when placed upon a par with others, she is enabled at once to prosecute her never-changing purpose of placing herself above them. The celibacy of her clergy, to which a previous allusion was made, enables her by the possession of equal means to employ them in much larger numbers, and so to carry on with superior effect a system of proselytism. This also is no more than a particular example of the working of a law which is universal; and the operation of which will become more and more discernible as occasions shall arise for pressing into active service those other peculiarities of her system, which are regarded, by those who agree in opinion with me, as its peculiar errors.

IV. Although I am seriously impressed with a persuasion of the existence of such a danger, it is not in my power to suggest means for its removal, so long as the present Colonial religious system is to be supported. I should greatly prefer on behalf of the Church of England that the question as to the distribution of the funds, provided under Schedule C, should be left to the determination of Her Majesty's Government.

W. G. Australia.

SIR GEORGE GIPPS TO LORD STANLEY.

My Lord,

Government House, 22 January, 1844.

I have had the honor to receive your lordship's Despatch No. 22, per ship Honduras.

My Lord, Government House, 22 January, 1844.

I have had the honor to receive your lordship's Despatch No. 4 (Military) of the 22d July, 1843, directing me to report my opinion on the expediency of erecting a Barrack at Melbourne, the cost of which was estimated by Lieut. Colonel Barney of the Royal Engineers in 1840 at £25,000; and I have in obedience to your Lordship's commands to report as follows:—

The Barrack estimated for by Lieut. Colonel Barney seems to have been intended for 200 men; but, under ordinary circumstances, and in time of peace, I do not consider it probable that more than one Company, or at the utmost 100 men and three Officers are likely to be required in the District; and a Barrack to accommodate them, enclosed within a substantial Wall, might, I think, owing to the reduced price both of labour and materials, now be erected for something less than one third of the proposed outlay, or for between £7,000 and £8,000.
GIPPS TO STANLEY.

I have conferred with the Lieutenant General Commanding Her Majesty's Troops in these Colonies and with Lieut. Colonel Gordon of the Royal Engineers, and they both agree with me in this opinion.

The number of Troops in the Port Phillip District has never as yet exceeded 61 Rank and File; but Troops cannot altogether be dispensed with, and therefore it is very desirable that a Barrack, capable of containing from 50 to 100 men, should be erected.

The men are at present lodged in Huts or other temporary buildings, belonging to the Local Government; and, though consisting of only 49 Rank and File, are divided into three Bodies. A Cottage, belonging equally to the Local Government, is occupied by one Officer, and the second Officer receives, I believe, Lodging Money.

In consequence of the Extraordinary fall which has recently taken place at Port Phillip in the price both of Labour and Materials, I think it possible that a sufficient Barrack (say for 60 or 70 men) might be erected for even half the money I have mentioned; but I have said £7,000 or £8,000, because it is scarcely probable that prices will long continue in their present state of depression.

As there are no Convicts in the Port Phillip District, the work must be entirely performed by free labour. I have, &c.,

GEO. GIPPS.

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LORD STANLEY TO SIR GEORGE GIPPS.

(A circular despatch per ship Georgetown.)

Sir,

Downing Street, 23rd January, 1844.

With reference to my Circular Dispatch of the 1st of November, transmitting copies of a Revised Edition of the Rules and Regulations for the Colonial Service, I now enclose two leaves, numbered 127-28 and 161-62, respectively, which are to be substituted for the pages at present bearing those Numbers.

I have, &c.,

STANLEY.

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SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 24, per ship Honduras.)

My Lord,

Government House, 24th January, 1844.

I have had the honor to receive Your Lordship's Despatch No. 125 of the 15th August, 1843, wherein I am desired, on the application of Ann Skillman, to furnish a certificate of the burial of her Brother, Mr. E. Skillman, late of Parramatta in this Colony.

I have, &c.,

STANLEY.
In reply, I have the honor to enclose the required Certificate; and, for further information, a copy also of a Memorandum which I have received on this subject from Mr. North, late Police Magistrate of Windsor in this Colony.

Your Lordship will perceive by these documents that Mr. Edward Skillman died suddenly at Windsor on the 24th June, 1842; that an Inquest on his body, in the absence of the Coroner, was held by Mr. North; that his death was ascertained to have been caused by a disease of the heart; and that Mr. North remitted out of the proceeds of the effects of the deceased, after payment of his debts and funeral expenses, the sum of £5 6s. to the Registrar of this Colony.

I have, &c.,

[Enclosure No. 1.]

A copy of the certificate is not available.

[Enclosure No. 2.]

MEMORANDUM.


Edward Skillman died suddenly at his lodgings in this Town on the 24th of June, 1842.

In the absence of the Coroner, I held an enquiry on his body, and, a Post Mortem examination having been made by Surgeon Stewart, it was ascertained that death was caused by disease of the Heart. The depositions taken by me were duly forwarded to the proper Officer (Her Majesty's Attorney General); and, as it did not appear that the deceased Skillman had any friends or relatives in this Colony, I communicated the circumstance to the Registrar of the Supreme Court, acquainting him that, from papers I had seen, I believed Skillman was a native of Wye or of Hythe. Subsequently the few articles of property possessed by Skillman were sold by me, under the authority of the Registrar, to defray his landlord's bill and funeral expenses; and the balance, after defraying these accounts, was remitted by me to the Registrar on the 30th Sept., 1842; the amount was only £5 6s.

Some books (Account Books) apparently of no value are still in possession together with some Letters and papers, which can be transmitted to Skillman's relatives, should they desire it.

From the examination I made of his papers, I find that he has a brother and other relatives at Wye, and that he formerly kept a Draper's Shop at that place.

S. North, J.P., late Police Magistrate.

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SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 25, per ship Honduras; acknowledged by Lord Stanley, 15th July, 1844.)

My Lord,


I have the honor herewith to forward a Petition, which has been addressed to Her Most Gracious Majesty by 1,515 persons resident in the District of Port Phillip, complaining of the
GIPPS TO STANLEY.

removal of Mr. John Walpole Willis from the Office of Resident Judge; and praying that Her Majesty may be graciously pleased to order that an enquiry may be made into the circumstances attendant on his removal.

I have, &c.,

Geo. Gipps.

[Enclosure.]

[A copy of this petition will be found in a volume in series IV.]

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 10, per ship Mary Sharp.)

Sir, Downing Street, 26 January, 1844. 26 Jan.

I have received your Dispatch No. 90 of the 13th of June, 1843, reporting the circumstances under which you had removed Mr. Edward Mayne from the office of Commissioner of Crown Lands in the District of Liverpool Plains, and had appointed Mr. W. H. Wright as his successor on the reduced Salary of Three hundred and sixty five pounds per annum.

I have, &c.,

Stanley.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 11, per ship Mary Sharp.)

Sir, Downing Street, 27 January, 1844. 27 Jan.

I have received and have laid before The Queen your Dispatch, dated the 16th August, 1843, No. 128, enclosing the copy of a notice which you had caused to be issued, fixing, subject to the approval of Her Majesty, the style and Precedence of the speaker of the Legislative Council of New South Wales.

I am commanded by Her Majesty to signify to you Her approval of the course taken by you on that subject.

I have, &c.,

Stanley.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 26, per ship Honduras; acknowledged by lord Stanley, 10th July, 1844.)


I have the honor herewith to forward a Memorial, which has been addressed to Your Lordship by Dr. D. J. Tierney, M.D., in consequence (as I believe) of my having been forced to inform him that it is not in my power to appoint him to any situation under the Government of this Colony.
Dr. Tierney came to New South Wales in 1842 in medical charge of the Emigrants by the Ship "Sir Charles Napier," and his conduct on board that Vessel is advantageously spoken of in the concluding passage of my Despatch No. 111, of the 26th June, 1842. I regret, however, it is not in my power to recommend him for employment in the public service.

GEO. GIPPS.

[Enclosure.]

THE Memorial of Daniel Joseph Tierney, M.D., Surgeon Superintendent of the Immigrant Ship Sir Charles Napier,
To the Right Honourable Lord Stanley, Her Majesty's Secretary of State for the Colonies,
Pitt Street, Sydney, N.S.W., 17 Jan'y, 1844.

Your Memorialist begs leave respectfully to bring under the notice of your Lordship the following circumstances:—

Your Memorialist Sailed from Liverpool on the Sixth of November, 1841, as Surgeon Superintendent of the Ship Sir Charles Napier, having in charge two hundred and forty Immigrants bound for Sydney, New South Wales, for which vessel Messrs. Brown and Harrison were the Agents in Liverpool, and to whom your Memorialist paid the Sum of twenty pounds for his passage. On the arrival of the Vessel at Sydney, the Board of Immigration reported to the Colonial Government that the Charterers of the Ship were not deserving of the Government Bounty, in consequence of the gross immorality of the Immigrants on board and the unsatisfactory nature of the Certificates produced in favour of the individual Immigrants; and also that the grossest frauds had been practised by the agents (in Liverpool) of Messrs. Reid and Co. of Glasgow. Your Memorialist afforded every information required by the Board and made known to them the existence of these gross irregularities, by which he incurred the displeasure of the Importers' Agents in Sydney, who refused to refund him the sum of twenty pounds which he had paid for his passage to Sydney, and which he was informed by the Immigration agent in this city had been wrongfully paid over to the Charterers of the ship.

His Excellency the Governor was pleased to express his approbation of the Conduct of your Memorialist and regretted he had no influence with the agents to induce them to refund the Sum claimed, and which has not since been paid.

Your Memorialist begs leave respectfully to acquaint your Lordship that he was offered the twenty pounds by Mr. Alexander (one of the agents in Sydney) if he your Memorialist would make a favourable report to the Government of the vessel, crew and Immigrants, but the bribe was disdainfully refused; and your Memorialist told this circumstance to the Members of the Immigration Board in presence of Mr. Alexander, when Mr. A. called him an informer and said he was acting a base part by his employers.

Your Memorialist, having from a sense of duty exposed the worthlessness of the Immigrants and the fraud of the agents, has been the means of saving the Government an expenditure of Two thousand pounds which would otherwise have been paid in the Shape of Bounty money.
Under these circumstances, your Memorialist conceives he is entitled to some Consideration on the part of Government; and, as the field of practice in Sydney is already well filled by members of the Medical profession, he entertains the hope that your Lordship will please to recommend him to some Colonial appointment at the discretion of His Excellency the Governor, should Your Lordship deem his conduct worthy of reward. And Your Memorialist as in duty bound will ever pray,

D. J. Tierney, M.D.

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LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 12, per ship Mary Sharp.)

Sir,

Downing Street, 28 January, 1844.

I have received from Mr. Justice Stephen a Letter enclosing the first Chapter of a Work,* which he is publishing entitled "An Introduction to the Practice of the Supreme Court of New South Wales"; And I have to request that you will convey to Mr. Stephen my thanks for that Communication.

I am, &c.,

STANLEY.

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LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch marked "Military, No. 7," per ship Mary Sharp.)

Sir,

Downing Street, 29th January, 1844.

I have the honor to acknowledge the receipt of your despatch, No. 122 of the 3rd of August last, with its enclosures, reporting that, in consequence of an application which had been made to you by the Inhabitants of Wellington, Port Nicholson, New Zealand, for the assistance of a Military Force, in consequence of certain collisions which had taken place between the Natives of the Middle Island and the Settlers at Port Nelson, you had dispatched a party of the 80th Regiment to that Colony, with instructions for landing them, should it be deemed necessary; and I have to convey to you my approval of the steps which you have taken on this occasion.

I have, &c.,

STANLEY.

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LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 13, per ship Mary Sharp.)

Sir,

Downing Street, 29 January, 1844.

I have received your Dispatch, No. 123 of the 9th of August last, reporting the Meeting of the New Legislative Council and its first Proceedings; And I have been much gratified to observe the good feeling which appears to have pervaded that Body at a moment of acknowledged difficulty. I am, &c.,

STANLEY.

* Note 40.
1844.
29 Jan.

Remission on purchase of land recommended for D. C. F. Scott.

Reasons for refusal of remission.

Reasons for delay in applying for remission.

HISTORICAL RECORDS OF AUSTRALIA.

Sir George Gipps to Lord Stanley.

(Despatch No. 27, per ship Honduras; acknowledged by Lord Stanley, 18th August 1844.)

My Lord,

Government House, 29th January, 1844.

Captain David C. F. Scott, late of the 3d Regiment of Bombay light Cavalry, having failed, in a point of informality only, to get the usual remission in the purchase of Land, on becoming a Settler in New South Wales, I am induced at his request to recommend his case for the favorable consideration of Your Lordship, and to request that I may be authorized to make to him the usual remission, notwithstanding the 5th Clause* of the Regulations, dated Downing Street, the 1st August, 1838.

Captain Scott, after having been for some period in New South Wales on leave of absence, resigned his Commission on the 24th March, 1840, for the purpose of becoming a Settler; but, owing to his alleged ignorance of the Regulations and the difficulty of communicating with India, he did not present the Certificate, required by the 5th Clause of the Regulations referred to, until the 11th May, 1843, and was consequently refused the indulgence to which he would otherwise have been entitled.

I enclose a Copy of a letter addressed by Captain Scott to the Secretary of this Colony, explaining the causes of the delay; and a copy also of the Certificate which he at length procured from the Adjutant General of the Bombay Army. I have, &c.,

Geo. Gipps.

[Enclosure No. 1.]

Captain Scott to Colonial Secretary Thomson.

Sir,

Bengalla, 2nd January, 1844.

Referring to your letter dated the 27th May, 1843, conveying to me the expression of the regret of His Excellency the Governor that he could not sanction the allowance to me of the remission money due to me in the purchase of Crown Lands as a retired Captain of the Honorable Company Service.

I would still beg to urge my respectful request that, under the peculiar circumstances of my case, His Excellency the Governor would admit of a representation being made to the Home Government in my favor.

I would beg to bring to His Excellency's notice that, for the first five years of my residence in this Colony, I was on the full pay of my Regiment, being merely absent from it on Furlough, and that I afterwards retired from the Service for the Sole and only purpose of becoming a Settler. A long period elapsed before my papers arrived from India, and, as I was totally ignorant of the Government Regulation, which required all applications similar to mine to be presented within the year, I wasted some months in search of Land suitable for my purpose; these causes occasioned a delay of about Eighteen months, or six Months only beyond the time laid down by Government Regulations.

* Note 41.
GIPPS TO STANLEY.

After a Service of Twenty three years, I trust so trifling a cause will not prevent my obtaining the Remission Money, according to my late Rank and length of Service; and I hope His Excellency the Governor will not deem me unreasonable in thus bringing my case again under his notice. Joined with my earnest entreaty that it may meet with His Excellency's approval and recommendation to the Home Government.

I have, &c.,

D. C. F. Scott,
Late Captain, 3 Regt., Bombay Light Cavalry.

[Enclosure No. 2.]

CERTIFICATE.

This is to certify that Captain D. C. F. Scott, late of the 3rd Regiment, Bombay Light Cavalry, was permitted to resign the Honble Company's Service at his own request for the purpose of becoming a Settler in New South Wales; his character has always been that of an Officer and Gentleman, and that he was in the service of the Honble. Company from the 25 day of May, 1824, until the date of his resignation on the 24th March, 1840.

Bombay, 28 December, 1841.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 14, per ship Mary Sharp.)

Sir,
Downing Street, 30 January, 1844.

I have to acknowledge the receipt of your Dispatch, dated the 6th of September, 1843, No. 140, forwarding a Petition addressed to The Queen by the Widow and Children of the late Mr. John Batman of Port Phillip, praying that, in consideration of their losses and sufferings, they may receive a grant of Land in that District.

You will acquaint the Memorialists that I have laid their Petition before The Queen but that Her Majesty has no power to accede to the prayer of it.

I have, &c.,

Stanley.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 28, per ship Honduras; acknowledged by lord Stanley, 4th September, 1844.)

My Lord,
Government House, 30th January, 1844.

I have the honor herewith to forward a letter, which has been addressed to Your Lordship by Mr. Sidney Stephen (Brother of Mr. Justice Stephen, one of the Puisne Judges of this Colony) claiming Your Lordship's intervention in a Land case wherein he is concerned, and which in different shapes has been before this Government since the year 1829.
As Mr. Stephen's letter is dated the 26th June, 1843, it is necessary for me in the first instance to explain that, a single copy of it only having been furnished, Mr. Stephen was requested to furnish, as is usual, a Duplicate and Triplicate of it, as well as of the voluminous papers attached to it, which Duplicates and Triplicates were not received until the 16th instant, some correspondence having in the mean time occurred, in respect to the offer to him (under the advice of the Solicitor General) of £100, as hereinafter to be noticed.

Mr. Stephen's case is as follows:

In the year 1828, the late Church and School Corporation offered for Lease or sale by tender, amongst other Lands, the Glebe of Windsor, consisting of 360 acres; the advertisement (dated 28th October, 1828) stated, amongst other conditions, that, "to the person who shall offer the highest rent, a transferable Lease for 21 years will be made, and he may at any time within that period purchase the fee simple, paying the amount of 20 years' rent."

The tender of Mr. Stephen being the highest, he was on the 1st January following (1829) declared to be the purchaser of the Lease of the 360 acres for 21 years, at the annual rent of £57 10s., with the power of claiming at any time, within the 21 years, the fee simple of the Land, on payment of the sum of £1,150, in addition to all rent which might have accrued.

Mr. Stephen was not called on by the terms of the advertisement to pay any deposit, nor did he pay any, nor up to the present day has he ever paid one farthing on account of Rent or purchase money, either to the Church and School Corporation or to the Government, which succeeded to the rights of the Corporation in 1832.

For nearly four years, reckoned from the 1st January, 1829, it cannot be traced that anything was done in consequence of this sale and purchase, neither the Purchaser nor the Vendors seeking to enforce performance of the agreement; in September, 1832, however, an application was made to Mr. Stephen for Rent, which he declined to pay on the grounds that no lease had been executed, and that he had derived no benefit from the Land. Mr. Stephen has, however, at different times since 1832, sought earnestly to get the Government to make to him a regular grant of the Land.

Between 1832 and 1842, the settlement of the matter seems to have been retarded solely by unaccountable delays in the Department of the Surveyor General; and it was not until the year 1842 that the circumstances of the case were brought seriously before me (the previous correspondence having related merely
to the delays alluded to). A difficulty, however, then turned up, which does not seem in any way to have been before contemplated, namely, that a grant for the same Land had been issued so long ago as the year 1804; and, consequently, that the Crown had no power to issue a second grant, or could only do so after getting rid of the first (see Colonial Secretary’s Letter to Mr. Stephen, 14th July, 1842, in Mr. Stephen’s appendix).

The case then assumed a new aspect, and the question in reality became, whether Mr. Stephen could claim compensation for loss or damage sustained by him on account of the inability of the Government to fulfil the agreement made by the Corporation in 1829; and, this question being referred to the Law Officers, I was advised by them, under a case and opinion, of which I enclose a Copy, to tender by way of amends some small amount to Mr. Stephen; and I accordingly tendered him £100 (enclosure No. 3) which he refused (enclosure No. 4).

Bearing in mind all the circumstances of the case, I considered the tender of £100 to be quite sufficient; indeed, but for the delays which took place in the Department of the Surveyor General, I should not have considered Mr. Stephen entitled to any compensation; for, as before observed, he never has paid a farthing, neither deposit, rent, nor purchase money. For several years (3 or 4 at least) after the acceptance of his tender, he shewed no desire to complete his bargain; and, though he has frequently since and at times urgently pressed the Government to complete his Deed of Grant, it is not unreasonable to suppose that he may have been influenced in urging his claim, or allowing it to lie dormant, by the rise or fall in the presumed value of the Land between 1839 and 1842; when Land was very dear, he was extremely anxious to complete his purchase; but I doubt whether at the present moment, were I in a condition to make him a grant of it, he would be very anxious to obtain it, paying for it only the sum of £1,150, that is to say, the purchase money only, without reference to the 15 years' rent due on it.

The Police Magistrate of Windsor, in a letter dated the 7th Septr., 1843, of which a copy is enclosed, estimated the value of it at that time at from £2 to £3 per acre, or about £900 for the 360 acres.

It remains for me to explain the nature of the prior grant of this Land.

In 1804, Governor King granted large quantities of Land under the name of "Commons"* to several of the villages then established in the County of Cumberland, and, amongst the rest, 5,130 acres of Land as a Common to the Village (or Town) of Richmond, the Village or Town† of Windsor not having then been

* Note 42. † Note 43.
laid out. Some years afterwards, on the laying out of the Village of Windsor, Governor Macquarie called a meeting of the Parties interested in the Common, and personally proposed to them that, out of the Lands composing it, 400 acres should be set aside as a Glebe; and this was accordingly done by a resolution of the Inhabitants, and a Deed of Grant of the 400 acres was subsequently issued by Sir Thomas Brisbane, in favor of the Chaplain for the time being, on the 1st November, 1822, without any reference whatever to the previous grant by Governor King.

In 1829, or thereabouts, it was decided* that the large Glebes of 400 acres should be reduced to 40 acres; and, in consequence of this decision, 40 acres out of the 400 acres were set aside as a reduced Glebe, and the remaining 360 acres sold, or bargained to be sold, in the manner before stated to Mr. Sidney Stephen.

Doubts have been thrown on the validity of the Grants of Governor King; and I shall shortly have to bring the case of all these Commons (comprehending altogether 36,000 acres of Land) under your Lordship's consideration; but I do not think it right to defer until then the transmission of Mr. Stephen's application.

I may further mention as a reason why I cannot consider Mr. Stephen entitled to complain of injury at the hands of the Government, that, at the same time that he purchased the Windsor Glebe, he also purchased, or rather agreed to purchase, and precisely on similar conditions, a part of the Glebe of Parramatta, consisting of 300 acres, for £350 or £17 10s. per annum; and, though the Government is perfectly able and anxious to put him legally into possession of this Land, it has never been able to make him take possession of it, or to obtain from him payment of the Rent, the arrears of which alone, amounted on the 30th June, 1843, to £262 10s.

Mr. Sidney Stephen to Lord Stanley.
Sydney, New South Wales, 26th June, 1843.

The great importance of the subject, to myself and my very large and dependent family, renders it necessary for me humbly to appeal to Your Lordship for a review of a decision, lately come to by His Excellency Sir George Gipps, on my claim to certain land called the Windsor Glebe, to which I think myself entitled, without any demand for interest on the purchase money from an earlier period than the date of my Deed.

The correspondence in this case is rather voluminous; but Your Lordship will find a sufficient analysis of the facts, and guide to the

* Marginal note.—See my Despatch No. 23 of the 1st Feb., 1844.
GIPPS TO STANLEY.

1844.  30 Jan.

Appeal by S. Stephen against decision of Sir G. Gipps.

points in controversy, in the enclosed paper or memorandum marked A; to which Sir George Gipps' reply will be found in the enclosed copy of a letter from the Colonial Secretary marked B. I beg leave distinctly to say that this application is not made to Your Lordship by way of complaint. I entertain so strong a persuasion that Sir George Gipps has taken an erroneous view of my case, that I feel it to be a duty to my children to obtain a more correct and liberal decision elsewhere. And, with the step, which I thus necessarily take accordingly, I feel equally satisfied, from Sir George's known manliness and candour, that he will not quarrel, especially, since I have at least in my favor the decision of a former Governor.

His Excellency, I am sure, has meant no more than to do strictly and rigorously in my case what he conceived to be his duty. But, with the most sincere respect for him and his motives, I must submit to Your Lordship that, in this instance, His Excellency has plainly acted on the principle that it is right to protect the interests of the Crown at all hazards; that is, wherever law will allow it. Whereas I trust Your Lordship will see fit, only so far to uphold them, as shall be consistent with the reasonable expectations of individuals, and with the most perfect fairness and equity.

I have, &c,

SIDNEY STEPHEN.

[Sub-enclosure No. 1.]

MR. S. STEPHEN TO COLONIAL SECRETARY THOMSON.

Sir, Hobarton, 31st January, 1842.

In consequence of the very great delay, which has taken place in the execution of the Lease of The Windsor Glebe, I am induced to address you, and to request that I may be informed whether The Surveyor General has as yet furnished you with the description of the land, in obedience to His Excellency's urgent directions "that at Windsor no further time should be lost in completing the Deed." As this matter must have escaped your recollection, owing to my absence from the Colony for the last two years and a half, although for some years before I am aware that I troubled all the Chief Officers of Her Majesty's Government in New South Wales too much by my repeated entreaties to have the matter settled to admit of its being then forgotten, I will briefly State that, So long ago as Sir Richard Bourke's administration of the Government, after repeated references by him to the Several Officers concerned, such as the then Agent for the Church and School Corporation (Mr. Fisher), to the then Attorney General (Mr. Kinchela), and others, the whole was considered as Settled. The Deed was drawn, Submitted by His Excellency for approval, approved, and directions given for the description of the land to be furnished. Upon His present Excellency's arrival, the whole matter was reconsidered, the opinion of Mr. Kinchela again taken (as Law adviser to the Crown), Mr. Macpherson's report made as Agent to the Church and School Corporation, and, after renewed and repeated directions given to the Acting Surveyor General (Mr. Perry) to send it to the Colonial Secretary's Office, I was informed by Mr. Perry in July or August, 1839, that he had forwarded to one of the Surveyors at or near Windsor positive orders to measure the land without any delay. What with the annoyances of having to trouble so many individuals with my incessant applications, which has been as unpleasant to me as to them, I have been extremely harassed by anxiety about having a matter, which may involve my Family in endless litigation and expense, unsettled. When I purchased it, I had made arrangements for the purchase of land adjoining, which separated The Glebe land from the Road, and on which there was a House and other Farm buildings. I could then have purchased that land for about three pounds per acre; but now it has got into other hands, and I believe there is an Inn built upon it. It would therefore be useless to me. Together, I could have let the two pieces of land for a long term upon very advantageous conditions. But this I cannot now do. I will not dwell longer upon what I have lost; as complaint is useless. But I mention it in the hope that I may not suffer still greater injury by continued delay.

As I can address His Excellency Sir George Gipps only through you, I shall feel obliged by your submitting to him my application that His Excellency would be pleased to order that the Deed be executed without further delay.

I have, &c,

SIDNEY STEPHEN.
HISTORICAL RECORDS OF AUSTRALIA.

[Sub-enclosure No. 2.]

Colonial Secretary Thomson to Mr. S. Stephen.

New South Wales, Colonial Secretary's Office, Sydney, 17th March, 1842.

Reasons for delay in issue of deed of lease.

Sir, Colonial Secretary's Office, Sydney, 17th March, 1842.

I have had the honor to receive and lay before the Governor your letter of 21st January last, complaining of the delay which has occurred in completing your Title to the 360 acres of land near Windsor in the Colony, leased by you for twenty-one years from the late Church and School Corporation; and, in reply, I am directed to inform you, that the death of one Surveyor, the ill health of a Second, the temporary absence from the Colony of a third, each of whom had orders to attend to the duty, have conspired with other circumstances to retard the measurement of the land in question; but I am enabled to add that instructions have been once more given for having this matter immediately attended to.

I have, &c,

E. Deas Thomson.

[Sub-enclosure No. 3.]

Colonial Secretary Thomson to Mr. S. Stephen.

New South Wales, Colonial Secretary's Office, Sydney, 14th July, 1842.

Voiding of previous decisions.

Sir, Colonial Secretary's Office, Sydney, 14th July, 1842.

Referring to my letter of the 17th March last in reply to yours of the 21st January last, complaining of the delay which has occurred in completing your Title to the Three hundred and Sixty acres of land near Windsor, leased by you from the late Church and School Corporation in 1829 with a view to purchase, I do myself the honor to inform you that, in proceeding to settle this long standing case, the Governor's attention has been drawn to a fact not (it is believed) alluded to by you, which appears to His Excellency to vitiate the whole of the proceedings between yourself and the late Church and School Corporation, and to render them void ab initio.

The fact alluded to is that the whole of the Land, constituting or reputed to constitute the Windsor Glebe, was granted as long ago as the year 1804 by Governor King to certain Persons in trust for the use of the Inhabitants as a common; consequently that the Subsequent grant of it as a Glebe was invalid, as well as all proceedings entered into by the Corporation in consequence of such Grant.

Legal doubts it is true exist whether the Deed issued by Governor King can have any validity after the decease of the Trustees to whom it was given, there being no Sufficient provision for the continuance of the Trust; but it does not seem to His Excellency that the circumstance can in any way give validity to the Deed issued in 1822, the Trustees being then in existence and their trust a valid one.

It may be true also that the Trustees were made aware of the intention to issue the Second Deed, and that the Inhabitants even gave their consent to the issue of it, as far as their consent could be obtained or signified; but such consent was not confirmed, as it ought to have been by a Surrender of the Land on the part of the Trustees, nor even recorded in any official manner, and moreover it was given only in order to assist in making a provision (by way of a Glebe) for the Incumbent of the Parish and not with a view to the alienation of the Land.

Under all these Circumstances and bearing moreover in mind that you have never paid any money either to the Corporation or the Government on account of your purchase, His Excellency is of opinion that He has no power to confirm it, and His Excellency must on the contrary look on the whole transaction as void from the beginning and of no effect.

I have, &c,

E. Deas Thomson.

[Sub-enclosure No. 4.]

Mr. S. Stephen to Colonial Secretary Thomson.

Hobart Town, 1st Oct., 1842.

Protest by S. Stephen against decision of Sir G. Gipps.

Sir, Hobart Town, 1st Oct., 1842.

I have the honor to acknowledge the rec't of your Letter of the 11th July last, which reached me but a few days before I left this for Port Philip: from which I have just returned. I cannot but express my surprise at hearing that any other claim has been set up to the Windsor Glebe, after its having been in the possession of the Minister of Windsor and fenced and partly cultivated some years before the Grant to him in 1822. It seems impossible to conceive that this portion of Land could ever have constituted a part of the Common, as the Trustees would surely have preferred their claim before, and as the Government could not have forgotten in 1822 that it had been already granted comparatively so short a time before as 1804. Besides, The Charts would then have shown what constituted the common; so that no such mistake could have arisen. I have seen both the old and the recent Charts, and in none of them is the Glebe represented as forming part of the common. But, even if it did, the long acquiescence of the Trustees (even had it been granted to them in fee, which it was not) would be both a legal and equitable Bar to their claim; as the minister had possession in 1820, and continued in such possession till January, 1829; ever since which, I have been in possession; altogether a period of 22 years.
Though I have been the applicant, yet I consider, that it is on their behalf, as well as my own, which the Lands of the Church and School Corporation were revested in His late Majesty by the Act 5 Wm. 4, No. 11, "that their contracts should be fulfilled.'

His Excellency must be aware that in no case can a purchaser be required to pay for the Deed itself will show that I have for a very long time been led naturally and reasonably to consider that question as Settled. But, if it were not so, I am sure No demand has ever been made of any Such rent, and I have been led to rely Securely on the repeated directions of Sir R. Bourke, and of His Excellency himself about the Deed, when His Excellency said he had considered the Subject, and both himself and Mr. Fisher agreed that, as I had not had the beneficial occupation of the Land, I should not be charged with rent or Interest until the Deed was executed; and His Excellency said that, as under the above mentioned act there could be no difficulty about the Title, if I would prepare the Deed, he would submit it for the approval of the Law Officers of the Crown (The possession, which I had had, was a loss and not an advantage, for I could not underlet, until I had a Deed).

The Deed was accordingly prepared and forwarded to your office, when after a reference to the proper officer of your department it was Submitted to His Excellency, who directed that the Deed should be forwarded to the Law Officers of the Crown for their perusal. They perused and approved it, and it was then referred to Mr. Fisher (the agent), who also Signified his approval. By this Deed, it will be seen that the first payment of rent was to be made at some future day "the first next." His Excellency then ordered it to be engrossed, and presented to him for Execution without delay. Delay upon delay took place, until His Excellency's departure; very Soon after His Excellency Sir George Gipps arrived, I waited upon him and complained of the delay. Since which the Deed has taken the round of other references to Mr. McPherson (Mr. Fisher's Successor), Dr. Kinchela, and others, and it has been confirmed by them all; and, in all this interval, I have never heard that the original decision of Sir Richard Bourke, as to the payment of the Rent, was to be rescinded. No demand has ever been made of any Such rent, and I have been led to rely Securely on the repeated directions of Sir R. Bourke, and of His Excellency Sir George Gipps, to have the Deed prepared forthwith for his Signature. Reference to the Deed itself will Show that I have for a very long time been led naturally and reasonably to consider that question as Settled. But, if it were not so, I am sure His Excellency must be aware that in no case can a purchaser be required to pay for Land, or a Tenant to pay rent, until a Conveyance or lease is executed.

I do not regard mine as a common claim; For it is made the condition under which the Lands of the Church and School Corporation were revested in His late Majesty by the Act 5 Wm. 4, No. 11, "that their contracts should be fulfilled." Though I have been the applicant, yet I consider, that it is on their behalf, as well as my own.
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Protest by
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decision of
Sir G. Gipps.

Should His Excellency require any information relative to this matter, I should be happy to furnish it; and, in the meantime, I would respectfully urge that nothing should be done against my claim, until I shall have had an opportunity of being heard, though I feel convinced that, after the above statement, His Excellency will not hesitate to execute the lease, especially when the present Minister has had 30 or 40 acres of that land lately granted to him by virtue of the same title, under which I claim.

I have, &c,

SIDNEY STEPHEN.

[Sub-enclosure No. 5.]

COLONIAL SECRETARY THOMSON TO MR. S. STEPHEN.

Sir, Colonial Secretary's Office, Sydney, 10th November, 1842.

I am directed by Sir George Gipps to acknowledge the receipt of your letter of the 1st October last, urging your claim to a portion of the "Windsor Glebe," in this Colony, which has recently been discovered to have been granted so far back as 1804 as a part of the common for the Inhabitants of the District; and I have the honor to inform you in reply that His Excellency cannot see in your arguments sufficient to induce Him to think that he Should be justified in signing a deed granting to you the land in question.

I have,

E. DEAS THOMSON.

[Sub-enclosure No. 6.]

MR. S. STEPHEN TO COLONIAL SECRETARY THOMSON.

Sir, Sydney, 18th May, 1843.

Having been overwhelmed with a mass of most pressing business for the last six months, I have not been able to reply to your communication of the 10th November last, until now. My arrival in this Colony in the interim has enabled me to submit to His Excellency some further information relative to the Windsor Glebe, which perhaps His Excellency was not aware of before. Some of it was until lately unknown to myself.

1st. The Sale took place on the 1st Jan., 1829, in pursuance of a notice in the Gazette, Dated "Corporation Office, Oct. 28, 1828," and one of the conditions of sale was as follows:—"To the person who shall offer the highest rent, a transferable lease for 21 years will be made, and he may at any time within that period purchase the free Simple, by paying up the amount of 20 years' rent." The advertisement then stated, that "a minimum price had been fixed upon, below which the land would not be sold."

The minimum price so fixed was 2 pounds per acre; I bought it at £3 5s. The Corporation was composed of His Excellency General Darling, The Archdeacon, and the Chaplains of the Colony, The Colonial Secretary, the Chief Justice, The Attorney General, and 2 or 3 members of the Legislative Council.

2dly. Besides the facts stated in my former letters of Jan. 21st, 1842, and Oct. 1st, 1842, I would respectfully solicit His Excellency's attention to the following decision, contained in a letter to me, Dated "Colonial Secretary's Office, Sydney, 3rd June, 1839."

"That the land be granted to you by such deed as the Law Officers of the Crown shall approve, upon you securing or making payment of the purchase money." Then follow these words, "the rent to commence from the date of your being put in possession" (of course meaning beneficial and complete possession agreeably to the decision of Sir Richard Bourke previously pronounced upon the subject).

This deed had long before the date of that letter been prepared and submitted to His Excellency Sir R. Bourke, and it had been since submitted by His Excellency Sir George Gipps to the Law Officers of the Crown, and to the Agent of the Church and School Corporation. It has been approved of by them, and their approval has been ratified by His Excellency.

3dly. As to the Trustees of the Common, I find that there were 4 several grants made of 4 several quantities of land to 4 several and distinct sets of trustees (all of whom are now dead). These grants were made by Governor King and were dated in August, 1804.

"The lands were granted to these several persons and their successors as resident trustees chosen by the settlers and other cultivators of the district" (Richmond) "and their choice to be recommended by a bench of magistrates and finally approved by the Governor, now and from time to time as occasion may require."

The grants then set out the description of the land, and, after the clause "to hold the same unto the said trustees," they proceeded thus "as a common for depasturing the cattle and other stock belonging to the said settlers and cultivators holding grants or leases as above, according to the laws of England and local regulations not repugnant thereto, made and to be made on that behalf."

* Note 42.
The Glebe in question forms a portion of one of those Grants; a fact of which I was previously known to my late arrival quite uninformed.

That Grant contains (I believe, for the Description of the whole 4 Grants are so loosely set and that I could not ascertain which of the 4 Grants comprised the Glebe with any degree of certainty) 6,130 acres, and takes in not only the Glebe but the whole Town of Windsor, which has been Subsequently formed.

The Glebe, or rather these 4 adjoining Commons, which are for the use of the Settlers of Richmond, a mere Hamlet about 6 miles distant from Windsor, is not to be used for the benefit of the people of Windsor, who are residing within half a mile of it and who have no run (as it is called) for their Cattle, in as much as the Town is bounded by 2 rivers meeting at the entrance of the Town, and at its Base or widest part bounded by the Common and Lands granted previously to 1804; nor would the Inhabitants of Windsor be entitled to this common, because they are not "Settlers nor other Cultivators"; though, for that very reason they more urgently require some spot, on which they may depasture a few Horses and Cattle for Domestic purposes.

4thly. To dispute the right of Governor McQuarie to divest the Trustees of the Glebe, would be to overthrow the Titles to all the allotments in Windsor; to the Church, the Parsonage, the Court House, the Gaol, The Barracks, the Several other public, and all the Private Buildings in the Town. All of these allotments have been taken away from the Trustees, Subsequently to the Grant of the Glebe to the Chaplain; and all of them without the Sanction of the Trustees; whereas they did associate in the land being granted to The Chaplain.

I venture to hope, that His Excellency will not overthrow a claim, which I have for so many years been led to consider as Settled in my favour; and, on the faith of which, I have made arrangements of the most vital importance to my Family.

I have not trespassed thus far on His Excellency's time without reluctance, as I am well aware how fully his time is occupied by Public Matters.

I feel that I deserve to be believed in this. Since I have not troubled His Excellency with a claim that I have to remuneration for 4 years' Services as Chairman of the Board of Claims, for which I received only about £700; though the Board decided on 1800 Claims involving property to the value of £1 million of money; and which contemplated fewer claims being heard, and that the whole would not occupy above two years.

Requesting you to Submit this Letter to His Excellency's consideration.

I have, &c.,
S.S.

[Sub-enclosure A.]

MEMORANDUM transmitted to His Excellency Sir George Gipps with the Letter last preceding.

The Short points for consideration are the following:—

1st. I became Lessee of the land with leave to purchase, and was by my contract to have a "Transferable Lease" accordingly; meaning such a title as I could dispose of, and legally and independently Convey.

2nd. I employed a person therefore to keep possession for me, and visited the Land. But, as I had ulterior views, it was of the last importance to me to procure my Title Deed. Events have Shewn (had as my present position will be, Should The Governor adhere to his recent determination) that I should have been in a Still Worse predicament, had I not used this caution. I mention this only to show that the sort of possession, which I have retained, has been wholly useless to me, an assertion which, indeed, I could amply and easily substantiate.

3rd. From the day of my contract up to the present date, I have been incessantly and most wearisomely engaged in persecuting the various Public Offices and Officers for my Deeds. Promise after promise has been made me by Sir Richard Bourke and the then Law Officers, and finally by His Excellency the present Governor. At first, the differences had reference to the form of the Deed, and the date at which my rent was to commence. Then, when these points were Settled, there were delays respecting the official description. But, at no time, altho, the Government has always had its own charts, and could not have been ignorant of its own previous Grants, was any difficulty even hinted at as to any prior Title.

4th. It now is objected, when every other difficulty has been overcome, that in the year 1804 the Land was granted to certain Trustees to form a "Common." It is admitted that that Grant is now invalid and inoperative, if it shall So please. It is admitted that the Grantees are all long since Dead, and that there is no legal or rightful person or party existing to represent them. It is admitted that in 1822 the Grant (Such as it was) was disregarded and Virtually repealed, if not abandoned, by a Transfer of the Land by consent of all Parties to the Church, under whose Title I now claim. It is, to Say the least, doubtful, whether the Grant to
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the Trustees ever was Valid, at any time, by reason of the uncertainty of its terms, and otherwise. But, even if at the time legal, the question is, whether, under the circumstances stated, the Government, having now the legal power, is or not equitably and reasonably (if not legally) bound to carry out the contract, which their Agents have with their sanction entered into.

[Sub-enclosure marked B.]

COLONIAL SECRETARY THOMSON TO MR. S. STEPHEN.

(No. 43/345.)

Sir, Colonial Secretary's Office, Sydney, 1st June, 1843.

I have had the honor to receive your letter of the 18th Instant, containing some further observations on your claim to a portion of the "Windsor Glebe," granted by you from the late Church and School Corporation; and I am now directed to inform you that the Governor sees nothing in the additional arguments, which you have brought forward, to induce His Excellency to take on himself the responsibility of making to you a grant of this land except on the conditions of the Corporation's advertisement of 28th October, 1828, that is to say, on condition of your paying rent at the rate of £57 10s. per annum from the 1st January, 1829, and the sum of £1,150 making in all on the 30th June next £1,983 10s. 9d.; and even this His Excellency cannot do, unless the previous deed to the Trustees of the Common (which embraces this land) can be got rid of.

His Excellency cannot consider himself bound in a case like the present by any expectations of the remission of rent held out to you in times when the rights of the Crown were far less rigorously enforced than they now are, and when all matters connected with the alienation of land were very differently viewed to what they are now.

If, as you assert, you have been in possession of this land since 1829 you ought to pay rent for it whether that occupation has been a beneficial one or not. If your occupation has not been beneficial it has not been in consequence of any fault of the Government.

I have, &c.,

E. DEAS THOMSON.

[Enclosure No. 2.]

CASE.

In the year 1804, Governor King granted by deed a portion of land, containing 5,130 acres more or less unto certain trustees as a common for the settlers in the Richmond Hill District. In the year 1822, a portion of this land comprising four hundred acres was granted as a Glebe by deed unto the chaplain for the time being at Windsor and unto his successors the chaplains for the time being; but it is probable that this second deed was prepared inadvertently without a knowledge of the previous one.

Upon the removal of the chaplain for the time being, the 400 acres of land were supposed to revert to the trustees of the church and school corporation, and they in consequence allotted forty acres as a Glebe for the future chaplains and put up to sale the remaining three hundred and sixty acres, when Mr. Sydney Stephen became the purchaser for the sum of £1,150 on or about the 1st January, 1829. The terms were to be "a lease for 21 years with the option to purchase any time within that period, by paying a sum equal to 20 years' purchase of the annual rent," which was to be 5 per cent. on the purchase money, namely, £57 10s.

No lease has been executed in pursuance of this sale, nor has any money been paid by Mr. Stephen, who does not appear to have requested a settlement of the business until he was applied to for the arrears of rent in September, 1832, when he declined as having derived no benefit from the purchase, in consequence of his boundaries not being set out and the lease executed.

In the year 1837, a form of the proposed lease was furnished by Mr. Stephen, through the solicitor for the late church and school corporation, and that gentleman has since been urgent for the deed; but it is only now that the facts of the grant made to the trustees for a common have been brought under notice by the
Surveyor General, the issue of which will render the Government unable to fulfil the engagement entered into by the Trustees of the Church and School Corporation with Mr. Stephen.

Mr. Solicitor General will please advise, whether Mr. Stephen can legally claim any compensation from the Government.

Opinion.

I have read the "precis" of the case submitted to me in this matter, as also the Governor's minute and Opinion relative thereto. There can be no doubt that the 400 acres Grant is void, supposing the previous one including the same land to be valid, of which however I have some doubt, for, if the copy before me be correct, no estate of any definite nature is given to the Trustees of the Common, and I think on that ground the grant would be void. As the Grant of 400 acres is in a similar predicament, however, it would derive no validity from the invalidity of the preceding one. But it seems to me that the question proposed for my consideration is quite independent of the validity or invalidity of either of these grants, but simply whether the Church Corporation having entered into a contract which they had no legal authority to fulfil, Mr. Stephen is entitled to compensation from the Government, as standing in the shoes of the Corporation. If Mr. Stephen were to proceed at law, he must bring his action against the Trustees, being the parties with whom he made his contract; and undoubtedly he would be entitled to recover damages against them for non-performance of their contract, whether they would or could not have legally fulfilled it.

He could bring no proceedings in equity for compensation, as he does not appear to have occupied the land or expended any money in building or improvements; nor do I think he could recover much by way of damages at law; and I think he would have some difficulty in bringing an action at all, if it were defended on technical grounds.

Upon the whole, I think a small sum might be tendered him by way of damages; but unless he could shew any bona fide loss (not a loss arising from the fancied goodness of his bargain) beyond I think some such sum, together with his expenses, is all that in justice the Crown is called upon to give.

6th July, 1842.

W. A'Beckett.

[Enclosure No. 3.]

MR. W. ELYARD, JUNR., TO MR. S. STEPHEN.

Colonial Secretary's Office.

Sir, Sydney, 5th September, 1843.

With reference to my letter of the 17th ultimo, and previous correspondence respecting the Windsor Glebe, I do myself the honor to inform you that, the Governor having again gone through all the papers in your case, His Excellency thinks it right, before he forwards your appeal to the Secretary of State, to make to you the tender of one hundred pounds by way of compensation for the inability of the Crown to give you a title to the land at Windsor, sold to you by the late Church and School Corporation on the 1st January, 1829, the Crown at the same time releasing you from any obligation to pay rent either for Windsor or Parramatta Glebe for the period during which you have been in possession of them.

I have, &c.,

W. Elyard, Junr.
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[Enclosure No. 4.]

Mr. S. Stephen to Colonial Secretary Thomson.

Sydney, 20th October, 1843.

Sir,

I have the honor to acknowledge the receipt of your communication of the 5th Ult., which has hitherto remained unanswered in consequence of my absence from Town; I would beg to present my grateful acknowledgements to his Excellency for the assurance thereby conveyed to me that the only objection, which exists to my having a Title given to me for the Windsor Glebe, is the impression which His Excellency entertains that the Crown is unable to give me any Title to that Land. Being perfectly of a different opinion, which however I very respectfully and deferentially would venture to express, I feel convinced that the Secretary of State would, on referring the question to the Law Officers of the Crown, be advised that the Crown has the power to give me a Title. I am equally certain that it is also of greater advantage to the interests of the Crown to confirm Governor Macquarie's proposed alienation of the Land, followed as it was by an actual transfer by His Excellency Sir Thomas Brisbane, than it would be to deprive me of the benefit of an advantageous purchase, inasmuch as the whole Town of Windsor has been subsequently granted away by the Several Successors of Governor Macquarie, notwithstanding the same, if not greater objections existed to their exercising such a power; nor has any complaint been ever made of such Grants either in their case, or in that of the Grant to the Chaplain at Windsor of the Land in question.

I venture to Hope that His Excellency will not feel offended with me for begging most respectfully to decline the offer made in your letter, nor for the unwillingness I evinced to give up a purchase, which I have for so many years looked upon as being at some future period a provision for my family. I have, &c.,

Sidney Stephen.

[Enclosure No. 5.]

Mr. S. North to Sir George Gipps.

Windsor, 7th September, 1843.

Sir,

In reply to your Excellency's enquiry relative to the Glebe Land near Windsor, sold to Mr. Sidney Stephen in 1829, I have the honor to state that it is distant about half a mile from this Town in the direction of Richmond and is bounded by the Common.

Mr. Stephen does not derive any Rent or Profit from the Land in any shape; it is occupied by one William Thomas Baylis as the agent of Mr. Stephen, and Baylis, I believe, derives some small profit from it by Grazing Cattle and by the Sale of Fire wood; no person resides on the Land which is of very inferior quality; but I am of opinion that it would bring from two to three pounds per acre if divided into small Farms of Twenty or thirty acres each; the advantage of being bounded by the Common, and its vicinity to Windsor, would I think make it sell for that price; there are some good ponds on it, and in laying out the allotments care should be taken that all have access to the Water which is generally scarce in that neighbourhood.

I have, &c.,

S. North.
SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 29, per ship Honduras.)
My Lord,
With reference to my Despatch No. 13 of the 13th instant, wherein I announced the arrival in Sydney of the Convict Ship "Maitland," having on board Major Childs, the newly appointed Superintendent of Norfolk Island, I have the honor to report that the "Maitland" with Major Childs sailed again from Sydney to Norfolk Island on the 25th instant.

I shall as soon as possible transmit to your Lordship copies of the various instructions, which, in pursuance of your Lordship's directions, I have given to Major Childs, and shall bring forward for consideration some points, on which it seems to me that the decision of Her Majesty's Government is yet wanting.

I think it, however, desirable not to lose an opportunity of representing to Your Lordship that the decision of the Secretary of State for the Home Department, as to the period which each of the Prisoners by the "Maitland" is to remain at Norfolk Island, has not been transmitted to me. In your Lordship's Despatch to the Lieutt. Governor of Van Diemen's Land, No. 175 of the 25th November, 1842, it is stated that Prisoners sent to Norfolk Island are to remain there not less than two nor more than four years; and that, within these limits, the period of each man's detention on the Island is to be settled by the Secretary of State for the Home Department. I consider this provision of the new regulations to be a most salutary one; and consequently beg to suggest that no time may be lost in supplying the omission which has occurred.

I have, &c.,
GEO. GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 30, per ship Honduras.)
My Lord,
Government House, 1st February, 1844.
I regret very much that, owing to the pressure of other very important business, I cannot by the present opportunity report fully on the Despatches numbered and dated as in the margin,* which I have recently received from Your Lordship, having reference to disallowances of Bounty made by this Government on the Importation of Immigrants during the years 1841 and 1842. My full report on these matters must be deferred until the next opportunity; but, lest I should appear inattentive to Your Lordship's commands, or be accused by interested parties of disregarding them, I will not allow another Vessel to leave the Colony without briefly bringing under your Lordship's

* Marginal note.—No. 96, 30th June, 1843; No. 110, 14th July, 1843.
notice two points of paramount importance in connexion with
the subject, both of which were alluded to in the minute of the
Executive Council, transmitted with my Despatch No. 149 of the
19th September, 1843.

The first is that, if under the directions contained in Your
Lordship's Despatch No. 96 of the 30th June, 1843, cases gener­
al are to be reopened, in which Bounties may have been with­
held on account of the ineligibility of the persons on whose
importation into the Colony they were claimed, I feel bound on
the part of the Colony to claim also a reconsideration of all the
cases, wherein it may be proved that Bounty has been improperly
paid; this seems to me nothing more than what impartial justice
requires.

The parties in England, when they received permission to
bring Emigrants to this Colony on bounty, agreed to abide by
the decisions of honorable men, constituting a Public Board, and
acting under my immediate authority. I have every reason to
believe that all parties received from that Board ample and impar­
tial justice; but now that they (or at least some of them) have
accused not only the Members of that Board, but me also, of
having disallowed their just claims in consequence of the
embarrassments of my Government, I feel bound to repel the
accusation.

The second point is, that this Government can deal only with
principals, and not with their Agents. By principals, I mean
the parties who received permission to import Immigrants, and
who alone are known to the Government. It cannot, I think,
be maintained that, after our dealings with these principals are
closed, their Agents are to start up, Parties of whom this Gov­
ernment knows nothing, and complain of injustice.

With Messrs. Carter and Bonus, Mr. Brooks, Mr. Byrnes, Mr.
Handysides, etc., mentioned in various papers referred to me by
Your Lordship, this Government has had no dealings; and there
may probably be others equally unknown to me among the com­
plainants to your Lordship.

Messrs. Carter and Bonus were, I believe, the Agents of Mr.
Thomas Gore of Sydney, and of some other parties in England;
but they never held any permission from this Government to
import Immigrants; nor, to the best of my recollection, was
Bounty ever paid to them, except in one instance in which I
allowed a payment to be made to them direct, in order to protect
them against what seemed to be an attempt at fraud on the part
of their own principal (not Mr. Gore, but another party for
whom they acted under a Power of Attorney); yet these gentle- 
men have represented themselves to the Commissioners of Col­ 
nial Land and Emigration, as not only the Agents, but the con­ 
dfidential Agents of this Government; and the Commissioners 
appear to have regarded them as such. I regret, however, that, 
on the part of this Government, I can neither recognize their 
Agency nor admit their confidence. 

Bounty Agents and Bounty Orders are terms never san­ 
tioned by this Government, though they appear to have obtained 
currency in England.

I have, &c.,

GEO. GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 31, per ship Honduras; acknowledged by 
lord Stanley, 14th August, 1844.)

My Lord,

Government House, 2d February, 1844.

By Your Lordship's Despatch No. 108 of the 12th July, 
1843, I was desired to forward "a full explanation of the nature 
and extent of the services which Mr. Jonathan Croft is called 
upon to render in the capacity of Deputy Purveyor and Apothe­ 
cary to the Forces in New South Wales," in order that Her Ma­ 
esty's Government might be able to form a decision on a Me­ 
morial, which was transmitted from Mr. Croft with my Despatch, 
No. 25 of the 3d February, 1843. Agreeably to Your Lordship's 
Transmission 
instructions, I forward herewith copies of two letters, which I 
Claim by 
have received in explanation of Mr. Croft's services, one from the 
J. Croft for 
Deputy Inspector General of Hospitals, the other from Mr. Croft 
special 
himself.

From these documents, and especially from his own letter, it 
remuneration.
appears that Mr. Croft claims remuneration from the Local 
Government of New South Wales for the trouble which he has 
had, during a period of seven years, in issuing Medicines to vari­ 
ous Colonial Establishments. These Medicines have been paid 
for by the Local Government, but at prices lower than those at 
which they could otherwise have been procured. The total value 
of the Medicines, or the sum paid for them into the Military 
Depot by the Colonial Government, in the course of the seven 
years, is stated by Mr. Croft to have been £1,106 1s. 8d.; and 
Mr. Croft estimates the saving to the Colonial Government at 
£1,216.

The privilege of getting Medicines from the Military Medical 
Privilege 
Depot has undoubtedly been an advantage to the Local Govern­ 
of issue of 
ment, one, however, for which it was indebted to Her Majesty's 
medicines to 
establishments.
Home Government, not to Mr. Croft; and I am scarcely prepared to admit that, if it had not enjoyed this privilege, the Medicines would have been purchased at the retail prices of the Colony, or at an advance of 110 per cent., as assumed by Mr. Croft.

The delivery of these Medicines to different Departments of the Local Government undoubtedly increased the duties of Mr. Croft; but to what extent, or in what proportion to his other duties, I am not able to say.

As Mr. Croft has referred to the case of Mr. Bowler, Assistant Surgeon of the “Rattlesnake,” who was removed from that Vessel to the Immigrant Ship “Lady McNaughten” in 1837, I am constrained to remark that the cases of Mr. Bowler and Mr. Croft are in no way parallel. The services rendered by Mr. Bowler to this Government, at the imminent risk of his own life, are reported in Sir Richard Bourke’s Despatches, Nos. 19 and 32 of the 10th April and 20th May, 1837.

Mr. Laidley, late Deputy Commissary General, received neither 3,302 acres nor £3,302, as stated in the concluding paragraph of Mr. Croft’s Memorial, but the sum only of £825 10s. under the circumstances stated in the Despatches referred to in the margin,* and this sum was granted by the Legislative Council not to Mr. Laidley himself, but to his Widow after his death.

Without entering into a comparison of services rendered to the Colony by Mr. Laidley and Mr. Croft, I may say that I very greatly doubt whether the present Legislative Council would vote anything to the latter Officer.

I have, &c.,

GEO. GIPPS.

[Enclosure No. 1.]

DEP. INSPECTOR-GENERAL THOMPSON TO COLONIAL SECRETARY THOMSON.

Sir,

I have the honor, in attention to your communication of the 12th Inst, calling upon me for a full explanation of the nature and extent of the duties of Depy. Purveyor Croft, to state that, having been appointed to accompany me to New South Wales and as usual to act under my express orders, he was put in orders to assume the duties of Apothecary to the Convict and Military Department, taking charge of the Medical Depots of both those Departments, which were first separate, but eventually united in the South Wing of the Colonial Hospital Buildings, in a part of which he resided until within the last year; and he has all along had, under my direction, the custody, the receiving and distributing the Medicines, Instruments and Medical Materials to all the Convict Establishments, the several Regiments and Detachments, the Ships of War, and such

GIPPS TO STANLEY. 375

Civil Services as might be required by the Local Government. This appears to me to be the whole extent and amount of his duties here, as he has never been called upon to do any duty as a Purveyor, nor to assist me in the other Medical Accounts, Returns and Books.

I have further to observe that, conceiving myself responsible for the careful performance of his duties, and he not being Medically qualified, I obtained Sir Richard Bourke's sanction to the appointment of an Assistant Apothecary, who being duly qualified might obviate any objection to Mr. Croft on this head, the present Assistant being a member of the Royal College of Surgeons of London.

I must in justice to Mr. Croft say that the very onerous, responsible and important duties of the Medical Depot have been conducted all along for the last nine years, with the greatest advantage to the Service and to my entire satisfaction.

And have, &c.,

JNO. V. THOMPSON,
Dept. Inspector Genl.

Enclosure No. 2.

DEP. PURVEYOR CROFT TO MR. H. W. PARKER.

Sir, Medical Depot, Sydney, N.S.W., 23rd January, 1844.

I have the Honor to acknowledge the receipt of your letter Explanation of the lst Inst., informing me that the Right Honble. The Secretary of State had required further information respecting the particulars of the Sum named in my Memorial of January last, and that His Excellency the Governor had desired a detail to be made thereof.

In reply, I beg to acquaint you that the Sum, named in my Memorial, was the Calculation of a pr. Centage saved to the Colony by my Services, which I had only moderately estimated at 110 pr. Ct., whereas, by the enclosed detail of the Services supplied, etc., they would have cost at Colonial prices nearer 150 to 200 pr. Ct., greatly exceeding the above, and making the saving nearer £2,000 than the Sum I have named.

Asst. Surgeon Bowler, R.N., received for his services to the Immigrants alone £1 a day, and was recommended for his promotion for those duties.

Further particulars can be made; but, if the detail of the daily requisitions should be required, they will be very voluminous, and most of them have already been before the Government for verification.

I beg leave also to mention that I have rendered, in addition to the above, another essential service to the Colony, and have materially suffered by it. When the Government and His Excellency the Governor required the late Medical Depot Building* for a public Charity, in which I resided, I readily assented to the relinquishing it on being otherwise provided; but which the Head of my Department disapproved of my doing; and that I am now restricted to a small residence for my large family in lieu of my previous quarters, and that at a distance from my duties and at considerable expense, more than my Lodging allowance, and other inconvenience averaging at a loss of nearly £100 pr. Annum.

Trusting the foregoing explanation will be satisfactory,

I have, &c.,

JON. CROFT, Dep. Purveyor and Apy. to the Forces.

* Note 44.
HISTORICAL RECORDS OF AUSTRALIA.

1844.
2 Feb.
Statement of colonial services, etc., supplied with medicines.

STATEMENT of Colonial Services, supplied with Medicines, etc., etc., from Her Majesty's Medical Depot at Sydney from 1st April, 1836, to 31st March, 1843, by Deputy Purveyor Croft, as per his Books, Accounts and Returns of Particulars sent to the Government.

<table>
<thead>
<tr>
<th></th>
<th>£</th>
<th>s.</th>
<th>d.</th>
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<tr>
<td>Immigrants</td>
<td>388</td>
<td>3</td>
<td>6</td>
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<tr>
<td>Gaol Establishment</td>
<td>136</td>
<td>12</td>
<td>0</td>
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<tr>
<td>Aborigines</td>
<td>14</td>
<td>10</td>
<td>4</td>
</tr>
<tr>
<td>Lunatic Asylum</td>
<td>102</td>
<td>0</td>
<td>6</td>
</tr>
<tr>
<td>Revenue Cutter</td>
<td>15</td>
<td>14</td>
<td>6</td>
</tr>
<tr>
<td>Bathurst Establishment</td>
<td>54</td>
<td>2</td>
<td>10</td>
</tr>
<tr>
<td>Goulburn do</td>
<td>153</td>
<td>7</td>
<td>9</td>
</tr>
<tr>
<td>Auckland</td>
<td>118</td>
<td>17</td>
<td>9</td>
</tr>
<tr>
<td>Port Phillip</td>
<td>128</td>
<td>3</td>
<td>6</td>
</tr>
</tbody>
</table>

At £110 per Cent. is £1,216. £1,106 1 8

JNO. CROFT,
Depy. Purveyor and Apy. to the Forces.

[Sub-enclosure.]

LORD STANLEY TO SIR GEORGE GIPPS.

(A circular despatch per ship Georgetown.)

3 Feb.
Transmission of statute re mutual surrender of fugitive criminals with United States.

SIR,
Downing Street, 3rd February, 1844.

I have the honor to transmit to you, for your information and guidance, the Copy of an Act passed in the last Session of the Imperial Parliament for giving effect to the 10th Article of the Treaty of Washington between Her Majesty and the United States of America, which provides for the mutual surrender of Fugitive Criminals in certain cases.

I have received The Queen's command to signify to you Her Majesty's pleasure that, whenever you may have occasion to exercise the Powers confided to you by that Act, you should, immediately on the issue of your Warrants for the apprehension and surrender of a Fugitive Criminal, transmit to this Department, Copies duly authenticated, of the Depositions under which such Warrants may be granted.

I have, &c,

STANLEY.

[Enclosure.]

[This was a copy of the statute, 6 and 7 Vict., c. lxxvi.]

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 32, per ship Honduras.)

My Lord,
Government House, 3d Feby., 1844.

I have had the honor to receive your Lordship's Despatch No. 115 of the 21st July, 1843, on the subject of the suspension of Mr. Thomas White, an Assistant Surveyor in this Colony.

On the receipt of this Despatch, I caused a letter to be addressed to Mr. White, calling on him to explain the grounds on which he had stated in his Memorial to Your Lordship of th-