COMMONWEALTH OF AUSTRALIA.

HISTORICAL RECORDS
OF
AUSTRALIA.

SERIES 1.
GOVERNORS' DESPATCHES TO AND FROM ENGLAND.

VOLUME XXIV.
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INTRODUCTION.

SIR GEORGE GIPPS.

During the administration of Sir George Gipps, the problems of decentralisation and local government for local development in restricted areas were actively agitated. These problems received the constant support of Sir George Gipps, and, in his despatch,* dated 13th February, 1845, he summarised his opinions as follows:—“I have indeed on this head no hesitation in repeating what I long ago declared, namely, that the only security, which can in my opinion be taken in New South Wales for what Britons are accustomed to regard as Constitutional Government, is to be looked for in the timely raising up of Local Institutions. I can scarcely imagine any thing more likely to lead to unsatisfactory results than the existence in Sydney of a Legislative Body, disposing of the whole revenues of the state, regulating the affairs of every District in it, and composed of Representatives from those same Districts, each grasping at or rather I should say each haggling and bargaining for the greatest share, which he can get for his own Constituents out of the general spoil.” He held the opinion† that “the institution of District Councils ought to have preceded that of the Legislative Council” in order to prevent the opposition of the legislative council to the establishment of such local governmental bodies due to a possible disinclination to permit any restriction of its own powers. In reporting‡ on the proposal to erect a separate colony in the district of Port Phillip, he advocated the establishment of “local institutions” before granting the principle of representation in the legislative council of the new colony. In the expression of these opinions, there is no doubt that Sir George Gipps demonstrated a far-sighted statesmanship; but he erred in endeavouring at an inopportune epoch to secure the practical establishment of the district councils provided for in clauses forty-one to fifty of the constitution act of 1842, which clauses were undoubtedly ill-conceived.

Prior to the year 1835, the policy of the successive secretaries of states and governors had been to maintain a certain degree of concentration in the settlement of the colony, as it enabled the

* See page 252. † See page 743. ‡ See page 728.
government to be more efficient and economical, especially in matters of police and land administration. Nineteen counties* were proclaimed, north, west, and south of Sydney; and, outside of these counties or, as it was termed, "beyond the boundaries of location," no land was granted or sold, and no police protection or system of government was provided. This policy was known as the anti-dispersion policy. It was due in part to previous experience in the settlement of the Canadas, where the primary settlement was principally for agricultural purposes, and a certain degree of concentration was sound economically. In the colony of New South Wales, however, the development of the pastoral industry during the administration of Governors Darling and Bourke rendered such a policy untenable. In a despatch† dated 10th October, 1835, Sir Richard Bourke stated: "The proprietors of thousands of acres already find it necessary, equally with the poorer settlers, to send large flocks beyond the present boundary of location to preserve them in health throughout the year. The Colonists must otherwise restrain the increase, or endeavor to raise artificial food for their Stock. Whilst Nature presents all around an unlimited supply of the most wholesome nutriment, either course would seem a perverse rejection of the Bounty of Providence." The extension of settlement for the purposes of the pastoral industry demonstrated the fallacy of the anti-dispersion policy.

The settlement of John Batman and his colleagues at Port Phillip in the year 1835 forced the hands of the government. In reporting‡ this settlement, Sir Richard Bourke admitted that the government was unable to prevent dispersion; that "no adequate measures could be resorted to for the general and permanent removal of intruders from waste Lands without incurring probably a greater expence than would be sufficient to extend a large share of the control and protection of Government over the country they desire to occupy"; and that "one principal objection to dispersion thus becomes as powerful against its restraint." He advocated the establishment of isolated townships and ports as centres for the extension of civilisation and government, and for "the gradual introduction of the various Institutions of Society." He stated that to refrain from the introduction of such institutions, through the fear of encouraging dispersion, was a fallacious policy; and that "the dispersion will go on, notwithstanding the discouragement,

* See note 108, volume XVII. † See page 156, volume XVIII. ‡ See page 156 et seq., volume XVIII.
but accompanied by much evil that might be prevented by the guidance and control of authority, opportunely introduced.”

Lord Glenelg, in his reply* to Sir Richard Bourke dated 13th April, 1836, stated that to engage in a struggle against the desire for dispersion would be wholly irrational, and that “all that remains for the Government in such circumstances is to assume the guidance and direction of enterprises, which, tho’ it cannot prevent or retard, it may yet conduct to happy results.”

Although lord Glenelg thus admitted the fallacy of an anti-dispersion policy, lord John Russell reiterated† the policy in 1840, in reference to the settlement at Portland bay, as follows:—“So far from desiring to encourage the unauthorized formation of Settlements on the Coasts of New Holland, Her Majesty's Government must do all in their power for the prevention of it; such proceedings, by anticipating the regular progress of such settlements, expose the local Treasury to great and needless expenditure, render the administration of Justice and the protection of settlers more difficult and costly than it would otherwise be, tend to the dispersion of a scanty population which it is desirable to concentrate, facilitate smuggling, and tend to dispossess the public at large of Land which it is essential to reserve for public uses.”

In the meantime, the principle of “dispersion” was recognised by Sir Richard Bourke, when he issued a proclamation‡ dated 9th September, 1836, announcing that the government had “authorised the location of settlers on the vacant Crown lands adjacent to the shores of Port Phillip,” and that a civil government was established at the settlement. Six months before this proclamation, G. Mercer, as agent for the Port Phillip association, had advocated§ the formation of a separate colony at Port Phillip.

The principle of “dispersion” was recognised also by the passing of the act of council,|| 7 Wm. IV, No. 4, on the 29th of July, 1836, “to restrain the unauthorized occupation of Crown Lands.” By this act, annual licenses were authorised, granting a grazier the right to depasture stock on any unoccupied lands beyond the boundaries of location for the term of one year at a fee of £10. Although by this act the right of the Crown to the waste lands of the colony was asserted, it made no provision for

* See page 380, volume XVIII. † See page 91, volume XXII. ‡ See note 149, volume XVIII. § See page 383, volume XVIII. || See page 538, volume XVIII.
the suppression of the lawlessness and disorder, which prevailed beyond the boundaries of location. The issue of these licenses was commenced in the following year 1837.

When Sir George Gipps assumed the administration of the colony in February, 1838, the necessity for the modification of the anti-dispersion policy was recognised, but no adequate provision for civil government beyond the boundaries of location had been made except in the immediate neighbourhood of Port Phillip. On the 2nd of October, 1838, he passed the act of council,* 2 Vict., No. 19, to continue and slightly amend the act of Sir Richard Bourke "to restrain the unauthorized occupation of Crown Lands."

After he had administered the government for more than twelve months, Sir George Gipps on the 6th of April, 1839, stated,† "it is too late to calculate the evils of dispersion in New South Wales. All the power of Government, aided even by a Military force ten times greater than that which is maintained in the Colony, would not suffice to bring back within the limits of our twenty counties‡ the Flocks and Herds, which now stray hundreds of miles beyond them; and, therefore, the only question is whether we will abandon all control over these distant regions, and leave the occupiers of them unrestrained in their lawless aggressions upon each other and upon the Aborigines, or make such efforts, as are in our power, to preserve order amongst all classes." This was again an official admission that the government was forced to abandon an anti-dispersion policy.

Sir George Gipps accordingly convened an extraordinary session of the legislative council in the month of February, 1839, and the act of council,§ 2 Vict., No. 27, was passed on the 22nd of March, entitled, "An Act further to restrain the unauthorised occupation of Crown Lands, and to provide the means of defraying the expense of a Border Police." By this act, the system of annual licenses of £10 each was continued, and a per capita assessment on live stock was imposed for the maintenance of a border police force; the powers of the commissioners of crown lands were also increased. It was expected that the revenue from the assessments would be about £7,000 a year, and from the license fees from

* See page 649, volume XIX.
† See page 91, volume XX.
‡ The county of Bourke, in the district of Port Phillip, at this date, had been added to the original nineteen counties.
§ See page 90, volume XX.
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£5,000 to £6,000 a year. The immediate cause of the passing of this act at an extraordinary session was the occurrence of lawlessness amongst the aborigines and stockmen; but, at the same time, it established the first effective civil control beyond the boundaries of location, and, by making a local levy, although over a vast area of country, in the form of assessments on stock for a local purpose in the maintenance of the border police, it initiated the principle of payment for services rendered by persons interested in the area affected.

In January, 1839, a superintendent* was appointed to administer the government of the settlement at Port Phillip and district, and he arrived at Melbourne in October following. By this appointment, the development of a local and self-contained government was initiated in the district of Port Phillip, which was subordinate to and under the general control of the governor at Sydney. This general control was irksome in many respects; and, in the year 1841, several of the inhabitants of the district petitioned† H.M. Queen Victoria for the formation of a separate colony at Port Phillip.

On the 23rd of July, 1839, Sir George Gipps submitted a financial minute to the legislative council, in which he "pointed out very forcibly the policy and justice of charging local expenses and local improvements on local rates." In his address on opening the session of the council on the 28th of May, 1840, Sir George Gipps proposed‡ that each district "should pay at least a portion of its own Police expenses, and also of the expense of constructing and keeping in repair Public Works, Roads, Buildings, etc." A bill for this purpose, i.e., to authorise local assessments for local purposes, to be controlled by elected commissioners, was introduced on the 4th of June, but was rejected on its second reading on the 14th of July. In the same session, Sir George Gipps introduced a municipal corporations bill;§ but this was withdrawn owing to differences of opinion as to the status of emancipists under the bill. He was then requested to reintroduce the bill for local assessments with the omission of the clauses relating to the maintenance of the police. He complied with this request,|| but the bill was also withdrawn for the same reason as the municipal corporations bill.

* See page 785, volume XIX.  † See page 528, volume XXI.
‡ See page 713, volume XX.  §§ See page 777, volume XX.
|| See page 782, volume XX.
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In acknowledging* in July, 1841, the reports on these bills by Sir George Gipps, lord John Russell, the secretary of state, considered the bills “as judicious and well considered measures,” and instructed Sir George Gipps to reintroduce them to the council, and “to allow them to be formally rejected rather than mutilate or withdraw them.” These instructions were of the greater importance, as the British government were, at that date, considering the granting of a new constitution to the colony.

On the 10th of May, 1842, Sir George Gipps opened a new session of the legislative council. In his opening speech, he stated that a bill would be introduced to authorize the election of directors of police and public works, and desired to stress the following arguments:—“So long as the expence of police, public buildings, roads, bridges and other similar works continued to be defrayed out of a general fund, there was a desire on the part of each district to get for itself as large a share of that fund as possible; each had consequently a tendency to be extravagant; and it required the utmost firmness on the part of the central authority to prevent extravagance throughout the whole. When, on the contrary, each town or district defrayed its own expenses, it became the evident interest of each to avoid extravagance, and to spend no more of its own money than was absolutely necessary. It was not proposed at once to throw on each district the whole expense of maintaining police, or of contracting public works within it; but it seemed to be most essential that assistance from the Government should be proportioned to the sum locally raised in order to create an economical expenditure.” During the session, Sir George Gipps secured the passing of the corporation bills for Sydney and Melbourne; but the bill to provide by local assessments for a portion of the expenses of police and public works in each district of the colony was rejected† at its second reading.

It is evident that Sir George Gipps initiated and maintained a consistent policy for the establishment of local government and local development by local assessments. In this policy, he was supported by the secretary of state, and received considerable support in the colony except on the long standing grievance of the colonists with regard to the maintenance of the police.

* See page 441, volume XXI. † See page 195, volume XXII.
Such was the position in the colony, when the constitution act of 1842 was under consideration by the British parliament. Lord Stanley, the secretary of state, held the opinion* "that the objects, to which mainly the public expenditure should be limited, ought to be such as are of general and not of purely local interest, and that these latter subjects should be in the main provided for by local taxation, and managed on the spot by local boards, chosen from among the inhabitants out of whose means the expenditure is to be defrayed." As a result, when the constitution act was passed, the clauses forty-one to fifty were included, to provide for the establishment of district councils on the model of those which had been recently established in the Canadas. The fullest legislative power was given to the legislative council of the colony to enact all details in connection with these councils; but, to secure beyond doubt the establishment of the system, the power in the first instance was delegated to the governor to appoint the councils by letters patent.

In these ten clauses† of the constitution act, provision was made for the creation of district councils for such divisions of the territory as might be incorporated by the governor by letters patent. The franchise and the qualifications for membership were similar to those of the legislative council. If the population of such a division was less than seven thousand, the number of councillors was fixed at not more than nine; if between seven and ten thousand, at not more than twelve; if between ten and twenty thousand, at not more than fifteen; and if over twenty thousand at not more than twenty-one. The councillors were to hold office for three years, and to be presided over by a warden. These councils were empowered to make orders and bye-laws for the construction and maintenance of public roads; for building, repairing, and furnishing public buildings; for the management of all property belonging to the district; for providing the means of defraying such expenses of the administration of justice and police, as might by law be directed to be defrayed out of district funds; for providing for the establishment and support of schools; and for raising revenue for any of the objects of the district councils. One-half of the expense of the police establishment (exclusive of the convict establishment) was to be defrayed out of the general revenue of the colony, and the other half by assessments to be levied by the district councils in such proportions as might be determined by the legislative council.

* See page 242, volume XXII. † See note 73.
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By the forty-ninth clause,* it was provided that, if the payment by any district council of any amount ordered by warrant of the governor was in arrear for two calendar months, the amount might be levied by distress and sale of the goods of the treasurer and of all or any of the members of the said council, and, if sufficient distress was not thereby available, by distress and sale of the goods of any of the inhabitants of the district. This clause became known in the colony as "the Algerine clause." Its practical effect was summarised by the select committee of the legislative council on general grievances in 1844 as follows:—"A clause which in fact, on the one hand, imposes on every district in the Colony, all the liabilities of a joint stock company, rendering every man's property liable for the whole amount of rates leviable in the district, without on the other hand establishing that remedy for contribution, which in joint stock companies the payers of more than their own proportion of a charge, or debt, always possess against their co-partners making default."

The constitution act was received in the colony on the 1st and proclaimed on the 5th of January, 1843, and the provisions for the establishment of district councils were received with almost universal disapproval. At this date, the colony was passing through a period of financial depression,† and the time was inopportune for initiating a system which caused increased direct taxation.

In consequence of the mandatory provisions in the act for the erection of district councils by the governor by letters patent, Sir George Gipps had no discretionary power, even if he had desired it. Within nine months, he issued charters‡ whereby the colony was divided into twenty-eight districts, and a council appointed in each. He, however, granted§ the request of the legislative council, in accordance with the general desire of the colonists, to postpone the operation of the forty-seventh clause, whereby the district councils were required to defray one-half of the expense of the police. This concession was approved|| by lord Stanley, the secretary of state.

Before the end of the year 1843, it was found that the charter for the incorporation of Campbelltown, Appin, Camden, Narellan, and Picton in the one district was inconvenient. An act of

* See note 58. † See introduction to volume XX. ‡ See page 182, volume XXIII. § See page 190, volume XXIII. || See page 504, volume XXIII.
council* was, therefore, passed, and Campbelltown and Appin
and neighbourhood were created into a separate district with a
separate council, making the twenty-ninth in the colony.

In the meantime, opposition to the establishment of the district
councils was developed. The dread of the anticipated increase of
taxation was the principal cause of this opposition. In the most
populous area, the district of Sydney, the crown held about three-
fifths of the land, and the expenses of the district would therefore
be borne by the holders of the other two-fifths; and it was thought
that the taxation required could not be carried even in this district.
Further, if it could not be borne in the most populous district, it
would be prohibitive in the outlying districts. It was contended,
therefore, that, as the crown would derive benefit by the enhanced
value of its lands, the district councils should receive the revenue
from quit rents and leases, and in addition a subsidy from the
general revenue. It was argued that the maintenance of main
thoroughfares should not be cast on a particular district, but
should be provided by the levy of tolls. Strong opposition was
also caused by the provisions for the maintenance of the police,
and by the conditions of the “Algerine” clause. The principle
district councils received strong support from representative
colonists, such as George Allen, the mayor of Sydney, and John
Coghill, a member of the legislative council. It was the method
proposed in the constitution act for the establishment of the coun­
cils which provoked the opposition, and it is undoubted that this
method was ill-conceived. Numerous petitions were prepared in
different districts and presented to the legislative council; the
general object of these petitions was to request the council to
pass no legislation in reference to district councils.

To fulfill the provisions of the constitution act, Sir George Gipps
in the session of 1844 submitted three bills to the legislative council.
The first† was a machinery bill to render effective the establish­
ment of district councils. The second was “to settle the propor­
tions, in which money shall be raised in each District of the
Colony, by assessments, for the purpose of defraying half the
expense of maintaining a Police Force,” under the provisions of
the forty-seventh clause‡ of the constitution act. The third was
to amend the Campbelltown and Appin district council act§ in
reference to the election of councillors. On the 25th of July,

* See page 288, volume XXIII. † See page 600 et seq., volume XXIII.
‡ See note 73. § See page 288, volume XXIII.
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the council postponed* the second reading of the first bill for six months, and declined to agree to the first reading of the second and third bills. By so doing, the council declined to render effective the provisions of the constitution act, under which act the council itself had been created.

The second reading of the first or machinery bill was postponed by fourteen votes to seven by the following resolution of the legislative council:—“That, in the opinion of this Council, the District Councils are totally unsuited to the circumstances of the Colony, the Country Districts being unable to meet the additional taxation, which would necessarily be required in carrying out the various objects contemplated by their institution, and the cost of the machinery requisite for bringing them into operation being of itself an obstacle fatal to their success, and that, therefore, the second reading of this Bill be postponed to this day six months.”

On the 9th of August, this resolution was included in an address‡ from the legislative council to Sir George Gipps. In the address, the council stated that the resolution was passed “under a full persuasion that the District Councils, as at present constituted, cannot be carried out without much hardship and oppression”; and that the council was prohibited by the constitution act “from amending the Constitution of the District Councils in the most important points prayed for, more especially in regard to the Police clauses, which this Council and the Colonists generally consider the most obnoxious.” The council, therefore, requested Sir George Gipps to make representations to the British government for the repeal of clauses forty-one to fifty of the constitution act, and for the vesting of the power to incorporate towns or districts in the governor and legislative council; and, at the same time, it requested Sir George Gipps to place on the estimates of expenditure for the year 1845 such sums as might “be necessary to make provision from the General Revenue for such objects, as it was intended should be provided for by the District Councils.”

When the council rejected the bills and presented this address, Sir George Gipps considered the dissolution‡ of the council; but, after deliberation, he realised that he could gain no further support amongst the elective members of the council, and he abandoned the project.

* See page 707, volume XXIII. † See page 729, volume XXIII.
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In reply to the address, Sir George Gipps sent the following message on the 20th of August to the council:—“The Council having rejected the Bills, which I caused to be presented to them for the purpose of carrying into effect the enactments of Parliament in regard to the Police of the Colony, I shall accept such sums as the Council may place at my disposal for the maintenance of a Police Force during the year 1845 though I must disclaim any share in the responsibility, which this infraction of the Constitution may involve.” He also reserved the right to amend the estimates for 1845, which had already been submitted to council. The amendment was an increase of the expenditure to the amount of £17,000 for the purposes of police and education, which would have been met from the revenues of the district councils.

On the following day, Sir George Gipps wrote a despatch* to the secretary of state, transmitting this message. He pointed out that it was then necessary to consider whether the enactments respecting the district councils should be maintained, or the constitution act amended. He stated that he could not advise stronger measures for bringing the district councils into operation; but he was, “at the same time, persuaded that, if the management of the local affairs of every District, Town and Village, in this widely extended Country, be left to a single elective Body sitting in Sydney, jealousies and contentions will unavoidably spring up, of which the effect will be most injurious to the Colony.” This statement of Sir George Gipps was prophetic, and is a striking evidence of his statesmanship and breadth of vision.

In the meantime, a select committee of the legislative council had been appointed to report on “general grievances,” and the fourth point of reference† to this committee was the establishment of district councils. This report was presented to the council on the 6th of December, 1844. The committee found that the result of the imperial legislation was to render the institution of district councils, which were “previously unpalatable, odious and abhorrent to all classes.” It strongly objected to the transfer of the expenditure on police and education to the district councils. At the same time, the committee admitted that some power of local taxation and local control was necessary; but that this power should be limited to district roads and district works properly so called. The principal objections of the committee to district councils generally have been quoted on page viii in volume XXII.

* See page 729, volume XXIII. † See page 660, volume XXIII.
There is no doubt that the proposals for district councils in the constitution act were premature, ill-conceived and immature. There had been no popular agitation for such councils. Sir George Gipps had initiated his proposals for local assessments for local purposes, and his policy was gaining support gradually, although the bills introduced to adopt the principle were defeated by the council. It is probable that the principle, perhaps somewhat modified, would have been adopted, if it had not been for the provisions of the constitution act. By this act, Sir George Gipps was ordered to ensure the establishment of the district councils by the issue of letters patent, in the first instance, for their establishment and the appointment of the members of the council; whereas, by the same act, the machinery for the councils was left to enactment by the legislative council. The first representative legislative council thus had no power over the establishment of the district councils; but it had the power to render them inoperative by refusing a machinery bill. The policy of a limited district government was admitted to be correct; but the time was inopportune to establish the change owing to the conditions of financial stringency in the colony. Even if he recognised that the time was inopportune, the constitution act made it mandatory for Sir George Gipps to establish the district councils.

In August, 1845, Lord Stanley requested* the private opinion of Sir George Gipps on the clauses in the constitution act relating to district councils. In his reply,† dated 30th January, 1846, Sir George Gipps noted certain serious defects. He considered that the opposition of the legislative council was due to a disinclination for any reduction or limitation of its own powers. With regard to the defects, he stated that the forty-ninth or “Algerine” clause gave the local government powers which it would never be strong enough to exercise; that the forty-eighth clause relating to the payment of contributions was inoperative, because no power was given to the governor and executive council to settle the contributions from the different districts for the maintenance of police, and to appropriate an equal amount out of the general revenue, if the legislative council did not pass an annual bill for these purposes; and that the forty-second clause providing for the establishment and support of schools should be permissive only.

Sir George Gipps proposed that, before any action was taken, it should be decided whether the condition of the forty-seventh

* See page 507. † See page 743 et seq.
clause should be maintained, which provided that one-half of the expenditure of the regular police should be raised by assessment on the several districts. He considered that the principle was right; but he stated that there was strong opposition due to the fear of increased taxation.

Sir George Gipps, at the same time, advised lord Stanley that, if any of the clauses were repealed or amended, "the Government should be prepared to carry into effect the clauses when altered, and not allow them to remain inoperative as they hitherto have been. In order to bring District Councils into operation, it would be necessary to instruct the Governor not to consent to any Act authorizing the payment of the whole expenses of the District Police out of the General Revenue of the Colony, contrary to the 47th clause of the Act."

No further official action relating to the district councils was taken during the administration of Sir George Gipps.

In a despatch,* dated 29th April, 1846, Sir George Gipps advocated the entire separation of the district of Port Phillip from the rest of New South Wales and its erection into a distinct colony. His reasons for such a change were based principally on his desire to secure the establishment of local self-government; and his opinions as expressed in this despatch were largely instrumental in the erection of the modern state of Victoria.

With this volume, all the despatches of Sir George Gipps have been printed with the exception of those written† during the last three months and ten days of his administration. In this introduction and the introductions to the preceding five volumes, the salient features and the principal episodes of his life and administration have been noted. During and after his administration, Sir George Gipps has been subjected to much unmerited adverse criticism. A careful study of his despatches, however, proves that he was a capable administrator, a brilliant statesman with great breadth of vision, a strong governor fearless of public opinion, and a man with an almost uncanny foresight.

FREDK. WATSON.

March, 1925.

* See page 26 et seq., volume XXV. † See volume XXV.
DESPATCHES.
HISTORICAL RECORDS
OF
AUSTRALIA.

SERIES I.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 142, per ship Ann Grant; acknowledged by Sir George Gipps, 16th March, 1845.)

Sir, Downing Street, 3d October, 1844.

I have received your Dispatch No. 77 of the 6th of April, 1844, enclosing a Schedule of appointments and of all payments of a special nature from Colonial Funds for the quarter ending the 31st of March, 1844.

In examining that Schedule, the only thing, which occurs to me as calling for notice, is the appointment of Mr. W. H. Kerr on the 7th of February, 1844, as Chief Commissioner of Insolvent Courts with a Salary of six hundred Pounds a year.

I advert to this appointment with reference only to the fact that I have received no information of the circumstances, which led to Mr. Kerr's nomination to that office; nor do I perceive that his name is mentioned in the List of Candidates for office or for advancement in office under your Government, which accompanied your Dispatch of the 15th of January, 1844.

I should wish to receive some explanation of this appointment; and I have further to observe that one of the principal advantages, which I contemplated from the Confidential returns which I called for, was to enable me to judge, by previous reports, of the fitness of any officer who might be locally selected.

I have, &c.,
STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 143, per ship Ann Grant; acknowledged by Sir George Gipps, 5th June, 1845.)

Sir, Downing Street, 5th October, 1844.

I have had under my consideration your Dispatches of the Nos. and dates noted in the margin, shewing the manner in which you had disposed of the Bounty cases sent back to you for revision.

* Marginal note.—No. 51, 28 Feb.; No. 52, 11 March; No. 59, 12 March, 1844.

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Having communicated on the subject with the Colonial Land and Emigration Commissioners, I have received from them a Report, which I enclose for your information, and by which you will perceive that, while making some explanatory remarks on a few points, they agree in all the practical decisions which have been adopted by yourself on the several cases; and of this conclusion I approve.

With respect however to the two points which do not appear to have yet received your final revision, I am unable to consent that the sum of Sixty Eight Pounds, due to the Messrs. Carter and Bonus, on account of Immigrants in one of their Ships, should be withheld from them because of objections taken to Immigrants in the Ship of another party; and, in case it should not have been done in the meanwhile, I have to instruct you to settle this claim upon the receipt of the present Dispatch.

Without determining now any general question on the subject of Quarantine Expences, I have to state that, considering that any deduction on this account seems to have been commonly waived where no blame was imputable to the parties concerned in the Ship, I agree with the Commissioners that, unless the strong evidence I transmitted to you in support of the manner in which the Ship “Eleanor” had been fitted out (including, as the evidence did, the result of an arbitration by some Merchants of high standing in the City of London) be rebutted, it would be far better that the Colonial Government should not adhere to the adverse decision in the case of that Vessel.

I have, &c,

STANLEY.

[Enclosure.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY HOPE.

Colonial Land and Emigration Office,

Sir,

30th September, 1844.

We have the honor to acknowledge the receipt of your two Letters of the 5th August transmitting for our Report three Dispatches from the Governor of New South Wales relative to the manner in which he had, in the cases of two of the principal Importers, disposed of the claims against the local Government arising out of the disallowance of Bounties on Immigrants introduced in 1841 and 1842.

The Claims thus reconsidered are those of Messrs. Carter and Bonus and Messrs. Smith and Sons, which formed the subjects of reports from this Board, dated the 31st May and 21st August, 1843. Nothing would be further from our wish than to maintain anything in the nature of needless controversy with the Colonial Government. Our only endeavour will be to examine briefly how far justice has been done to the parties, according to the general principles and specific directions adopted by Lord Stanley.
STANLEY TO GIPPS.

which point we believe that most of the results will be acquiesced in and also to explain further, where the need arises, the grounds of the views which we formerly submitted to Lord Stanley.

We observe that Sir George Gipps very naturally repels with displeasure the idea that, in adopting a more stringent interpretation of the Bounty Regulations, the Colonial Government had been actuated by the failure which occurred in its pecuniary resources; but, on this point, it is unnecessary for us to say more than that it was never intended to convey an imputation of motives in any of the official reports from this Board.

We now proceed to examine the various heads of the decisions adopted by Lord Stanley, and the mode in which they have been carried out.

First, we will enumerate those on which no difference arises. Widows were not to be rejected on the ground that they are not "unmarried females"; single men were not to be rejected as excessive in number, because single women, who had been embarked by the same parties, were declared ineligible; Persons, who had quitted the Colony after passing the Board of Examiners, or who had died afterwards, were not to be made the subject of a disallowance of Bounty. Under all these heads, Lord Stanley's decision has been carried out.

With regard to the protection of Single Women, arises the chief difference of opinion between Sir George Gipps and this Board, although, as will presently appear, the difference is confined only to a general question, and happens not to affect the actual cases which are to be decided. The rule, which we proposed and which was approved by Lord Stanley, was that, when the single women had been of good character on embarkation, and had conducted themselves well 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 should be reconsidered.

Sir George Gipps strongly dissents from the fitness of this rule. He contends that the virtuous conduct of females could not depend on the Importers, and that the Local Government adopted a much more reasonable test in making their payment depend on their having secured proper protection, without reference to the subsequent conduct of the women.

But it must be remembered that the question did not present itself in an abstract form. The Colonial Government having been represented suddenly to have changed the degree of protection which it required, we thought that such a change ought not to be enforced, unless it were supported in each case by some actual misconduct of the young women; and we confess we are unable to see anything necessarily erroneous in that view.

For practical purposes however, it is needless to pursue the discussion. For, while adhering to our general opinion, we find that, on looking into the conclusions now reported, we agree in them as decisions on the merits of the several cases. We never thought otherwise than that single females should be under the protection either of a brother or of some married couple, and the only doubt was whether these last must be relatives. The following analysis, which we have made, shows that the cases rejected by Sir George Gipps do not come within this condition.
The number of Single women rejected for want of sufficient protection appear to have been originally 69. Of these there were ineligible on other grounds 3; and Bounty has now been allowed on 4. This number is thus composed—

- Disallowed at Port Phillip as not under protection of a Married Couple 6
- Protected by the Surgeon 17
  - Do Surgeon and Captain 1
  - Do Captain 12
  - Do by Single men (not brothers) 2
  - Do Single men and their sisters 2
- Protected by Single Women 6
  - Do a Married couple whom they never saw before 6
- These were the Newington Girls found to be of bad Character.
- Protected by no one 11

In respect to Messrs. Smiths' Ships, we observe that Sir George Gipps considered his orders to pay for the females previously rejected as being absolute, and that payment has been made accordingly.

Under the head of "Ineligible callings," we thought a revision might properly be made by the Colonial Government of those cases in which parties had been rejected, because, having been described in their certificates as following two pursuits, for instance, "Carpenter and Cabinet Maker," they betook themselves in the Colony to that one which was not included in the classes for which Bounty was paid; and we pointed out the hardship of rejecting some young women, embarked as "Domestic Servants," because on their arrival they took to the occupation of Milliners and Dress Makers. On this point, Sir George Gipps remarks that the second qualification possessed by the parties often raised them above the class, who ought to receive a free passage; and that the obvious meaning of the Regulations was that the ordinary calling followed before em­barkation should fall within the prescribed classes. He adds that a man, who had been a professed Carpenter at home, is never re­jected because he can make a Table or Chair; but a professed Cabinet Maker is, although it may be shewn that at home he has sometimes worked as a Carpenter. And we observe by Mr. Merewether's Report, forwarded with the present Dispatches, that the Colonial Government never refused Bounty on plain needle women, as distinct from Milliners and Dress Makers.

On the whole we are not prepared to dissent from the decisions adopted by the Colonial Government in the cases falling under this head.

We will now proceed to notice the decisions on the cases not falling under the general rules sanctioned by Lord Stanley, but separately affecting the Messrs. Carter and Bonus which were treated seriatim in our former Report.

In the case of Mary Russell and also of Mary Connor, the Colonial Government have adhered to their former decision; and in the case of William Catt have altered it. With respect to 15 other
special cases noticed by us, they have paid upon 8, have reserved 2, and have adhered to their former decisions on the rest. We find no reason to dissent from any of these conclusions.

There remains two other points, which appear to us open to much more doubt. Messrs. Carter and Bonus alleged that, having sent out the "Duke of Roxburgh" at their own risk, and with a claim on their own parts to Bounty, while another ship the "Comet" went out at the risk of the Owners, who were quite different parties, a sum of £68, which had been over paid on some Emigrants by the latter Vessel, was deducted in the Colony from the amount due on the Messrs. Carter and Bonus's Ship, because the Agent for both Vessels happened to be the same. Mr. Merewether replies that the deduction was thus made not because the same party in the Colony was the Agent in both cases, but because he was the Principal. But we cannot agree in this answer. It was notorious in the Colony that the Settlers, to whom Bounty orders were first issued, never executed them; that the business was entirely carried out by Ship Owners in England; and that otherwise the whole scheme would have broken down for want of anybody to give it effect. From beginning to end the Colonial Government always tacitly acquiesced in this course. To say therefore that of two parties in England, if one had performed his business ill, and the other well, nevertheless the latter might fairly be mulcted if the Colonial Government could not get at the former, merely because the order, under which the business had nominally been issued to the same party in the Colony, appears to us to rest the decision too much on what must be admitted to be a mere fiction, instead of on the substantial justice of the case. We see no good reason shown why money due to the Messrs. Carter should have been converted to pay a debt due by a third party, with whom they had no community of interest, and from whom they had no means of recovering the amount. The case is not noticed in the Governor's Dispatch. We trust that, when it shall have reached him, he will have decided it in favor of Messrs. Carter and Bonus; but seeing what seems to us the injustice of any other decision, with respect to which we must refer to the strong terms in which this was urged in the former report of which Lord Stanley was pleased to signify his approval, we think that orders should now go out to ensure payment of this claim.

It is indeed also remarked by Mr. Merewether that Messrs. Carter and Bonus had selected the Emigrants for the owners of the "Comet," but this seems only a question for the parties inter se. The next point is the non payment by the Colonial Government of the quarantine expenses of the Ships "Eleanor" and "Agricola." In the case of the "Agricola," it appears by Mr. Merewether's report that the Superintendent at Port Phillip was of opinion that the quarantine expenses ought to be deducted from the Bounties, and his reasons appear to have been that the defective discipline and misconduct on board were the causes of the sickness, which required her to be placed in quarantine. The case of the "Eleanor," we infer from Mr. Merewether's report, is yet undecided; but we feel bound to state our opinion that, unless the evidence furnished of her having been properly equipped and sent out be decidedly rebutted, it would be far more fair and expedient that the Colonial Government should pay the Importers the sum applied for in this case; and we hope that, if Lord Stanley approves, it may receive instructions to the effect.

We have, &c.,

T. FRDR. ELLIOT.

JOHN GEORGE SHAW LEEFEVRE.
SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 218, per ship Ceylon; acknowledged by lord Stanley, 12th June, 1845.)

My Lord,

Government House, 5th Octr., 1844.

I have the honor herewith to enclose a Petition to Her Most Gracious Majesty from the Legislative Council of this Colony, praying that Wheat, Maize, Flour and Maize Meal, the produce of Australian Colonies, may be introduced into the United Kingdom on payment only of nominal duties.

The Petition is signed by the Speaker on behalf of the Council.

I have, &c.,

[Enclosure.]

GEO. GIPPS.

[This address was similar to the address to the house of commons, which will be found in the "Votes and Proceedings" of the legislative council.]

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 219, per ship Ceylon; acknowledged by lord Stanley, 30th April, 1845.)

My Lord,

Government House, 6th Octr., 1844.

It is with very deep regret that I have to report to Your Lordship the death of Sir James Dowling, the Chief Justice of this Colony. Sir James died on the 27th ulto. after an illness of about three months.

In the several Despatches noted in the Margin,* I reported the illness of the Chief Justice, and that, on the recommendation of his Medical Attendants, he had obtained leave to return to Europe.

It is my pleasing duty to state that marked respect has been paid to the memory of Sir James Dowling by all classes of persons in the Colony, and his loss is very generally regretted.

I have, &c.,

GEO. GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 220, per ship Ceylon; acknowledged by lord Stanley, 30th April, 1845.)

My Lord,

Government House, 6th October, 1844.

Having, in my Despatch No. 219 of this day's date, reported the death of Sir James Dowling, Chief Justice of this Colony, I have now to inform Your Lordship that I have, on the advice of my Executive Council, appointed the senior Assistant Judge, Mr. Alfred Stephen, to act as Chief Justice, until Her Majesty's pleasure shall be known in the Colony.

* Marginal note.—No. 135, 7th July, 1844; No. 149, 18th July, 1844; No. 193, 6th Sept., 1844; No. 194, 8th Sept., 1844.
GIPPS TO STANLEY.

There are, however, circumstances connected with this appointment, which it is my duty to bring under Your Lordship’s notice.

On the decease of the Chief Justice, I received applications from the Attorney General (Mr. J. H. Plunkett) and the Senior Assistant Judge (Mr. Alfred Stephen) respectively preferring claims to the vacant Office, the former on the grounds of English practice, which is understood to be that the Attorney General for the time being has the option of any Judicial Office that may fall vacant, the latter on the grounds of his actual position on the Bench, also on the precedent which is alleged to have been established in 1836, when Sir Francis Forbes obtained Leave to go to England, and Mr. Dowling the Senior Assistant Judge was appointed to act in his place, though I should observe that the precedent is not directly in point, as in the present case there is a positive vacancy, and there was only a temporary one in the former (see Sir Richard Bourke’s Despatches, Nos. 93 of the 3d Octr., 1835, and No. 44 of the 12th April, 1836).

The claims of the rival Candidates thus brought before me, I considered in the three following points of view.

1st. As to the comparative fitness of the two Candidates for the Office;

2ndly. As to their actual position in the Colony;

3rdly. In respect to prior services rendered, either to the Government or to the People of New South Wales.

Finding it, however, extremely difficult to come to a decision, I resolved to take the opinion of my Executive Council on the matter at issue.

This determination being made known to Mr. Stephen and Mr. Plunkett, I received from them respectively the letters, of which Copies are enclosed; these letters were laid before the Executive Council yesterday; and the Council recommended the appointment of Mr. Stephen. The Council has not recorded the grounds of its decision; but I am, I believe, at liberty to say that the Majority of the Members decided in favor of Mr. Stephen, mainly on the second of the points above mentioned, namely the position which he actually occupies in the Colony as Senior Assistant Judge. One Member of the Council (the Colonial Secretary) dissented from the Majority, and expressed his intention of recording his dissent on the Minutes.

I feel it right to add that, had the Council been equally divided, and the necessity of giving a casting vote thus have fallen on myself, I should have given it in favor of Mr. Plunkett, because in such case I should have considered the equality of voices in the Council to indicate that the two gentlemen were on a par on the second point, equally as they were considered to be
on the first; that is to say, that they were not only equal in respect to fitness for the Office, but equal also in respect to claims arising out of their previous position in the Colony, the one as Attorney General, the other as Senior Assistant Judge; and in such case I should on the third point, namely good service to the Government and the Colony, have considered Mr. Plunkett entitled to the preference.

I have thought it right to be thus explicit, because I understand it to be the intention of Mr. Plunkett still to prefer his claim to Your Lordship.

Connected with the same subject, I enclose copies also of letters from Mr. A'Beckett, whose proper office is Solicitor General, though he is now acting as a Puisne Judge, and Mr. Therry, who acted as Attorney General for nearly two years, during the absence of Mr. Plunkett. Each of these gentlemen was interested in the appointment of a Chief Justice, or rather in the arrangements which would have been necessary, had Mr. Plunkett vacated the office of Attorney General, as their respective letters will shew.

I have, &c.,

GEO. GIPPS.

P.S.—At the moment that I am about to close my Bag, I have received a second letter from Mr. A'Beckett, and also a letter from Mr. W. M. Manning, who is now acting as Solicitor General. These letters, being addressed to Your Lordship, are herewith enclosed.

Mr. R. Therry has also intimated to me his desire to be considered a Candidate for the Seat on the Bench, which will become vacant by the elevation of Mr. Stephen to the Office of Chief Justice.

It may perhaps be necessary to explain that Mr. A'Beckett is now acting as a Judge in the place of Mr. Burton, lately removed to Madras; and that his appointment will consequently be void on the arrival of Mr. Dickinson, who may be expected every day.

I shall not appoint a person to succeed Mr. Stephen, until Mr. Dickinson shall arrive; but the question will then arise, whether Mr. Therry shall be appointed, or Mr. A'Beckett.

Sydney, 7th October, 1844.

G.G.

[Enclosure No. 1.]

STATEMENT BY MR. JUSTICE STEPHEN.

1. I was appointed to the office of Solicitor General of Van Diemen's Land by Earl Bathurst in 1825, having then been called to the English Bar two years only. In conjunction with that Office, I held also for some years the appointment of Crown Solicitor.

The great increase of business in that department compelled me, in 1830, with Colonel Arthur's approval, to retire from the latter; but I continued for some time without emolument to discharge most of its duties. In the year 1832 (while on my passage to England,
to which private affairs called me), I was appointed Attorney General of the Colony, on the recommendation of Sir George Arthur, by Earl Ripon. I received the Royal Warrant for that Office from Lord Stanley, and returned with it to Van Diemen's Land in 1833. Finally in the year 1839 (having about twelve Months previously, under the pressure of extreme ill health, resigned that appointment), I had the honor to receive the offer of a Seat on the Bench of New South Wales from Sir George Gipps, which, although a temporary appointment only, I thought it right to accept, in the full assurance that my interests would not be permitted to suffer for responding to the call. In 1841, Mr. Justice Burton having returned to the Colony, Lord John Russell was pleased to appoint me permanently to the Sydney Bench. I shall thus, in a few months, have been a Judge of this Colony six years; and I was in the Service of the Crown, as Solicitor General and Attorney General in the Sister Colony, twelve years. My entire term of service may, therefore, be stated at eighteen years of laborious and sustained exertion at the most active though not of the most matured period of man's life.

2. It is not, however, on length of Service alone, or on my position in point of Seniority as the present second Judge of the Court, that I rest my expectations of advancement. Considerations of this kind ought not, indeed, to be lost sight of, and I have no doubt that due weight will be given to them. But, in themselves, such circumstances are or may be of little value. In aid of them, therefore, I must enter into other matters, although, by so doing, I shall be led to speak of myself in a manner which I would gladly have avoided. I have, however, throughout my official and public career, so endeavoured to discharge or even go beyond my duties as to justify advancement, and enable me, in case of need to ask it on the substantial grounds of important Service rendered; and to these consequently I hope now to be pardoned for referring.

3. As it respects this Colony, I shall not hesitate to submit that the very acceptance by me of the Judgeship under the circumstances was of that Character. At that period I was in the most extensive practice, perhaps, ever enjoyed by any Barrister in these Colonies. My income exceeded on the average £3,000 per annum. I was surrounded by friends, and rapidly acquiring an ample property for my Children. It will not be matter of surprise, therefore, that I hesitated to avail myself of the proposed Seat. But, as I was informed, that it had been declined by the only two Law Officers of Your Excellency's Government (the present Attorney General being one), whom it was then thought expedient to prefer, I conceived that my refusal would embarrass matters still more; and I came. I will not affect to deny that I had other reasons. I looked forward to Judicial advancement; and I reflect, on the one hand, that Her Majesty might justly disappoint my views, if I deferred them to a time convenient to myself only. Whilst on the other the sacrifice of my interests on an emergency of that kind would eventually be remembered, and (I hope) rewarded at a fitting Season. Among the Contingencies, which I contemplated, were the events of possible deaths or retirements in the course of years. Those, which have occurred, have indeed been as to one most premature and unexpected; but, if in other respects my Judicial Character and competency cannot be questioned, my Claim will not. I persuade myself, be prejudiced by the mere fact that they are thus made prominent so soon.
4. Amongst the contingencies within my view was certainly not that which has arisen of the Attorney General advancing a claim to my prejudice; for, had its possibility occurred to me, I assuredly should not have felt justified in so entirely sacrificing the interests of my family. I never could have anticipated such a rivalry; for no precedent existed to justify it, and the supposed analogy to the practice, which prevails in England on this head, has plainly no foundation. I will venture to add that, if the claim be recognized, no competent man will ever be found hereafter in these Colonies (where aptitude for the Bench is a rare attribute, and high legal attainments will always command a greater income than a Puisne Judgeship) to accept a Seat upon it. At home, the Attorney General is the adherent of a party, to whom probably he gives as much as he can receive from them. With that party he retires from Office; and his reward is generally (for the case is not always so) the option of acceptance of any Judicial office, which may become vacant during their ascendancy.

Should he decline any such office, no embarrassment ensues; but it is conferred on another, amongst numerous fitting candidates; without Condition or risk of subsequent removal. The slightest reflection will shew that the position of the Government and the Attorney General in the Colonies is in no respect parallel to the state of things described; and the position of the individual, selected here for the Seat rejected by the Colonal Attorney General, is simply that of a temporary occupant, liable to eviction (as is now the case of Mr. A'Beckett and was mine). and to all the loss which a compulsory return to the Bar involves in case of his not obtaining confirmation, which can never be calculated upon with certainty, and to which Mr. Plunkett seeks to add the further risk of the intervention at discretion of a claim by him.

5. I have already said that my own expectations rest not merely on Seniority or position. From the hour of my arrival in New South Wales, I have been, as I was in my former offices, resolved to establish a claim for consideration on other grounds also; and on these grounds I now venture to rely. For my services in Van Diemen's Land, I should be better pleased to refer only to the Despatches of Sir George Arthur, in which he has recommended me (on I believe several occasions) in the strongest and warmest terms. But, as these are not accessible in New South Wales, I must here quote the language of the Addresses presented to me on my departure from Van Diemen's Land, signed, as His Excellency Sir George Gipps is aware, by almost every person of weight or respectability in that Colony, including the Clergy of all denominations, the Members of the Executive and Legislative Councils with but two exceptions, and by above One hundred and twenty Magistrates, comprising at that time three fourths of that body. An Extract is annexed; and I ought to add that I received similar but separate addresses from the Chief Justice, Sir John Pedder, delivered from the Bench, from the Jurors of Hobartown and Launceston, and from both branches of the Legal profession, accompanied in the latter instance by a presentation of plate, a compliment which I received also from a large body of Clients and friends.
6. I am unwilling and perhaps it is not necessary to lengthen this paper by particular circumstances or points, which tend to put my claims in a more striking light; Such as reports presented by me to Sir George Arthur and to Sir John Franklin on various subjects, and opinions given by me to them on matters of importance to this as well as the Sister Government. For these or some of them, I may refer again to these officers or their despatches. But I will mention that, on two occasions of emergency when Solicitor General during Colonel Arthur’s administration, I discharged all the duties of Attorney General without emolument; on one for a few months only, but in the other (excepting a small portion of those duties) for nearly twelve Months. So in this Colony I have on three occasions performed or shared in performing the duties of one of my colleagues, On this last occasion for above four months, and during the most severe Season of Judicial exertion in criminal business, which has been known for Some Years. Those only, who live in New South Wales and are aware of the unceasing round of a Judge’s engagements, can rightly appreciate the extent of additional labor thus devolved upon me.

7. Of the mode in which during my career I have performed my Judicial duties, I will say little because His Excellency must be well informed on this subject. I shall claim merely the praise of unwearying industry, of unvaried courtesy and attention to all who have transacted business with me, and of the utmost care in disposing of every case brought before me for decision. Every judgment delivered by the Court has received my individual study. Every Rule of Court for improvement of the Pleadings or practice of the Court or regulation of its Sittings or its Officers, since I first took my Seat, has been drawn by my own hand. So has every Act of Council passed in that period for similar purposes; and, in the miscellaneous duties and correspondence, I have generally contributed a large share. All these things considered, supposing my legal knowledge to fit me for so high a Station, or (in reference to the expectations entertained by the Attorney General) not to be inferior to that of my present competitor, I trust that I shall be thought to have made out the case, which I have conceived that I could establish.

Sydney, 4 October, 1844.

ALFRED STEPHEN.
ATTORNEY-GENERAL PLUNKETT TO SIR GEORGE GIPPS.

Sir,

ATTORNEY GENERAL'S Office, 4th October, 1844.

The decease of the late much lamented Chief Justice Sir James Dowling having caused a vacancy in that high office, I trust your Excellency will not deem it presumptuous in me to solicit the appointment to it.

I rest my claim to it on the following grounds:—

1st. The practice which almost invariably prevails both in England and Ireland in similar cases and which has established the right of the Attorney General to any vacancy on the Bench, whether of a Puisne Judgeship or Chief Justiceship, which may occur while he holds office. So many instances of this have occurred in both Countries recently that it is only necessary to allude to them. The last arrival from England has furnished a proof of the practice in the promotion of Sir Fredk. Pollock as the Successor of the late Lord Abinger, Chief Baron of the Exchequer. Whether the practice has been acted on in other Colonies I know not; but, as this is so peculiar an English Colony and the Members of the Bar are all necessarily either English or Irish Barristers, and the Supreme Court follows the practice of the Courts of Westminster Hall, I think it due to the office, I have the honor to hold as well as to myself in analogy to English usage, to put in my claim for the vacant office.

2ndly. I claim it on the ground of my long standing as a Law Officer of the Crown. In Octr., 1831 (now 13 years ago, and being of upwards of 5 Years' standing at the Bar at that time), I was appointed to the office of Solicitor General, and, in March, 1836, to the office of Attorney General of New South Wales; and I trust that the manner in which I have discharged my public duties have given satisfaction to the Government and the Public. If the vacancy were only temporary, occasioned by leave of absence, as when Chief Justice Forbes obtained leave, I should not dispute the right of the Senior Judge to fill the office pro tem.; but a vacancy occasioned by death is altogether different. In the latter case, there is no analogy at all to sustain the right of the Senior Judge to succeed; and, if this be so, I beg respectfully to urge that my Claims are Stronger on the Government of this Colony from length of Service (independent of any other Claim) than those of Mr. Justice Stephen, the present Senior Judge, who is not many years in the Colony, although I am aware he formerly filled very ably the office of Attorney General in Van Diemen's Land.

I have, &c.,

JOHN H. PLUNKETT, ATTORNEY GENERAL.

MR. JUSTICE A'BECKETT TO SIR GEORGE GIPPS.

Sir,

SYDNEY, 3d OCTR., 1844.

In reference to the interview which I had the honor of being favored with by your Excellency yesterday on the subject of the vacancy on the Bench caused by the death of the late Chief Justice, I beg to Submit for your Excellency's consideration the view which I take of my own position in connexion with that event.
GIPPS TO STANLEY.

It will be in the recollection of your Excellency that, on the departure of Mr. Justice Burton for Madras, the Serious illness of the Chief Justice gave rise to a representation on the part of Mr. Justice Stephen of the necessity for the appointment of another Judge, and that such appointment, having been first offered to and declined by the Attorney General, was tendered to and accepted by myself.

In taking this new Office upon me, I was not insensible to the disadvantage of quitting the one I then held for another of a temporary and uncertain nature; but, on the understanding that my declining would embarrass the Government, and that my position of Solicitor General was considered as giving your Excellency a claim upon my Services, under the circumstances, I threw no impediment in the way of the proposed changes, and accordingly had the honor of receiving a commission from your Excellency, appointing me a Judge of the Supreme Court until such time as I should be supplanted by a Successor to Mr. Justice Burton. In consenting to take the Office, I gave the Attorney General (through whom I was informed of your Excellency's wishes on the Subject) distinctly to understand that I did so in the desire of obtaining a permanent seat on the Bench, and in consideration of events as they then stood being favorable to that view. Intelligence had not at that time been received of the appointment of Mr. Dickinson, and the Attorney General having assured me that, if he were nominated successor of Mr. Justice Burton either by the Home Authorities or through your Excellency, he should decline in my favor; this was one of the chances to which I naturally looked as a means of accomplishing my object. That is now at an end, for, although no official intelligence has been received of the event, there can be little doubt, however contrary to the expectations of the Attorney General, that Mr. Burton's vacancy has been filled up at home by the Gentleman whose name I have already mentioned.

Another inducement in connexion with my hopes of permanent appointment was the anticipated absence of the Chief Justice for at least two years, the probability also of his retirement at the end of that period, and the possibility before that time of the event which has already taken place, an event it would have been indelic ate to allude to, but which all, who knew the precarious State of his health, could hardly fail to contemplate as not very far distant. Under these circumstances, your Excellency cannot feel surprised at the application, which I now respectfully make, that your Excellency will be pleased to appoint me to the vacancy caused by the death of the Chief Justice, not indeed to the Chief Justice-ship to which I lay no claim, but to that Junior position on the Bench, which I was led to consider I stood a fair chance of occupying on the occurrence of any of those events to which I have before adverted, as being my inducement for going on the Bench at all. In making this application to your Excellency, I should feel I had already stated sufficient grounds for its favorable reception, but for the circumstance of the claims, which I understand has been put in by the Attorney General, to the Situation of Chief Justice, a claim, which, if yielded to, will at once disappoint those expectations to which I have before alluded, and which, however unwittingly on his part, mainly had their rise in the conduct and language of the Attorney General himself. I am sure the Attorney General is too honorable a minded man to do any thing which
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savors of unfairness or uncandidness to others; but, whilst I acquit him of either in the steps which he is now taking to secure what he deems to be his rights, I cannot forbear pointing out with the same candour, for which I gave him credit, what I consider to be mine.

I submit then that, having gone upon the Bench under the circumstances above stated, I have a claim on your Excellency superior to that of the Attorney General; and that, if the allowance of his will operate to the exclusion of mine, mine ought to be preferred; 1st. Because the grounds of my claim are indisputable, whilst those of the Attorney General are unprecedented and doubtful; 2nd. Because, on the understanding upon which I went upon the Bench, there was an implied promise of preference, which either express or implied can be said to have existed in favor of the Attorney General; 3rd. That my claim is formed on grounds (implicitly held out by and known to the Government here) whilst that of the Attorney General, if valid at all, can be valid only as between him and the Home Government; 4th. That, as between myself and the Colonial Government, all precedent is in favor of my claim, whilst all precedent is against that of the Attorney General; 5th. That great injury will accrue to me in the disallowance of my claim; 6th. That the Attorney General never intimated his intention to claim the Chief Justiceship in the event that has happened, whilst he must have known that the possibility of that very event was one main inducement to my going on the Bench; 7th. That, if I had had the least idea of such a claim, I should have had good reason for declining to go on the Bench; 8th. That not having declined, at the risk of injury to me, he who as attorney-general entitles me to some consideration from your Excellency, whilst the Attorney General by having declined is entitled as against me to none; 9th. That, the final decision resting with the Home Government, your Excellency will decide upon the equity and justice of the case, which I submit is against the Attorney General, and all in my favor. It is not for me to interfere in any matter between the Attorney General and Mr. Justice Stephen; but, as the disallowance of my claim involves the disallowance of mine, I may be permitted to observe that, in appointing Mr. Justice Stephen to the Chief Justiceship, your Excellency will, as it seems to me, be pursuing the course which has been uniformly adopted and will at the same time elevate to that position a Gentleman whose legal abilities are held in the highest esteem by the whole legal profession, and whose claims in that respect alone, if he had none other, would have been sufficient to deter me from questioning his right to the Office now claimed by the Attorney General.

In conclusion, I have to submit to your Excellency, in the event of Mr. Plunkett being appointed Chief Justice, my claim to the office of Attorney General. I use the word claim, because, if Mr. Plunkett be right in the grounds upon which he puts his claim to the Chief Justiceship, mine to that of the Attorney General follows as a matter of course; for it is the invariable practice at Home for the Solicitor General to succeed to the Office of Attorney General, whilst there have been exceptions to the practice of appointing the latter Officer to the vacant Chief Justiceship. I shall feel obliged by your Excellency laying this letter before the Executive Council, to whom I understand the matter is to be referred, as their decision must involve a consideration of my claims, no less than those of the Attorney General and Mr. Justice Stephen.
GIPPS TO STANLEY.

I have further to request that your Excellency will be pleased to forward this letter to the Right Honorable the Secretary of State for the Colonies for his consideration.

I have, &c.,

WILLIAM A’BECKETT.

[Enclosure No. 4.]

MR. R. THERRY TO SIR GEORGE GIPPS.

Sir,

Hunter Street, Sydney, 5th October, 1844.

In the event of a vacancy in the Office of Attorney General, I beg to submit to Your Excellency’s consideration my claims to succeed to that Office.

These claims, I beg leave briefly to submit, rest upon my standing as senior at the Bar to any other candidate for it, upon the long period during which I have held various Offices connected with the legal Department under Government, and to the recorded approbation of the Successive Governors who, for the last fifteen Years, have administered the Government of this Colony.

My further and more direct claim rests upon what I submit to be the fair and equitable construction of Lord Stanley’s Despatch of the 23rd of March, 1843. In that Despatch, it is stated “I am given to understand that the Office of Commissioner in the Court of Requests is to be placed under that Act (The new Court of Requests Act) on a higher footing as regards Emolument than herebefore, and I therefore shall propose that Mr. a’Beckett should be permanently confirmed in the Office of Solicitor General, leaving Mr. Therry in the Court of Requests.”

Your Excellency is aware that subsequent events have shewn that this arrangement was made on an erroneous understanding on the part of Lord Stanley; and, as the condition on which it was made in my regard has not been fulfilled, I confidently submit that my preferable claim to the appointment (which the Despatch impliedly admits) should prevail in the event of a vacancy in the Office of Attorney General.

I might urge other claims, which however I forbear from doing as they are within the personal knowledge of Your Excellency.

I have, &c.,

R. THEBEY.

[Enclosure No. 5.]

MR. W. A’BECKETT TO LORD STANLEY.

My Lord,

Sydney, 7th October, 1844.

Your Lordship has probably been made aware that, shortly after the departure of Mr. Justice Burton for Madras, his Excellency Sir George Gipps did me the honor to appoint me a judge of the Supreme Court of this Colony, until such time as a successor to Mr. Justice Burton should be appointed. At the time of my appointment, the Chief Justice Sir James Dowling was in such a state of ill health as to be incapacitated altogether from attending to his judicial duties; and it became therefore a matter of necessity that the Bench, then only filled by Mr. Justice Stephen, should be strengthened by the appointment of a second judge. Under these circumstances, the Attorney General having declined to take a seat on the Bench, it was accepted by myself until Mr. Burton’s successor should be permanently appointed. Since then the death of the Chief Justice Sir James Dowling has occurred, in consequence of which an application was made by the Attorney General to his Excellency Sir George Gipps to be appointed to that office.
At the same time, I addressed a letter to his Excellency, stating what I considered to be my claim to the Puisne Judgeship in the event of Mr. Justice Stephen being promoted to the Chief Justice, and why I thought my claims to that position preferable, under the circumstances, to that of the Attorney General to the Chief Justiceship. To a copy of that letter I beg to refer your Lordship, as containing a full explanation of the grounds on which I make my present request, which is that your Lordship will be pleased to advise Her Majesty to appoint me to a seat on the Bench permanently, in the event of a vacancy occurring either through the confirmation or nonconfirmation of Mr. Justice Stephen in the office of Chief Justice, or, if the Chief Justiceship should be conferred on Mr. Plunkett, then that I may be appointed his successor in the office of Attorney General. Whatever may be Her Majesty's decision, I need hardly point out to your Lordship the very serious professional injury I must suffer by returning to the Bar at all, after an absence even of the shortest duration; and trust that my compliance with the Governor's wishes in going on the Bench temporarily, though in hopes of furthering my own views, will meet with consideration. It is not for me to speak of my own qualifications. I will only say, therefore, that I was called to the English Bar in 1829, and that, for nearly eight years in this Colony, I have, as a leading member of the Bar, been engaged almost daily in a very extensive practice.

WILLIAM A'BECKETT.

[Enclosure No. 6.]

MR. W. M. MANNING TO LORD STANLEY.

My Lord, Sydney, New South Wales, 7th October, 1844.

I beg leave to present to your Lordship's notice, and to request your favorable consideration of my claims to be confirmed in the office of Solicitor General of this Colony, which His Excellency Sir George Gipps was pleased to confer upon me on the appointment of Mr. a'Beckett to be one of the Judges of the Supreme Court, to fill the vacancies consequent on the promotion of Mr. Justice Burton to Madras and the then contemplated departure of the late Chief Justice, Sir James Dowling, on leave of absence for England.

I take the liberty of informing your Lordship that I am a Barrister of England of twelve years' standing, having been called to the Bar at Lincoln's Inn in the year 1832. During the four following years, I conducted, in conjunction with the late Mr. Nevile of the Northern Circuit of England, a legal publication ("Nevile and Manning's Reports of Cases argued and determined in the Court of King's Bench" 6 volumes), concerning which I venture to refer to the Lord Chief Justice Denman and the other Judges of the Court of Queen's Bench. I also, during that period, edited a minor legal work "Proceedings and Decisions in Courts of Revision, and the Reform Act with explanatory remarks," 1833 and 1836, and regularly attended the Western Circuit.

Shortly after my arrival in this Colony in the year 1837, I was elected by the magistracy to the office of Chairman of the Courts of Quarter Sessions, which I retained for seven years by annual re-elections, having only resigned it on my recent appointment to my present office of Solicitor General; and, during the employment of Mr. Therry as Attorney General in the absence of Mr. Plunkett from March, 1841, to July, 1843, I also held the office of Commissioner of the Courts of Request.
Your Lordship will, I trust, consider the nature and purpose of this communication a sufficient excuse for troubling you further by stating that the magistrates in the Quarter Sessions Districts of Berrima and Bathurst have, upon my retirement from the Chairmanship, publicly addressed me in terms expressive of their approbation of the manner in which my duties as their Chairman have been discharged, and that those in Sydney have announced a meeting for the same purpose to be held tomorrow. And, on the occasion when His Excellency the Governor conferred upon me the temporary appointment as Solicitor General, he did me the honor to make such mention of my public and private character as induces the hopes that his report to your Lordship upon this application will not be unfavorable.

Should the arrangements, rendered necessary by the lamented death of Sir James Dowling, leave the office of Solicitor General at your Lordship's disposal, I trust I may be deemed worthy of the confidence of the Crown, and that you will do me the favor, which I beg to assure your Lordship I should most gratefully acknowledge, of recommending me to Her Majesty for confirmation in that office.

I have, &c.,

WM. MONTAGU MANNING.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 221. per ship Ceylon.)

My Lord,

Government House, 7th Octr., 1844.

I am sorry that I cannot by the present opportunity make a complete Return of the Amount of the recent Immigration into this Colony, under the agreements made in England by the Commissioners of Colonial Land and Emigration.

I, however, forward an approximate Return, shewing the number of Immigrants arrived in each Ship, and the amount of Bounties paid on them up to the present time.

Also a Return of the sums paid, or authorized to be paid in the present year, on account of the arrears of the great Immigration of the years 1841 and 1842. The amount is £5,831 10s.; but, of it, the sum of £1,263 10s. is as yet unpaid, in consequence of there being no person in the Colony authorized to receive it.

I have also to report that, in consequence of the facility with which I have of late obtained money at six per cent. interest, I have taken measures for calling in the Debentures (amounting to £21,600) issued in the years 1842 and 1843, which bear interest at eight per cent.

The total amount of Debentures now outstanding, including these at 8 per cent., is £99,700; and I trust I shall not have occasion to issue any more, having money in hand which will, I think, be sufficient to pay for the 750 Statute Adults, who, according to Your Lordship's Despatch No. 27 of the 28th February last, are still to be expected in the Colony.
I will avail myself of this opportunity to make to Your Lordship the following observations:—

The amount of our Land Sales during the first three quarters of the present year is only £4,644 17s., being considerably less even than it was in the three corresponding quarters of 1843; from reasons which may partly be gathered from my Despatch of the 28th Feby. last, No. 91, there is an equal or, I believe, a greater falling off in the receipts on account of Quit Rents; whilst, in respect to the third great Branch of the Crown Revenue, viz., the Licenses to depasture Cattle on Crown Lands, it is doubtful whether we shall be able to collect anything after the 1st July, 1846, when the Local Crown Lands Act (2d Vict., No. 27) will expire. A "Bold effort"* is moreover recommended on the part of the Legislative Council to strip the Crown altogether of its Territorial Revenue.

Under all these circumstances, therefore, I feel bound explicitly to say that I cannot recommend the resumption of Emigration.

GEO. GIPPS.

[Enclosures.]

[Copies of these papers are not available.]

SIR GEORGE GIPPS TO LORD STANLEY.

(My Lord,
Government House, 7th Octr., 1844.

I have had the honor to receive Your Lordship's Despatch, No. 40 of the 18th March, 1844, by which I was informed that Mr. John Walpole Willis has appealed to Her Majesty in Council against his removal from the Office, which he lately held of a Judge in this Colony; and that a Citation will be issued by the Judicial Committee of the Privy Council, calling on the Governor and Executive Council of New South Wales to answer the Appeal.

I lost no time in laying Your Lordship's Despatch before the Executive Council, and also before the Law Officers of the Crown; but I am advised, both by the Law officers and the Council, that nothing can be done in the matter until the Citation shall arrive in the Colony.

In the mean time, I am taking such steps, as appear to me necessary, in order to be enabled to act without delay as soon as the Citation may arrive.

I have, &c.,
GEO. GIPPS.

STANLEY TO GIPPS.

LOST STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 143, per ship Ann Grant.)

Downing Street, 8th October, 1844.

I have received your Dispatch of the 29th of April last, Despatch acknowledged.

Having communicated on the subject with the Colonial Land and Emigration Commissioners, I transmit to you, herewith, for your information, the Copy of an explanatory reply, with its enclosure, which I have received from that Board.

You will perceive, from these Documents, that the notification to the Authorities at Port Phillip of the issue to Mr. McAlister was inadvertently omitted on the part of the Emigration Commissioners, but that they have taken measures for receiving early information of that Gentleman's return to England, with the view of obtaining from him repayment of the amount in question.

I have, &c.

STANLEY.

[Enclosure.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Colonial Land and Emigration Office, 30th September, 1844.

Sir,

We have the honor to acknowledge your Letter of the 27th Instant, relative to an overpayment to Mr. James McAlister, the Surgeon appointed in October last to the Bounty Emigrant Ship "Burhampooter," and on the wreck of that Vessel to the "Royal Consort."

We find, on referring to the circumstances which took place at the time, that Mr. McAlister received personally at the Colonial Office the requisite authority to Mr. Barnard for this advance only the day before the sailing of the "Royal Consort," and we regret that, in the necessarily hurried manner in which the transaction occurred, the notification of it to the authorities at Port Phillip by this Department was inadvertently omitted, whilst Mr. Barnard's advice of the payment, made a fortnight afterwards, reached the Colony too late to prevent the error which occurred.
HISTORICAL RECORDS OF AUSTRALIA.

We beg leave to state however that Mr. McAlister was in charge of Emigrants before in a Bounty Ship, and that he held the highest Testimonials to character; and, having communicated with his Brother the Revd. Mr. McAlister on first hearing of the error, we enclose a copy of his answer, from which we trust it will be apparent that, although an omission occurred which we much regret, there is no probability of a loss of the public Money. We have taken measures for receiving from the Owners of the Ship (in which he is still employed) the earliest notice of his arrival in England.

We have, &c,

T. FREDK. ELLIOT.
C. ALEXANDER WOOD.

[Sub-enclosure No. 1.]

REV'D. J. K. MCA Li E R TO MR. JOHN WALPOLE.

Armagh, 23rd September, 1844.

Sir,

In reply to yours of the 20th Instant, I beg to state that my brother, Surgeon James McAlister, has not as yet returned to this country, nor have I received any instructions from him concerning the money which the Colonial Land and Emigration Company lent him. I am quite certain that it was an unintentional neglect in him not to have the matter settled as soon as it was convenient. I shall correspond with him on the subject, and as soon as I shall hear from him I will let you know. You need have no apprehension, but my brother will pay you in due season his just debt.

I am, &c,

J. K. McALISTER.

[Sub-enclosure No. 2.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Colonial Land and Emigration Office,
9 Park Street, Westminster, 25th October, 1843.

We have the honor to forward the enclosed application from Mr. McAlister, who was Surgeon of the "Burhampooter" recently wrecked at Margate, and is immediately proceeding in another Ship with Bounty Emigrants, but lost in the former Vessel all his Outfit; and we have the honor under the circumstances to submit our recommendation that Mr. Barnard be forthwith authorized to issue to Mr. McAlister the sum of £30, as an advance on account of his gratuity as Surgeon, in which case we would apprise Mr. Latrobe of the fact by the Vessel in which Mr. McAlister sails. As he is about immediately to depart, we would take the liberty of mentioning that the subject is pressing.

We have, &c,

T. FKEDK. ELLIOT.
JOHN G. SHAW LEPF VRE.

[Sub-enclosure No. 3.]

MR. JAMES MCA Li E R TO MR. S. WALCOTT.

Sir,

London, 25th September, 1843.

I have the honor to request that you will tender to Her Majesty's Commissioners for Land and Emigration my thanks for their appointment of Surgeon Superintendent of the "Royal Consort" instead of the "Burhampooter," now a wreck, which they have conferred upon me. I have also to submit to them an application for a small sum, to enable me to complete a fresh Outfit from Funds belonging to New South Wales in this Country, or from any other source which may be found available in the Colony, to be deducted hereafter from any pay that may become due to me, on account of my services in this capacity. I am aware that there is some irregularity in my request; but considering the severe loss to which I have been subjected by the unfortunate "Burhampooter" and advertizing to the smaller number of Emigrants which the present Vessel will carry, I trust the Board will take my request into their favorable consideration, and excuse me for the liberty, etc.

I have, &c,

JAMES McALISTER, Surgeon.
GIPPS TO STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 223, per ship Ceylon; acknowledged by lord Stanley, 30th April, 1845.)

My Lord,

My Lord, Government House, 8th Octr., 1844.

Since the closing of my Bag by the "Ceylon," I have received the accompanying letter addressed to Your Lordship from the Attorney General, Mr. J. H. Plunkett, which I lose no time in transmitting, in order that it may be placed with the other papers, enclosed in my Despatch No. 220 of the 6th instant.

I have, &c,

GEO. GIPPS.

[Enclosure.]

ATTORNEY-GENERAL PLUNKETT TO LORD STANLEY.

Attorney General's Office, My Lord, Sydney, 7th October, 1844.

The decease of Sir James Dowling (an event which caused universal regret throughout the Colony) has created a Vacancy in the Office of Chief Justice. Conceiving that, after a Service of Thirteen Years as a Law Officer of the Crown in this Colony, the Office of Attorney General, which I have the honor to hold, gave me some preferential claims to the Vacancy, I made application to His Excellency Sir George Gipps for the appointment. Mr. Justice Stephen, who happens to be at present the only Judge holding Her Majesty's Commission in the Colony, also applied for it. His Excellency deemed it right to take the advice of the Executive Council in the matter. The result has been the appointment of Mr. Justice Stephen, at which I must confess I feel disappointed. However as that appointment is only temporary. I trust my long and faithful Public Services will receive more consideration from your Lordship than they have received from the Governor and Executive Council.

The present case is the first instance of the Office of Chief Justice becoming vacant by death; and, in analogy to the well established practice in England and Ireland, it appeared to me the Attorney General had a preferable claim to it, provided his qualifications fitted him for the Office and that there was no Judge of such long standing in the Colony as to give him a very decided claim to the Office.

With respect to my qualifications, it is not for myself to speak of them; but I beg leave to give an Epitome of my professional and official career in order to enable your Lordship to judge for yourself. After taking my degree of A.B. in the University of Trinity College, Dublin, I was called to the Irish Bar in 1826, and attended closely and regularly to my profession both in term and on circuit, until I obtained the appointment of Solicitor General of New South Wales in October, 1831. On my arrival in the Colony early in 1832, I found an arrear of several years had accrued in the Crown Office, to which I applied myself unremittingly, until I got through and cleared it all up, and that without the slightest additional remuneration. I continued in the Office of Solicitor General until March, 1836, when I was promoted to the Attorney Generalship. During the whole time I held the Office of Solicitor General, it was well known to the Colonial Government that I
discharged the principal duties of the Attorney General in addition to those of my own Office, Mr. Kinchela (the Attorney General) being unfortunately labouring under physical infirmities, which almost incapacitated him from the performance of any duty in Court. I did so without complaining of the extra duty. I saw the Public Interests required it, and I never hesitated about doing what they required, though at the sacrifice of great labor to myself, and though properly the business of another Officer. At length, the infirmities of Mr. Kinchela (but on no complaint of mine) caused his removal from Office. From the Year 1836 to 1841, I discharged the duties of Attorney General without the assistance of a Solicitor General, the latter Office having been then improvidently abolished.

I would beg leave to remind your Lordship of the nature of the duties, I discharged during that time. It was my duty to give legal advice to every Department connected with the Government, to Draft all Acts of Council and support them in their passage through the Legislative Council. I was the sole adviser of the entire Magistracy of the Colony. In the Criminal business, the whole responsibility fell upon me as Grand Jury and Public Prosecutor, and in the preparation and conducting of all Trials in the Supreme Court. And, in all the Civil business, I had the same responsibility in advising and conducting all matters connected with it, and, during the whole period of time alluded to, I did not shrink from all those responsibilities, and at the expense of great labor and injury to my health I discharged them all unaided (except when two criminal Courts happened to sit at the same time, when it was impossible I could attend both); and I venture to say that no Government was ever kept more clear of legal difficulties than the Government of this Colony in all its branches up to the period at which I obtained leave of absence in 1841. I also always commanded as extensive a private practice as my Public duties permitted me to take. I was offered the temporary seat on the Bench in 1839 during the absence of Mr. Justice Burton, which I declined to accept, not conceiving that such refusal would militate against my promotion to any permanent vacancy that might offer, or allow the claim of Mr. Stephen, who did accept it, to obtain priority over mine.

These circumstances ought I respectfully Submit to be strong proof of my legal ability, and that I cannot be wholly destitute of some qualification for that promotion which I might naturally aspire to.

I am not aware of any fault being found with me either by the Government or the Public; but I can refer to many proofs of the Contrary.

On my departure from the Colony on leave of absence in 1841, I was presented with a Costly service of plate by the Inhabitants of the Colony and a Complimentary address. A Public Dinner was also given to me in Sydney in approval of my conduct as a Public Officer. The Members of the Bar (the best Judges of my Official conduct in the Courts of Justice) also presented me with a handsome piece of plate.

I would also beg to inform your Lordship that, during my stay in England and Ireland while on leave of absence, I gave up a great part of my time in attending the Courts at Westminster Hall and Dublin, and I attended several of the English Assizes with a view of becoming better acquainted with late English Practice and all the recent changes in the law.
I am aware that my name has seldom (if ever) been brought under the notice of Your Lordship’s predecessors or yourself, which is at least negative evidence of my not having given any dissatisfaction to the Colonial Government or trouble to the Home Authorities. When I had the honor of Communicating with Your Lordship personally and by letter during my late visit to England, Your Lordship was pleased to express your willingness to recognize my public Services, when an occasion for promotion Should arise. I trust your Lordship will consider my present application for the Vacant Chief Justiceship, a reasonable and natural one, as seeking for legitimate promotion; but, should Your Lordship not be disposed to acknowledge and ratify my claims to it, I would earnestly Solicit Your Lordship to grant me promotion to some place of Equal Emolument out of this Colony, in any Climate not absolutely unhealthy, for I must confess it will be a great humiliation to me to have Mr. Dickinson (lately appointed one of the Judges and a Barrister of only a few Years’ standing) put over my head, And Mr. Stephen, who only came to this Colony in 1839 to occupy a temporary seat on the Bench now promoted in preference to me; or, in such event Should Your Lordship be pleased to procure me any Situation in the Mother Country of Equal Emolument to that I now hold (£1,200 a Year) or even one of £1,000 a Year, I should be grateful for it.

I have, &c,

JOHN H. PLUNKETT, Attorney General.

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LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 146, per ship Ann Grant.)

Sir,

Downing Street, 9th October, 1844.

I have received your Dispatch No. 63 of the 16th of March last, with an Extract of a Report of a Select Committee of the Legislative Council of New South Wales, containing a request that complete sets of all Parliamentary and State Powers, more especially of all such as relate to that and other British Colonies, may be sent out for the Library of the Council, together with a complete set of all the publications of the Record Commissioners.

I transmit to you, herewith, a List of such Colonial Papers as have been printed for Parliament, and appear calculated to be most useful for reference to the Library of the Council; and I also enclose a Correspondence with the Master of the Rolls, as Keeper and Custos of the Records, from which you will perceive that directions have been given for furnishing one Copy of the several Record Publications still remaining, although several of the works are imperfect in consequence of all the Copies of some of the Volumes having been already distributed.

These Documents will be forwarded to the Colony by the Colonial Agent by an early opportunity.

I have, &c,

STANLEY.
List of Colonial Papers (printed by order of the House of Commons) for the Library of the Legislative Council.

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HISTORICAL RECORDS OF AUSTRALIA.

Enclosure No. 1—continued.

New Zealand.

List of Colonial Papers, etc.—continued.

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**[Enclosure No. 2.]**

**LORD STANLEY TO LORD LANGDALE.**

My Lord,

Downing Street, 26th September, 1844.

I have the honor to transmit to Your Lordship the enclosed Application for publications of the Record Commissioners.

I should be glad if your Lordship should be able to give directions for supplying the whole or any portion of these publications, which may still remain available for that purpose.

I have, &c.,

STANLEY.

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**[Enclosure No. 3.]**

**LORD LANGDALE TO LORD STANLEY.**

My Lord,

South Street, 28th September, 1844.

With reference to Your Lordship's letter addressed to me on the 26th Inst., I have the honor to acquaint your Lordship that I have directed the Queen's Printer to deliver one copy of the several Record Publications, remaining under my control, to such Person as your Lordship may be pleased to appoint to receive the same, for the use of the Legislative Council of the Colony of New South Wales.

Several of the Works are imperfect, in consequence of all the copies of some of the Volumes having been already distributed.

I have, &c.,

LANGDALE.
HISTORICAL RECORDS OF AUSTRALIA.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 224, per ship Greenlaw; acknowledged by lord Stanley, 30th April, 1845.)

My Lord,

My Lord, Government House, 9th Octr., 1844.

I hereewith transmit a Duplicate of a letter from Mr. Justice Stephen to Your Lordship, of which the Original was forwarded by the "Ceylon" which sailed from Sydney this morning.

I did not receive it until after the Vessel had left the harbour.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

MR. JUSTICE STEPHEN TO LORD STANLEY.

My Lord, Sydney, New South Wales, 7th October, 1844.

I have taken the liberty of submitting, through His Excellency Sir George Gipps for your Lordship's consideration, a Statement of the grounds on which I rest my pretensions as a candidate for the office of Chief Justice of this Colony. His Excellency, with the advice of the Executive Council, has been pleased so far to favor them as to confer the appointment temporarily upon me. May I entreat that, before submitting the name of any other applicant to Her Majesty, your Lordship will allow my friends the opportunity of laying testimonials before you, as to the opinion entertained by those who know me, and those under whom I held office for the very long period mentioned in my Statement, of my legal attainments, efficiency and character. And, if my services shall be thought by your Lordship to deserve acknowledgment, and my abilities and Conduct as a Judge hitherto to justify the nomination, then I respectfully ask at your Lordship's hands the very great obligation and high honor of your recommendation to the Queen in my favor.

I have, &c.,

ALFRED STEPHEN.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 147, per ship Ann Grant.)

Sir,

Downing Street, 10 October, 1844.

With reference to my Dispatch No. 103 of the 7th of July last, I transmit to you herewith a Copy of a letter from the Colonial Land and Emigration Commissioners, reporting that the Bounty Contractors at Glasgow and at Liverpool had now claimed the fulfilment of the Contract entered into by them for sending out Emigrants to New South Wales. You will perceive that the Contractors have been warned that, in the present Financial condition of the Colony, they must not reckon on payment in any other manner than by the Colonial Debentures bearing interest at Six per Cent., although it was impossible to resist their Claim to the fulfilment of the Contract entered into
STANLEY TO GIPPS.

with them. At the same time, if there should be sufficient means at your disposal, arising from the produce of Crown Lands, the parties should of course be paid from that source.

You will also perceive that the "Herald" is likely to be dispatched on that service from the Clyde at no distant period, and that Messrs. Smith, the Contractors at Liverpool, have stated that they have engaged Vessels for carrying out the Emigration from that Port.

Proposed departure of ships with immigrants.

STANLEY.

[Enclosure.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Sir,

Colonial Land and Emigration office, 30th September, 1844.

With reference to our Letter of the 22nd June stating that the Bounty Contractors at Glasgow and at Liverpool had consented by bounty contract to postpone the remainder of their Emigration, we have the honor to state for Lord Stanley's information that both parties have now entered upon measures for completing their Contracts.

Knowing the deficiency of Funds in New South Wales, we thought it our duty to endeavour to persuade them, if possible, to forgo executing the remainder of their Contracts; and we warned them that, in the financial state of the Colony, they must not reckon on payment in any other manner than by Colonial Debentures bearing interest at 6 per cent. Both parties, however, have stated their desire to proceed even on these terms. Under these circumstances, as they were bound under heavy penalties to carry out the whole of their side of the Agreement, we do not see how the Government on its side can decline to go through the same, especially after the parties have assented to the above modification.

In the resumption of his business by Mr. Anderson, who had only one more Ship to despatch with about 301 Emigrants, we have already acquiesced; and the same course being now demanded by the Messrs. Smith who have about 534 Emigrants to send, we would request to be instructed whether it is not necessary for the foregoing reasons that the step should not be further opposed.

The result will be that the Colony, in which a continued supply of Labour is still desired, will receive a renewed Immigration, and that, if unfortunately the Land Fund should not be adequate to meet it, this public object will be virtually effected on money borrowed at 6 per cent. interest. Should there, however, be sufficient means arising from the Crown Lands, the parties ought of course to be paid in Cash.

Should the foregoing views meet with Lord Stanley's approval, we would request that the information supplied by the present Letter may be conveyed to the Governor without delay, and also that he may be apprised that the "Herald" is likely to sail from the Clyde at no distant period, and that the Messrs. Smith of Liverpool have stated that they have engaged Vessels for performing their part of the business.

We have, &c.,

T. FREDK. ELLIOT.

C. ALEXANDER WOOD.
HISTORICAL RECORDS OF AUSTRALIA.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch marked "Separate," per ship Ann Grant.)

Sir,

 Downing Street, 11th October, 1844.

I have to acknowledge the receipt of your Despatch, No. 82 of the 12th of April last, and to acquaint you that, having communicated to the Lords Commissioners of the Admiralty your proposal for placing the Naval Stores which may be sent to New South Wales under the charge of the Ordnance Store Keeper in the Colony, and for providing a Naval Office on shore, their Lordships have apprised me that, as there are no vessels (except surveying vessels) there, and the stores are very limited, they do not think there is any necessity for altering the present arrangement.

I have, &c.,

STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 148, per ship Ann Grant; acknowledged by Sir George Gipps, 27th March, 1845.)

Sir,

 Downing Street, 11th October, 1844.

With reference to my Despatch No. 52 of the 10th of April last, relative to the course to be in future pursued with regard to advances made from the Funds of this Country to the Colonial Agent General for the service of New South Wales, I transmit to you herewith, for your information, Copies of a Correspondence on the subject which has taken place with the Lords Commissioners of the Treasury.

You will perceive that the Lords Commissioners have, under all the circumstances, directed an advance of Three Thousand Pounds to be made, on the present occasion, to Mr. Barnard, the Colonial Agent, for the service of your Government, and you will take the necessary measures for the immediate repayment of this sum into the Commissariat Chest.

I have, &c.,

STANLEY.

[Enclosure No. 1.]

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

Sir,

 Treasury Chambers, 7th September, 1844.

I am commanded by the Lords Commissioners of Her Majesty's Treasury to transmit herewith, in order that it may be submitted for the information of Lord Stanley, copy of a Letter from Mr. Barnard dated 27th Ulto. requesting an issue of £3,000 on account of the Government of New South Wales; and, with reference to the Letter addressed by this Board's direction to you on the 9th of March last, to your reply of the 16th March, and to the further communication from this Department of 28th March last,
I am to request that you will move Lord Stanley to favor my Lords with his opinion as to the propriety of authorizing the further advance applied for by Mr. Barnard, without awaiting the previous receipt of the reply from the Government of New South Wales to the Communication that may have been made by His Lordship to the Colony, respecting the supply of Funds for the Agency in this Country, especially as some of the demands comprised in Mr. Barnard’s statement would appear to have been of long standing.

I am, &c.,

C. E. TREVELYAN.

[Sub-enclosure.]

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

Sir, No. 5 Cannon Row, 27th Augt., 1844.

I have the honor to transmit to you for the information of the Lords of Advance H.M. Treasury a Statement shewing that the sum of £3,000 is required on account requested by of the Current Services of the Government of New South Wales, and I have to request the amount in question may be issued to me. I am, &c.,

E. BARNARD.

[Enclosure No. 2.]

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

Sir, Downing Street, 16th September, 1844.

I have laid before Lord Stanley your Letter of the 7th Instant, enclosing a copy of an application from the Colonial Agent General for New South Wales for an issue of £3,000 on account of that Colony, and requesting to be informed of Lord Stanley’s opinion with reference to previous correspondence on the same subject as to the propriety of authorizing such issue.

In reply, I am directed to request that you will state to the Lords Advance Commissioners of Her Majesty’s Treasury that, as the Governor of New South Wales could not have been apprized of the change of system in this respect at the period when the orders were issued to the Colonial Agent for the services on account of which this Money is required, Lord Stanley is of opinion that it will be proper, in pursuance of the arrangement proposed by my Letter to which you refer of the 16th March last, to comply with the present application, unless it should be quite evident that no inconvenience would result to the Colonial Government from a refusal to grant the advance; and his Lordship has no information which would justify such a conclusion.

I have, &c.,

JAS. STEPHEN.

[Enclosure No. 3.]

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

Sir, Treasury Chambers, 3d October, 1844.

I am commanded by the Lords Commissioners of Her Majesty’s Treasury to acquaint you, for the information of Lord granted. Stanley, that my Lords have given directions for the issue of £3,000 from the Commissariat Chest Fund to Mr. Barnard, Agent General for New South Wales, as an advance to be repaid to the Commissariat Chest Fund in that Colony; and I am to request that you will move his Lordship to make the requisite communication to the Governor of New South Wales for the repayment of the advance in question into the Commissariat Chest. I am, &c.,

C. E. TREVELYAN.
1844.
12 Oct.

Adjournment of legislative council.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 225, per ship Greenlaw.)

My Lord,


I have the honor to report to Your Lordship that on Friday last the 11th inst., the Legislative Council, after reading the Appropriation Act a first time, adjourned till Wednesday, the 27th November, being for a period of more than six weeks.

One day’s notice only of the motion for adjournment was given, and the notice is entered on the proceedings of the Council in the following words:—

10th October, 1844.—Mr. Windeyer, at the rising of the House, to move the following Resolution:—

“That a large proportion of the Members of this House, having urgent occasion to leave Sydney for the purpose of attending Sheepshearing, this House, at its rising, do adjourn to Wednesday, the 27th day of November next.”

The Motion was carried by a Majority of 11 to 7, the Officers of Government present being in a minority.

I have, &c,

GEO. GIPPS.

P.S.—I intend to take advantage of the adjournment to visit the Northern parts of the Colony.

14 Oct.

Letter transmitted from J. Arkins.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 226, per ship Greenlaw; acknowledged by Lord Stanley, 9th April, 1845.)

My Lord,

Government House, 14th October, 1844.

I have the honor herewith to forward a second letter, which has been addressed to Your Lordship by Mr. Arkins, Clerk of the Bench at Hartley, a place in this Colony lying between Sydney and Bathurst; but, with reference to my Despatch No. 191 of the 4th ultimo, I regret to say that I cannot recommend Mr. Arkins for the situation he solicits.

I have, &c,

GEO. GIPPS.

[Enclosure.]

MR. JOHN ARKINS TO LORD STANLEY.

My Lord,

Hartley, New South Wales, 8th October, 1844.

With reference to my application dated 1st of September last (forwarded through His Excellency Sir George Gipps) for an appointment in the Convict Service in Norfolk Island or Van Diemen’s Land. I have with great respect the honor to inform your Lordship that I have heard the appointment of Superintendent of Agriculture at Norfolk Island is now vacant, an appointment I think I could fill with Satisfaction to your Lordship. Should you be pleased to confer it on me.

I have, &c,

JOHN ARKINS.
GIPPS TO STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 227, per ship Greenlaw; acknowledged by Lord Stanley, 13th April, 1845.)

My Lord,

Government House, 16th October, 1844.

I have the honor herewith to forward an application, which has been made to me for Letters of Denization by Mr. George Evans, by birth a Citizen of the United States of America.

Mr. Evans' application is supported by the recommendation of persons of the highest respectability in Sydney; but I nevertheless think it right to inform Your Lordship that Mr. Evans is, or lately was, engaged in business in Sydney as a Rectifier or Compounder of Spirits; that, in the month of July, 1843, he was detected in the commission of a fraud on the Revenue, which he offered to compound for by the payment of £500; that I did not consider it proper to allow the matter to be compromised; and that Mr. Evans was consequently proceeded against, though, owing to what I believe to have been a mistaken view of the Law on the part of the Sydney Magistrates, he escaped conviction.

I am not aware how far an occurrence of this nature may justify the withholding of Letters of Denization from a person seeking to obtain them; but I must say that I cannot recommend Mr. Evans as a person entitled to look for favor from the Crown.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

The humble Petition of George Evans respectfully sheweth, To His Excellency Sir George Gipps, Knight, Captain General and Governor in Chief in and over the Territory of New South Wales and its Dependencies, and Vice Admiral of the same,

THAT Your Petitioner is a Native of Washington in the Republic of the United States of America, of the age of forty-five years, and by profession a Rectifier.

THAT Your Petitioner arrived in this Colony in the year 1820 and has since carried on Business as a Rectifier in the town and city of Sydney in the said Colony of New South Wales.

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
1844.

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.

G. EVANS.

CERTIFICATE.

We, the under signed, hereby certify that we know the Applicant Mr. George Evans; that he is in our opinion a Person of respectability and integrity and fit and proper to have Letters of Denization granted to him.

Dated at Sydney, this twenty-fourth day of September, A.D. 1844.

J. LONG INNES. W. BLAND, M.C.
H. H. BROWNE. CHARLES NICHOLSON, M.C.
WILLIAM H. WALSH, Minister of St. Laurence.
WILLIAM COOPER, B.D., Minister of St. Phillip.
CHAS. WINDTERT, Senior Police Magistrate.
JNO. LAMB, M.C.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 149, per ship Ann Grant.)

Sir, Downing Street, 17th October, 1844.

With reference to my Dispatch No. 4 of the 14th of January, 1844, I transmit to you herewith Copies of a further correspondence, which has taken place between this Department, the Board of Treasury, and the Colonial Land and Emigration Commissioners, relative to the adjustment of certain advances made from the Funds of New South Wales for Emigration Expenses chargeable to other Colonies. I also enclose the Copy of a letter which I have addressed on this subject to the Colonial Agent General.

The Distribution which will now be effected finally disposes of all claims on the part of Your Government for monies advanced to defray the expenses of the Colonial Land and Emigration Commission, the whole amount required for the service of that Establishment being now borne upon the Parliamentary Estimates.

I have, &c.

[Enclosure No. 1.]

STANLEY.

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

Sir, Downing Street, 19 July, 1844.

I am directed by Lord Stanley to transmit to you, to be laid before the Lords Commissioners of the Treasury, the enclosed copy of a Despatch from the Governor of New South Wales, relative to the adjustment of certain Debts, which Sir George Gipps supposes to be due to the Treasury of that Colony.

I also transmit a Copy of a letter from the Colonial Land and Emigration Commissioners on the same subject, and I am to request that you will move the Lords Commissioners to call on the Board of Audit for the information suggested by the Emigration Commissioners.

Lord Stanley has called on the Colonial Agent General for an Abstract Account, shewing the Balance of Funds in his hands on account of the Colony of New South Wales, distinguishing the amount derived from the sale of Lands from that applicable to the ordinary services of the Colony.

I am, &c.

JAS. STEPHEN.
STANLEY TO GIPPS.

[Sub-enclosure.] 

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Sir,

Colonial Land and Emigration Office, 4th July, 1844.

We have the honor to acknowledge your Letter of the 29th May last, accompanied by a Dispatch from Sir George Gipps relative to some matters of account connected with Immigration.

In reporting a payment made by him in conformity with Lord Stanley's directions on account of the "Sir Charles Napier," the Governor observes that he had been forced to issue Debentures to meet this payment, and that, whilst Debentures to the amount of no less than £23,900 were outstanding in the Colony at interest, a sum of upwards of £10,000 received in this Country for Lands remained unaccounted for. On this point, we would beg to refer to our two Letters of the 5th of April, 1843, and to one of the 29th August, which we presume will have reached Sir George Gipps subsequently to his present Dispatch, and in which we reported fully on the subject of the Funds received in England. We showed that the whole of the Balance at our disposal had been transferred to the General Account of New South Wales, and consequently that no Funds belonging to the Colony remained in the Agent General's hands on our account.

There will be still however some considerable repayments due from other Colonies to New South Wales on account of the part expenses of this Office. And we would take the present opportunity of suggesting that, with reference to the Letter from the Treasury dated 29th June, 1843, containing the apportionment of these charges made by the Board of Audit for the years 1840 and 1841, it should be inquired whether the Commissioners of Audit have now received the necessary Accounts to enable them to make a similar apportionment for the following year, and for the first Quarter of 1843.

In concluding his Dispatch, the Governor reports that, in the first eleven Months of 1843, the Land Revenue had only reached £9,991 15s. 5d., of which one half at least was applicable by Law to Emigration, but that in point of fact the sum expended on Immigration during that period amounted to £8,338 18s. 1d.

We have,

&c., &c.,

T. FREDK. ELLIOT.
C. ALEXANDER WOOD.

[Enclosure No. 2.]

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

Sir,

Treasury Chambers, 11th September, 1844.

With reference to the Communication from your Department dated 19th July last, relative to the adjustment of certain Debts supposed to be due to the Colonial Treasury of New South Wales;

I am commanded by the Lords Commissioners of Her Majesty's Treasury to transmit herewith, for the consideration of Lord Stanley, copy of a Report of the Commissioners of Audit, dated 15th Ultimo, on that subject; and I am to request that you will state to his Lordship that My Lords see no reason to dissent from the apportionment of the expenses of the Land and Emigration Commission proposed therein, and that you will move his Lordship, should he concur in this view of the subject, to cause the requisite directions in conformity therewith to be conveyed to Mr. Barnard.

I am, &c.,

C. E. TREVELYAN.

[Sub-enclosure.]

AUDIT COMMISSIONERS TO LORDS COMMISSIONERS OF TREASURY.

My Lords,

Audit Office, 15 August, 1844.

Having taken into consideration, in obedience to Your Lordships' order of reference, dated 26 July, 1844, on a letter from the Colonial Office, dated 19 of the same Month, a Despatch from the Governor of New South Wales, and a Report from the Colonial Land and Emigration Commissioners more particularly relating to the amount payable from the Funds of other Colonies in respect of that part of Expenses of the Establishment of those Commissioners, which had been temporarily defrayed from the Colonial Funds of New South Wales for the year 1842, and the first quarter of the year 1843,
1844.  
17 Oct.  
Report re proposed adjustment of accounts of colonies to end of year 1842.

We have the honor to report, in returning the referred papers to Your Lordships, that the total expense of the Colonial Land and Emigration Commissioners’ Office in the year 1842 amounted to £5,288 8s. 6d.; to meet which Expenditure £1,000 was drawn from the Parliamentary Vote for that year, and £1,416 9s. 1d. from the funds of South Australia, leaving the sum of £2,871 19s. 4d. to be provided for by Advances from the Funds of New South Wales.

The Expenses of the same Establishment for the first Quarter of the year 1843 amount as stated by the Commissioners to £1,188 15s. to meet which the sum of £250 was drawn from the Parliamentary Vote and £938 15s. from the funds of New South Wales.

In our Report to Your Lordships No. 254, dated 31st May, 1843, we explained the manner in which we had apportioned the expenses of the Office of the Colonial Land and Emigration Commissioners for the years 1840 and 1841. With respect to the present apportionment, as the South Australian Colonization Commission terminated on 30th Sept., 1842, up to which time only the Colony of South Australia paid the expenses of that Commission, Your Lordships will probably consider the Funds of that Colony as liable with the other Colonies to the rateable proportion of the expenses of the Colonial Land and Emigration Commission from 1st October, 1842, to 31 March, 1843; but, as the accounts from South Australia have not been received for any later period than the 31st Decr., 1842, we have not at present the means of ascertaining what may have been the amount of the Revenue derived from Crown Lands in that Colony for the Quarter ended 31 March, 1843.

We are nevertheless unwilling to delay on that account the adjustment with New South Wales for the year 1842, and therefore proceed to submit to your Lordships a statement of the Revenue received from Crown Lands in the Australian Colonies in the year 1842:

<table>
<thead>
<tr>
<th>Colony</th>
<th>Revenue Received</th>
</tr>
</thead>
<tbody>
<tr>
<td>New South Wales</td>
<td>£65,164 11 1</td>
</tr>
<tr>
<td>Van Diemen’s Land</td>
<td>24,738 3 10</td>
</tr>
<tr>
<td>Western Australia</td>
<td>2,184 9 0</td>
</tr>
<tr>
<td>New Zealand</td>
<td>13,876 3 1</td>
</tr>
<tr>
<td>South Australia, quarter ended 31 Decr., 1842</td>
<td>978 5 0</td>
</tr>
</tbody>
</table>

The amount of the Expenses of the Colonial Land and Emigration Departments for the year 1842, chargeable on the Land Revenues of New South Wales, Van Diemen’s Land, Western Australia and New Zealand for that year, and on the Revenue of South Australia for the last Quarter of the year, was, as already stated, £2,871 19s. 4d., three fourths of which are equal to about 2.71 decimal parts per cent. on £79,472 10s. 3d., the amount of the Revenue of the first four mentioned Colonies for three quarters of the year, and one fourth to 2.61 decimal parts per cent. upon £27,469 Is. 9d., the amount of one fourth of the Revenue of the same Colonies, with the addition of the Revenue of South Australia for the last Quarter of the year.

The result of the apportionment of the expenses of the Year 1842 to each Colony computed upon these data and divested of fractional parts will be as follows:

<table>
<thead>
<tr>
<th>Colony</th>
<th>Payable to</th>
</tr>
</thead>
<tbody>
<tr>
<td>New South Wales</td>
<td>£1,751 0 0</td>
</tr>
<tr>
<td>Van Diemen’s Land</td>
<td>664 4 4</td>
</tr>
<tr>
<td>Western Australia</td>
<td>58 13 0</td>
</tr>
<tr>
<td>New Zealand</td>
<td>372 11 4</td>
</tr>
<tr>
<td>South Australia</td>
<td>25 10 8</td>
</tr>
</tbody>
</table>

£2,871 19 4

Should your Lordships approve of the apportionment for the year 1842 calculated in the manner now submitted, We beg leave to suggest that Instructions should be given to Mr. Barnard, Agent General for the Australian Colonies, to transfer to the Credit of New South Wales Funds from the Funds—

<table>
<thead>
<tr>
<th>From the Funds—</th>
<th>To Pay</th>
</tr>
</thead>
<tbody>
<tr>
<td>Van Diemen’s Land</td>
<td>£664 4 4</td>
</tr>
<tr>
<td>Western Australia</td>
<td>58 13 0</td>
</tr>
<tr>
<td>New Zealand</td>
<td>372 11 4</td>
</tr>
<tr>
<td>South Australia</td>
<td>25 10 8</td>
</tr>
</tbody>
</table>

These transfers will reduce the amount advanced in the first instance from New South Wales to the sum properly chargeable on that Colony, viz. £1,751 0 0

Expenses of Colonial Land and Emigration Commission £2,871 19 4

We beg leave further to recommend that the Governor of the respective Colonies should be apprised of the result of the apportionment when it shall have received Your Lordships' sanction.

We have, &c.,
H. F. LUTTRELL.
J. OSBORN.
HENRY ARBUTHNOT.
MR. C. E. TREVELYAN TO UNDER SECRETARY STEPHEN.

Sir, Treasury Chambers, 17th September, 1844.

I am commanded by the Lords Commissioners of Her Majesty's Treasury to transmit to you the enclosed copy of a Report from the Commissioners of Audit, dated the 9th Instant, relative to the apportionment of expenses of the Colonial Land and Emigration Commission for the first Quarter of 1843, to the Australian Colonies; and, with reference to the communication made to you on the 11th Instant respecting the expenses of the said Commission to the end of 1842, I am to request that you will call Lord Stanley's attention to the further apportionment of those expenses now proposed by the Commissioners of Audit, and that you will move his Lordship, provided he sees no reason to object thereto, to cause the requisite directions for carrying the same into effect to be conveyed to Mr. Barnard.

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

[Audit Commissioners to Lords Commissioners of Treasury.]

My Lords, Audit Office, 9th September, 1844.

We have the honor to inform Your Lordships that, subsequently to our Report No. 375 dated 15th Ultimo on the apportionment of the expenses of the proposed Colonial Land and Emigration Commission for the year 1842 to the Australian Colonies, we have received the Colonial Accounts of South Australia for the Quarter to 31st March, 1843; and, in continuation of our above mentioned Report, we now submit for Your Lordships' consideration the following apportionment to the same Colonies of the expenses of that Commission for the Quarter to 31st March, 1843.

The expenses of the Commission for this period were stated in our previous report to be £1,188 15s., and, deducting from this sum £250 drawn from the Parliamentary vote, the sum of £938 15s., advanced in the first instance from New South Wales funds, remains chargeable upon the Australian Colonies.

The Revenue derived from the Crown Lands in these Colonies within the first Quarter of the year 1843 was as follows:—

New South Wales .................................................. £13,972 14 6
Van Diemen's Land .............................................. 1,393 4 4
Western Australia ............................................... 146 18 2
New Zealand .......................................................... 839 2 2
South Australia ...................................................... 555 3 0

£16,807 2 2

The sum to be charged, viz., £938 15s., in rateable proportions on the Crown Land Revenue of the respective Colonies is equivalent to a percentage upon the collective Revenue of about 5-596 Decimal parts, and the result of the apportionment in round numbers will therefore leave payable by—

New South Wales ................................................. £750 10 0
Van Diemen's Land ............................................... 72 4 6
Western Australia ............................................... 8 4 0
New Zealand ......................................................... 46 16 6
South Australia ...................................................... 31 0 0

£938 15 0

Should Your Lordship approve of this adjustment, we beg leave, as in the former case, to recommend that Mr. Barnard, the Agent General for the Australian Colonies, should be instructed to transfer to the credit of New South Wales Funds—

From the Funds of Van Diemen's Land ............................ £72 4 6
" Western Australia ............................................... 8 4 0
" New Zealand ......................................................... 46 16 6
" South Australia ...................................................... 31 0 0

These transfers will reduce the amount advanced in the first instance from New South Wales Funds to the sum which will remain properly chargeable on that Colony, viz., £766 16s.
1844.
17 Oct.

Letters acknowledged.

Repayments proposed by land and emigration commissioners.

Amount of that part of the expenses of the Colonial Land and Emigration Commission for the first Quarter of 1843, which is chargeable on the Colonies, £938 15s.

We beg leave also to suggest that the Governors of the respective Colonies should be apprised of this adjustment, when it shall have received Your Lordships' sanction.

We have, &c.,
HENRY ARBUTHNOT.
A. GRANT.

[Enclosure No. 4.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Colonial Land and Emigration Office,

Sir, 30th September, 1844.

We have the honor to acknowledge your letters of the 23 and 27th Instant, conveying to us the Report of the Commissioners of Audit on the subject of the apportionment between the several Australian Colonies of the Amounts advanced on account of this Office for the year 1842 and for the first Quarter of the year 1843.

The amounts determined by the Commissioners of Audit to be due to the Colony of New South Wales are as follows:—

From Van Diemen's Land £736 8 10
Western Australia 66 17 0
South Australia 56 10 8
New Zealand 419 7 10

We have the honor to report for Lord Stanley's information that the funds in the hands of Mr. Barnard to our credit on account of Western Australia enable us to make the repayments due from that Colony. We propose, therefore, to issue our Warrant on Mr. Barnard accordingly. We also are able to pay £30 on account of the claim due from South Australia. But the state of the Funds on account of Van Diemen's Land and New Zealand does not admit of a similar course in respect of them, and we would therefore submit our recommendation that Mr. Barnard receive directions from the Secretary of State to repay to the general account of New South Wales the amounts due from those Colonies respectively, and also the balance of £26 10s. 6d. due from South Australia, out of any funds which he may now hold or hereafter receive available for the purpose. We have to observe that this distribution finally disposes of the apportionment of the funds drawn from Colonial sources towards defraying the expense of this Office previously to the transfer of the whole cost to the Parliamentary Estimates, and that, as soon as circumstances will permit of the completion of the repayments, no further debt on this account will remain due to the Colony of New South Wales, by which the whole of the Funds were originally advanced.

We would further submit that the present apportionment by the Board of Audit, and the steps taken upon it be communicated to the Governor of New South Wales, and to the Governors of the other Colonies concerned for their information.

We have, &c.,
T. FREDK. ELLIOT.
C. ALEXANDER WOOD.

[Enclosure No. 5.]

UNDER SECRETARY STEPHEN TO MR. E. BARNARD.

Sir, Downing Street, 17 October, 1844.

With reference to Mr. Hope's Letter of the 13th of January last, I am directed by Lord Stanley to transmit to you the enclosed copy of a Letter from the Colonial Land and Emigration
Commissioners on the subject of the Apportionment between the different Australian Colonies of the amount advanced from the Funds of New South Wales for the support of their Office for the year 1842, and for the first quarter of 1843.

The following appear to be the Amounts due from the respective Colonies, as apportioned by the Commissioners of Audit:

- For Van Diemen's Land: £736 8 10
- Western Australia: 66 17 0
- South Australia: 56 10 8
- New Zealand: 419 7 10

It appears that there is a sufficiency of Funds in your hands to the credit of the Commissioners, on account of the Government of Western Australia, to enable them to defray the entire amount of the Expenditure, which has been allotted to that Colony; and that a sum of £30 is likewise available on account of the claim against the Colony of South Australia; but that there are no funds to their credit belonging to the Colonies of Van Diemen's Land or New Zealand, from which their apportionment can be defrayed.

I am therefore to convey to you Lord Stanley's authority for repaying to the general account of New South Wales the whole Amounts due from Van Diemen's Land and New Zealand respectively, together with the balance of £26 10s. 8d. due from South Australia, out of any funds which you may now hold, or hereafter receive, available for the purpose.

I am, &c.,

JAS. STEPHEN.

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SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 228, per ship Greenlaw.)

My Lord,

Government House, 18th Octr., 1844.

I have had the honor to receive Your Lordship's Despatch No. 76 of the 14th May, 1844, enclosed in which was a Copy of a letter addressed to Your Lordship on the 2d May by Mrs. Ellen McAuliff on the subject of her claims against the Estate of Mr. Manning, late Registrar of the Supreme Court of this Colony; and, having made the enquiries directed by Your Lordship, I have received an answer to them from Mr. Milford, Master in Equity, of which I enclose a Copy.

Mr. Milford reports that the sum of £11 6s. 7d. is now standing in the Savings Bank to the Credit of the Estate of the late Wm. McAuliff, being the amount (with Interest) of a dividend of 6d. in the pound on Mr. Manning's debt to the Estate; and this is all, I fear, that is likely to be recovered.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

[A copy of this letter is not available.]
HISTORICAL RECORDS OF AUSTRALIA.

1844.
19 Oct.

Transmission of letter from W. M. Manning.

Address received.

Address to W. M. Manning.

Sir George Gipps to Lord Stanley.
(Despatch No. 229, per ship Greenlaw; acknowledged by Lord Stanley, 30th April, 1845.)

My Lord,

Government House, 19th October, 1844.

With reference to my Despatches of the 6th September, 1844, No. 194, and 6th instant, No. 220, I have the honor to enclose herewith a second letter, which has been addressed to Your Lordship by Mr. W. M. Manning, late Chairman of Quarter Sessions, and now acting as Solicitor General in this Colony.

I have, &c.

[Enclosure]

Geo. Gipps.

Mr. W. M. Manning to Lord Stanley.

My Lord,

Sydney, New South Wales, 18th October, 1844.

Referring to my letter of the Seventh instant, presenting to your Lordship's notice, and requesting your favorable consideration of my claims to be confirmed in the office of Solicitor General of this Colony, I beg leave to lay before Your Lordship copies, enclosed herewith, of addresses, which have been presented to me by Magistrates of the Colony on my retirement from the office of Chairman of the Courts of Quarter Sessions.

I have, &c.

W. M. Manning.

[Sub-enclosure No. 1.]

Magistrates to Mr. W. M. Manning.

Sir,

Berrima Court House, 4th September, 1844.

We, the Magistrates now assembled at this Court of Assize for the District of Berrima, cannot allow you to retire from the position you have so long occupied as Chairman of Quarter Sessions for this Colony, without expressing our sincere respect for the manner in which you have discharged the duties which thus devolved upon you.

We believe that the unremitting diligence and acknowledged ability, which you have exhibited in the discharge of those duties through all the time that you have been presiding as Chairman, have been a chief cause of giving to the Courts of Quarter Sessions throughout the Colony the dignity and importance, which they have now acquired in the administration of our Colonial Law; and, therefore, we cannot but cheerfully acknowledge the debt, which we especially owe to you, for having so given to the conduct of our Courts that public respect and confidence which become the vast extent of their jurisdiction.

Wishing that the public may derive, from the performance of your new duties as Solicitor General, the same advantage that we believe that they have received from your Services as Chairman, and that you yourself may enjoy the happy Satisfaction of well and faithfully fulfilling the duties of each office,

We have, &c.


Charles Throsby, J.P.

John Nicholson, J.P.

Henry Bungam, J.P., C.C.L.

Thomas Bell, J.P.

John Lambie, J.P., C.C.L.

David Williamson Irving, J.P.

Published by the direction of the Magistrates in the "Sydney Morning Herald" Newspaper of September, 1844.

[Sub-enclosure No. 2.]

Mr. S. North to Mr. W. M. Manning.

My dear Sir,

Police Office, Berrima, 4th September, 1844.

I feel very great pleasure in being the medium of communicating to you the enclosed address, which was unanimously adopted at a meeting of Magistrates held here this day.

Wishing you may retain the high office to which you have been appointed, until removed to one Still more exalted.

I remain, My dear Sir,

Yours very faithfully,

S. North.
STANLEY TO GIPPS.

[Sub-enclosure No. 3.]

MAGISTRATES TO MR. W. M. MANNING.

Sir, Bathurst, 10th September, 1844.

We desire in this manner to take our leave of you on retiring from the office of Chairman of Quarter Sessions, and, however we may regret the loss of a presiding Magistrate whose administration of Justice has during a period of seven years been so satisfactory, we cannot but remember that your retirement is the result of an office of distinction and confidence under Bathurst; the Crown having been conferred upon you.

With assurance of our well wishes,

Believe us to remain, Sir,

Your very obedient Servants,

THOS. J. HAWKINS, J.P.
J. T. MORISSET, J.P.
J. B. RICHARDS, J.P.
J. E. IRVING, J.P.
D. M. R. H. ATKINS, J.P.
J. T. MORISSET, J.P.
J. R. WILSHIRE, J.P.
W. H. SUTTOR, J.P.
J. SAVORY ROE, J.P.
W. H. SUTTOR, J.P.
W. HALL PALMER, J.P.
W. H. SUTTOR, J.P.
WILL. FRED. JONES, J.P.

Presented 24th September. Published by the direction of the Magistrates in the "Sydney Morning Herald" Newspaper of September.

[Sub-enclosure No. 4.]

MAGISTRATES TO MR. W. M. MANNING.

Sir, Sydney, 8th October, 1844.

We, the undersigned Magistrates of the Territory, cannot allow you to retire and from the Chairmanship of the Quarter Sessions, without recording the deep sense we entertain of your able and upright conduct in the discharge of the onerous duties of that office, as also of the kindness and urbanity that have characterized your deportment on the Bench.

It is a Source of Satisfaction to us that your retirement has been caused by a just appreciation of your talents; and we feel satisfied that, in the important duties that are about to devolve upon you, you will merit the approbation of the public, and justify this testimony of our confidence and esteem.

We beg leave to subscribe ourselves,

Your Sincere friends and Well-wishers,

J. R. WILSHIRE, J.P.
T. SHADFORTH, J.P.
J. McLEAN, J.P.
WILLIAM BOTTS, J.P.
THOS. BARKER, J.P.
L. MILLAR, J.P.
EDWD. FLOOD, J.P.
CHAR. WINDSEYER, J.P.
H. MACDEMOTT, J.P.
F. McCRAE, J.P.
W. H. CHRISTIE, J.P.
JOHN HOLLISWORTH, J.P.
W. AUG. MILES, J.P.
W. GIBBES, J.P.
JOHN DORIE, J.P.


LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch per ship Ann Grant; acknowledged by Sir George Gipps, 14th April, 1845.)

Sir, Downing Street, 23 October, 1844.

I have received from Captain Sheaffe, late 51st Regt., a communication, dated Wollongong, the 15th of May, 1844, bringing under my consideration the loss which he has sustained in the remission in the purchase of Land, to which he was entitled as a retired Officer, by the operation of the Imperial Land Sales Act.
1844. 23 Oct.

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

I have, &c.,

STANLEY.

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SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 231, per ship Greenlaw; acknowledged by lord Stanley, 30th April, 1845.)

My Lord,

Government House, 23rd Octr., 1844.

I have the honor to report to Your Lordship that Mr. John N. Dickinson arrived in this Colony (after a protracted passage of 126 days) on Sunday, the 13th instant, and was on the day following sworn in as a Judge of the Supreme Court of New South Wales.

By the arrival of Mr. Dickinson, the Commission expired which (as reported in my Despatch No. 149 of the 18th July last) I had issued to Mr. A'Beckett; but, as, in consequence of the death of the Chief Justice, there still remained a vacancy on the Bench, I was urged to complete the number of Judges to three by a new appointment; and I consequently, on the 21st instant, issued a new Commission to Mr. A'Beckett, constituting him a Judge of the Supreme Court, for so long as Mr. Alfred Stephen may continue to act as Chief Justice, or until Her Majesty's pleasure shall be signified on the subject.

I have, &c.,

GEO. GIPPS.

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SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 232, per ship Greenlaw; acknowledged by lord Stanley, 30th April, 1845.)

My Lord,

Government House, 23d Octr., 1844.

I have the honor to forward herewith a letter which has been addressed to Your Lordship by Mr. Roger Therry, Commissioner of the Court of Requests in this Colony, but who acted for more than two years as Attorney General during the absence of Mr. Plunkett in England in the years 1841, 1842, and 1843.

Your Lordship will perceive that the object of Mr. Therry's letter is to represent the hardship, which in his opinion he has suffered by the appointment of Mr. A'Beckett to a seat on the Bench, which I have reported in my Despatch No. 231 of this day's date.
I readily admit, and indeed am anxious to record, that, had the appointment been altogether a new one, I should have considered the claims of Mr. Therry, founded on his long and approved services to this Government and Colony, to have been superior to those of Mr. A’Beckett; but Mr. A’Beckett had acted as a Judge from the 15th July to the 14th instant (October), and, though the Commission which he held from me expired on the arrival of Mr. Dickinson, I could not but consider that to appoint Mr. Therry instead of Mr. A’Beckett to the new vacancy, caused by the death of Sir James Dowling, would have been ungracious towards Mr. A’Beckett, and might have produced a bad effect in the Colony. It was only, however, after much consideration and after taking the advice of the Acting Chief Justice, that I could bring myself to overrule the claims of Mr. Therry. Indeed, My Lord, in the two cases which have grown out of the death of the late Chief Justice, I mean the cases of Mr. Plunkett and Mr. Therry, it has been most painful to me to be forced by circumstances to pass over the claims of men, who, during a long course of years, have rendered essential services to this Colony, and to give (at least in appearance) a preference to others, who, however great may be their merits, have not equal claims on me or on this Government.

I must not, however, omit to refer to my Despatches of the 9th March and 7th June, 1839, Nos. 46 and 89, which will shew that Mr. Plunkett and Mr. Therry each declined a temporary seat on the Bench in that year; and that it was, in consequence of their so doing, that Mr. Alfred Stephen was brought from Van Diemen’s Land to New South Wales, where he has now attained the station of Acting Chief Justice.

I have, &c,

GEO. GIPPS.

P.S.—The following are the dates and numbers of the various Despatches, which I have lately had occasion to write to Your Lordship, relating to Judicial appointments in the Colony:

7th July, 1844, No. 135; 18th July, 1844, No. 149; 6th September, 1844, No. 193; Do, No. 194; 6th October, 1844, No. 219; Do, No. 220; 8th October, 1844, No. 223; 9th October, 1844, No. 224; 19th October, 1844, No. 229; 23rd October, 1844, No. 231; Do, No. 233.

[Enclosure.]
feel my long and diligent public service in various departments in New South Wales give me to a Seat on the Bench, in the event of its not being conferred on Mr. Plunkett; or in the event of the Chief Justiceship or a Seat on the Bench being conferred on him, I beg to Submit the grounds on which my pretensions rest to succeed him as Attorney General.

The vacant Judgeship has been for the present conferred by His Excellency the Governor on Mr. a'Beckett, who was Solicitor General under me during the two years and a half that I filled the office of Attorney General on the occasion of Mr. Plunkett's visit to England.

I had considered, I confess, that the circumstance of my having thus filled that office, together with the recommendations (herewith transmitted) of Sir Francis Forbes and Sir James Dowding to fill the situation of Law Officer of the Crown (recommendations written long previous to Mr. a'Beckett's arrival in the Colony) would have given me a preferable claim to the vacancy. I was not, however, without other grounds for entertaining this expectation.

I was a Barrister of Senior Standing to Mr. a'Beckett. I had filled the office of Commissioner of the Court of Requests for twelve years and upwards, With the recorded approbation not only of the several Governors who during that period administered the Government of the Colony, but with a significant indication of having given public Satisfaction, as is testified by the Address (Which I have the honor to transmit) presented to me on my temporary retirement from the office of Commissioner. Moreover I had the honor of being recommended for the office of Solicitor General permanently in 1840, having been previously recommended by Sir Richard Bourke to your Lordship's predecessor (Lord John Russell) for the office of Judge at Port Phillip.

To these considerations I beg to add that, at your Lordship's own instance, in transmitting the Imperial Act for the Government of New South Wales, your Lordship Stated that it was desirable that some officers of Government should 'become candidates for popular representation. In obedience to that desire, I became a Candidate, and, after an arduous and expensive contest for the County of Camden, the Second County of New South Wales in point of population and general importance, I became its representative. In justice to myself I must add I was the only Officer of Government who then ventured to present himself to a popular constituency. How far I endeavoured to aid and promote the measures of the Colonial Government according to my power and opportunities, the records of the proceedings of the Council will best attest. It is only in the event, I am aware, of my being deemed qualified in other respects that these topics are entitled to weight; and I advert to them now to shew that my claims on your Lordship's favorable attention, since they were last brought under your consideration, have gained renewed and augmented Strength by the events which have since taken place.

Without impugning or complaining of the grounds on which His Excellency may have deemed it his duty to have preferred Mr. a'Beckett to me, yet I am not without hope that neither His Excellency nor your Lordship will deem and decide that his claims,
either with reference to experience or zeal in the public service, to
the permanent occupation of the Seat on the Bench, are equal to
mine.

It may be that, according to English usage (tho' that usage has
not in this Colony been recognised, as has recently been manifested
by Mr. Plunkett's claim to the Chief Justiceship being disallowed
here), Mr. a'Beckett, having been appointed Solicitor General by
your Lordship, was entitled to succeed Mr. Justice Burton on his
departure from the Colony, until Mr. Dickinson's arrival; but, in
the interval between these two events, a fresh vacancy occurred
by Sir James Dowling's death, and Mr. Stephen's temporary eleva-
tion to the Chief Justiceship; and it was to fill the vacancy thus
created that I applied; my application was not complied with, and
the office was kept in abeyance until Mr. Dickinson's arrival, when
a Commission was issued to Mr. a'Beckett, whereby he thus suc-
cceeded to two vacancies, one by virtue of his being Solicitor General,
and by the other (the vacancy created by Mr. Stephen's elevation
to the Chief-Justiceship) being kept in abeyance for his benefit
until Mr. Dickinson's arrival.

I cannot suppose that, when your Lordship appointed Mr.
a'Beckett to the office of Solicitor General by reason, as your Lord-
ship states in your Despatch of the 23d March, 1843, "of the office
of Commissioner of the Court of Requests being placed by the
recent local Act, on a higher footing as regards emolument than
heretofore," that your Lordship intended to deny me the advantage
of any prior claim to promotion, to which my long experience and
the Satisfactory discharge of my duties might entitle me.

I am not unmindful of the circumstance that the following pas-
sage in the Despatch of His Excellency Sir George Gipps, dated
February 23rd, 1840, may have had some share in influencing your
Lordship's decision:—

"There is one circumstance which, when recommending Mr.
Therry to the office of Solicitor General, I ought not to with-
hold from the knowledge of your Lordship. It is that Mr.
Therry is a Roman Catholic, as also your Lordship is aware
is Mr. Plunkett. I beg also to assure your Lordship that, con-
sidering Mr. Therry to be well qualified for the office, and his
position at the Bar to be such as to give him superior claims
to those which any other person can advance, I do not myself
think that his religion ought to stand in his way: but at the
same time I cannot conceal from myself, and ought not to con-
ceal from your Lordship, that the accidental circumstance of
both the Attorney and Solicitor General being Roman Catholics
may be made, by some parties in the Colony, a matter of impu-
tation on the Government."

It cannot be expected, of course, that I can admit that His Excel-
lency's Government would be open to any just imputation from
such a cause as is above suggested; and I may at the same time be
the more excused for not making such an admission, as I can confi-
dently assert that in not even a Single instance among the many
thousand cases, on which I have adjudicated, has it been imputed
to me that my conduct was influenced by partiality or preference
of any kind on the grounds of religion.
1844.
23 Oct.

Application by R. Therry for appointment as judge or attorney-general.

Testimonial from Sir P. Fiorbes; and from Sir J. Dowling.

To regard the accident of my religion as a bar to professional preferment, to which I might otherwise be entitled, would be not only a most inequitable rule of judgment, but it would be virtually to revive in my regard those penal enactments which your Lordship bore so prominent a part in removing from the Statute Book of England; besides, if there be any weight in the objection of the two principal Law Officers of the Crown being Roman Catholics, it is an objection that cannot apply to a Bench of which two Members at least are Members of the Church of England.

In the fullest confidence that, in your decision of this matter, your Lordship will alone be influenced by a sense of justice, I have, &c.

R. THEBRY.

[Sub-enclosure No. 1.]

SIR FRANCIS FORBES' CERTIFICATE.

I, FRANCIS FORBES, Chief Justice of the Supreme Court of New South Wales, hereby certify that Roger Therry, Esqr., Barrister at law and Commissioner of the Court of Requests, has practised for several years past in the Supreme Court with considerable reputation and success; and that, from the opportunities I have had of estimating his professional abilities, I have formed a high opinion of his knowledge as a lawyer and of his talents as an Advocate. In the course of his practice, he has acquired a good deal of experience on the Criminal side of the Court, insomuch that, should any vacancy occur in the law appointments of the Colony, I should feel that I was discharging a public duty in recommending him as qualified in every respect to fill the situation of one of His Majesty's law Officers with equal credit to himself and advantage to the community.

Sydney, 14th October, 1834. FRANCIS FORBES.

[Sub-enclosure No. 2.]

SIR JAMES DOWLING'S CERTIFICATE.

I have great pleasure in certifying that, during the five years you have been in this Colony, in my opinion you have demonstrated such professional knowledge and forensic skill, both in the Civil and Criminal departments, as fully qualify you to discharge with credit and advantage to His Majesty's Service any appointment which may be conferred upon you. As to the propriety of your conduct as a Barrister of the Court, my testimony is scarcely necessary. It is sufficient for me to say that you have, throughout your career, sustained that Gentlemanly carriage, and high tone of honorable integrity, which has ever distinguished the British Bar.

JAMES DOWLING.

The opinion, expressed by me in the above letter of Mr. Therry, is not only not changed, but confirmed in every particular, by nearly six years further experience of him in all the relations, which would render him eligible for advancement in the profession of which he is a member.

Sydney, N.S.W., 3rd March, 1840. JAMES DOWLING.

[Sub-enclosure No. 3.]

PRESENTATION to Roger Therry, Esq., Her Majesty's Attorney-General.

Sir,

We have been deputed to present you with a service of plate as a mark of the public esteem on the occasion of your retiring from the office of Commissioner of the Court of Requests, an office of high importance in this country, inasmuch as on the faithful discharge of its duties depends the satisfactory administration of justice among a great majority of the community. It is, moreover, not less difficult than it is important, as the whole weight of determining the many and intricate cases that came before that Court rests solely upon the clairsightedness and impartiality of the Judge.

We are confident, Sir, that we only echo the sentiments of the entire people of New South Wales, when we assure you that, during the long period you have held that responsible office, your administration of it has commanded not only the entire approbation of the public, but a high degree of admiration at the uniform patience and perseverance with which you have elicited the facts on which your equitable decisions were founded; and, if we could have at any time doubted of the general prevalence of this favourable opinion, every doubt would have been removed by the
alacrity with which all classes came forward, spontaneously upon this occasion, to aid one another in producing this faint but unequivocal testimony of their approbation. And permit us further to add that the good opinion you have gained by your straightforward and liberal duties on the bench has convinced us that the strictest impartiality of office is perfectly compatible with the manly avowal of public principle.

Accept then, Sir, of this testimonial of the public esteem and approbation, and allow us, in congratulating you on your promotion to the office of Attorney General, to express a hope that you may long live to benefit this community by your public services, and continue to enjoy that general approbation to which we are happy and proud to have the opportunity of bearing testimony.

We have the honour to be, Sir,

Your obedient humble Servants,

To the foregoing Address Mr. Therry made the following reply:—

Gentlemen,
I accept, with the deep sentiment of gratitude it should inspire, this costly and significant testimonial of your approbation and esteem. It assures me that, during the eleven years I occupied the station from which for the present I have retired, I have not altogether failed in affording that public satisfaction which, next to the conscientious performance of one's duty, is the object of ambition most worthy of attainment by all to whom judicial office is entrusted.

The place assigned me, it is true, was but an humble niche in the Temple of Justice; but it is, as you justly remark, not the less important that the judgments which thence issue should merit and possess the confidence of the community to which they are dispensed.

Grateful as I am for the generous redundancy of praise, far beyond any desert of mine which your address contains, there is one portion of your kind assurances that, I own, awakens within me the warmest emotions of gratification and of pride. It is that which informs me I may look upon the splendid gift with which you this day present me, as a memorial of the good opinion and regard of the people of New South Wales. Such a memorial I rejoice to possess, and I shall ever cherish and preserve it "with a lover's fondness and a miser's care."

I fully respond to the justness of the doctrine, you declare, that the strictest impartiality of office is perfectly compatible with the maintenance of public principle. As to me, you do me but justice in attributing to me the entertainment of liberal opinions, if by the term liberal be meant the avowal of principles whose object is to promote the blessings of education, of equal laws in religious and political institutions, of new springs to exertion, of new sources of wealth, and of the advancement and happiness of man in whatever position his destiny may be cast, or to whatever grade of society he may belong. These principles "have not changed through all the past," and I think I may with some confidence add "they cannot alter now."

In my acknowledgment of your congratulations on my accession to the office of Attorney General on the departure of Mr. Plunkett, I feel that I am not only treading on new ground, but that I am at the disadvantage of following in the track of one whose career was marked by the merited and unequivocal approbation of the Government and People whom he served. On this subject I will only add that I am aware the sentiments, your partiality prompts you to express, arise out of anticipations for which I am grateful, and of expectations which, I trust, I shall not altogether disappoint; and I venture at least to hope that, if I have not the ability to serve, I may continue to have the good fortune to please you.

R. THERRY

The Inscription.

This Salver, with an urn, dinner, dessert, and tea services, and other articles, Inscription forming a service of plate, were presented to Roger Therry, Esquire, Her Majesty's on plate. Attorney-General, by the people of New South Wales, as a mark of their esteem and respect, on the occasion of his retiring, from the office of Commissioner of the Court of Requests; the duties of which he discharged in that Colony for the period of eleven years to the entire satisfaction of the Community.

May, 1841.
1844.
23 Oct.

Transmission of letter from J. H. Plunkett.

Regret at difficulties re judicial appointments.

Contradiction by J. H. Plunkett of statements by W. a'Beckett.

HISTORICAL RECORDS OF AUSTRALIA.

1844.

23 Oct.

Transmission of letter from J. H. Plunkett.

Regret at difficulties re judicial appointments.

Contradiction by J. H. Plunkett of statements by W. a'Beckett.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 233, per ship Greenlaw; acknowledged by Lord Stanley, 30th April, 1845.)

My Lord,

Government House, 23d Octr., 1844.

I have, at the moment of closing my Bag for the ship "Greenlaw," received a further letter from Mr. Plunkett, which, according to the request conveyed in the Postscript to it, I enclose to Your Lordship.

I cannot but greatly regret that the Judicial arrangements, rendered necessary by the removal of Mr. Justice Burton to Madras and the unlooked for death of Sir James Dowling, should have given rise to so many difficulties and opposing claims, as well as to so much trouble to Your Lordship. All the parties, however, desire to bring their claims before Your Lordship in their own words, and I do not feel at liberty to prevent their so doing.

I have, &c.

[Enclosure.]

GEO. GIPPS.

ATTORNEY-GENERAL PLUNKETT TO SIR GEORGE GIPPS.

Sir,

Attorney General's Office. 23rd October, 1844.

It is with considerable astonishment I learned that Mr. William a'Beckett addressed a letter to your Excellency, for the purpose of being laid before the Executive Council, on the subject of my recent application for the office of Chief Justice and in opposition to that application. Some days since I requested your Excellency to allow me to peruse that letter, which you were pleased to do. As I am now aware of its contents, I think I am called on to notice certain parts of it, from which it appears that that Gentleman has put a construction on some private and confidential conversations of mine, which I cannot acknowledge they admit of, and which I certainly did not intend they should be open to.

Among other matters he states in substance "that I gave pledges and assurances to him that I would not under any circumstances take a Seat on the Bench, but that, even if I were appointed by Her Majesty, I would resign in his favor"; and on this assumption he founded his own claim to a seat on the Bench and justified his opposition to mine.

Had Mr. a'Beckett intimated to me in any way that he had such an impression on his mind, I could very easily have removed it by reminding him of what really did pass between us on such a subject; and, as the conversations he alludes to were strictly private and in the confidence of friendly intercourse, I have the greater reason to complain that he did not in some shape give me such intimation, before he wrote his letter. He cannot excuse himself by saying he had no opportunity of doing so, for, as soon as I determined to put in my claim for the office of Chief Justice, I immediately made my intention known to him. I apprized him of it several days before I made my formal application to your Excellency. I thought it but fair and candid towards him as my Colleague in Office and one whom I regarded as a friend. I talked over the matter with him for a considerable time, and he did not utter a syllable that led me to suppose the impressions, already alluded
GIPPS TO STANLEY. 49

... to respecting any pledges or assurances from me, were on his mind, or that he had any the slightest ground or intention to make opposition to my claim. The only conversation that ever occurred between Mr. a’Beckett and me, which could in any way be tortured into a hint that I would resign in his favor or any one’s favor, took place on my first hearing of Mr. Dickinson’s appointment. The conversation itself (it will be seen) bears internal Evidence of its being confidential, and it is painful to me now to feel myself compelled to mention it as follows:—

With reference to Mr. Dickinson’s appointment, “I expressed to him my feelings of disappointment at not being offered the vacant seat by the Secretary of State; that I considered it a reflection on me that it was not offered for my acceptance; that I could only attribute it to the circumstance of my being a Roman Catholic and, though it was unjust towards me, its operation was also prejudicial to him and the rest of the Bar; that I would have been satisfied if I had the refusal of it; and that my personal ambition to get on the Bench was not very great; and that, as I feared I was a Stumbling block to the promotion which ought to be expected to be left to the Bar, in consequence of my having precedence by Rank, Seniority and length of service, that I would even resign my office in this Colony in exchange for one elsewhere rather than be the innocent cause of injury to other members of the Bar.”

This was the substance of all my conversations with Mr. a’Beckett on the subject of the vacancy on the Bench, and I deny most positively having ever intended to go farther “in making Pledges or giving assurances” than can be fairly deduced from this summary of our conversation.

As to the circumstances attending Mr. a’Beckett’s going on the Bench, I perceive by his letter that his recollection is not quite accurate. It was on the 11th day of July (Four days before the commencement of the Civil Term). I first informed him of your Excellency’s wish that one of the Law Officers should act as Judge in the emergency at that time requiring it, and, as no other competent person could be expected to do so for only a single term, that I conceded The Governor had a right to command the services of one of us, and that it would devolve on him to accept it, as it would lead to much inconvenience if I were to go on the Bench, because my seat in the Legislative Council would be thereby vacated and all the Criminal prosecutions then going on would be deranged.

I would beg leave here to observe that Mr. a’Beckett is mistaken in the assertion “that, when he consented to go on the Bench, Mr. Dickinson’s appointment was not known.” Private letters were received by Sir James Dowling from his son mentioning the appointment, and it was even announced in the Sydney Herald so far back as June 25th. The following Paragraph appeared in the Paper of that date:—

“Private letters stated that Mr. John Nodes Dickinson of the English Bar had been appointed to the Supreme Court of New South Wales. The learned Gentleman was to leave England by the Packet on May 1st, and may consequently be expected here in September.”

I have a distinct recollection also that he and I were under the impression, derived from the private intelligence received, that Mr. Dickinson would in all probability arrive even before the ensuing term would be ended.

SER. L VOL. XXIV—D
At the time Mr. a’Beckett was thus offered the temporary Seat, Sir James Dowling had not applied for leave of absence at all, and I believe did not at that time intend to do so; and, though he was laboring under an attack of illness, no one imagined it was of a very serious nature. Indeed I considered at that time he was likely to live as long as myself, so that the events which have since happened, instead of being matters of “reasonable calculation,” as Mr. a’Beckett states, could only have operated on a mind gifted with prophetic power.

Among the grounds of opposition which Mr. a’Beckett stated to my claim, he mentions “that I did not tell him I would apply for the Chief Justiceship in the event of Sir James Dowling’s death.” It is sufficient for me to say that I did not anticipate such an event, and it would be highly indecent of me to speak of it, even if it were probable.

I am unwilling to obtrude on your Excellency the relative position of Mr. a’Beckett and myself in respect to each other. I will only say that I first brought him under the notice of your Excellency recommending his appointment as Solicitor General, and I carried out that original recommendation by saying and doing all I could in his favor, while I was in England, and I know he had no friend to speak for him at the Colonial Office but myself. He publicly acknowledged this at a complimentary dinner with which I was honored by my brethren of the Bar on my return to the Colony.

The letter in question was written behind my back, and at a time I least expected it; it was calculated to do me injury and I had no knowledge of it until it succeeded in its object. I shall say no more; but I solemnly declare that, if it were to procure me the Office of Lord High Chancellor of England, I would not use such means to accomplish it, as Mr. a’Beckett has descended to, in order to obtain the Seat he now fills.

JOHN H. PLUNKETT, Attorney General.

P.S.—If Mr. a’Beckett's letter has been forwarded by Your Excellency to Lord Stanley, I request this letter may also be transmitted by the first opportunity.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 234, per ship Hind.)

My Lord,

Government House, 24th Octr., 1844.

I have the honor herewith to forward a letter, which has been addressed to Your Lordship by Mr. Edward John Eyre,* repeating his proposal to undertake an Expedition from Moreton Bay to Port Essington by the Gulf of Carpentaria.

On the subject of this projected Expedition, I beg to refer to my Despatch of the 7th Decr., 1843, No. 203; but, not having received an answer to that Despatch, I regret I can at present add little to what is contained in it, though I may repeat that, in the event of an expedition being undertaken to Port Essington, I apprehend the Surveyor General, Sir Thomas Mitchell, will claim (as indeed he has already claimed) the honor of conducting it.

* Note 1.
I have to inform Your Lordship that a small private Expedition, led by a gentleman named Leichtardt,* is now on the point of starting from Moreton Bay to Port Essington direct. Dr. Leichtardt is, I believe, a Physician, a German by birth, and a man of considerable scientific attainments. I have, &c.

GEO. GIPPS.

P.S.—Since the above was written, I have been honored with Your Lordship’s Despatch No. 75 of the 12th May last, in reply to my own above referred to, No. 203 of the 7th Decr., 1843; but this Despatch does not in any way set aside the claims of Sir Thomas Mitchell.

[Enclosure.]

MR. E. J. EYRE TO LORD STANLEY.

My Lord,

Moorundi, South Australia, 22d August, 1844.

His Excellency the Governor of South Australia having acquainted me that your Lordship did me the honor to nominate me to the command of an Expedition of Discovery from Southern to Central Australia in the event of any circumstance having prevented Captn. Sturt, at whose instance the Expedition was undertaken, from engaging in it. I have now the honor to return my sincere thanks to your Lordship for this very gratifying mark of confidence; and, altho' I should with very great pleasure have accepted the trust it called upon, I cannot but rejoice that Captn. Sturt is himself able to engage in an undertaking so congenial to his former habits and pursuits.

The field of Discovery in Australia is, however, as yet a wide and for the most part an untrodden one; and, now that your Lordship has undertaken so interesting and important an investigation, I feel assured that the cloud of mystery, which has hitherto hung over the greater part of this Continent, will be gradually dispelled, and the character, capabilities and resources of its unknown regions fully developed.

To aid in this undertaking is my most earnest wish, and I shall be proud to do so under your Lordship.

Having understood that the object of the Expedition fitted out from South Australia is limited in its object to ascertaining the existence and the nature of a chain of hills supposed to exist in Central Australia together with the number, character and sources of any rivers that may originate in this supposed chain of hills, but is restricted from traversing the Continent to the North, I would respectfully call your Lordship’s attention to the North east coast of New Holland as being that part of Australia least known, but which from its position within the Tropics may be expected to contain much fertile country, and at the least holds out the most probable chance of penetrating the Interior to the North or Nor-West. The Part of the Country to which I allude is that behind Moreton Bay or about Latitude 27° S., and among the ranges of which most of the sources of the Darling take their origin.

I had the honor to address your Lordship on the 23d July, 1843, on the subject of an Expedition from Moreton Bay towards Port Essington as recommended by Sir G. Gipps, Governor of N. S.

* Note 2.  † Note 3.
1844.
24 Oct.

Proposal by E. J. Eyre for expedition from Moreton Bay to Port Essington.

Wales; but, as my communication was not forwarded in duplicate, I fear that it has miscarried, and will therefore beg your Lordship's indulgence while I state the substance of the offer that I then made. Sir George Gipps, Governor of N. S. Wales, having in the year 1841 publicly invited any person to come forward to conduct an Expedition from Moreton Bay towards Port Essington, I volunteered my services for that purpose in Decr. 1841. They were accepted by Sir G. Gipps and estimates of the outfit, party and expense made out; but, before the necessary arrangements could be made and the party fitted out, the financial difficulties of N. S. Wales became great and prevented its equipment, Sir G. Gipps wishing first to communicate with your Lordship on the subject. In July last year, I addressed your Lordship, offering to carry out Sir G. Gipps' views, and conduct a party from Moreton Bay to Port Essington; and I now beg permission to repeat that offer and earnestly solicit your Lordship's sanction to the undertaking. Well aware of the many difficulties and dangers I should have to contend with, I still hope that all might be surmounted and that my labors would be repaid by the discovery of some tracts of rich and fertile country, requiring only the skill and industry of Englishmen to make an unproductive region a flourishing and valuable addition to our Colonies. Should it however even prove otherwise and the country traversed be of little value, yet would not the labors of the Party have been in vain: Much would have been done in the cause of Science: the geological formation of a new and singular country would have been investigated; the high road would have been opened for an overland communication with the Eastern seas; the new birds, animals, fishes, trees, flowers, etc., of an unknown region would enrich greatly their various departments of Natural History; and your Lordship would have the gratification of having solved a geographical problem that has alike puzzled conjecture and hitherto baffled every practical attempt to unravel it.

I have stated, my Lord, that I consider the country behind Moreton Bay as the most favorable point from which an Expedition of Discovery should be sent; and I have grounded this opinion upon my own personal knowledge and examination of a greater portion of Australia than any other Traveller has ever yet traversed, and upon a very attentive and anxious consideration of the general character and formation of the continent. During twelve years' residence in Australia, I have directed much of my time and sacrificed my private means in exploring its interior. I have personally crossed the whole Continent from East to West (from Sydney to Swan River), and in doing so I ascertained that from the 123rd parallel of east longitude to the 138° E. Long., and upon parallel 32° S. Lat., there were no rivers, no creeks, no watercourses, nor in fact surface water of any kind, that whole tract of country nearly 500 miles in extent consisting generally of a very barren and nearly level country; continuing the parallel of 32° S. Lat. from 138° E. Longt, to which it strikes the Darling, there is no drainage from the interior except a small creek called Laidler's chain of Ponds, but which was considered by Major Sir T. Mitchell as of so little importance as hardly to be alluded to in his work, whilst the few small streams having their sources in Flinders range or the hills N.E. of it are lost in the basin of Lake Torrens, or a region even more inhospitable than the great Sahara itself;

* Note 4.  † Note 5.
the hills themselves all terminate abruptly in a dreary waste, whilst
the Lake, consisting as far as can be ascertained of mud and salt
water, presents an effectual barrier to any effort to cross it; fol-
lowing still further up the line of the Darling on its West bank,
we have the authority of Sir Thomas Mitchell that no stream or
tributary joins it from the interior for many hundred miles; and
both Sir Thomas Mitchell and Capt'n. Sturt bear ample testimony
to the low and dreary character of the country immediately west of
that river in its higher parts; taking this into consideration the
ascertained fact that from the 123d E. long. to the 146 E. long.,
there is, with the exception of a small chain of Ponds (Laidley’s
Ponds), no drainage from the Interior, and, knowing as we do the
desert character of the further outskirts yet reached along the
whole line of this dreary waste, I can see no reason to expect, no
ground to hope that there is either an elevated or a good country
in the interior within any attainable distance; still less do I
imagine there to be a deep navigable inland sea; on the contrary.
I am unwillingly forced to the conviction that the great mass of
the Interior of New Holland consists of salt beds of extensive lakes,
barren scrubs, or desert sands; and it is only by going to the North-
east that I can see any opening for an attempt either to ascertain
the character of the Interior or to explore the country towards
Port Essington. In expressing so strongly the opinion that I have,
I am well aware that it is totally at variance with that enter-
tained by my friend Capt'n. Sturt upon the same subject, with
whose views your Lordship was fully made acquainted in the des-
patches of that Gentleman, when proposing the Expedition to
Central Australia that has recently been sent from Adelaide. With
every deference for the opinion of so intelligent and experienced
a traveller as Capt'n. Sturt. I must confess that I cannot, after
the most attentive consideration of the character and formation of
this Continent, see any data from which to infer either the existence
of a fine country in the parallel of 23° S. Lat. and North of
Spencer’s Gulf, or of a deep inland sea* west of the Darling in 25°
or 29° S. My own personal experience leads me to quite a contrary
conclusion; but the expedition now in progress under Capt'n.
Sturt will in a few months solve this question; there will still however
remain the whole of North eastern and northern Australia, an un-
known and an untrodden field for the Explorer, and it is to these
that I would most earnestly solicit your Lordship’s attention and
request that I may be permitted under the Auspices of your Lord-
ship to undertake their complete and first examination. The period
which it would require for so extensive and laborious an investiga-
tion would in a great measure depend upon circumstances; but I
believe that twelve months would enable the Explorer to examine
the country as far as the Gulf of Carpentaria from Moreton Bay,
and that then a subsequent Expedition would complete the re-
mainder. The probable expense of traversing the country lying be-
tween Moreton Bay and Port Essington and exploring the country
inland along that line of route, as circumstances might admit of,
was estimated at a sum not exceeding £5,000, and the first portion
of this undertaking, viz., the examination of that part lying between
Moreton Bay and the Gulf of Carpentaria would probably not ex-
ceed £2,500, the sum allotted for Capt'n. Sturt’s Expedition to Cen-
tral Australia.

* Note 6.
Proposal by E. J. Eyre for expedition from Moreton Bay to Port Essington.

Memorandum re expense of expedition.

1844.
24 Oct.

I will not trouble your Lordship with a detailed estimate of the equipment required or the minutiae of expense, as in the event of your Lordship's entertaining my application these would have to be furnished to and approved of by the Governor of Sydney, through whom I imagine your Lordship would wish the undertaking to be carried out. I may be permitted, however, to remark that in an enterprise involving so much difficulty, responsibility and danger, every confidence should be reposed in the leader, and the sole selection of his whole party, his arrangements and equipment be left entirely to his own judgment and discretion; on this the safety and success of all must necessarily depend; the only limitation should be that made by your Lordship in assigning the extent to which Her Majesty's Government will go to carry out such part of the Exploration as may be decided upon; Within that amount, the Leader should in every respect be unfettered. I have enclosed a brief memorandum relative to the Undertaking I have proposed, and would beg to assure your Lordship that with the greatest regard for economy I feel that the efficiency and useful results of the whole, I might add too the probable success, will be materially lessened if any curtailment be made.

In conclusion, my Lord, permit me to apologise for the length to which I have trespassed upon your attention and to assure your Lordship that, should the trust to which I aspire be confided to me, no exertion, no perseverance shall be wanting upon my part to ensure complete success and to render to the cause of Science in its various branches all that the nature of the service and the circumstances, under which the expedition might be placed, would admit of.

I have, &c.,

EDWD. JOHN EYRE.

[Sub-enclosure.]

MEMORANDUM relative to the Party.

1st Year.—From Moreton Bay to Gulf of Carpentaria.

Salaries for one year.

<table>
<thead>
<tr>
<th>Description</th>
<th>Salary (£)</th>
</tr>
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<tbody>
<tr>
<td>1 Leader</td>
<td></td>
</tr>
<tr>
<td>1 Surgeon and Naturalist</td>
<td>200 0 0</td>
</tr>
<tr>
<td>1 Painter and Botanist</td>
<td>200 0 0</td>
</tr>
<tr>
<td>1 Overseer</td>
<td>60 0 0</td>
</tr>
<tr>
<td>1 Bird collector</td>
<td>50 0 0</td>
</tr>
<tr>
<td>10 Men at £50 ea.</td>
<td>500 0 0</td>
</tr>
<tr>
<td>15 Europeans</td>
<td>1,010 0 0</td>
</tr>
<tr>
<td>2 Natives—Outfit and Equipment</td>
<td>1,490 0 0</td>
</tr>
</tbody>
</table>

Total £2,500 0 0

2nd Year.—From Carpentaria to Port Essington.

Salaries to Party 1,010 0 0
Stores—re-fitting, etc. 1,490 0 0

£2,500 0 0

Total of both Expeditions £5,000 0 0

Memorandum relative to the Party.

In estimating the Salaries for the Superior officers of the Expedition, I have named the very lowest scale of remuneration that competent persons could be procured for, and I have carefully abstained from adding any supernumeraries; those I have
GIPPS TO STANLEY. 00

being absolutely necessary to ensure the efficient discharge of the important duty I solicit. I am aware that no painter accompanies Captn. Sturt's party; but I should consider that, without one, much of the useful scientific results of the Expedition must be lost; many objects may be delineated in natural history that cannot be brought away or preserved; it will secure also all from risk of loss or damage; and it will at least be useful to have views of the country traversed, drawings of the aborigines, etc., together with proper sections of such geological formations as may be either interesting or unusual. For effecting these objects properly, it will be necessary that the artist taken be a man of considerable talent and application, and I am aware that to a competent person the low remuneration of £200 per annum would be a less inducement than the love of adventure and the hope of extensive practice in his art. The other individuals of the Expedition are put down at the prices usually given in the Colonies for extraordinary services or risks. To diminish the Expedition in Salaries as much as possible, I have avoided naming any assistant to myself and should take care to select one of the other officers sufficiently competent to take charge of the Party in the event of anything happening to myself.

List of Instruments required for Expedition of Exploration from Moreton Bay.

Instruments required for exploration.

1. 15 Inch Theodolite of the best construction.
2. Mountain Barometers of the very best construction, the attached thermometers to be graduated for a hot climate.
3. 6 Spare glass tubes for do.
4. Sykes graduated thermometers fitted with apparatus for boiling water to determine heights.
5. Reflecting Circle of the Best construction and fitted with a stand.
6. Best seven inch Sextant graduated to tenths and fitted with a leather case for carrying on horseback.
7. 6 Pounds distilled Quicksilver.
8. 1 Best full sized metal artificial horizon for mercury.
9. 1 Best portable folding artificial horizon for mercury fitted with leather case for horseback.
10. 1 Best darkened glass horizon with two spare spirit levels.
11. 6 Best prismatic compasses in leather cases and with extra glasses for each compass.
12. 1 Best large sized telescope in leather case for carrying on horseback.
13. 6 Spare Thermometers all graduated to the boiling point.
14. 2 Best Gunter's Chains with arrows.
15. 2 Rolling parallel rulers with graduated scale.
16. 1 Protractor.
17. 1 Azimuth compass.
18. 50 Signal Rockets.
19. 50 Blue lights.

Memorandum relative to the Instruments.

The list of instruments contains only such as it would be absolutely necessary to have to enable the party to lay down their positions with accuracy and obtain such useful information relative to heights, levels, etc., as would be necessary. It is earnestly requested therefore that the instruments may be sent out of the exact kind, number and description marked in the lists, each the very best of its kind and by the best makers. The cost of the instruments is calculated in the estimates, and the difference between it and the sum allowed for the Expedition would be the amount to be expended in the Colony. I am aware that Sir John Barrow recommended a greatly inferior outfit of instruments for Captn. Sturt's Expedition; but, with all due deference for the opinion of so enlightened and talented an individual as Sir J. Barrow, I cannot think that any Expedition ought to go into the distant interior with an equipment inferior to that I have applied for. In the case of Captn. Sturt, I am aware that the only barometer sent out (a very inferior one) was broken, the thermometers being only graduated to 110° F.; were useless for tropical regions, and that Gentleman had to procure himself the greater part of the instruments he takes from his private resources. Upon the goodness and efficiency of the instruments, the success of the Expedition and the lives of the party depend; and, tho' it may occasionally be practicable to travel with only a compass and a pocket sextant, yet in a level country those instruments would be very insufficient and in any country most of the useful results of the Expedition would be lost if not provided with instruments of a better class; it must also be borne in mind that, when once the party has started and have no longer the means of repairing or replacing anything, a single accident to one of the instruments, if not provided with more than one of each, would frustrate the whole Expedition.

* Marginal note.—A circle is required instead of a large Sextant because it embraces greater altitudes of the sun or stars on shore when double the altitude is taken.
HISTORICAL RECORDS OF AUSTRALIA.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 153, per ship Ann Grant.)

Downing Street, 28th October, 1844.

Sir,

I have received your Dispatch No. 114 of the 29th of May last, with a Copy of the Report made to you by the Board of Immigration on the Emigrants who had arrived in New South Wales in the ship "Elizabeth" on account of Messrs. Carter and Bonus.

I have also received your Dispatch marked Separate of the 29th of May last, in which you refer to letters of recommendation given in favor of two Female Emigrants on whom Bounty has been disallowed.

I have communicated those Dispatches to the Colonial Land and Emigration Commissioners. In the meantime, I may observe, with reference to the letter which was given from this Department at the request of Lord Mornington and Lord Fitzroy Somerset in favour of those persons, that the ship, in which they proceeded, was on the eve of sailing when Lord Mornington in the absence of myself and of Mr. Hope requested Mr. Stephen to give them a passport to you merely to prevent their being regarded as persons of questionable character, or their falling under the control of any such persons.

It is scarcely necessary for me to add that the letter was written for that purpose alone and without the slightest knowledge or supposition that they were proceeding in the Character of Bounty Emigrants.

I have, &c,

STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 154, per ship Ann Grant.)

Sir, Downing Street, 28th October, 1844.

I have received your Dispatch of the 26th of May last, No. 112, requesting permission to issue letters of Denization to a Lady named Johanna Christina Von Stachenburg Jutting, a Copy of whose application on the subject you enclose.

I have to convey to you my authority for issuing Letters of Denization to that Lady under the Local Act of the Colony.

I have, &c,

STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 155, per ship Ann Grant.)

Sir, Downing Street, 28th October, 1844.

I have received your Dispatch of the 20th of May last No. 109, forwarding for the Royal allowance a Rule made by the Judge of the Supreme Court of New South Wales, resident in the District of Port Phillip.
In reply I must refer you to the Instructions on the Rules of Court, which were conveyed to you in my Dispatches No. 188 and 65, dated respectively the 19th of December, 1843, and 5th of May, 1844.

I have, &c.,

STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 156, per ship Ann Grant; acknowledged by Sir George Gipps, 12th September, 1845.)

Sir,

Downing Street, 28th October, 1844.

I have received your Dispatch, dated the 1st of January, Despatch 1844, No. 1, with the accompanying transcripts of twenty two acknowledged Acts, passed by the Legislature of New South Wales in the Session which commenced on the 1st of August and terminated on the 28th of December, 1843.

I have received Her Majesty's Commands to signify to you Acts of council that Her Majesty has been pleased to confirm and allow the confirmed; Eleven Acts (comprised in this series) of which the Numbers, dates and Titles are enumerated in the subjoined Schedule.

I further subjoin a Schedule of the numbers, dates and titles and reserved, of six other of the Acts comprized in the series, which I reserve as the subjects of a future communication.

The Act No. 3, dated the 15th of September, 1843, and entitled "An Act to give a preferable lien on Wool from Season to Season and to make mortgages of Sheep, Cattle and Horses valid, without delivering to the Mortgagee," is a measure so irreconcilably opposed to the principles of Legislation immemorially recognized in this Country respecting the alienation or pledging of things moveable that, under any other circumstances than those in which the Colony has unhappily been involved, it would not have been in my power to decline the unwelcome Duty of advising Her Majesty to disallow it.

The same circumstances may, perhaps, furnish an apology for an Enactment tending so directly to give unwonted facilities for borrowing money and increasing the evil of excessive credit, under the penalties of which the Colonists have so long and so severely labored. But, while I am ready to admit that embarrassments so overwhelming may have justified innovations otherwise indefensible, I must not less distinctly deny that they afford any valid plea for a permanent departure from those Established Rules, to which all theory and all experience alike lend their sanction. The disasters of New South Wales will ere long have passed away; but there will remain on the Colonial Statute Book a Law, expressly authorizing transactions which
the Law of England regards as affording the conclusive indication of fraud. It is a Law, which will place Society at the mercy of any dishonest Borrower, and which will stimulate the speculative spirit which it is so important to discourage.

The official transcript of this Act was received at this office on the 22d of July, 1844. Consequently, on the 22d of July, 1846, it will become unalterable by Her Majesty's authority unless disallowed before that day. I have, therefore, to acquaint you that unless the intelligence of the repeal of this Law shall reach this office by the 22d day of July, 1846, it will on the approach of that day be disallowed* by The Queen in Council.

The Act No. 4, Entitled An Act to prevent the waste of the property of Debtors under the process of Law may be vindicated by the Apology I have already mentioned. As that Law will expire in little more than two years from its date, The Queen will not disallow it. But neither can Her Majesty be advised expressly to sanction it. Until it shall have expired by the lapse of time, it will therefore continue to operate. But you will understand yourself as being distinctly prohibited from again assenting to a Law enabling a debtor to continue in possession of his property, and to avoid the ordinary legal responsibility to any one of his creditors under shelter of a license granted for that purpose by his other creditors. Such an Enactment in favor of the Debtor and against the dissentient Creditor could not be incorporated into the permanent Code of any Country without the subversion of all faith in the ordinary dealings of mankind and engendering abuses hostile alike to Commercial security and to Public Morals.

The Act No. 14 respecting the custody of Insane persons by the 7th Clause authorizes the Legislative Council to appoint two out of seven Visitors of Lunatic Asylums. I must take this earliest opportunity of recording the conviction of Her Majesty's Government that usurpations of this kind by the Legislature of Administrative functions must be firmly opposed. Large experience elsewhere has shewn the tendency of such encroachments to multiply themselves, and to mature into a system at once invincible and in the highest degree injurious to the Public Interests. The principle, which separates Executive and Legislative duties, is not less important in checking the unconstitutional Claims of the Legislature than in repressing the unconstitutional pretensions of the Government. The Legislature is really irresponsible at least to any human Tribunal; and no greater abuse can exist than that the nomination to Public Employments and other Similar Acts should be done by persons, who cannot be

* Note 7.
called to account either in their individual or their collective
capacity for the abuse of any such power. For these reasons
and not from the wish to retain an authority, the exercise of
which must be unattended by any advantage or gratification
whatever, you will recommend to the Legislature the repeal of
this Enactment. Until I am apprized of that recommendation,
Her Majesty's decision on the Act will be suspended.

The Act No. 19 to amend the Insolvent Debtors Act raises
questions of such permanent importance that Her Majesty's
decision on it will be suspended, until I shall be in possession of
a Report, which you will make as speedily as may be as to the
effect which may have actually resulted from the Law, since the
Enactment of it in December, 1843.

You will also ascertain and report to me the views of the
Judges and of some of the principal Merchants and Landholders
on that question. This precaution is suggested not only by the
terms of the Act itself; but by the remarks of Mr. Burton in his
letter of the 27th of December last.

Referring to my Dispatch of the 30th of August, No. 131,
I have to observe that on the grounds there mentioned it would
have been impossible for me to have advised The Queen to san­
tion the appropriation Act No. 20. But that act being now obso­
lete, it is unnecessary that Her Majesty should make any further
Order respecting it.

I have, &c.,

STANLEY.

[Enclosure No. 1.]

List of New South Wales Acts confirmed by Lord Stanley's
Dispatch, No. 156 of the 28th of October, 1844.
[This was a list of the titles of the acts, 7 Vict., Nos. 1, 2, 5, 7, 8,
11, 13, 15, 16, 17 and 22.]

[Enclosure No. 2.]

List of New South Wales Acts reserved for consideration by
Lord Stanley's Dispatch, No. 156 of the 28th of October, 1844.
[This was a list of the titles of the acts, 7 Vict., Nos. 6, 9, 10, 12,
18 and 21.]

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch marked “Separate,” per ship Ann Grant; acknowledged
by Sir George Gipps, 13th December, 1845.)

Sir,

Downing Street, 28th October, 1844.

In my Dispatch dated the 27 July, 1844, marked “Separ­
ate,” I explained to you the intentions of Her Majesty's Govern­
ment respecting the execution of the sentences of transportation
1844. 28 Oct.

Departure of "exiles" from England.

Possibility of separate settlement for "exiles."

Extra staff on ship with "exiles."

Possibility of staff for separate settlement.

of several Convicts, who have passed a Probationary period in the Prison at Pentonville. The general effect of that Dispatch was to instruct you, and the Lieut. Governor of Van Diemen's Land and the Superintendent of Port Phillip, to meet and provisionally to decide on the best method of providing for the reception and employment of these persons, not as Convicts, but rather as exiles from this Country. These persons are now about to sail for Launceston in the Ship the "Sir George Seymour," by which this Despatch will be conveyed to you.

At Launceston they will await the joint orders of yourself, Sir Eardley Wilmot and Mr. Latrobe.

As it is possible that the decision may be to establish these persons as a Separate Community whence to draw a supply of labour to meet the demands of the adjacent Colonies, it may in that contingency be anticipated that a permanent Establishment would be formed of Labourers awaiting employment. Such a Community, though seldom consisting long of the same numerical strength, might yet be always numerous enough to demand superintendence, Medical care, and Religious Instruction.

Adverting to the very peculiar circumstances under which this Vessel sails, it has been thought necessary, in addition to the usual Surgeon Superintendent, Mr. John S. Hampton, to embark on board her an assistant Superintendent, Mr. James Boyd, and a religious Instructor, Mr. Cairnduff, who is a Protestant and an unordained Member of the Church of England.

Mr. Hampton sails on the usual terms of a Surgeon Superintendent of a Convict Ship. To Messrs. Boyd and Cairnduff are assigned Salaries at the rate of Two hundred Pounds per annum each, commencing with their departure from this Country, but to be reduced to half that rate from the time of their embarkation on their return Voyage, until their actual return to England. In the case of each of them, the return Voyage is to be provided by the Government.

But, in the contingency to which I have adverted of the formation of a labour Depot to be recruited by Prisoners sent from this Country as Exiles, not as Convicts, the necessity may arise for creating and maintaining offices for the control and Government of such an Institution.

I refer it to the discretion of yourself, Sir Eardley Wilmot and Mr. Latrobe to determine what those offices should be, and what should be the rate of remuneration.

It is superfluous to insist on the necessity of incurring no expense beyond what may be requisite for the efficient discharge of this duty. But, as far as it is possible to form a judgment
at this distance, and in the existing uncertainty as to the course which may be taken. I think that it may probably be necessary to employ three officers, that is, a Superintendent, an assistant Superintendent, and a religious Instructor, one of the two Superintendents being a Medical officer and acting also in that capacity.

Contemplating the possibility of such arrangements, Mr. Hampton has offered to serve as Superintendent and Surgeon at Seven hundred Pounds per annum for the first year, and at Six hundred per annum for each following year. Mr. Boyd has offered to serve as assistant Superintendent at Two hundred Pounds per annum, and Mr. Cairnduff at the same rate as religious Instructor.

Each of these Gentlemen stipulates for being further provided with food and lodging in kind, or by a Commutation in money, at such rate in either case as the Local Government may think reasonable. They are all well aware that the formation of the Settlement at all is uncertain, and that the continuance of it is precarious. You will understand that I have entered into no engagements with either of these Gentlemen to accept his Services, on the terms I have mentioned, or any other terms, after the close of the outward voyage. I mention these conditions only as terms which they would be willing to accept, and which, should it appear to you on the whole conducive to the Public Good so to employ them, I authorize you to grant without fettering your discretion as to the creation of such offices at all, as to the choice of the proper officers, or (within the limits already mentioned) as to the amount of their remuneration. I have to state that I believe Mr. Hampton, Mr. Boyd and Mr. Cairnduff to be well qualified for the employment I have hypothetically mentioned, and I should wish them to be entrusted with these employments in preference to any other Candidates, excepting any whose Claim and qualifications might be superior to their own.

If the plan of forming a Depot of Labour should be adopted, it would be of great importance to prevent the Members of it from acquiring a Proprietary Title, or Claims likely to ripen into such a Title, to any Lands, which, in their character of exiles, dependent on the Government, they may cultivate for their own support, or even to the crops growing on such Lands. The fundamental principle of every such Settlement should be that it is the temporary receptacle, not the permanent abode, of its Inmates, and no opportunity should be lost of inculcating that principle or of enforcing the observance of it.

I have, &c.,

Stanley.
LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 157, per ship Ann Grant.)

Sir,
Downing Street, 29th October, 1844.

I have received your Dispatch No. 113 of the 28th of May last, enclosing a Copy of the Speech with which you had on that day opened the Annual Session of the Legislative Council of New South Wales. I have, &c.,

STANLEY.

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

Sir,
Downing Street, 30th October, 1844.

I have to acknowledge the receipt of your Dispatch No. 111 of the 24th of May last, enclosing a letter addressed to me by Mr. Suttor, as Chairman of a Committee which had been constituted at Bathurst for the purpose of opposing the recent Regulations for the occupation of Crown Lands in New South Wales.

I have, &c.

STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 159, per ship Ann Grant.)

Sir,
Downing Street, 30 October, 1844.

I have received your Dispatch No. 59 of the 12 of March last, relative to Bounties disallowed for the two Female Emigrants named O'Connor, who were sent out to New South Wales by Messrs. Carter and Bonus in the ship "Eleanor"; and, having referred that Dispatch to the Colonial Land and Emigration Commissioners, I now transmit to you for your information the copy of a letter, which I have received in reply, with a Report from the Government Emigration Agent at Cork on the subject.

I have to add that I see no doubt of the propriety of the disallowance of Bounty in this case.

I have, &c.,

STANLEY.

[Enclosure.]

LAND AND EMIGRATION COMMISSIONERS TO UNDER SECRETARY STEPHEN.

Colonial Land and Emigration office.

23d October, 1844.

Sir,

We have the honor to acknowledge your letter of the 5th of August, accompanied by the Copy of a Dispatch from the Governor of New South Wales on the subject of the disallowance of Bounties for the two Miss O'Connors, who were sent out by Messrs. Carter and Bonus in the "Eleanor."

We beg leave to state, for the information of Lord Stanley, that we caused enquiry to be made through the Government Emigration Agent at Cork in order to verify the declaration of Mr. O'Hern as to the position which these females occupied in his family; and we
have the honor to enclose a Copy of the Report we have received from Lieutenant Friend, which we would suggest should be forwarded to Sir George Gipps. We are, &c.,

J. G. S. Lefevre.

C. A. Wood.

[Sub-enclosure.]

LIEUTENANT FRIEND TO MR. S. WALCOTT.

Sir, Government Emigration office, Cove of Cork, 10th October, 1844.

I have the honor to acknowledge the receipt of your letter of the 2d Instant, Report re accompanying a Copy of a declaration from Mr. William O'Henn relative to the emigration Misses O'Connor. I find that they were Sisters in Law to Mr. O'Henn; but being dependent on him, E. O'Connor. were employed in the Domestic Services of his house but were never in any other service; and that this was the sense in which he understood his declaration to be made; he could not otherwise have supported them. Mr. O'Henn is at present a Clerk at Mr. Hackett's, a Wine Merchant in Kings Street, Cork.

I am, &c.,

C. FRIEND, Lieut., R.N.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 238, per ship Hind; acknowledged by lord Stanley, 3rd May, 1845.)

My Lord, Government House, 1st Novr., 1844. Leave of

I beg leave to report to Your Lordship that, with the consent of my Executive Council, I have given Leave of Absence for 15 months (to return to England on account of ill health) to Mr. Kemp, Deputy Post Master at Melbourne.

I enclose a Copy of the Minute made on this occasion by the Executive Council, from which Your Lordship will perceive that no absolute guarantee of half salary during his absence has been given to Mr. Kemp, though he has been promised that it shall if possible be obtained for him; and I have made an arrangement by which his duties will be done with little, if any, additional expense, even if he is allowed half salary. His full salary is £380 per annum.

I further enclose a Copy of Mr. Kemp's statement of his own case, and appended to it are Copies of the Medical Certificates which he produced to the Council. I have, &c.,

Geo. Gipps.

P.S.—Mr. Kemp's leave of absence will commence from about the 1st December, but I cannot state at present the exact day.

[Enclosure.]

PROCEEDINGS of the Executive Council relative to an application for leave of absence from Mr. Kemp, Postmaster at Melbourne.

Extract from Minute No. 23, dated 16th September, 1844.

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.

His Excellency the Governor laid before the Council a letter from His Honor the Superintendent of Port Phillip, transmitting with a strong recommendation in its favour an application from
Mr. Henry Darling Kemp, principal Postmaster of the District of Port Phillip, for leave of absence for fifteen months to visit Europe.

Mr. Kemp’s application was made on the ground of serious ill health, brought on by a lengthy and laborious application to official duties,” and was accompanied by medical certificates to that effect.

In laying Mr. Kemp’s application before the Council, the Governor said He could not but feel some doubt as to Mr. Kemp’s coming within the class of officers who are to be considered entitled to leave of absence to return to Europe, and He also felt it necessary to remark that He had no funds at His disposal out of which He could guarantee to Mr. Kemp payment of half salary during his absence. Mr. Kemp indeed expressed a hope that during his absence he might be allowed full Salary, but this His Excellency felt certain in any case be allowed.

The Council advised that leave of absence, as applied for, should be granted to Mr. Kemp.

Having recently decided in the case of the Chief Justice that, under the general Regulations issued from the Colonial Office, more than half Salary could not under any circumstances be guaranteed to an officer absent on leave, the Council could not of course entertain Mr. Kemp’s application for full Salary. It appeared doubtful to the Council whether his office was of such a nature as to warrant the Government in guaranteeing even half Salary, but the Council fully admitted that Mr. Kemp had a strong claim to the allowance of half Salary, if it could be granted.

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

[Enclosure No. 2.]

Application of H. D. Kemp for leave of absence.

MR. H. D. KEMP TO MR. C. J. LA TROBE.

Sir, Post Office, Melbourne, 27th August, 1844.

The failing State of my health for some considerable time past, but more particularly within the last few months, obliges me to seek of His Excellency’s gracious favor the indulgence of leave of absence.

Having received my first Government appointment in this Colony in January, 1828, my Service has extended to a period of nearly Seventeen years, and this without cessation or interruption. Since February, 1833, as Accountant to the Post Office, my duties, influenced of course in their increase and importance by the rapid advance of that Department, have been harassing and laborious. Ever since my removal to Melbourne, the extension of the Department here has not left my duties confined to office hours, while always in the Post Office those are heavy.

The Medical Certificates, which I respectfully submit herewith, will I hope sufficiently assure His Excellency that the illness of which I complain is solely the result of a lengthy and laborious application to official duties.

I have delayed this resource for health because desirous first to have seen the post communication spread throughout the District, and which the already proposed arrangements for 1845 will in great part effect; but I am now firmly convinced, under the frequently urged assurance of my medical advisers, that entire release from business is my only resort and an almost certain one to secure a return of health, while longer delay would make doubtful the result in a recovery at all. Under their advice too, I contemplate...
a Sea Voyage and to England, and I thus anxiously appeal to His Excellency the Governor for the indulgence of fifteen months' leave.

Length of Service with its fatigues having been entirely the cause of illness under which I now apply. I confidently hope that I shall obtain under His Excellency's equitable Administration for the whole time the continuance of Full pay. And again, as I have not escaped late evil times, it would be a valuable boon to me if I may receive an Amount equal to Six months' full pay (or £200) in advance.

Will your Honor then do me the favor to submit to His Excellency the Governor this my urgent appeal, kindly Supporting it by your own recommendation as Strongly as your Honor's experience of my Services here may seem to justify.

I have, &c,
HENRY D. KEMP, P.M.

[Sub-enclosure.]

MEDICAL CERTIFICATES.

HAVING been requested by H. D. Kemp, Esqr., to certify as to his present State of health, I beg to state that he has been under my medical care for several months past for an affection of the brain closely allied to Epilepsy, accompanied with occasional impairment of the memory and a highly excited State of the nervous System. From the character and duration of the symptoms, I am strongly of opinion that no permanent advantage is to be expected from Medicine unless accompanied with relaxation from business. I have, therefore, felt it my duty to urge on my patient the necessity at whatever Cost of a prolonged leave of absence in order that, by change of air and scene, total relaxation from business, freedom from anxiety and the auxiliary aid of medicine, he may Secure to himself the best advantages in Contending with a Complaint at all times very intractable.

Melbourne, 26th Augt., 1844.

W. COX, M.D.

Shortly after Mr. Kemp's arrival in this District (now about two years Since), I was called in professionally to see him, and have Since occasionally attended him; he labours under a disease (Epilepsy) which frequently baffles the best directed efforts of Medicine and has in his case I regret to say totally failed. I urged on him in the early part of my attendance the importance of a temporary cessation of his official labours, and every day has strengthened my opinion of its absolute necessity. The frequent occurrence of the disease will I dread not only materially injure the functions of the brain, but may also have fatal results. A relaxation from business coupled with change of air and scene will I trust be attended with the happiest effects.

Melbourne, 26th August, 1844.

B. CUSSEN, M.D.

STANLEY TO GIPPS.

Lord STANLEY to Sir George Gipps.

Sir,

Downing Street, 3d Novr., 1844.

I have received your Dispatch No. 98 of the 5th of May last, enclosing Copies of the Minutes of the proceedings of the Executive Council of Your Government of the 18th and 27th of March last,* with reference to the Bounties on the Emigrants introduced into the Colony by the ship "Ward Chipman."

Having referred that Dispatch to the Colonial Land and Emigration Commissioners, I transmit to you a copy of the Report which I have received from them; and I have to add that I concur in the conclusions arrived at by the Commissioners on the points presented by your Dispatch.

I have, &c,

STANLEY.

* Note.—In the duplicate copy of this dispatch, the dates are "the 18th of March and 13th April, 1843."
Land and Emigration Commissioners to Under Secretary Stephen.

Sir,


We have the honor to acknowledge your Letter of the 30th ultimo, enclosing a Despatch from the Governor of New South Wales, forwarding copies of the Minutes of the proceedings of the Executive Council of the 18th of March and 13th of April, 1843, respecting the Bounties on the Immigrants introduced into the Colony by the ship Ward Chipman.

The circumstances, under which a large portion of the Bounty was withheld from the Contractor, will be found fully stated in a Report from this Board, dated the 26th September, 1842. It will therefore only be necessary that we should now give a short outline of the case.

The "Ward Chipman" sailed from Bristol in August, 1841, and landed 338 Emigrants at Port Phillip in December of the same year. The amount of Bounty claimed was £5,136; but, as 38 of the Immigrants were ineligible under the Colonial Regulations, that amount was reduced to £4,524 by the disallowance of £612, the propriety of which deduction does not appear to be questioned.

In consequence however of complaints as to the provisions supplied, and of the general want of order which appears to have prevailed on board the Vessel, as well as the number of Deaths that occurred (which amounted in all to 21), the Immigration Board reported that the Contractor ought only to receive the sum of £2,260 10s. and that the payment of the Balance, viz., £2,263 10s., should be dependent on the result of an enquiry into the truth of the complaint against the provisions and other arrangements. The Superintendent of Port Phillip reported they were well founded, and recommended that the entire balance should be withheld, which recommendation received the Governor's approval.

The Report from this Board, to which we have before alluded, was accompanied by such evidence bearing upon the allegations for withholding the Bounties, as we were able to collect from parties in this Country, and we recommended that the papers should be forwarded to the Governor of New South Wales for a reconsideration of the case by the Local Authorities. Sir George Gipps has now transmitted the Report of the Committee of Council without expressing any opinion upon it. The Committee adhere to the former decision of the local Authorities that the infliction of a Penalty on the Contractor was deserved in consequence of the Colonial Regulations not having been duly observed; but they advise that the amount should be reduced to £1,000, and that he should therefore receive the further sum £1,263 10s., being the difference between the mitigated penalty and the amount with held up to that time.

We have the honor to report that We think that this recommendation of the Council should be confirmed.

It would appear that a difficulty has occurred as to the proper party to whom this payment should be made. The licence to import the Immigrants was granted by the Local Authorities to a Mr. Nowlan, but was afterwards assigned to Mr. J. P. Hinton of...
Bristol, at whose expense the Immigrants were imported. The first payment was made to a gentleman, since dead, upon the authority of Mr. Nowlan, and Mr. Hinton's name was not then brought before the Government. Mr. Hinton has since addressed a letter to Sir George Gipps, requesting that no payment should be made on his account except to his son Mr. Frederick Hinton, a professional gentleman residing at Sydney, who has applied for payment of the balance, accompanying his application by a Certificate from Mr. Nowlan stating that Mr. Hinton, Senior, was entitled to the money. Sir George Gipps however declined to recognise any other party than Mr. Nowlan, to whom he had granted the licence, or his authorised Agent. The Committee of Council, in their recent report, recommend that the question, as to whom payment of the balance ought to be made, should be referred to the Law Officers of the Crown.

This course, which would appear to be very proper, has probably been adopted; and we would therefore merely observe that, if the Law Officers of the Crown be satisfied as to the authenticity of Mr. Nowlan's certificate, and of the appointment by Mr. Hinton, Senior, of his Son as Agent to receive payment for him, we should see no objection to the money being paid to the party who has actually been at the expense of sending the Emigrants to the Colony, although the Licence was not granted to him in the first instance.

We have, &c.

JOHN G. SHAW LEFEVRE.
C. ALEXANDER WOOD.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 239, per ship Hind.)

My Lord,

Government House, 4th Novr., 1844.

I have had the honor to receive Your Lordship's Despatch No. 43 of the 20th March, 1844, enclosing a Copy of a Petition from Richard Lord, of Prince Town near Tavistock, requesting information respecting an Uncle of the same name (Richard Lord) who is supposed to have emigrated to New South Wales many years ago, to have acquired property to a large amount, and to have died there without issue; and I have to report that, though in obedience to Your Lordship's instructions I have made all the enquiry in my power, I can acquire no information whatever respecting a person such as is described.

I enclose a Copy of a reply, which I have received to my enquiries, from the Master in Equity, who is also Administrator of Intestates' Estates, and the Officer who would naturally have charge of the property of Richard Lord, had he died intestate and without issue.

I have, &c.

GEO. GIPPS.

[Enclosure.]

[Report by Mr. Chipman on decision re payment of the balance to Mr. Frederick Hinton.]

[Enclosure, A copy of this report is not available.]
SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 241, per ship Hind; acknowledged by lord Stanley, 30th June, 1845.)

My Lord,

Government House, 9th Novr., 1844.

I have herewith the honor to forward a Petition, which has been addressed to Her Most Gracious Majesty the Queen by Lady Dowling, Widow of Sir James Dowling, late Chief Justice of this Colony, whose death I reported in my Despatch No. 219 of the 6th October last.

The Petition of Lady Dowling being that she may be allowed a Pension, I feel that I ought not to forward it without referring to my Despatch No. 132 of the 1st July, 1844, with which was transmitted a similar application from Lady Forbes, Widow of the late Sir Francis Forbes, Sir James Dowling's Predecessor.

Enclosed with Lady Dowling's Petition, Your Lordship will find a copy of a letter addressed to myself by the present Acting Chief Justice, Mr. Alfred Stephen, wherein are urged several particulars in favor of Lady Dowling, and in explanation of the pecuniary circumstances of the late Chief Justice, which it seems to me important that Your Lordship should be acquainted with.

To the particulars so given, I feel it right to add the following:

The late Chief Justice was twice married; by his first Wife, he had nine children, but of them, four only survived him, namely, two grown up sons, and two married Daughters. The Lady, who now applies for a Pension, was married to him in 1836, she being then a widow with three children; but these children are now also grown up.

To his having been early in life embarrassed with a large family, and certainly not to any extravagance of his own, I attribute the fact of Sir James Dowling's having died without being able to make a provision for his Widow. I believe I am quite authorized in adding that Sir James Dowling never engaged in speculations of any sort, unbecoming his station as a Judge.

I have further to report to Your Lordship, that twenty two Members of the Legislative Council recently recommended the Petition of Lady Dowling to my favorable consideration, and that the names of these gentlemen are as follows:

Under these circumstances, I venture to express a hope that Lady Dowling may be allowed a Pension not exceeding £200 a year; and that it may commence from the day of her late husband's decease.

By Schedule B of the 5th and 6th Vict., ch. 70, the sum of £3,000 per annum is placed at Her Majesty's disposal for Pensions; and, of this sum, £1,350 only is now appropriated, exclusive of £200 recommended for Lady Forbes. I have, &c.,

Geo. Gipps.

N.B.—The death of Mrs. King, who enjoyed a pension of £200 a year, was reported in my Despatch No. 170 of the 13th Augt., 1844.

[Enclosure.]


To the Queen's Most Excellent Majesty,

Sheweth.

That, by the late lamented death of her Husband after a protracted and severe illness, Your Memorialist has been left in a state of sudden and most unexpected, but entire destitution.

That the very heavy expenses of bringing up in this Colony a large Family, of whom he lost two in matured age, and four are but recently established in life, with the frequent calls on his purse to which his Station exposed one whose benevolence and Charitable disposition were so well known, would under any circumstances have prevented Sir James Dowling from accumulating money. But that he had the additional misfortune of sustaining other losses; of having for several years when the prices of every necessary for life were extravagantly high, to provide for the liquidation of debts; and of having been induced, as a provision for his family, to expend money on hand, which, after absorbing more than it was ever worth, is now nearly unsaleable, And that he unhappily died from the effects of overstrained and long Continued exertion in the laborious duties of his Office, before time was afforded for retrieving himself; so that there is great reason to fear a deficiency of means, even to defray his debts.

That Your Memorialist's Husband, having been appointed a Judge of this Colony in 1827, was in the active and unremitting discharge of his duties for the space of above sixteen years, eight as a Puisne Judge and eight as Chief Justice; and that, during that long period, he never once enjoyed the advantage (with the exception of a few weeks, when in extreme ill health) of leave of absence. That he at all times so conducted himself in his high Office, as to secure the approval and respect, and obtain the unqualified praise and confidence of all classes in the community; as one proof of which, Your Memorialist would state that, on his intended departure from the Colony for two years being made known to them in August last, the Legislative Council spontaneously voted an Address, soliciting His Excellency the Governor to allow him the full amount of his salary during that Term. But it was then too late. His constitution.
never relieved by necessary repose or relaxation, was broken beyond the power of nature or human skill to restore, and he fell a sacrifice to the too eager desire to do his duty.

That under these circumstances Your Memorialist throws herself upon Your Majesty for support in her State of privation; and humbly prays that she may obtain of Your goodness an Annual Pension, such as Your Majesty shall be advised it may be proper of Your Royal bounty to bestow upon her.

Sydney, 8th Novr., 1844. HARRIOTT DOWLING.

[Enclosure No. 2.]

MR. JUSTICE STEPHEN TO SIR GEORGE GIPPS.

Sir, Supreme Ct., 8 Novr., 1844.

I have undertaken the task of enclosing to Your Excellency and entreat ing you to forward to The Secretary of State with your recommendation a Memorial, which Lady Dowling has been advised to address to Her Most gracious Majesty, praying for a Pension.

If any other recommendation than Your Excellency's were needed, I venture to State that no difficulty would be found in procuring for it that of every Member of the Legal Profession in both branches, of every Member of the Legislative Council at liberty to offer an opinion on such a Subject, and of a very large portion of the most respectable and influential of the Community at large. But I feel assured that Lady Dowling can require no other or better prompter on this occasion than Your Excellency's own benevolence of disposition and just appreciation of the services and merits of her departed Husband, of whose entire devotedness to his duties and high Character as a Judge you are so competent a witness.

It will not, I hope, be thought unbecoming in me to occupy the position of Lady Dowling's advocate and adviser in this matter. I assume it from no desire to establish a precedent for any one connected with myself; but because I am more called on by friendship for Sir James Dowling and by the personal knowledge which I possess of his affairs, than other Men can be, not being Members of his family, to testify to the facts, which, in reference to such an application, it will no doubt be thought proper to enquire into. Of these, then, I shall simply say that I assure Your Excellency they are Stated in the Memorial truly and without exaggeration. Sir James was not of expensive habits; and, for the last two years or thereabouts, he saw little Company and kept no carriage. But he had many heavy calls on his purse for some years previous; and, as stated in the Memorial, he died before there was time to retrieve himself. It is painful to state that Lady Dowling literally has no provision for her support whatever. The dwelling house and part of the adjoining grounds, with the furniture, have been bequeathed to her, but the former are under Mortgage and the latter or the greater portion of it has already been sold by auction to meet debts. I scarcely expect to find that the Estate will pay twenty Shillings in the pound.

I have said that it is not my object to obtain the establishment of any precedent on a point which may pardonably be supposed personally to affect me. I shall limit my advocacy of Lady Dowling's position to the respectful urging on the attention of the Government, in few words, of the following considerations:—first, that Sir James Dowling served Her Majesty, without intermission and
without leave of absence though applied for, for the long period of 16 Years and upwards; secondly, that his whole course was marked by the most laborious, incessant and painstaking devotion to his duties that perhaps ever distinguished any Judge; thirdly, that to this cause, in no small degree, he owed the want of arrangement and neglect of the usual means of accumulation, which marked his pecuniary matters, for he left himself no sufficient time to attend to them; fourthly, that to the same absorbing engagements year after year, amid the many drawbacks and discouragements to which the Judicial Station is here exposed in his public duties, he unquestionably owed finally his premature decay and loss of life.

I have, &c.,

ALFRED STEPHEN.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 242, per ship Hind.) My Lord, Government House, 12th Novr., 1844. Agreeably to the instructions contained in Your Lordship's Despatch, not numbered, of the 14th June, 1844, I have obtained from the Revd. M. T. Adam a Copy of the letter which, as President of the Total Abstinence Society of New South Wales, he addressed to Your Lordship on the 25th January, 1844; and I enclose the said Copy herewith.

The object of the Revd. Mr. Adam's letter to Your Lordship is to induce Your Lordship to cause the Royal Assent to be withheld from an Act passed by the Legislative Council of this Colony on the 22d Decr., 1843, for reducing the duties on Spirituous Liquors; and such also was the object of the Resolutions passed at a meeting of the Total Abstinence Society of New South Wales on the 18th January, 1844, and enclosed in Mr. Adam's letter.

Having, in my Despatch No. 2 of the 1st January, 1844, fully reported on the proposed measure for reducing the duties on Spirits, and submitted the reasons why the Act passed by the Legislative Council should not receive the Royal Assent, I beg to refer Your Lordship to that Despatch.

I have, &c.,

GEO. GIPPS.

[Enclosure.] Copy of a letter to Lord Stanley, her Majesty's Secretary for the Colonies.

My Lord, Sydney, 25th Jany., 1844.

As the President of the Australian Total Abstinence Society, I am instructed to forward to you a copy of a Resolution, which was passed at a Quarterly Meeting of this Society that was held here in the Hall of the School of Arts on the evening of the 18th inst. and to solicit your Lordship's favourable regard to it. The meeting was numerously and respectfully attended.
1844.
12 Nov.
Necessity for restriction of consumption of alcoholic liquors.

I beg most earnestly and respectfully to assure your Lordship that the object, specified at the close of the Resolution, is of vast importance to the well-being of this community; for, to such an extent has intemperance been carried in it, that the Importations of Intoxicating Liquors are of themselves enough, if paid for, to account for all the pecuniary distress and derangement which have prevailed throughout this Colony during the last two years. That this is no exaggerated statement will appear obvious to your Lordship by considering that the Intoxicating liquors, which have been imported into this Colony during the last 10 years, at the Invoice price as entered at the Custom House, amount to between Four and Five Millions of Pounds Stg. This we readily admit that this estimate is founded on imperfect data, we not having such access to the necessary documents as would enable us to attain perfect accuracy in the case; yet we feel the greatest confidence that it will be found very nearly to approximate the truth. It must be borne in mind too that this is exclusive of the Liquors, which have been imported by Smuggling, the amount of which is stated to have been very great, and of those which have been Manufactured either legally or illegally in the Colony. But no person, we conceive, who is acquainted with the resources of this Country as at present developed, can for one moment believe that it is capable of supporting such a prodigious drain upon them for such an object; and, if this State of things continues, no System of Colonial administration which your Lordship can adopt, we feel persuaded, can materially improve its present distressed condition. To draw out the resources of the Country and effectually to surmount its difficulties, whether these difficulties be considered as arising from the nature of its soil or climate, or the character of the great mass of its population, a Sober, industrious, economical, wise and energetic community is absolutely necessary; but such a community can never exist under the influence of the Intemperance, which the vast amount of Imported intoxicating Liquors alone incontestibly proves must prevail.

As the measure of lowering the Duties one-half, with habits of Intemperance long and deeply Seated in the great mass of this community, would only facilitate their indulgence, and thereby greatly increase all the evils which Spring from Intemperance, we are exceedingly desirous that the Sanction of her Majesty, our beloved Queen, should be withheld from it; and, if this State of things continues, no System of Colonial administration which your Lordship can adopt, we feel persuaded, can materially improve its present distressed condition. To draw out the resources of the Country and effectually to surmount its difficulties, whether these difficulties be considered as arising from the nature of its soil or climate, or the character of the great mass of its population, a Sober, industrious, economical, wise and energetic community is absolutely necessary; but such a community can never exist under the influence of the Intemperance, which the vast amount of Imported intoxicating Liquors alone incontestibly proves must prevail.

That your Lordship may take such views of this important Subject, as sound policy and the best interests of such a Colony require, is the earnest and devout wish of all those for whom I write; and fervently hoping that you may take this application into your favourable consideration, and with fervent prayers for the peace, prosperity and lasting integrity of the British Empire,

I am, &c.,

M. T. Adam.

Sub-enclosure.

Copy of the Resolution referred to in the Letter.

That whereas it has been long since proved, by evidence of the most decided and incontestible character, that Intemperance is the great producing cause of Pauperism and Crime, and the highest Judicial Authority in this Colony has publicly Stated that at least Nine-tenths of these may justly be attributed to Intemperance, and therefore that a corresponding proportion of the expenses connected with the Pauperism and Crime of the Country may fairly be traced to the same cause:
GIPPS TO STANLEY.

Resolved that it is only an act of Justice that those, who cause this enormous burden to the community, should alone bear it; and that, as a more equitable way of attaining this object cannot likely be devised than that which has long been in operation, namely, the imposition of Duties on the Liquors and on the right to Manufacture and Vend them; and that, as the Revenue arising from the high Scale of Duties at present in force cannot be regarded as more than Sufficient to meet the expenses which are so incurred: Resolved also, that this Meeting regards the attempt of the Legislative Council to lower these Duties one-half, and to make up the deficiency which would be thus occasioned in the Revenue by the imposition of Duties on the necessaries of life which are imported into the Colony, as a violation of Justice to the great mass of the community; and that a respectful representation of the case be made to her Majesty's Secretary for the Colonies with the view of preventing her Majesty's Sanction being given to the measure.

LORD STANLEY TO SIR GEORGE GIPPS.

_Edit despatch per ship Royal Consort; acknowledged by Sir George Gipps, 11th August, 1845._

Sir, Downing Street, 20 Novr., 1844. 20 Novr.

I have received from Benjamin Hodgson, late Serjeant 48th Regt., a Memorial dated the 25 of Sept., 1843, Sydney, bringing under my consideration the circumstances under which he purchased two hundred Acres of Land some years ago in New South Wales, but has hitherto failed to get possession of it.

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

I have, &c.,

STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.

_Edit despatch No. 244, per ship Hind._

My Lord, Government House, 21st Novr., 1844. 21 Novr.

I have received Your Lordship's Despatch of the 27th June, 1844, No. 95, enclosing Copies of two letters from Mrs. Catherine Dunn, wherein she asks for information respecting Quinn, property supposed to have been left by her late husband, who is stated to have died some years ago at Sydney intestate; and, having made the enquiries directed by Your Lordship, I have to report that applications precisely of a similar nature were made by Mr. Barnard on behalf of Catherine Dunn, in letters respectively dated the 24th October, 1833, and the 13th September, 1837; and that full particulars respecting the person, supposed to have been the husband of Catherine Dunn, were forwarded by the Colonial Secretary to Mr. Barnard on the 20th June, 1840. The long delay, that occurred in answering Mr. Barnard's enquiries, appears to have arisen from the fact that the husband of Catherine Dunn was transported to this Colony in the name, not of Dunn, but of Quinn.
The money, which Patrick Quinn died possessed of in the year 1832, appears to have been £4 1s. 1d., which, by the payment of some expenses, was reduced to £2 13s. 1d. This latter sum of £2 13s. 1d. was invested in the Savings Bank of New South Wales in January, 1839, where it still stands to the credit of the deceased, being now increased by interest to £3 9s. 1d.

I enclose a Copy of a letter recently received from the Master in Equity (who is also Curator of Intestates' Estates) on the subject of Patrick Quinn's property. I have, &c.,

[Enclosure.]

[Lord Stanley to Sir George Gipps.]

Despatch No. 161, per ship Royal Consort; acknowledged by Sir George Gipps, 15th June, 1845.)

Sir, Downing Street, 24 Novr., 1844.

I have received your dispatch No. 138 of the 9th of July last, enclosing a copy of a Bill passed by the Legislative Council of New South Wales on the 14th June, 1844, fixing the salary of any future Governor of New South Wales at the sum of £4,000 a year instead of £5,000.

You observe that the Bill has been passed in virtue of the powers granted to the Council by the 31st and 38th Clauses of the Act of the Imperial Parliament for the Government of New South Wales, 5 and 6 Vic., Chap. 76, but is reserved for Her Majesty's Pleasure in consequence of the express enactment contained in the first mentioned of those Clauses.

In the absence of any opinion from you as to the propriety of the proposed reduction, it will not be in my power to advise Her Majesty as to the course to be taken on this Bill; and I should wish to receive such a report at your earliest convenience.

I have, &c.,

Stanley.

[Reference of Sydney dispensary bill to committee of privy council.]
GIPPS TO STANLEY.

Privy Council for Trade and Plantations, that Committee have reported to Her Majesty in Council their opinion that the said Bill should be specially confirmed.

I have the honour to transmit to you herewith an Order, made by Her Majesty in Council on the 8th Inst., approving that Report, and confirming, ratifying, and finally enacting that Law.

I have, &c.,

STANLEY.

[Enclosure.]

ORDER-IN-COUNCIL.

AT the Court at Windsor, the 5th of November, 1844.

Present:—The Queen's Most Excellent Majesty; His Royal Highness Prince Albert; Lord Steward; Lord Chamberlain; Lord Granville Somerset; Sir Robert Peel, Bart.; Mr. Chancellor of the Exchequer; Sir James Graham, Bt.; Mr. Gladstone.

Whereas the Legislative Council of Her Majesty's Colony of New South Wales did, in the month of November, 1843, pass a Bill which has been reserved by the Governor of the said Colony for the signification of Her Majesty's Pleasure and has been transmitted, entitled as follows, viz.:

An Act 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 the other purposes therein mentioned.

And Whereas the said Act has been referred to the Committee of the Lords of Her Majesty's Most Honorable Privy Council appointed for the consideration of all matters relating to Trade and Foreign Plantations, and the said Committee have reported as their opinion to Her Majesty that the said Act should receive Her Majesty's special confirmation. Her Majesty was thereupon this day pleased, by and with the advice of Her Privy Council, to declare Her special confirmation of the said Act, and the same is hereby specially confirmed, ratified and finally enacted accordingly. Whereof the Governor, Lieutenant Governor or Commander in Chief for the time being of Her Majesty's Colony of New South Wales, and all other persons whom it may concern, are to take notice, and govern themselves accordingly.

C. GREVILLE.

SIR GEORGE GIPPS TO LORD STANLEY.

(My Lord, Government House, 26th Novr., 1844.)

My Lord,

Government House, 26th Nov., 1844.

I herewith transmit a Memorial which has been addressed to Your Lordship by Mr. A. G. Dumas, a clerk in the Convict Establishment of this Colony at a Salary of £200 a year.

The object of Mr. Dumas is to obtain employment in Van Diemen's Land, whenever the progress of events may lead to the abolition of the Office which he now holds in New South Wales.
Mr. Dumas is, I believe, efficient in the performance of his duties, and is well spoken of by the Head of his Department. I regret, however, to state that, though he has not taken the benefit of the Insolvent Act, he has been recently involved in pecuniary difficulties, and has, I understand, assigned the whole of his Property and a portion of his Salary to Trustees for the benefit of his Creditors.

On the subject of employment in Van Diemen's Land for persons likely to be reduced in this Colony, I beg to refer to my Despatch No. 108 of the 8th May, 1844. I have, &c.

GEO. GIPPS.

[Enclosure.]

The Humble Memorial of Alexander George Dumas, a Clerk in soliciting the Office of the Principal superintendent of Convicts, Sydney, New South Wales,

To the Right Honorable Lord Stanley, Her Majesty's Principal Secretary of State for the Colonies, etc., etc., etc.,

Sheweth,

That Your Lordship's Memorialist was appointed to his present Department as a Clerk in the month of October, 1836, at a Salary of £100 per annum, and subsequently in July, 1837, to the situation of Corresponding Clerk (then held by his Predecessor at a Salary of £200 a Year), which Your Memorialist still holds.

That Your Lordship's Memorialist's Salary has for upwards of Two Years been £200 per annum, and to which amount it arrived by the usual increase of £15 a Year upon £125 allowed to all Clerks in the service of Government.

That Your Memorialist would represent to Your Lordship that the situation of Corresponding Clerk has other duties attached to it beyond those of the Correspondence, and which constitute it the most arduous and at the same time the most important situation in the Office, requiring no common degree of talent, assiduity and knowledge of the routine of the Department to enable the person filling it to conduct its various details.

That Your Memorialist takes the liberty of urging that he has rendered service on many occasions in advancing the interests of his Department and of the Public service in connection therewith, notwithstanding which he has received no increase of Salary beyond that allowed to other Clerks in his Department whose duties have been merely mechanical.

That Your Memorialist has been informed that the Department, to which he belongs, would shortly be considerably reduced if not altogether abolished and in this Colony the hope of obtaining another situation of equal emolument is very uncertain, and thus, after having faithfully discharged his duty in the employment of Government for 8 Years and upwards, Your Memorialist will be thrown upon his own resources.

Your Memorialist has been more than once recommended by the Head of his Department for promotion in succession to the Chief Clerk in Your Memorialist's Office, but that, as Transportation was abolished, the promotion of the Chief Clerk was not sanctioned by Your Predecessor, and consequently Your Memorialist's Salary was not increased.
GIPPS TO STANLEY.

That Your Memorialist begs to annex for Your Lordship’s information Certificates from the Head of his Department as to the manner in which Your Memorialist has conducted his duties, and also from the Heads of other Departments where such duties have come under their observations, and Copies of former recommendations made in Your Memorialist’s behalf.

That Your Memorialist would further urge on Your Lordship’s attention the fact of his having claims in right of the services of his Father (whose eldest son he is) late a Captain in the 63rd Regiment of Foot, from which he sold out.

Your Memorialist would add that his Father was for many Years in India in the 25th and 75th Regiments, in the latter of which he purchased his Lieutenant, and while there he was several times wounded, once so severely in the head that he had a locked-jaw, which wound he received while leading a “forlorn Hope” at the first taking of “Seringapatam” under Lord Lake, and from which he has of late Years suffered most severely.

For his Father’s services in India, Your Memorialist would respectfully refer to His Grace the Duke of Wellington (then Sir Arthur Wellesley), with whom Your Memorialist’s Father was at the time on terms of intimacy, and to whom he was introduced by Your Memorialist’s Grand Uncle, Sir James Craig; Your Memorialist would also refer as to the wounds received by his Father to Sir James McGregor, the present Head of the Medical Staff.

Your Memorialist’s Father was also at the first storming of “Bartpore,” at which place he was also severely wounded. In 1807, Your Memorialist’s Father returned with his Regiment to England, and, in the Year 1812, he was again ordered on service to Sicily where he was appointed Assistant Adjutant General to Sir Hew Dalrymple, and which situation he retained until the abandonment of that Island by the English; he then went with his Regiment to the Ionian Islands and received from the late Sir Thomas Maitland the appointment of Commandant of the Island of Ithaca, and subsequently that of Paxo, where he continued until his Regiment was removed to Gibraltar; for the correctness of these facts, Your Memorialist would appeal to Sir Henry Clinton, Sir Patrick Ross, the present Adjutant General of the Army, and other General Officers, also to Lord Ponsonby, and for none of these services has Your Memorialist’s Father received any reward or pension save one Year’s pay as Lieutenant for his wounds at “Seringapatam.”

That Your Memorialist would further urge the services of his Grand-uncle, the late Sir James Craig, who was for many years Governor of Jamaica, and while serving there contracted diseases of which he afterwards died.

Also the services of Your Memorialist’s relative Lieutt. Colonel Peter Dumas, the present Deputy-Governor of Tilbury Fort, who became blind in consequence of his services in Egypt, while in command of the 45th Regiment.

To this Your Memorialist might add the services of other of his relatives, but he would humbly urge that he conceives those he has already enumerated give him a strong claim to reward, in addition to what he has in his own right.

That Your Memorialist considers it necessary to State that he believes the claims of his Father have not been rewarded in consequence of his not having pressed them on the notice of the Government; and the effect of his severe wounds render him now, and for some time past, unfit to fill any appointment.
Your Lordship’s Memorialist therefore trusts that such services, but more particularly those of his Father extending over a period of 31 Years, when now brought forward by his eldest Son, may not pass unrewarded; and that Your Lordship will not conceive the appointment of a Police Magistrate or Superintendent of a Probation-Gang in Van Diemen’s Land too great a reward to ask for, on such grounds as those brought forward by Your Memorialist; and that, therefore, Your Lordship will be pleased to comply with the request of Your Memorialist to be appointed to one of the situations in V. D. Land, to which he has alluded and for which Your Lordship’s Memorialist will ever feel grateful.

A. G. DUMAS, Corresponding Clerk.

Princ’l Supt. of Convicts Office, Sydney, 21st Nov., 1844.

[Sub-enclosure.]

TESTIMONIALS.

I CERTIFY that Mr. Dumas has been a Clerk in my Office since Octr., 1836. That during that period he has been under my charge upwards of seven years, and has performed his various duties in the most satisfactory and efficient manner; that his particular duty (that of general correspondence) requires considerable tact and discernment, which qualifications he eminently possesses, combined with a thorough knowledge of Official details of every kind. It would be unjust on my part not to add that he has very frequently devoted many of his private hours to the service of Government, thereby expediting in no small degree the extensive and responsible duties entrusted to him; and, although I should feel the loss of his services in the event of his being removed to occupy either of the situations he applies for, it would nevertheless afford me much pleasure to hear of his being appointed to perform duties, which I consider his talents, habits and knowledge perfectly qualify him to discharge to the advantage of Government.

Sydney, 21 Novr., 1844. J. MCLEAN, Principal Supt. of Convicts.

Mr. A. G. Dumas, corresponding clerk in the office of the Principal Superintendent of Convicts, having applied to me for a testimonial of his general conduct and ability, I have much pleasure in certifying that, during a period of six years that I have known him, I have ever found him active, zealous and intelligent in the discharge of his various duties, and his conduct and bearing as a Gentleman unblemished.

J. LONG INNES, J.P.
Presid-g. Magistrate, Hyde Park Barrack Bench.

I have much pleasure in adding my testimony to that of the Principal Superintendent of Convicts, as to the efficient, Satisfactory, and Zealous manner in which Mr. Dumas has at all times, and on all occasions, conducted his various and responsible duties in this Department, for a period of upwards of Eight Years.

THOMAS RYAN, Chief Clerk.
Princ-l. Supt. of Convicts’ Office, Sydney, 23rd November, 1844.

Sir, Kent Street, 20th April, 39.

In reply to your note, having reference to the period of my being Pri-l. Supt. of Convicts, respecting the circumstances of your having been offered employment in the office of Mr. C. H. Chambers, Solr., at a Salary of £150 per annum; I beg to say I recollect the offer you allude to, and also my having observed to you at the time that I thought you would do as well by remaining in my office, and that I considered you more entitled to an advance of Salary from your efficiency and attention.

If I recollect rightly, I recommended you for promotion some short time before I left the Department.

I remain, &c.,
Mr. A. G. Dumas.

Sir, Principal Superintendent of Convicts’ Office, 29th January, 1838.

With reference to my letter of this day’s date, recommending the promotion of Mr. Ryan, my Chief Clerk, to the first class of Clerks under the Regulations of the 26th of June last, I have the honor to transmit, for the commands of the Acting Governor, the enclosed application from Mr. A. G. Dumas, a clerk in the third class in my Office, to succeed Mr. Ryan on the second Class, at the minimum Salary of that Class, namely, two hundred pounds per annum; and I beg to observe that Mr. Dumas has for some months performed the duties of Corresponding Clerk and Registrar of Papers, the former of which situations has generally been held by the second Clerk on this Establishment at a Salary of two hundred pounds per Annum; both which duties he has conducted with zeal, ability, and to my entire
satisfaction; and, from the testimonials in his favor from my Predecessor and Mr. Ryan, together with the recommendation of the Clerks senior to him in my Office (which papers are here with enclosed), I beg leave most strongly to recommend, in the event of my suggestion in favor of Mr. Ryan being acceded to, that His Excellency may be pleased to promote Mr. Dumas to the vacancy on the second class (which will occur in the promotion of Mr. Ryan) at a Salary of two hundred pounds per annum to take effect from the 1st Instant. I have, &c.,

J. McLean.

The Honorable The Colonial Secretary.

Sir, Principal Superintendent of Convicts’ Office, 8th July, 1837. I have the honor to recommend for His Excellency’s approval that Mr. Dumas, one of the Junior Clerks in my Office, may be appointed to the vacant situation of Corresponding Clerk in the room of Mr. Gallot resigned, and at the same Salary of £200 per annum.

Mr. Dumas being the only Clerk junior to Mr. Gallot in my opinion Capable of discharging the duties of Corresponding Clerk, and the other duties Connected therewith. I have, &c.,

The Honorable The Colonial Secretary.

J. R. Brennan.

GIPPS TO STANLEY.

(Despatch No. 247, per ship Hind; acknowledged by lord Stanley, 12th June, 1845.) My Lord, Government House, 27th Novr., 1844. I have the honor herewith to enclose a Petition to Her Most Gracious Majesty from the Legislative Council of this Colony, praying that the Port of Geelong, within the Harbour of Port Phillip, may be made either a Free Warehousing Port or a Port of Entry and Clearance. The Petition is signed by the Speaker on behalf of the Council.

It is my duty to report to Your Lordship that, during the course of the last two years, numerous applications have been made to me, praying that Geelong may be made a Free Warehousing Port or at least a Port of Entry; and applications have been particularly urged upon me, since it became known that I have recommended, as I did in my Despatch No. 116 of the 31st May, 1844, that such indulgences should be granted to the Port of Newcastle at the mouth of the River Hunter.

Whether or not Geelong shall be declared a Free Port is of course a point for the decision of Her Majesty's Government; but I think it proper to lay before Your Lordship the reasons why I have not considered it right to recommend the measure; and, in order to do this, I enclose copies of the following documents:—

Letter, written by my direction on the 21st August, 1844, to Dr. Nicholson, one of the Members of Council for the District of Port Phillip.

Letter from Mr. La Trobe to the Colonial Secretary of New South Wales, dated the 1st March, 1844.

Report from the Deputy Collector of Customs in the Port Phillip District to Mr. La Trobe on the proposal to make Geelong a Free Port.
Memorandum from Mr. Barnes, Collector of Customs in Van Diemen’s Land, on the same subject, Mr. Barnes being, at the time he wrote it, specially employed under the directions of the Commissioners of Customs in making an “Inspection of the Port” of Melbourne.

I have, &c.,

GEO. GIPPS.

P.S.—I enclose an outline of the Harbour of Port Phillip, shewing the positions of Melbourne and Geelong.

[Enclosure No. 1.]

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

[Enclosure No. 2.]

COLONIAL SECRETARY THOMSON TO DR. NICHOLSON.

Colonial Secretary’s Office, Sydney, 21st August, 1844.

I am directed by His Excellency the Governor to acknowledge the receipt of the Petition, which was yesterday presented to His Excellency by yourself in conjunction with the other Members of Council for Port Phillip, from certain Merchants, Settlers, and other Inhabitants of the Town of Geelong and District of Grant, applying for the privileges of a Free Warehousing Port to be granted to the Town of Geelong.

His Excellency instructs me to repeat to you the Substance of what He stated to yourself and the other Members of Council for Port Phillip, viz., that nothing had occurred, since the question of making Geelong a free Port was last before Him, to alter the view which He was then compelled to take of it; whilst the necessity has increased for the Government to avoid entering into any expenses which can by possibility be avoided. Since the Port Phillip Members waited on His Excellency on the 28th September, 1843. He has received the opinion of Mr. Barnes on the subject, who has reported that the expense of making Geelong a Free Port would amount to £1,000 a year; and that, from all the information which he collected when at Port Phillip, he is inclined to think that the measure would, if adopted, be premature. His Excellency, however, assured the Port Phillip Members that He was most anxious to conciliate any thing for the advantage of Geelong, which could be effected with Safety to the Revenue, and without exposing the Government to increased expense.

I have, &c.

E. DEAS THOMSON.

[Enclosure No. 3.]

MR. C. J. LA TROBE TO COLONIAL SECRETARY THOMSON.

Sir, Melbourne, 1st March, 1844.

It is my duty to forward to you the enclosed letter, addressed by the Warden of the District Council of Grant to His Excellency, accompanying a Petition signed by a number of the most influential of the Land-holders, Stockholders, Merchants, and Townspeople of the Geelong District, praying that His Excellency would be pleased to sanction the erection of Geelong into a Free Warehousing Port or a Port of Entry and Clearance.
I request that you will have the goodness to bring the above letter and Petition under His Excellency's early attention. They will be found to be accompanied by copies of a communication addressed to me by the Sub Collector of this Port, and a Memorandum of Mr. Barnes containing the opinion of these Gentlemen on the expediency of the prayer of the Petition being acceded to. His Excellency will readily conceive that I should most gladly advocate the adoption of a measure, which would be so grateful to the feelings and wishes of a large proportion of the most respectable inhabitants of the District, were it in my power to do it. I cannot doubt that an increase in the trade and a general improvement in the value of property would be the result of its concession. But I scarcely know whether I should be justified in advocating the cause of the people of Geelong upon merely general principles, while the opinions of those who are best able to form a judgment upon the expediency of the proposed measures and the results, which would be the effect of their adoption, are pronounced in a manner so decidedly and distinctly in opposition to them.

I have, &c.

C. J. La Trobe.

[Enclosure No. 4.]

Mr. R. S. Webb to Mr. C. J. La Trobe.

Sir,

I have the honor to acknowledge the receipt of your letter of yesterday's date, forwarding a petition from the inhabitants of the District of Geelong praying that Geelong be made a free Warehousing Port or a Port of Entry and Clearance, and requesting my opinion thereon.

I beg to refer your Honor to my letter of the 2nd December, 1842, on the same subject, since which I see but little alteration in the trade of the place. The imports do not appear to increase, the greater quantities of goods consumed there being supplied from Melbourne; the greater part of the Wool being shipped there by the Agents of Melbourne houses, the Settlers are supplied by them; had the mercantile houses been disposed to import, their correspondents at other ports could have forwarded them consignments as well as to Strachan and Co.

The Exports must continue to increase; but I beg to observe that many of the articles enumerated in the Table of Exports forwarded with the Petition, such as Potatoes, Grain, Stone and Oysters, were mostly brought to Melbourne for sale; consequently they cannot legitimately be called exports.

I do not think the trade of the place of sufficient importance to entitle it to the privileges of a free Warehousing Port at present. What effect the privilege of being a Port of Entry and clearance would have on its trade I cannot say; but I very much doubt that its increase would be so great as the Petitioners expect, for the reasons before stated. Its trade, at present, is confined to Van Diemen's Land, and those Vessels, which formerly used to bring full cargoes, now do not bring half ones.

The expense to vessels would not be lightened, for I presume they would still be liable to the same Pilotage, Harbour, and other dues as those which came to Melbourne, and, should they have Cargo for both places, they would have to pay the Customs dues at both places, which would be a heavier expense than under the present regulations; and I think it will be some time first ere vessels will arrive with full cargoes entirely for that place.
1844. Should His Excellency be disposed to grant the prayer of the Petition, and constitute it a Port of Entry and Clearance, the appointment of a Sub Collector and a Landing Waiter would be all that would be necessary at present, superseding of course the Coast and Tidewaitership.

I have, &c.,
R. S. Webb, S. Collr.

[Enclosure No. 5.]

REPORT BY MR. G. H. BARNES.

The application necessary to the final adjustment of the accounts of the Department at this Port has hitherto prevented my visiting Geelong. In the absence, therefore, of the local knowledge necessary to the giving a decisive opinion upon the expediency or otherwise of granting either of the objects of the present Petition, I would observe that the constituting Geelong into a free Warehousing Port would subject the Government to an expense of more than £1,000 a year for the support of the most limited establishment that could be devised for the purpose; and, from all I have heard and the Petitioners' own shewing, I am led to infer that such a measure would be premature.

With respect to Geelong being constituted a port of Entry, this might be effected at a cost of not more than from four to five hundred pounds annually, in addition to the expense of the present establishment. From the foregoing Sub Collector's report, I am Strongly impressed with the belief that the granting the prayer of the Petitioners in this respect would fail in procuring them those advantages, which are contemplated in the Memorial. I beg to refer to the Sub Collector's report, 26th June, 1840, and 2nd Decr., 1842, and instructions to the Officer at Geelong enclosed in the former, as the facilities they describe are as great as can reasonably be desired for commercial purposes at the present time. I must here express my decided opinion that the “approval of a Warehouse at Geelong for the reception of goods under Bond, the Entries and duties to be made and paid here by a Custom House Agent,” as Suggested in the Sub Collector's report, 2nd December, 1842, would be attended with most serious injury to the Revenue; it would in fact be the introduction of the Bonding system without safeguards.

G. H. Barnes.

[Enclosure No. 6.]

[This was a chart of Port Phillip.]

LORD STANLEY TO SIR GEORGE GIPPS.

(A circular despatch, per ship Royal Consort.)

Sir, Downing Street, 28th November, 1844.

With reference to Lord John Russell's Despatch of the 4th of September, 1840, and to mine of the 12th June, 1843, I have the honor to transmit to you, herewith, 5 Copies of the 3rd Volume of Reports of the cases heard before the Judicial Committee of the Privy Council, in continuation of the series of Reports which accompanied the Despatches above referred to.
GIPPS TO STANLEY.

I have to desire that you will deliver this Volume to the same Officers in the Colony under your Government as received the previous Volume; and that you will obtain from the Colonial Revenue, and remit to Mr. Peter Smith, the Chief Clerk of this Office, the Sum of £7 17s. 6d. being the price of the work.

I have, &c.,

STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 248, per ship Hind.)

My Lord,

Government House, 28th Novr., 1844.

I have the honor to report to Your Lordship that a Committee of the Legislative Council was appointed early in the present session to enquire into the alleged insecurity of Life and Property in the City and Neighbourhood of Sydney.

The Committee, after sitting between two and three months, reported on the 23d August last; their Report was taken into consideration on the 1st October; and certain Resolutions founded on it were presented to me (in the shape of an Address) some few days afterwards; to this Address, I replied on the 27th instant, being the day on which the Council reassembled after an adjournment of between six and seven weeks (see my Despatch No. 225 of the 12th Ultimo). Of these several documents, I now enclose copies, namely,

The Report of the Committee, with the evidence taken before it;

Resolutions of the Council communicated to me in the shape of an Address;

My reply to the Address.

Before I proceed further, it will be proper for me to inform your Lordship that two very atrocious murders were committed in Sydney in the months of January and May last. The first of these murders was that of a woman, named Ellen Jamieson, by John Knatchbull, reported in my Despatches marked "Separate" of the 10th and 15th February, 1844; the second was that of a person named "Noble," a Collector of Rents, by a party of Convicts, of whom the leader was a man named Vigors, who had then recently been returned to Sydney from Norfolk Island by Capt. Maconochie as an Invalid. Knatchbull was executed on the 13th February; and two persons, of whom one was the above named Vigors, and the other a man named Burdett, who had equally come from Norfolk Island as an Invalid, were executed on the 13th August last for the murder of Noble. All the persons concerned in these murders were discovered in a manner creditable to the Police, apprehended, and brought to Justice.

During the course of the months which intervened between January and August last, much excitement also prevailed in and
about Sydney, in consequence of the want of employment for the labouring classes; on which subject, I have had occasion to address several Despatches to Your Lordship. Robberies were frequent during this period; and, in addition to the usual discontent on the subject of the payment by the Colony of a Police said to be required for the control of British Criminals, some unusual excitement prevailed about the same time, in consequence of the desire of the Corporation of Sydney to acquire the sole management of the Police of the City.

These circumstances, I believe, induced the Council to enter on the enquiry which forms the subject of this Despatch; and, a Committee having been appointed, its early attention was directed to the Establishment called Hyde Park Barracks.*

This Establishment, Your Lordship is aware, is the chief Depot of Convicts in the Colony. It has existed in its present shape for many years, indeed for upwards of five and twenty; and, so long as Convicts were continually passing out of it into the assigned service of the Settlers, it was not much complained of as a grievance. Since the abolition of assignment, it has, however, been gradually growing into disfavor; and, during the last few years, numerous complaints, some well founded, others grossly exaggerated, have been brought against it.

It is impossible to deny that the existence in the heart of a populous City like Sydney of an establishment, such as Hyde Park Barracks, is a nuisance; but it is one which has been the growth of circumstances and one which circumstances must speedily abate.

It is also to be observed that the Convicts lodged in this building are for the most part those, who in consequence of their misbehaviour have failed to receive indulgences; that they are in fact the refuse of the Convict system in New South Wales; and I may remind Your Lordship that I have on a former occasion explained, how the abolition of assignment caused the number of Convicts on the hands of Government to increase during the first few years, which followed the discontinuance of Transportation (see my Despatches of the 1st Jany., 1843, No. 1, and 1st December, 1843, No. 199).

During the period, now nearly seven years, that I have administered this Government, I have had very numerous occasions to enquire into complaints against the management of Hyde Park Barracks; and, though I am far from saying that I have had no occasion for censure, I can very safely declare that a small portion only of the complaints, brought before me, have been substantiated.

* Note 5.
It is further to be remarked that, though a Convict Establishment, the Barrack is not a Prison. The Convicts lodged in it belong legally to the same class as assigned servants; and, though they are only allowed to leave the Building at fixed hours of the day and for authorized purposes, it would, I apprehend, be an unlawful aggravation of their punishment to treat them as close Prisoners. They are employed in various public Establishments or on public Works for the Commissariat, Ordnance and other Departments, as well of the Home as of the Colonial Government.

In the Address from the Council, I am requested to send these Convicts out of Sydney, and to employ them on the Roads or on other public Works in the interior. In my answer, I have explained that this I cannot do; and it can scarcely be necessary to remind Your Lordship that, under existing arrangements, men in Irons, or men undergoing cumulative sentences, commonly called in the Colony "doubly convicted," are alone allowed to work for the benefit of the Colony, being at the same time fed, clothed, and maintained, at the expense of Great Britain. Men labouring under simple sentences of transportation, if employed for the benefit of the Colony, are to be fed, clothed, lodged, and maintained at the expense of the Local Government.

The men in Hyde Park Barracks are indeed in part employed for the benefit of the Colony, though clothed, fed, and lodged at the expense of the Home Government; but this arises in the following manner:—The men are kept at the expense of the Home Government (see Despatch of the 1st January, 1843, No. 1) simply because there is no other way in which they can be maintained or disposed of; and they are sent to work simply because it is better to employ them than to allow them to be idle; they are kept in Sydney rather than elsewhere, because they can, for various reasons, be maintained in Sydney at less cost than elsewhere.

The number of free persons, employed in the management and control of the Establishment, is the same now as it has been for many years; for, notwithstanding the urgent manner in which I have been called on by the Lords of the Treasury to reduce the expenses of the Convict Establishment, I have not as yet been able to effect a reduction in this branch of it. The Enclosure No. 4 of this Despatch is a Return, shewing what this Establishment is; and another Return (Enclosure No. 5) shews the greatest and least number of Convicts in Hyde Park Barracks during each of the last six years; the highest number during this period was 1,074, the lowest 288.
In the Report of the Committee and in various parts of the Evidence, much stress is laid on the number of Convicts recently brought back to the Colony from Norfolk Island.

It is quite true that, during the last six years, that is to say, since the passing of the Local Act of Council, 1st Vict., No. 2, large numbers of Prisoners have been brought from Norfolk Island to Sydney, in all, about 1,440; of whom many have been returned in consequence of the expiration of their sentences, but the larger part on their sentences being commuted, according to the provisions of the Act referred to.

I am fully prepared, if necessary, to shew that the greatest possible care has been taken in the working of this Act, and that the operation of it has been most salutary under every point of view. The men, moreover, brought from Norfolk Island under it, are on their arrival in New South Wales placed not in Hyde Park Barracks, but on Cockatoo Island;* and their conduct, both on that Island and after their release from it, has been such as fully to vindicate the Act, indeed to prove in a remarkable degree the policy no less than the mercy of it.

I have already remarked that the two men, who were executed in Sydney in August last for the murder of Mr. Noble, had been recently returned from Norfolk Island by Capt. Macnornie; but, having been returned under a special permission from myself as Invalids, they were considered harmless, and were unlucky sent at once to Hyde Park Barracks, instead of to Cockatoo Island. Altogether 73 persons were sent to Sydney from Norfolk Island under the description of Invalids, preparatory to the transfer of the Island to the Government of Van Diemen's Land; and I certainly have had reason to fear that in some few instances they were selected with insufficient caution. Vigors, one of the murderers of Mr. Noble, was a man who undoubtedly ought not to have been returned; but he had conducted himself well at Norfolk Island, and, in the persuasion that he was really an Invalid, the atrocities which had marked his former career were unfortunately overlooked.

At the request of Capt. McLean, Principal Superintendent of Convicts, and as such the Head of the Department of which the Establishment called Hyde Park Barracks forms a part, I further enclose a Copy of a letter, which he has addressed to myself in vindication of his Department, and to this letter is attached an appendix containing remarks on the Report of the Committee, and various Returns according to a List subjoined to his letter.

I have, &c.,
Geo. Gipps.

*Marginal note.—See my Despatch, No. 102 of the 8th July, 1839.
GIPPS TO STANLEY.

[Enclosure No. 1.]

[This was the report of the select committee on the "Insecurity of life and property," which will be found in the "Votes and Proceedings" of the legislative council.]

[Enclosure No. 2.]

ADDRESS to His Excellency Sir George Gipps, Knight, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies and Vice Admiral of the same, etc., etc., etc.

May it Please Your Excellency.

We, Her Majesty's most dutiful and loyal subjects, the Members of the Legislative Council of New South Wales, in Council assembled, beg to lay before your Excellency the following Resolutions adopted this day by the Legislative Council:—

1. That this Council, having taken into consideration the Report of the Select Committee on the Insecurity of Life and property, adopts generally the opinions expressed therein.

2. That the importation of Prisoners from Norfolk Island into Sydney is an intolerable grievance, entailing upon the Colony, in an aggravated form, all the evils without any of the benefits of the Convict System.

3. That no Prisoner, who has been transported from this Colony to a Penal Settlement for life, ought to be brought back to the Colony by the Government.

4. That the assembling of from Six to eight hundred Convicts in a Single building, in the midst of this City, has tended to the Insecurity of Life and property, afforded temptations and facilities for the commission of crime, and exercised a demoralizing influence on the habits and character of the community.

5. That these evils have been greatly augmented by the absence of any proper system of discipline and management, by the employment of Convict Overseers, and by the great remissness of the Officers to whom these overseers are accountable.

6. That in the opinion of this Council the Convicts now in Hyde Park Barracks ought to be immediately sent into the Country, under proper guards, to be employed on the Roads or other public Works.

7. That no Ticket of Leave should be granted or exchanged for Sydney, or any other large town.

8. That any reduction of the Military Force now stationed in the Colony will be dangerous to the lives and property of Her Majesty's Subjects in New South Wales.

9. That a copy of these Resolutions be transmitted to the Right Honorable the Secretary of State for the Colonies.

10. That an Address be presented to the Governor transmitting the foregoing Resolutions and praying that His Excellency will be pleased to take the Steps necessary for carrying them into effect.

ALEXR. MCLEAY, Speaker.

Legislative Council Chamber, Sydney, 1st October, 1844.

[Enclosure No. 3.]

[A copy of Sir George Gipps' message in reply, dated 27th November, 1844, will be found in the "Votes and Proceedings" of the legislative council.]
[Enclosures Nos. 4 and 5.]

These returns of the establishment of the superintendent of convicts and of the number of convicts at Hyde Park Barracks for the years 1838-44 have been omitted.

[Enclosure No. 6.]

CAPTAIN MCLEAN TO COLONIAL SECRETARY THOMSON.
Principal Superintendent of Convicts' Office,

Sir,
30th September, 1844.

Having directed my attention to a report by the Committee of the Legislative Council on the "Insecurity of Life and Property," in which the Department at Hyde Park Barracks under my control and the prisoners in the Gangs in and around Sydney are represented to have been the principal cause of the late outrages committed in that City, I have considered it my duty to bring the matter under the notice of His Excellency the Governor with such observations, as have suggested themselves to me, on a perusal of the evidence attached to that report, with a view to shew how little the evidence produced supports the conclusions arrived at on those points by the Committee.

In the first place then I would draw His Excellency's attention to the circumstance that, throughout the whole investigation, scarcely a single question is asked, which might have a tendency to allay the panic in the public mind caused by the rapid succession of two atrocious Murders, viz., those of Knatchbull and Vigors; but on the contrary every disposition to connect the two together and to fasten the united odium on Hyde Park Barracks is evinced, whilst on the other hand an extraordinary credulity is exhibited in the reception of the most incredible testimony when bearing upon preconceived impressions respecting the laxity of discipline in that Establishment, such as stakes of £25 being played for and the lending out of Pistols belonging to Hyde Park Barracks at a stated price.

As I shall enter more fully in the accompanying papers into the incredibility and palpable inconsistency of the evidence generally, I shall here only call attention to the well known and studiously overlooked fact, that Knatchbull had no more to do with the Barracks nor had the Establishment any more to do with him than with any other Ticket of Leave holder throughout the Colony; and it is to be hoped that this simple fact gets rid at once of the connection, which, in the popular hue and cry against Hyde Park Barracks, it is carefully endeavoured to establish between the two cases, and which cannot possibly be adhered to except by those who are incurably, wilfully or designedly unjust.

In the other case, viz., the melancholy murder of Mr. Noble, it is equally notorious that Vigors and his associates did not escape from Hyde Park Barracks but absconded from a Gang attending Church, under the control of a convict overseer, the same species of superintendence which had existed on such occasions for many Years; that they were reported as runaways; and that consequently, before they committed the crime, they had removed themselves from the further control of the authorities. It should moreover be held in view that Hyde Park Barracks is no Jail, but an Establishment, where men are on nearly the same footing as
assigned servants under such regulations and discipline as so many
congregated together require in the centre of a City so extensive
as Sydney; and that consequently, the authorities of Hyde Park
Barracks are as little accountable for outrages committed by pri-
soners who have absconded from thence, as they are for those who
may have absconded from New England.

But the influences of panic are altogether inexplicable. Many
are old enough to remember the murders of the Marrs and Bonars,
which for merely following in rapid succession convulsed with
terror the metropolis, as well as the whole British Empire. They
were both attended no doubt by circumstances of great atrocity, but
had a short space of time only intervened, little comparatively
would have been thought of either, and in like manner, had there
been a longer interval between the crimes of Vigors and Knatchbull,
the same indifference no doubt would have been exhibited as, in
the case of Lynch, who confessed on the scaffold that he had per-
petrated not less than 17 distinct murders including the wholesale
butchery of one devoted family. Everything in fact connected with
Hyde Park Barracks seems to be looked upon with a jaundiced
eye by the community and their representatives, now that assign-
ment and other advantages formerly derived from the Convict
Establishment are at an end.

I trust that, when His Excellency has perused the observations
which I have made in connection with the evidence on which the
Committee have founded their Report, he will coincide with me in
opinion that the conclusions, which they have come to, are not war-
ranted by the evidence before them, and that laxity of discipline
does not exist either in Hyde Park Barracks or among Convicts
in general under my control, so far as the means at my disposal
admit of, and that, coinciding with me in this view of the case His
Excellency will be pleased to take such steps as will prevent a Re-
port of so injurious a nature to my Establishment reaching the
Secretary of State unaccompanied by my explanations.

Schedule of Appendix.

No. 1. Remarks by the Principal Superintendent of Convicts on the Report of the
Committee of the Legislative Council on the Insecurity of Life and Property
appendix, and on the evidence taken before them.

To which are appended the following Returns:

No. 2. Return of Prisoners attached to Hyde Park Barracks and in the gangs in and
around Sydney, committed for trial between 1st January and 31st of May,
1844.

No. 3. Between 1st of July, 1843, and 31st of May, 1844

No. 4. Letter to Mr. Lane on the subject of Gambling at Hyde Park Barracks and
his reply.

No. 5. Return of Free persons Committed for trial for Murder, Burglary, Robbery,
Theft and Larcenies between the 1st of January and 31st of May, 1844.

No. 6. Return of Free and Bond convicted at the Supreme Court and Quarter Sessions
between July, 1842, and June, 1844.

No. 7. Return of Prisoners in Hyde Park Barracks between the 1st of April and
31st of May, 1844, and the number of such punished within the same
period.

No. 8. A like Return for the first five months in 1843 and 1844.

No. 9. Return of Prisoners sent up from Norfolk Island, shewing those who have
since become free, those now serving their sentences, and those of them
who have been punished since their return.

No. 10. A Comparative Return of Free persons and Convicts, committed for trial
for Murder, Burglary and Robbery; Thefts and Larcenies, between 1st of
January and 31st of May, 1844.
Remarks by the Principal Superintendent of Convicts on the Report of the Committee of the Legislative Council on the Insecurity of Life and Property and on the evidence taken before them.

In that Report is contained the following passage:

"More than sufficient evidence has however been adduced to satisfy your Committee that, to the irregular or inefficient control exercised over the inmates of Hyde Park Barracks, and to the prison population in and around Sydney, a large if not the chief share of the late violations against the public peace are distinctly referrible."

Upon this paragraph then, I would remark that there is no proof brought forward to justify the Committee in coming to the conclusion they did on this part of their Report, and, in order to bear me out in that assertion, I will quote the evidence given by the Witnesses in reference thereto. Mr. Miles is the first witness examined; he, speaking as to the cause of the increase of crime in Sydney, states that he attributes the great proportion of outrages to those who have been convicts; but mark what follows, in proof of his Statement, he produces a Return shewing that out of 328 convictions which took place in Sydney between July, 1842, and June, 1843, 52 were prisoners! (and out of which he does not state how many were assigned servants or Ticket of Leave-holders) and out of those prisoners who were convicted between July, 1844, and June, 1844, 36 only were prisoners out of 299! (but my Return taken from official records shews that there were only 27 prisoners convicted out of the 299 above referred to). Mr. Miles concludes this part of his evidence by saying that, as a fair average, two-thirds of the crimes before alluded to are committed by those who have been convicts, and, when urged again and again on the subject, he adds that his impression is that outrages committed by prisoners are more numerous of late in consequence of the laxity of discipline exercised over the prisoners by gang overseers, and then goes on to prove that by a statement of what some prisoners at Goat Island might do, which assumption, of what those men might do, is afterwards contradicted by Capt. Browne;§ but which prisoners it may be remarked are not attached to Hyde Park Barracks nor under the Control of those in charge of that Establishment; again when further questioned as to whether he did not consider he would attribute the increase of crime in Sydney to assigned servants, men at Hyde Park Barracks and freed men, he states, doubtless it contributes, but refers to his answer where he shews the number of prisoners convicted within a given time to be in a ratio of 36 prisoners to 299 free persons! ! ** and, by way of strengthening his former statement, he speaks of a gang†† of Burglars he broke up, and shews that this gang consisted of five free persons and six runaways, but where they ran from he does not say, etc. and finally he hands in a return,‡ wherein it appears that three free persons were committed for trial for murder, 35 for Burglary and robbery, and 94 for thefts and larcenies besides other offences between the 1st of January and 31st of May, 1844; now compare that with the number of prisoners convicted for the same offences, within the same time, and it will be seen that there were for murder 3 (being the case of Noble), burglary and robbery, 3, thefts and larcenies. If keeping then these statements in view, it will not surely be said that the report of the Committee is supported by this Gentleman's evidence. The next Witness is Mr. Windeyer, who, in answer to an enquiry as to what he attributes the increase of crime he before speaks|| of, states "my strong impression is that from the abundance of labor we now have there is a great mass of unemployed labor, and that that consists of the worst character of persons. Masters, Employers of labor, now have a choice: heretofore they had none; and now that they have a choice, it is natural that they should prefer men of good character and therefore in the present case, where I conceive there is a superabundance of labor in Sydney from various causes, the labor that is pushed out of employ is that of the worst character and the men are ready to return to their former habits on strong temptation and distress": and when asked if he attributed the increase of crime to the state of discipline at Hyde Park Barracks he replied,‖‖ "I can hardly give an answer to that question."

* Marginal note.—Question No. 16, page 2.
† Marginal note.—Appendix No. 3.
‡ Marginal note.—Question 28, page 2.
§ Marginal note.—See his evidence Question No. 103, pages 53 and 54.
|| Marginal note.—Question No. 57, page 6.
‖ Marginal note.—Reply to question No. 15.
** Marginal note.—No. 27, see Appendix No. 6.
†† Marginal note.—Question No 88.
‖‖ Marginal note.—Appendix No. 5.
§§ Marginal note.—Appendix No. 2.
||| Marginal note.—Question No. 17, page 25.
|||| Marginal note.—Question No. 19, page 25.
my own opinion is that it is mainly attributable to the causes I have stated; but that it is also affected by the supervision of the prisoners, if the supervision be strict, there is little of it"; and he distinctly alludes in reference to the increase in the enormity of crime to cases which came before him, viewing this then, in connection with the answer* that the Hyde Park Barrack Bench was constituted for the purpose of separating the prisoner from the free cases, he says "therefore all these cases are sent to Hyde Park Bench, excepting where two or three free persons may happen to be connected in a robbery or other offence with a prisoner, it will thus be seen that the increase he speaks of, is in the free population and not prisoners in Hyde Park Barracks, for in his answer to the question as to whether he knew what prisoners were punished at Hyde Park Barracks, he states that he does not, and that in his statements as to punishments, he does not allude to prisoners in Hyde Park Barracks.

The next witness who speaks on the subject of the cause of the increase of crime is John Wearin lately a Sergeant in the 80th Regt. and 18 months in the Police, he, in reply to a question† as to what in his opinion is the cause of the increase of crime states it to be the laxity of discipline exercised by the Overseers of the Gangs at the Flag Staff and Macquarie Point, but he does not attempt to show how he arrives at that opinion, nor does he bring forward anything to substantiate his opinion, beyond the fact that three of the Flag Staff men were caught picking pockets, but whatever his opinion is, as to the cause of the increase of crime, surely it will not be believed in opposition to that of Mr. Windeyer, Captain Innes, Mr. Keck and to the Returns produced by Mr. Miles.

The next witness is Mr. Keck who it may be observed must (from his position as Principal Gaoler, and being corroborated by Returns and documentary evidence) be a most competent witness, on a question relating to the state of Crime in Sydney, but in addition to which, it is worthy of remark, that he, to a greater extent than any other respectable Witness, endeavours to impugn the discipline at Hyde Park Barracks, in the commencement of his examination states that he had strictly examined the Records of the persons tried at Quarter Sessions and Supreme Court and the robberies, largest amount of Crime, namely, street robberies, Horse breaking, Pocket picking, aggravated assaults amounting in some cases to murder, and attempts to murder, than there has been at any former period within his recollection, and while he admits to what he attributed the increase, he denies it to be want of vigilance on the part of the Police, and the serious want of an Active Chief Constable; and when asked[‡] if there are any other causes to which he attributes the increase he states that he does not think the causes of the Quarter Sessions are sufficiently heavy. And when again pointedly asked[**] whether the laxity of discipline at Hyde Park Barracks would not of itself account for an increase of crime he says that he does not attribute the increase of crime to the laxity of discipline at Hyde Park Barracks! and proves that, by saying there is not excepting those implicated in Mr. Noble’s Murder, one man attached to Hyde Park Barracks, in the Calendar and there are 46 names in it! and when the question[††] was again urged on him as to whether he attributed the increase of crime, and the insecurity of life and property to the change in the management of Hyde Park Barracks he replied, "I attribute the increase of Crime to the number of freed men who are about the streets, to the pressure of the times, and to the difficulty of getting employment," again, in answer to a question[†††] as to the number of Prisoners in Gaol, he states the proportion to be 18 arrived free to 44 who arrived bound but of the emigrants and free born there is a considerable increase within the last five Years. The next witness whose evidence has reference to the Section of the Report now under consideration is Captain Browne and he states in reply to a question[‡‡] that he considers crime has increased to a considerable extent; and when asked[‡‡‡] to account for the increase of crime, he says, "he attributes it to the inefficiency of the Police," and when urged to state another reason for it, he says, "I do not attribute it to that, altogether, although I think it one great cause, the way in which the Gangs are managed by prisoner overseers and the men being allowed to leave their Gangs is another cause."

When asked[‡‡§] with reference to his Answer as to the inefficiency of the Police he says "I do not see the same energy with the men which there used to be. I do not know whether it is to be attributed to the supervision, but they have certainly lost a most efficient officer in the Chief Constable; the only other point[***] in Captain Browne’s evidence on this subject is, his distinct

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* Marginal note.—Question No. 21, page 25.
† Marginal note.—Question No. 64, page 28.
‡ Marginal note.—Question No. 18, page 30.
§ Marginal note.—Questions Nos. 4 and 6, page 32.
|| Marginal note.—Question No. 8, page 33.
‡‡ Marginal note.—Question No. 12.
** Marginal note.—Question No. 37.
†† Marginal note.—Question No. 40, page 34.
‡‡‡ Marginal note.—Question No. 86.
‡‡§ Marginal note.—Question No. 4, page 49.
‡‡¶ Marginal note.—Question No. 4, page 50.
*** Marginal note.—Question No. 103, page 53.
Evidence contrary to conclusions of committee.

contradiction of Mr. Miles' statement that the 20 men whom he spoke of, as being at Goat Island, were under control; with respect to the reply of Captain Browne, to the question respecting the want of discipline exercised over certain prisoners under the charge of the Royal Engineer, it may be presumed that the irregularities spoken of by him, were not so great as the Committee would seem to imply, or otherwise he, as a Magistrate, would have considered himself called upon to put a stop to them or make a Report on the subject in the proper quarter, but Capt. Browne goes on to say, that in his opinion, it is the Police who are at fault, if the late Police did not happen; it is presumable therefore, that the blame of these men's acts, rests with the Police, it not being attempted to be asserted, that it rested with the Authorities at Hyde Park Barracks, nor is it possible that it could, seeing that the men were not even attached thereto.

The next evidence is that of Captain Innes, who it will be admitted ought to know something of this division of the subject; he says when asked as to the cause of the late increase of crime.

"There is a great deal of the increase of crime to be attributed to the times; men who formerly got employment easily and obtained high wages have latterly been thrown out; I allude to what are termed freed men, who have been prisoners, and have become free; when the demand for labor was great these men easily obtained Employment; of late the demand has not been so great, and these men having nothing to do, have been thrown back upon those courses which I fear they were before too prone to." And again, in his answer to a question as to whether the robberies are committed by the gangs of prisoners about Sydney, he expressly denies that the majority of robberies are committed by prisoners.

I give his own words:

"That men belonging to gangs from Hyde Park Barracks have committed robberies there can be no doubt, but the majority of the robberies which have been committed in Sydney, particularly those with violence, have undoubtedly not been committed by the men from Hyde Park Barracks."

In his next reply when asked if the removal of the prisoners from Hyde Park Barracks would have a great effect on the Security of life and property, he says:

"No doubt it would prevent irregularities and some crime" and in reply to the next question, whether, in the event of their removal the principal cause of crime would remain untouched, he says, "Yes"!

Upon a review then of the whole of the Evidence connected with this division of the Report it will be distinctly seen, that all the Witnesses are unanimous in saying that the late robberies and the insecurity of life and property are not attributable to the prisoners in Hyde Park Barracks, and only one or two assert it to be caused by the prisoners in the gangs in, and around, Sydney; and those who do so, are contradicted by the majority of Witnesses, and by the Returns produced; the only material difference in opinion appears to be as to what other causes have led to this result: It would be uncandid to deny, that prisoners have committed some of the crime which has lately taken place, but the evidence repudiates the statement, that it is mainly attributable to them, on the contrary, the Returns show a decrease in the number of prisoners lately tried.

The next paragraph to which I propose to address myself is the following:—"In the absence of such efficient control, no Police force will be adequate to check the daily commission of crime. To the laxity of discipline, or rather to the inadequate superintendence of Hyde Park Barracks, and the various Ganges employed in and around Sydney Your Committee feel compelled to refer a large share of the late increases of the crime which have originated this enquiry; Mr. Miles believes that the increase of crime is referrible to the laxity of discipline exercised over the prisoners by the gang Overseers."

The Committee bring forward in proof of this Section of their Report, first, the Evidence of Mr. Miles, who grounds his statement upon a case of some prisoners who were at Goat Island without control (and having found some silver rings on Goat Island, which has been broken up for these last 3 Years) and which assertion as to Goat Island, has been most positively contradicted by the evidence of a subsequent witness, but in order that the variance between the statement of Mr. Miles (one on which principally the Committee seem to have come to a conclusion on this part of their Report) and Captain Browne as to Goat Island, may be more plainly seen, I place them in juxtaposition.

Mr. Miles states, "My impression is that outrages committed by prisoners of the Crown are more numerous of late, and that they are so, in consequence of the laxity of discipline exercised over the prisoners by the gang Overseers; for instance, I have a return of 21 prisoners who are at Goat Island and who sleep in a house there without Guard, bolt or bar, they are under Mr. Buchanan, an officer in the..."
Engineer Department; sometime ago I had reason to suspect that some stolen property was secreted on that Island. I sent Inspector Wright to discover the property, before a search should be made or allow the Inspector to land; On searching Goat Island I did not find the property."

Capt. Browne states, "There are about 20 prisoners at Goat Island who are under the charge of Mr. Buchanan a free Overseer, and Soldiers; in addition to which they have the Water Police Station, at one end of the Island" (a place about a quarter of a mile long by half that width) "these men therefore cannot do much harm."

And again, with reference to the concluding paragraph of that division of the Report which alludes to the evidence of Captn. Browne, in support of the assertions of the Committee, it will be observed that Captn. Brown in his evidence, distinctly shews* that it is to the Boat's Crew, he refers, and not to any of the Gangs in or around Sydney, and consequently by no implication can it be presumed that the evidence of Captn. Browne supports the statements of the Committee. On the Contrary, his Concluding remark upon that point might be construed to shew, that to the Police entirely, and not to the Gangs about Sydney is attributable the information which they have originated the inquiry to which the Committed refers; With respect also to that part of the Committee's Report, which is included in Appendix A, it may be remarked, that they have taken, without proper or sufficient enquiry, the statement of a Constable as sufficient proof upon which to come to a solemn decision, upon so serious a question; when, upon reference to parties therein alluded to, an explanation could have been afforded sufficient to have enabled them to form a just opinion upon the question under consideration, and which question, as stated in the Report is without the slightest foundation.

I do not consider it necessary to allude to that portion of the evidence of Captn. Browne where he refers to Convicts belonging to the Ordnance Department, who sleep out of Barracks, and whom he states he has frequently seen associated in their huts with Women of improper Character, as I conceive, that if sufficient cause appeared for interference he, as a Magistrate of the Territory, would have reported the matter, that the irregularities in the Boat's Crew might be put an end to, and the Offenders punished.

The next part of the Report to which I propose to address myself is in the following words:—

"It has been proved in evidence to your Committee, that the system of prisoners absenting themselves from Hyde Park Barracks is one of frequent if not constant occurrence. This is effected your Committee have reason to believe either by the sanction of some of the inferiors connected with that establishment, or by escapes during the night over the walls of the building."

"With reference to escapes from the Barracks after the hour of mustering, your Committee would refer to the letter of His Honor Mr. Justice Stephen containing an extract from his notes on the trial of Henry Martin, Frederick Williams, and Colin Walker to the evidence of the Chief Commissioner of police, to that of Captain Inner, Mr. Lane, James Lackey, and William Mortimer Lewis, Esq. The remaining out of Barracks until late hours appears to have been sanctioned by the Officers in charge." The evidence upon which the Committee rely to support this division of their Report, appears to be that of Mr. Miles, Captain Inner, Mr. Lane, James Lackey, and respect to Captain Inner's evidence, it will be observed that all his statements upon this subject are from hearsay, whereas, if the circumstance of men getting over the Wall at night existed to the extent alleged by the Committee, he would naturally have been enabled to speak from facts, acquired in his official Capacity as Visiting Magistrate of the Establishment, for it does not appear consistent with reason, in the absence of direct evidence, to suppose that such a system could have existed to any extent without some one of the prisoners, so escaping, being detected, and punished, and it will be observed that in my Evidence the existence of such a system is denied, but I have stated that three did, in late years, get over the Wall, and were known to have done so, and pursued; Also, that these men did not escape after they were locked up, but while in the Barracks Yard; Then, with respect to the evidence of Mr. Miles, I would draw attention to this Gentleman's replies to the questions put to him on this subject, the first being, "I have heard that prisoners of the Crown get out at night," the next I am informed they get over the back wall, and also "that men can be absent by bribing convicts who are placed in authority, but I can adduce no proof," and

* Marginal note.—Question No. 103, page 53.
† Marginal note.—Question No. 108, page 54.
‡ Marginal note.—Question No. 106, page 54.
§ Marginal note.—Question No. 27, page 3.
|| Marginal note.—Question No. 28.
when asked from whom he heard these Reports he said "from different parties, from prisoners themselves"! and, in the following answer," he adds, "I cannot say whether prisoners have been taken up by my Police after they attended muster."

Upon an unbiassed view of the whole of this evidence, I think it will not be asserted that it contains such proof as would justify a conclusion like that drawn by the Committee, and these replies contain all the evidence on these points given by Mr. Miles. The next witness is Mr. Lane, and on his evidence, I would only remark, that it goes only to the period during which he was Superintendent of the Barracks, a period prior to February, 1843, and which cannot therefore be any evidence of the present discipline at Hyde Park Barracks, or proof of what the prisoners there now do.

The next evidence bearing on this subject, and referred to by the Committee, is that of Mr. Lewis, whose testimony I will place in juxta position with that of Mr. James Lackey who speaks also on the same point, but who entirely differs with Mr. Lewis, as to the apprehension, or getting over the wall, of prisoners since the appointment of Mr. Horsey, and his statement is fully borne out by my evidence and that of Mr. Horsey, also of Stone, who is alluded to by Lackey.

Mr. Lewis states: When residing at the rear of Hyde Park Barracks, I was awakened by the noise of men getting over the house and it struck me that it must of course be the prisoners from the Barracks, this noise being repeated one night I went into the Yard to see the cause but did not see anything, because of the roof of the building being double, which would enable any one to walk along unperceived. As Ranger of the Domain I have a Bailiff named Mr. Lackey under me, and he reported that he had secured prisoners who escaped over the Wall; I asked him if he had seen men get over the Wall, and he said that he was continually taking them and that he had had one man punished for the Offence; that was in the month of March last; Lackey had a strong Scuffle with one man after he got off the Wall. Being convinced that this practice was of frequent occurrence I felt it to be my duty to make a verbal report of the circumstance, and told Mr. Glaister a Clerk in the Superintendent of Convicts' Office, of it; I also mentioned my suspicions of it to Captain Innes, and the Colonial Secretary, in consequence of my statement the Colonial Secretary I believe spoke to Captain McLean, and a double set of Watchmen were placed inside the Barracks: since then I am not aware that anything of the kind has occurred; the Wall at Hyde Park Barracks is very low the men can get over it very easily.

James Lackey states: I have not lately seen any men going in and out of the Barracks over the wall, Mr. Lewis complained to me that they went over his premises. I have frequently been applied to by persons from the Barracks to let them go through the gate to search after prisoners, who had escaped over the Wall, Stone the Scourger at Hyde Park Barracks was one of the parties who applied to me, the men I have spoken of escaped, some during the time of Mr. Lane and some during Lieut.-T. Small's Superintendence; but I have never been called upon to search after these people during the present Superintendent's time. A short time ago, perhaps a month or five weeks Mr. Lewis came to me and said that he and his family were continually annoyed by men coming over his premises, he wished me to watch for them, I accordingly laid wait for them, but never caught any of them coming across:

The only other evidence which appears to bear on this question is that of Mr. Keck and he states, in reply to an enquiry whether he has reason to believe that the prisoners get out of the Barracks during the night by climbing over the back wall, that, "he never heard that" but was informed by some men who had been sent from Hyde Park Barracks to Cockatoo Island (a second class Gang) that they could get out at any time by paying a Fee, and when asked to whom that fee was paid the Committee were referred for information to Captain Innes, but it does not appear that such a question was ever put to that Gentleman.

It will be seen then upon a perusal of this Evidence that the Report of the Committee is grounded upon evidence taken from hearsay and from the statements of prisoners (who perhaps imagined that they might thereby receive some indulgence) but which is not borne out by any statements made from actual knowledge, this evidence is not therefore, such as should have been conclusive, when not supported by the evidence of those who could speak from personal knowledge, and the only witness, who has asserted that he knew it to have taken place, is Contradicted by the person to whom he refers, it is also contradicted by the Superintendent of the Barracks, and not borne out by the Records to which he has himself given reference, in stating that a prisoner was punished for the offence.

In opposition to this evidence then, I would with confidence refer to my own, and that of the Superintendent of the Barracks; I was given after a minute enquiry into all the circumstances; in reference to that point my reply is in these words: "Of course as I am not always present in the Barracks I can only speak from the enquiry that I have made, and I understand that there is not one case on
record in which a prisoner, who was present at muster was taken up by the Police at night. That is the information that I have obtained from the Records of the Bench at Hyde Park Barracks and other sources, and in reply to a question as to the men, after having attended muster being called out to attend Chapel, and by some manœuvring getting over the wall, and going about the town; I have stated "I understand three men did, on one night, get over the wall; they were discovered immediately, and pursued. That is the only late instance; I find, however, in 1839, two prisoners and in 1840 another one, broke out of the Cells, and escaped at night, also in January, 1842, two broke out of the Watch House, and effected their escape, but since that period the lock up has been made more secure. And again in reply to the subsequent question as to whether the escape of prisoners is not of frequent occurrence I stated, that I did not think so; "I do not see how they could possibly get out of their rooms the difficulty would be so great, and the concurrence of the Watchmen outside, and the Wardman within must be first obtained, farther I said "that they could not get out after they were mustered, and before they were locked up, as they are passed into their Wards as they are mustered, and then locked up."

The evidence of Mr. Horsey goes to show that no case had occurred during his Superintendence, of a prisoner going over the Wall after muster and which is fully corroborated by James Lackey, except the case before referred to, where three men went over and who were seen by Watchmen inside the Barracks, and pursued. Apart then from the letter of Mr. Justice Stephen the proof upon which the Committee have grounded their decision appears to stand thus: the evidence of Capt. Innes and Mr. Miles who state they have obtained their information from others, prisoners I presume, but not produced before the Committee, the evidence of Mr. Lewis contradicted by James Lackey to whom he refers as being able to substantiate it, my own evidence and that of Mr. Horsey, the evidence of Mr. Reck who refers to Capt. Innes, who has obtained his information from somebody else, is contradicted by the positive and direct evidence of Mr. Horsey and myself who is presumed ought to know something of the matter, and who had reference to records.

Yet the Committee have based their Report upon the negative evidence given from hearsay, which to an unbiased mind would prove nothing, in preference to positive on hearsay evidence grounded upon personal knowledge and reference to Official Records. The evidence of the letter of Mr. Justice Stephen which has reference to three prisoners who were stated to be attached to Hyde Park Barracks at the time they were committing robberies in Sydney, and certainly on viewing this subject impartially, there are few parts of the Committee's Report which show more strongly the one sided manner in which this subject has been dealt with by them throughout than this, for it does not appear that they have stopped to enquire or have taken the necessary steps to effect that purpose, but have considered that letter as sufficient evidence to support their view of the case, had they made enquiries it would have been easily shown that so far from these prisoners having been attached, or belonging to, Hyde Park Barracks, at the time they committed the Robbery alluded to, they were known to have absconded on Sunday, the 17th of that month from the gang of prisoners in their way from the Catholic Chapel to Hyde Park Barracks and were reported as such on the return of the Overseer in whose charge they were.

It must however be admitted there was much blame attributable to the Clerk who sent the report to the Gazette for publication for having misstated the dates on which these men absconded, but this would have been explained if the Committee had asked for, or sought, an explanation; It is not unworthy of remark that there is not a tittle of evidence to substantiate that part, of this Section of the Report, which alludes to a sanction by some of the Inferior Officers of Hyde Park Barracks of the escapes by night, for although that bears a prominent part in this Section of the report of the Committee it has not even been attempted to be proved.

I would next direct attention to that portion of the Report which imputes direct blame imputed to the Superintendent of Hyde Park Barracks, and where that Officer is stated to have been absent from his duty on the night subsequent to the Murder of Mr. Noble, and that prisoners were observed to come in at late hours in a state of intoxication; To this I consider that a sufficient answer is afforded by the evidence of Capt. Innes, Mr. Horsey, and myself, that of Capt. Innes where he stated "I have heard that Prisoners come in at various hours of the night, after the muster roll had been called, but I believe it has been within a quarter of an hour or so afterwards" and to which he adds that when drunk he has punished them, also that he thinks almost every case of that kind is brought before him unless perhaps where a man has previously borne a good character.
Mine, where I stated that where prisoners came in drunk, or too late, they are punished unless sufficient cause is shown for their absence, and that I did not consider that the Superintendent of the Barracks is bound always to be within the walls and I would add, that as the duties of Mr. Horsey, imperatively require his attendance within the Barracks in the day time, the only opportunity he has of being present or of assisting himself is after the prisoners are locked up, and in safety; and it will be observed, that he could not have been aware at a period of ten days after the Murder that his presence would be required on that particular night, and on which occasion (contrary to his usual custom) he accidentally omitted to state where he could be found; and lastly the evidence of Mr. Horsey which shows, that the circumstance to which the Committee alludes,* with respect to Mr. Miles, took place ten days after the Murder in question, and that when he left the Barracks every necessary precaution had been taken to secure the inmates; and further I find sufficient evidence, on enquiry to show, that on the night in question Mr. Miles' first visit was after Eight o'clock, and that the persons who then came in were, a Messenger out on Public duty, and the private servant of the Superintendent, neither of whom it is positively asserted to me was intoxicated.

I now propose to address myself to that Section of the report which has reference to the employment of Convict Overseers in Hyde Park Barracks, and over the Ganges, in and around Sydney.

And in viewing this part of the subject it cannot be denied, that where practicable the employment of free overseers is preferable, to that of prisoners, but in admitting that, it is also true, but just to state, that no evidence whatever has been adduced to prove that the insecurity of life and property in Sydney is attributable to, or has been the result of, this practice, as regards Hyde Park Barracks, and not more than two cases have been alluded to by the Witnesses as regards the gangs in and around Sydney. It may also be remarked that the practice of employing Convict overseers over the gangs employed on Government works has only existed where a large gang, originally under a free overseer, was subdivided, and part placed under a prisoner overseer, a practice now discontinued, and which I presume was at the time found necessary by the officer under whose charge these gangs were.

With respect to the Broom gang alluded to, in the report of the Committee, I may observe that although much has been said as to the misconduct of these men, the charges are no charge but just to state, that no evidence whatever has been adduced to prove that the insecurity of life and property in Sydney is attributable to, or has been the result of, this practice, as regards Hyde Park Barracks, and not more than two cases have been alluded to by the Witnesses as regards the gangs in and around Sydney. It may also be remarked that the practice of employing Convict overseers over the gangs employed on Government works has only existed where a large gang, originally under a free overseer, was subdivided, and part placed under a prisoner overseer, a practice now discontinued, and which I presume was at the time found necessary by the officer under whose charge these gangs were.

With respect to the Charge of Bribery preferred against the inferior officers attached to Hyde Park Barracks I may observe, that from the position of the men in question it is presumable, that they may be open to bribery, but throughout the whole of the evidence, such a circumstance has not been proved. And in the absence of such proof, it is not, I think, fair, to assume it to be true, the more particularly, as viewing this question in which all matters only are pertinent to the subject, which bear upon the question of insecurity of life and property or so far, as such insecurity is affected by circumstances proved to have arisen out of bribery; and of which, as I have before remarked there is not one to be found in the evidence.

Many assertions it is true, upon this subject have been made, but direct proof, or proof at all, there is none, and consequently it is in opposition to the principles of British Law to assume a man to be guilty until he is proved to be so, and, applying this principle to the question now at issue the charge must fall to the ground.

I now proceed to consider the question raised by the Committee with reference to the man named Prendergast lately a Messenger at Hyde Park Barracks which has been brought forward as an instance of bribery, but as his case will be best understood, and the discrepancy between the report of the Board and that of the Committee best seen, by placing them in justa-position, I do so.

Report of the Committee: A charge of the character above referred to (namely bribery) was preferred against a man named Prendergast a Ticket of Leave messenger in Hyde Park Barracks; an enquiry was directed to be instituted by His Excellency the Governor, and a board was appointed to conduct the investigation. These Gentlemen concurred in stating in their report, that whilst they considered the charge as deficient in direct legal proof, yet that there was a sufficient amount of evidence, to leave on their minds the strongest suspicion, that the imputation of bribery, was not groundless. In the course of their enquiry, it was ascertained, that the party inculpated, had tampered with some of the Witnesses that were called upon to be examined, and they therefore recommended that Prendergast, should be removed from Hyde Park Barracks by changing his Ticket of leave for some other district.

* Marginal note.—Question No. 45, page 65.
Report of the Board: We would sum up this part of our Report by submitting to His Excellency with all the circumstances of the case it will be advisable to retain Prendergast in his present situation; we by no means wish to recommend any harsh measures towards him, or even cancelling his Ticket of Leave; the testimony on which we rely not being on Oath, and in many respects contradictory, and not to be believed, but we submit, that the circumstance of such a man as Prendergast being in a highly influential situation as regards the lower classes in the Office of the Principal Superintendent of Convicts is of itself enough to give rise to those rumours on which the paragraph in the "Sun" is founded. Indeed as we have already stated in summing up the case against Prendergast we have had no difficulties in proving his taking money, all that appears to us reprehensible in his conduct, was his rude and overbearing manner to Caldwell when the latter was applying for his wife's Certificate of freedom; and his tampering with Joseph Turner a Witness summoned by the opposite party; his general character also and demeanour before ourselves; have induced us to recommend that he be removed from a sphere of action where he is of necessity exposed to temptation and may possibly afford grounds for the imputation of offence.

Upon viewing then the case as it really is, I think it will be admitted that the Report of the Committee is not borne out, by that of the Board, and I conceive that event this decision was scarcely in accordance with the evidence as stated by them, and certainly not by the evidence itself, in addition to which it must be remembered, that that evidence was not on oath.

It would seem however that my conduct in retaining him as Messenger in my Establishment has been called in question, in justice to myself therefore, I must state, that when the recommendation of the Board that he should be removed from his situation was communicated to me, I represented to His Excellency the Governor that I thought the Board had dealt rather harshly with him, having been my Messenger for upwards of five years, and my thereby having had an opportunity of judging of his conduct and character, which I know to be extremely good, I therefore requested (as there was a difficulty in obtaining employment at his trade as a Bookbinder, out of Sydney) that he might be allowed time to look out for a situation, to which His Excellency acceded, and as soon as he did obtain that employment, I carried into effect the wishes of the Board; but I would ask in what way the retention of this man as a Messenger in my Establishment, notwithstanding the conclusion come to by the Board, on very questionable evidence, of his tampering with a witness, has operated on the Insecurity of Life and Property? or how far, hiring of pistols can, by any stretch of ingenuity, be construed to prove a want of due control in Hyde Park Barracks, or the absence, or escape of prisoners from that Establishment, that a Ticket of Leave man remained as a Messenger in my office instead of being engaged in his own business in Sydney, after having been charged with tampering with a witness, I am at a loss to conceive; and in fact what the enquiry conducted before that Board, had to do with the question to which the Committee were instructed to direct their attention I cannot discover, or that my having in this matter (if I did so) exceeded the instructions of the Governor, could affect the Insecurity of Life and Property it will I think require more, than ingenuity to prove.

The next portion of the Report of the Committee seems almost too absurd to require an explanation, but on may be presumed that the absence of pistols is tacity an admission of the fact, I consider it my duty to state the evidence of Capt. Innes upon this point, and to remark that Mr. Reck, whose evidence before the Committee is taken in relation thereto without question, states that he obtained the information from a prisoner of the Crown, declared to be a man of notoriously bad character and at the time, under committal to the Jail, and whose statement Mr. Reck admits himself has not been found to be true, inasmuch as, the pistols alluded to by the prisoner have not been found.

The evidence of Capt. Innes when asked if he knew anything of a pair of pistols being kept at Hyde Park Barracks for the use of the establishment and lent out at ten shillings a night to any person desirous of speculating on the roads, is, "that he has, but the man who gave me the information is one of the greatest blackguards in Hyde Park Barracks; he is now in the Watch House at the Barracks and has been I am convinced, himself engaged in Robbery." And when further asked if he had ever found any arms in the Barracks, he replied "no" with reference to the case he before mentioned to the Committee he stated "that he had the man who gave the information brought from Cockatoo Island and sent to Fort Macquarie where he said the pistols were planted, but he failed to get them."

And with reference to the latter paragraph of the section now under consideration, and which has reference to gambling I consider it only necessary to observe that if Mr. Lane, with eight or nine pounds from prisoners whom he found gambling, there is no record of his having brought them before the Bench for the offence, nor does he appear ever to have handed over the amount to my office, the Bench at Hyde Park Barracks, or the Benevolent Asylum, and it will be observed...
1844.  
28 Nov.

Statements in report re murderers and convicts returned from Norfolk island.

by his letter in the Appendix that the circumstance occurred more than 7 years ago, and he does not remember to whom he paid the money or before whom the men were brought nor can I find upon the minutest examination that any prisoner in the barracks was known to have played for more than a few shillings. I am therefore induced to believe, in the absence of other proof that Mr. Lane is in error as to the amount.

There is one paragraph of this Report to which I beg most earnestly to draw serious attention, namely, that which has reference to the much to be lamented murders of Mrs. Jamieson and Mr. Noble and to the remarks of Mr. Justice Stephen in passing sentence on Vigors one of the murderers of Mr. Noble, and also the passage, which follows in the Report of the Committee and which contains a general censure on the prisoners who returned from Norfolk Island, this I do with a view to shew the unfairness of the assumption contained therein, in reference to the general body of Norfolk Island Expirees and the assertion that both belonged to the conduct of some Norfolk Island men employed in Mr. Holt's Road Party, to the Ganges, or in and around Sydney; And in reference to the first paragraph, I would observe that with respect to both cases, it would in my opinion be as unfair to assume that because the murderer of Lord William Russell was his Valet de Chambre a man in a far different position to either Knatchbull or Vigors a man the pampered and favored domestic of a Nobleman should because he committed a murder, in the heart of the City of London, a Murder unparalleled in atrocity, and without the slightest apparent cause, be the means of branding all the Valets de Chambre or domestic Servants, as murderers or persons guilty or addicted to such Acts as that, because two Murderers committed under totally different circumstances, should be the means of fixing the whole body of Norfolk Island Expirees with the brand of Murderers, and men guilty of the deepest atrocities; but in addition to this, I maintain, that the evidence in relation to the general character of these men does not bear out the Conclusion arrived at by the Committee, in proof of which I would quote the evidence of Captain Innes who being asked as to whether the Norfolk Island Expirees, who had done so much mischief in Sydney of late states there is a great deal laid to their charge that I am convinced they are innocent of, and adds in his reply to the next question on this subject, "I should say the majority of these men, are men who would work if they could get it," and in the following question he denies that dreadful consequences would arise to the community from the influx of these men, and in the latter part of his reply to Question 148, he says, "as I now have the control at Cockatoo Island every man who has been re-transported passes through my hands, and I have been quite astonished to see so few men from Norfolk Island come back who have once gone into the Country." I would next quote from the evidence of Mr. Keck who when asked with reference to the latter part of his reply (to Question 12) where he states that some men were brought to Trial at the last Quarter Sessions who had eight or nine times been previously convicted, whether they were Norfolk Island Expirees, says "No, I do not think the Expirees from Norfolk Island are the most desperate I think the worst are the freed men who are about Sydney and are constantly getting into [indecipherable] and in reply (to question 47) when asked whether the Norfolk Island Expirees, who are not industrious, are men of a worse stamp than any other class of the community he says they are, but adds "out of the 44 prisoners waiting for Trial there are not more than 6, who have been at a penal settlement, and which includes the murderers of Mr. Noble." Mr. Miles also says with reference to his previous remark, as to men putting themselves on the square one day, and going on the cross the next, that it applies to the general class of Thieves and not to the Norfolk Island Expirees; and in reply to the next question, he says "he considers some of them very industrious men," and again when asked as to the proportion of industrious men replies "generally speaking I should give them a good character." John Wearing when asked if at the time he was placed over the Norfolk Island Expirees he had an opportunity of observing their general conduct he states "he had not and he thinks there are more of those who work and constantly earn their livelihood than of those who thieve or have no visible means of living.

From the evidence of a man named Barker I would next quote who, when asked as to the conduct of some Norfolk Island men employed in Mr. Holt's Road Party, says "they behaved well and even got Tickets of Leave for their good behaviour. It may not be out of place here to allude to the case of one of the men implicated with Vigors in the Murder of Mr. Noble to show how difficult it would be for human foresight to guard against such an event, the man to whom I allude is Rankine, who never was at Norfolk Island, he arrived in the Colony in the Year 1829, under sentence of transportation for Life, obtained a Ticket of Leave in 1838, and in 1844 petitioned for a Conditional pardon, never up to that period

* Marginal note.—Question No. 76.
† Marginal note.—Questions No. 66 and No. 68.
having been punished in the Colony when he received the following Certificates of Character from Dr. McGarvie; "I have known him intimately for 13 Years, have found him a most industrious, honest, well behaved, quiet, and inoffensive man."

I would also here refer to a Return taken from the Records of my office, and now annexed in the Appendix, which shows that of the number returned to Sydney between the 1st of September, 1843, and the 31st of March, 1844, not one man free on bond, has been convicted at the Supreme Court or Quarter Sessions for any offence, and it may be remarked that no prisoner is permitted to return from Norfolk Island without a report of his case being first obtained from the Judge of the Island. And then the cases submitted to His Excellency the Governor and when returned he is immediately (except when free by servitude) placed on Cockatoo Island for a period, in the majority of cases, of 5 Years in irons. With respect to the case of Knatchbull I would state, that he arrived in the Colony under sentence of transportation for 14 Years in the Year 1825, and in 1829, he obtained a Ticket of Leave for good conduct and for having captured 8 bushrangers, this indulgence he held till 1832 when he was again convicted of Forgerery and received a sentence of 7 Years transportation, which he completed at Norfolk Island, and returned in the Year 1836, to serve the remainder of his original sentence, which had been in abeyance, whilst serving his Colonial sentence; after having served 3 Years' good conduct, which was certified to by the Police Magistrate at Port Macquarie, he received a Ticket of Leave, which was in 1843, altered to Sydney upon the application of a respectable individual residing there, who was desirous of employing him, and did employ him; beyond this there is no record of his having been charged with any offence, so that during the 18 Years that he had been in the Colony there was only one offence (Forgerery) of which he had been found guilty, until he committed the murder of Mrs. Jamieson, so much then for his unparalleled tissue of crimes! !

With respect then to Vigors it may be observed that he, with about 40 other Invalids, was brought up from Norfolk Island upon the repeated request of Capt'n Machonochie, who urged, that they might be permitted to come up, and remarks with reference to these men whom it was evident he considered as in the last stage of their respective diseases for he observes "that they as helpless men would be subjected to grievous hardship and inconvenience by being sent a considerably longer voyage, and being cast at the end of it among entire strangers." And upon the application of Capt'n Machonochie, and the Certificate of the Surgeon of the ship, it was ordered that they should be received as Invalids, and persons having incurable diseases. In addition to which it may be observed that Vigors, with the two others who committed the murder of Mr. Noble, had gone with other prisoners under the charge of an overseer to Church, that while there these three men had absconded themselves from the gang, and were, on the return of the overseer to Hyde Park Barracks, reported as being absent, so that they were known to have absconded and were reported as such; in the meantime however they had committed the Murder.

With respect to the remark in the evidence of Mr. Windeyer as to the predilection of Norfolk Island Expirees for Sydney it will be observed that he only alluded to one case which occurred before the arrival of Captain Machonochie to take charge of Norfolk Island, now a period of nearly 3 Years, and further, with respect to the same Gentleman's remark as to the desire of assigned servants in the Country to return to Hyde Park Barracks, I would refer to the reply of Mr. Windeyer to the question as to the causes of their wishing to leave private service, where he states, that a man may have a mean or severe master; to which I would add that men have preferred being on Cockatoo Island to being in Hyde Park Barracks, and that it is of daily occurrence that prisoners will volunteer to go to any part of the Country however distant, when men are required, in preference to remaining in the Establishment in question; this I state from personal knowledge, and daily experience.

And in conclusion I would remark upon that part of the Report, which states, that "the accumulation of 7 or 800 prisoners consisting of a large proportion of Norfolk Island Expirees and convicts who have undergone various secondary punishments, in the midst of a large City subject to a relaxed and inefficient control, is an evil which scarcely any municipal police however active can sufficiently check," being founded upon a false assumption must fall to the ground, for the statement that a large proportion of Norfolk Island Expirees, and prisoners under a secondary sentence, were in Hyde Park Barracks, is incorrect, and is a point upon which the Committee have no evidence, to support their allegation, as in fact at the date of their Report, the number of prisoners of the description to which they allude, was, as to the whole, in a ratio of 60 to 800. Having thus alluded to the different

* Marginal note.—No. 9.  † Marginal note.—Reply to Question 75, page 28.  ‡ Marginal note.—Question 83, page 27.
1844. 28 Nov.

Objections to accumulation of convicts in Sydney.

parts of the Report which attributes the chief share of the late Violations of the public peace, and Insecurity of Life and property to the prisoners at Hyde Park Barracks and those in the Gangs in and around Sydney, which attributes blame to the Government for permitting Norfolk Island Expiries to return to Sydney, which charges a want of discipline and inefficiency of control against the authorities at Hyde Park Barracks, and officers in charge of the gangs Employed on public works, which asserts the system of prisoners, absenting themselves from the Barracks to be one of constant occurrence, and sanctioned by the inferior officers, connected with the Establishment, who are stated to have taken bribes for such sanction, which imputes a want of attention to the Superintendent of the Barracks, and generally charges mismanagement to that Establishment, I can with confidence assert, that not one of those assertions, where material to the point at issue, has been proved; the evidence alluded to by the Committee in support of those different sections of their Report tending to disprove the conclusions come to by them, and I assert further, without fear of contradiction, that the statements made by Mr. Miles, Mr. Windeyer, Capt. Innes, and Capt. Brown, supported as they are by the Returns produced, and now added as an Appendix to this Report, most fully and satisfactorily exonerate the prisoners in Hyde Park Barracks, and such of those returned from Norfolk Island as are still prisoners, from any participation in the crimes, or, in the cause of the Insecurity of Life and property, against which there has of late been so great an outcry; one fact proved by demonstration, is surely worth all the accumulation of hearsay evidence produced, and that fact is, that during the months of April and May, when the robberies and burglaries were at their height, not one prisoner of the Crown in Hyde Park Barracks or attached thereto was convicted of that offence whereas Mr. Miles shews a Return of 11 Free persons having been committed for trial for those offences; one lamentable fact however must not be lost sight of, that within the last six months an atrocious murder was committed by prisoners of the Crown, it must in justice be observed that those prisoners had absconded, not from Hyde Park Barracks, but from a Gang of Prisoners from their place of worship, but in the same period, the Returns before referred to show, that three free persons were committed to take their trial for murder, to which fact however although a material one, in an investigation such as that on which the Committee were engaged, they do not appear to have made any allusion! !

The allegation as to the Escaping of prisoners from Hyde Park Barracks at night, is also not borne out by the evidence, and where an attempt is made to prove such escape, it is pointedly contradicted by more than one Witness; and cannot therefore be presumed to have been substantiated.

The system which the Committee state to be in existence in Hyde Park Barracks of receiving bribes, rests entirely upon a negative evidence, and cannot therefore with justice be brought forward to support a charge made against any Government Establishment; The assertion made against the Superintendent of the Barracks as to his want of due caution in leaving the Barracks, is not I think made out, nor have the charges of mismanagement preferred against the Establishment been proved in such a way, as would justify the Committee in coming to the conclusions they did in this matter, conclusions which have been shown to be opposed to the evidence of the witnesses, or if supported at all, only supported by hearsay, or negative evidence, and directly contradicted where such was possible by Witnesses of respectability.

Principal Superintendent of Convicts' Office, 19th Sept., 1844.

[Appendix No. 2.]

A Return of the number of prisoners, attached to Hyde Park Barracks or employed in the Gangs in and around Sydney, who have been Committed for Trial between the 1st of January and the 31st May, 1844.

<table>
<thead>
<tr>
<th>For Murder.</th>
<th>For Burglary or Robbery.</th>
<th>For petty Theft picking pockets or Larceny.</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>2</td>
<td>11</td>
</tr>
</tbody>
</table>

J. McLean, Principal Superintendent.

Principal Superintendent of Convicts' Office, 19 Sep., 1844.

* Marginal note.—Appendix No. 10.
† Marginal note.—Appendix No. 5.
[Appendix No. 3.]

A RETURN of the Number of Prisoners attached to Hyde Park Barracks, in the Gaols in and around Sydney who have been committed for Trial between the 1st of July, 1843, and the 31st of May, 1844.

<table>
<thead>
<tr>
<th>For Murder</th>
<th>For Felony</th>
<th>For Petty Thefts Picking Pockets or Larceny</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>4</td>
<td>20</td>
</tr>
</tbody>
</table>

J. McLean, Principal Superintendent.

Principal Superintendent of Convicts' Office, Sydney, 17th Sept., 1844.

[Appendix No. 4.]

Sir, Principal Superintendent of Convicts' Office, 14th September, 1844.

It appearing in the evidence taken before the Committee on the "Insecurity of Life and Property" that you state with reference to the practices of Gambling at Hyde Park Barracks having at one time taken the sum of eight or nine pounds from some prisoners who were so engaged, and as no one in the Establishment appears to remember the circumstance, I have to request, that you will favor me with the date of this transaction or about the period, and also to whom you handed over the money in order that I may cause enquiry to be made on the subject.

I am, &c.,

Mr. Timothy Lane, Surrey Hills. J. McLean.

Sir, Sydney, 16th September, 1844.

With regard to my evidence before the Committee on the "Insecurity of Life and Property" relative to having seized a sum of money amounting to about £8 or £9 from the Cooks who were Gambling at Hyde Park Barracks; I have the honor to state the circumstance fell out about six weeks or two months after my taking charge of the Establishment, but before whom the prisoners were brought, or to whom the money was paid, I have not the slightest recollection at this distant period now approaching seven years and a half.

I have, &c.,

The Principal Supt. of Convicts. T. Lane.

[Appendix No. 5.]

RETURN of Free persons Committed for trial for Murder, Burglary and Robbery Thefts and Larcenies from the 1st of January to the 31st of May, 1844.

<table>
<thead>
<tr>
<th>Murder</th>
<th>Burglary and Robbery</th>
<th>Thefts and Larcenies</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>35</td>
<td>91</td>
<td>130</td>
</tr>
</tbody>
</table>

[Appendix No. 6.]

NUMBER of actual Convictions at the Supreme Court and Quarter Sessions for two Years distinguishing, 1st, those who came Free, or were born in the Colony, 2nd, those Free by servitude, 3rd, the Bond.

<table>
<thead>
<tr>
<th>Date</th>
<th>Came free or Born in the Colony</th>
<th>Free by Servitude</th>
<th>Bond</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>From July 1842 to June 1843...</td>
<td>85</td>
<td>190</td>
<td>52</td>
<td>328</td>
</tr>
<tr>
<td>From July 1843 to June 1844...</td>
<td>85</td>
<td>174</td>
<td>36</td>
<td>295</td>
</tr>
</tbody>
</table>
1844. 28 Nov.
Return re convicts at Hyde park barracks.

[Appendix No. 7.]
A Return of the number of prisoners attached to Hyde Park Barracks between the 1st of April and 31st of May, 1844, shewing how many of those have been punished or committed for trial within the period stated, and for what offences.

<table>
<thead>
<tr>
<th>Number of Prisoners in Barracks</th>
<th>For Felony Committed</th>
<th>For petty theft, picking pockets, or Larceny by Conviction</th>
<th>For absconding</th>
<th>Minor Offences</th>
</tr>
</thead>
<tbody>
<tr>
<td>800</td>
<td>None</td>
<td>8</td>
<td>8</td>
<td>26</td>
</tr>
</tbody>
</table>

J. MCLEAN, Principal Superintendent.
Principal Superintendent of Convicts' Office, Sydney, 19th September, 1844.

[Appendix No. 8.]
A Return of the number of Prisoners attached to Hyde Park Barracks punished during the first 5 months in the year 1843 and for the like period in 1844.

<table>
<thead>
<tr>
<th>Date</th>
<th>Number of Prisoners in Hyde Park Barracks</th>
<th>Number punished per month</th>
</tr>
</thead>
<tbody>
<tr>
<td>First 5 months in 1843</td>
<td>624</td>
<td>26</td>
</tr>
<tr>
<td>First 5 months in 1844</td>
<td>707</td>
<td>22</td>
</tr>
</tbody>
</table>

J. MCLEAN, Principal Superintendent.
Principal Superintendent of Convicts' Office, Sydney, 17th September, 1844.

[Appendix No. 9.]
Return of convicts returned from Norfolk Island.

<table>
<thead>
<tr>
<th>Date of return to Sydney</th>
<th>Number returned on original sentence</th>
<th>Out of which there are—</th>
<th>Out of which have been convicted since their return—</th>
<th>Number of prisoners returned from Norfolk Island, 1839 &amp; 1840</th>
<th>Out of which have been convicted since 1st Sept. 1843</th>
</tr>
</thead>
<tbody>
<tr>
<td>1843. Derr. 5th... 1844</td>
<td>71</td>
<td>None</td>
<td>Supreme Court</td>
<td>1,200</td>
<td>1 3 13 2</td>
</tr>
<tr>
<td>Jany. 31st.</td>
<td>82</td>
<td>3 79</td>
<td>Quarter Sessions</td>
<td>1 3 13 2</td>
<td></td>
</tr>
<tr>
<td>March 12th.</td>
<td>87</td>
<td>3 84</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

J. MCLEAN, Principal Superintendent.
Principal Superintendent of Convicts' Office, 19th September, 1844.
RETURN of Free persons Committed for trial for Murder, Robbery, Thefts and Larcenies between the 1st of January and the 31st of May, 1844, and also prisoners Committed for trial for the same offences within the same period.

<table>
<thead>
<tr>
<th>Murder</th>
<th>Burglary and Robbery</th>
<th>Thefts and Larcenies</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>3</td>
<td>23</td>
<td>94</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>11</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>130</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>16</td>
</tr>
</tbody>
</table>

J. McLean, Principal Superintendent.
Principal Superintendent of Convicts' Office, 19th September, 1844.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 249, per ship Hind; acknowledged by Lord Stanley, 16th August, 1845.)

My Lord,

Government House, 29th Novr., 1844.

I have the honor herewith to forward to Your Lordship a Copy of an Address presented to me by the Legislative Council of this Colony, wherein I am requested to transmit to Your Lordship a Resolution passed by the Council on the 8th October last to the effect, "that it is the opinion of the Council, that the Elective Franchise ought to be extended to all Leaseholders, occupying land of not less than £20 of annual value, and holding Leases of five years or upwards, on condition of actual residence thereon for a period of at least six months previously to the last registration of Electors in the District."

On the subject of the extension to Leaseholders of the Elective Franchise, I beg to refer to Your Lordship's Despatch to myself, No. 181 of the 5th September, 1842, in which Your Lordship was pleased thus to express yourself.

[Here followed the paragraph beginning "I have felt some doubt"; see page 240, volume XXII.]

Your Lordship will observe that, in the Resolution of the Council, no beneficial interest is required on the part of the leaseholder, over and above the rent to which he may be subject, but that the mere occupation of land of the annual value of £20, and residence thereon under a lease of not less than five years, is proposed to place the leaseholder on a par with the freeholder or householder entitled to the elective franchise under the 5th Clause of the Act of Parliament.

I regret greatly that I can scarcely concur with the Council in this view of the subject; and I feel bound to express to Your Lordship my opinion that, if beneficial occupation be dispensed...
with (as I think it might be on account of the difficulty which must always exist in proving that the occupation is beneficial), the amount of rent ought at least to be £30 instead of £20.

I may remark that the occupier of a dwelling house worth £20 a year (entitled to the franchise under the 5th Clause of the Act) is generally in New South Wales a person of higher standing in the Colony than one merely occupying land to the value of £20; the dwelling occupied by a person of the latter description may probably not be worth 20s. per annum.

I further, in connexion with the subject of this Despatch, transmit to Your Lordship a Copy of a Report made to the Legislative Council by a Committee appointed to enquire into and report generally on the subject of the Elective franchise in this Colony.

As the only part of this Report, which has yet been adopted by the Council, is that relating to Leaseholders; I am not called on at present to express an opinion on the other recommendations contained in it, though I may observe that the proposal to confer the Elective franchise on the occupiers of Crown Land (Squatters), in virtue simply of the possession of Sheep or Cattle, and irrespective of any payment of Rent to the Crown, is one which I can scarcely approve or recommend for adoption.

I have, &c,

GEO. GIPPS.

[Enclosures.

LORD STANLEY TO SIR GEORGE GIPPS.

(A circular despatch, per ship Royal Consort; acknowledged by Sir George Gipps, 30th April, 1845.)

Sir,

Downing Street, 30 Novr., 1844.

I have received from the Chancellor of the Exchequer a letter, which has been addressed to him by Mr. W. Cape, dated the 20th of July last, from Sydney, bringing under his consideration the renewed subject of his (Mr. Cape's) claim to Land in New South Wales, and animadverting upon your Report on his case, which was answered by my dispatch of 12 Feby. last.

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

I have, &c,

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

Sir,
Downing Street, 30 Novr., 1844.

I have under my consideration your Dispatches relative to the sale and occupation of Crown Lands in New South Wales, the numbers and dates of which are noted in the margin.*

As observed by you in that relative to the Address to you from the Legislative Council, respecting the Sale of Crown Lands (No. 17 of 17th January last), the Questions concerning their sale, and the terms on which the occupation of them without purchase is permitted, have an intimate relation to one another; and I have accordingly considered the two subjects in connection, devoting to them that attention, which from their great importance they justly deserve.

Sometime having elapsed since the receipt of these dispatches, Reasons for I should have been glad to have been able to communicate to you at once a definitive opinion upon the question presented by you in them for my decision; but, in compliance with the wish expressed in the letter from Mr. Boyd, the Chairman of the Pastoral Association, of the 16 April, forwarded by you in your Dispatch of the 17th of that month, "that I would defer judgment on any dispatches, I might receive from you" on these subjects, until in possession of Petitions against your recent regulations, then in course of preparation, I defer, although otherwise prepared to have done so, coming to any decision upon them at the present moment, in the hope that I may soon be in possession of those Petitions.

Adverting however to the circumstance that some of the regulations, which you propose, are intended to take effect in the month of July next, as well as to the delay which has already taken place, I feel that I should not be justified in indefinitely postponing my decision, and you may therefore expect shortly to receive final instructions on the subject.

I have, &c.,

STANLEY.

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

Sir,
Downing Street, 30th Novr., 1844.

I have received your dispatch No. 149 of the 18th July last, reporting that, in consequence of the departure of Mr. Justice Burton from the Colony, and the illness of the Chief

* Marginal note.—No. 17, 17 Jan.; No. 75, 3 Apr.; No. 84, 16 Apr.; No. 86, 17 Apr.; No. 86, 23 Apr.; No. 84, 1 May; No. 107, 17 May, 1844.
Justice, you had felt yourself compelled to appoint the Solicitor General to act as Judge, until Mr. Burton's Successor should have arrived from England.

I approve and sanction this provisional arrangement, though I trust that the arrival of Mr. Dickinson will ere now have enabled you to discontinue it.

I have, &c.,

STANLEY.

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LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 165, per ship Royal Consort.)

Sir,

Downing Street, 30 Novr., 1844.

I have received your Dispatches Nos. 129 and 130 of the 29th June last, notifying the circumstances under which he had renewed the appointments of Mr. W. H. Kerr and Mr. W. Verner, to the respective Offices of Chief Commissioner of Insolvents at Sydney and at Port Phillip; and I have to express my approval of those Appointments, which appear to have originated in the first instance with the Judges of the Supreme Court.

I have, &c.,

STANLEY.

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LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 167, per ship Amelia; acknowledged by Sir George Gipps, 12th June, 1845.)

Sir,

Downing Street, 30th Novr., 1844.

I have received your dispatches Nos. 76 and 81 of the 4th and 10th April last, relative to the enquiry which had been instituted, by order of the Commissioners of Customs, into the state of the Customs Department at Port Phillip, and the result of that investigation shewing a defalcation on the part of the Sub Collector at that station to the amount of £17,180. I did not fail at once to call the attention of the Lords Commissioners of the Treasury to the various points adverted to in your Dispatches; and I now transmit to you, for your information and guidance, Copies of the correspondence on that subject, including the report of the Commissioners of Customs to the Lords Commissioners of the Treasury.

I have, &c.,

STANLEY.

[Enclosure No. 1.]

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

Sir,

Downing Street, 20th Sept., 1844.

I am directed by Lord Stanley to transmit to you for the consideration of the Lords Commissioners of the Treasury the enclosed copies of two Despatches from the Governor of New South Wales on the subject of the Customs Department of that Colony.
These Despatches have been written in consequence of an enquiry which has been carried on by Mr. Barnes, the Collector of Customs in Van Diemen's Land, into the state of the Customs Department at Port Phillip.

The question raised by Sir George Gipps as to the control, which may still be vested in the Board of Customs over the Customs Department in the Colony, since the passing of the 5th and 6th Vict., Cap. 76, is set at rest by the provisions of the recent Act, 7 and 8 Vic., Cap. 72, "to clear up all doubts as to the regulations and audit of the Accounts of the Customs in New South Wales."

Lord Stanley has however to call the attention of the Lords Commissioners to the question of the large pecuniary demands preferred by Mr. Barnes on account of this Service, and to the absence of any general report to the Governor of the result of that Officer's enquiry.

Mr. Barnes (as it appears) merely conveyed to Sir George Gipps a brief intimation of the fact that the Sub-Collector at Melbourne, tho' subject to the control of the Collector at Sydney, was indebted to the Colonial Government in the very large sum of £17,180. This information (Sir George Gipps adds) was given at the statement by Sir G. Gipps by Mr. Barnes of his departure, was unaccompanied by any further explanation, and was the first intimation which ever reached the local Government of an actual or expected deficiency. In calling the attention of the Lords Commissioners of the Treasury to these facts, I am directed to request that you would state to their Lordships that Lord Stanley would wish to be enabled to explain to the Governor of New South Wales how so great a defalcation could have taken place without any notice of it having been earlier conveyed to the local Government, and also to be able to inform him of the nature of the Securities which may have been entered into by the Defaulter, and of the prospect of realizing those Securities.

I have, &c.

JAS. STEPHEN.

[Enclosure No. 2.]

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

With reference to your letter of the 20th Ulto., I am commanded by the Lords Commissioners of Her Majesty's Treasury to transmit herewith, for the information of Lord Stanley, copy of a Report from the Commissioners of Customs, together with its enclosures relative to the enquiry instituted into the state of the Customs Department at Port Phillip, New South Wales, and I am to request that you will observe to His Lordship that My Lords cannot doubt that the Governor of that Colony will, on being apprized of all the circumstances attending the transaction in question, see reason to retract the opinion, expressed in his Despatch of the 10th April last, regarding the conduct of Mr. Barnes, who appears to have acquitted himself in a laborious and difficult investigation in a manner entirely satisfactory to the Board under which he serves, and so far as My Lords are enabled to form an opinion without any intentional discourtesy or disrespect to the Governor.
I am to observe also that it would have perhaps been more regular if the Commissioners of Customs, at the same time when they issued their order of 25th January, 1843, to Mr. Barnes for an enquiry into the Customs Establishment at Port Phillip, of which a simultaneous communication was made by them to the Superintendent of that particular district, had apprized the Governor of New South Wales of that order, and of the communication made to the Superintendent; but it does not appear that any practical inconvenience has resulted from this omission.

With this exception, there appears to have been no want of proper communication on the part of the Board of Customs.

As the Surcharges raised on the accounts of Mr. Webb, the Sub Collector of Port Phillip, will be the subject of special inquiry upon the part of the Inspector and examiner of Plantation Accounts at the Custom House, it would have been premature to report to the Governor of New South Wales the detailed results of the investigation, and Mr. Barnes appears to have acted properly in reporting the general result only to the Superintendent of Port Phillip.

With regard to the expences incurred by Mr. Barnes, as the same will undergo proper investigation by the Board of Customs, My Lords do not feel it necessary to offer any opinion at present on the subject further than to observe that the important duty of placing the Customs Establishment of Port Phillip on an efficient footing and of preventing a continuance of the defalcations in the Revenue which had been discovered, required a minute and lengthened enquiry by a person of experience and character, and would, even in an economical point of view, justify a considerable and liberal, though not an unnecessary expenditure.

I am further to observe, with reference to the enquiry contained in your letter regarding the Securities of Mr. Webb, that the Commissioners of Customs appear to have taken by their instructions to their Officers all the precautions that are practicable on that head.

I have, &c,

C. E. TREVELYAN.

[Sub-enclosure.]

REPORT BY COMMISSIONERS OF CUSTOMS.

May it please Your Lordships,

Your Lordships having referred to Us the annexed Letter from Mr. Stephen, transmitting by desire of Lord Stanley the accompanying Despatches from the Governor of New South Wales relative to an enquiry which had been instituted in pursuance of our directions, by Mr. Barnes the Collector of Customs at Hobart Town, Van Diemen's Land, into the state of the Customs Depart. at Port Phillip, New South Wales, and which had led to the discovery that Mr. Webb, the Sub-Collector at that place, had failed to account to the Crown for a considerable portion of the Customs Revenue of the Colony which had been confided to his management.

It may be proper in the first instance to state that, under the authority of Your Lordships' Order of the 17th May, 1838, Mr. Webb, the present Sub-Collector at Port Phillip, and who had previously held the Situation of Clerk to the Controller at Sydney, New South Wales, was directed to carry on the business of the Customs Department at Port Phillip, with such assistance as the Governor of New South Wales might deem necessary for a period of two years, and our Officers in New South Wales were instructed to transmit to us at the expiration of that time such detailed information with respect to the Trade and Revenue at Port Phillip, as might enable us to submit to Your Lordships our opinion as to the measures that might be necessary for placing the Customs Department at that Station on an efficient footing.
That, having failed after various enquiries in obtaining such details and information with respect to the Trade and Customs Establishment at Port Phillip, as would enable us to offer a satisfactory opinion to Your Lordships upon the subject, we deemed it expedient, in the month of January, 1843, adverted particularly to the fact that, since the opening of Port Phillip in 1836, the Customs Revenue at that Station had increased from £2,300 to £46,500 a year, to direct Mr. Barnes, the Collector at Hobart Town, Van Diemen's Land, an Officer of tried experience, to proceed to Port Phillip, from which place Hobart Town is not distant more than five days' journey, and to institute an enquiry into the state of the Customs Department at that place and report his opinion as to the nature and extent of Customs Establishment that would be necessary at that Station; a copy of our Order to Mr. Barnes, dated 25 January, 1843, marked A, We beg to annex for Your Lordships' information, as well as a copy of a Letter which we at the same time addressed to His Honor Mr. La Trobe, the Superintendent at Port Phillip, apprising him of the Orders which had been issued by us to Mr. Barnes, and requesting His Honor to afford to that Officer any information or assistance which he might require upon the occasion; and we were induced to adopt this mode of communicating direct with the Superintendent at Port Phillip, instead of in the first instance with the Governor of New South Wales at Sydney, distant many hundred miles from Van Diemen's Land and Port Phillip, with the view of avoiding any further delay in coming to a decision upon the subject and with the intention of ultimately communicating with His Excellency the Governor of New South Wales as soon as we should have received Mr. Barnes' report.

That, at the period at which we issued our Order, above referred to, to Mr. Barnes, we had no reason to conclude that his enquiry would have occupied any considerable length of time or that such serious irregularities as have been brought to light by that Officer would have prevailed at Port Phillip; and it was therefore with great surprise that, upon the 12th August last, we received a voluminous report from Mr. Barnes, dated 27th March, 1844, reporting the result of his enquiry, which had occupied him and his Clerk uninterruptedly for a period of Six Months; from this Report, it appears that the Customs Department at Port Phillip was in a most disorganized state; that none of the Books or Accounts had been kept in accordance with our Instructions; that great neglect had prevailed upon the part of the Acting Officers, who appeared to be ignorant of their duties, many of whom had taken the benefit of the Insolvent Debtors Act; that great confusion prevailed in the Warehousing Department, and that Goods to a very considerable extent had gone into consumption without the duties of Customs having been accounted for; and it further appears that Mr. Barnes after a strict supervision of the Collector's Accounts felt it to be his duty to raise a charge against that Officer, amounting to the sum of £17,180, an abstract of which we annex for Your Lordships' information marked B, and from which Your Lordships will observe that, out of the charge of £17,180 raised against the Collector, the sum of £8,018 arises from Duties due upon Goods Imported and Warehoused, and which have gone into consumption without the duties of Customs having been brought to account; while the difference amounting to the sum of £9,162 arises from various surcharges raised on the Collector's Accounts, resulting from miscalculations, short charges for duties and over credits, and which will be the subject of special enquiry upon the part of the Inspector and Examiner of Plantation Accounts in this Country.

That, upon the receipt of Mr. Barnes' Report, we issued immediate orders suspending Mr. Webb, the Sub-collector at Port Phillip, from the duties of his Office; and we directed Mr. Cassell, the Chief Clerk to the Collector at Hobart Town and who had assisted that Officer in his enquiry at Port Phillip, to act as Sub-Credit at that place until further Orders, and communicating with the local authorities to adopt prompt measures for the recovery out of any property belonging to Mr. Webb, or his Sureties, who had given bond with him in the Sum of One thousand pounds, of such Sums as may be due by him to the Colony; and we at the same time caused the Governor of New South Wales and the Superintendent of Port Phillip to be apprised of the result of Mr. Barnes' enquiry, as well as the orders which we had given thereon. Copies of our several Communications to His Excellency the Governor of New South Wales, His Honor the Superintendent of Port Phillip, as well as to Our Officers in New South Wales and Van Diemen's Land, marked C, we beg leave to annex for Your Lordships' information.

We beg to add that Mr. Barnes' several propositions with respect to the Customs Establishment at Port Phillip are at present under our consideration; and we will be no time in submitting to Your Lordships our opinion as to the measures that may appear to us to be necessary, with the view of placing the Customs Department at that Station upon an efficient footing.

It may be proper to state that Mr. Barnes, during his stay at Port Phillip, instructed the several Acting Officers in the duties of their respective Offices and furnished them with full instructions for their future government.
With respect to Mr. Barnes's expenses, we have to state that we have not as yet received from him an Account of these expenses, and are therefore not prepared to offer a definitive opinion upon the matter.

To that part of Sir George Gipps' Despatch of the 10th April last, wherein he states that Mr. Barnes's conduct had been marked by an extreme want of courtesy to the New South Wales Government in not having communicated the result of his enquiry to His Excellency, We are satisfied that Mr. Barnes, in pursuing the mode observed by him in carrying on the inquiry, was not actuated by any want of respect towards the New South Wales Government, and apprehend that, as Mr. Barnes had with reference to our order of 25th January, 1843, copy of which is annexed to our Report, placed himself in communication with the Superintendent of Port Phillip, he considered that in so doing he was virtually communicating with the Government of New South Wales to whom his proceedings would in due course no doubt be transmitted by Mr. La Trobe, the Superintendent.

E. STEWART.
G. R. DAWSON.
S. G. LUSHINGTON.

Custom House, 3d October, 1844.

[Annexure A.]

[1] COMMISSIONERS OF CUSTOMS TO COLLECTOR AT HOBART TOWN.

Sir,

Having received a Letter from Mr. Webb, Sub-Collector at Melbourne in the District of Port Phillip, dated the 14th of January, 1842, transmitting the Annual Accounts of the Trade, Revenue, etc., at that port as compared with the Year ending 5th January, 1841, and being unable from the information furnished by those accounts to come to a decision as to the arrangements that should be permanently adopted with a view to placing the Customs Establishment at that Port upon an efficient footing with reference to the increasing Trade and Revenue of the Colony, We transmit herewith for your information a copy of the Report of the Inspector and Examiner of Plantation Accounts, dated 28 December last, upon the Inspection of the Melbourne Accounts, and we direct you to take an early opportunity of proceeding to Port Phillip and to institute a strict enquiry into the manner in which the duties of the Customs Department of that Colony have been conducted, and whether the Public Monies have been faithfully collected and accounted for; and you are fully to report to us as to the general conduct, character and qualifications of the several parties employed in the customs at Port Phillip, and what would in your opinion be a proper Establishment for that place with reference to the increasing Trade and Revenue of the Colony; you are also to take care that the several Officers be instructed in their several duties, and that, previously to your departure from the Colony, all outstanding Accounts and Queries from the Inspector and Examiner be transmitted to us together with detailed comparative Statements of the Trade and Revenue of Port Phillip for the last three years. We further acquaint you that we have apprized the Superintendent of Port Phillip of these directions, and requested him to afford you any aid or assistance, which you may require from him; and you are to communicate this order to the Governor of Van Diemen's Land, and with His Excellency's sanction make such arrangements for the discharge of your duty during your absence, as may under all the circumstances be deemed the most expedient.

We are, &c.,
R. B. DEANE.
H. L.COCE.
G. R. DAWSON.

[2] COMMISSIONERS OF CUSTOMS TO SUPERINTENDENT AT PORT PHILLIP.

Sir,

Having by our Order of this date directed our Collector at Hobart Town to take an early opportunity of proceeding to Port Phillip for the purpose of instituting a strict enquiry into the manner, in which the duties of the Customs Department of that Colony have been conducted, and whether the public Monies have been faithfully collected and accounted for into other matters connected with the Customs Establishment,

We have to request that you will afford Mr. Barnes, our Collector at Hobart Town, any assistance or information which he may require from you in carrying our directions into effect.

We are, &c.,
R. B. DEANE.
H. L.COCE.
G. R. DAWSON.
STANLEY TO GIPPS.

[Annexure B.]

Abstract from Mr. Barnes's Report, dated 27 March, 1844, on the examination of the Accounts of Mr. R. S. Webb, Sub-Collector at Port Phillip.

Positive Debits ........................................ £8,641 6 10
Deduct Sundry Credits .................................. 656 18 9
Debits ..................................................... £7,984 8 1
Doubtful Debits .......................................... 2,635 7 1½
Supplementary positive Debit ............................. 6,526 8 3

£17,180 5 10½

N.B.—In this Abstract are not included the Sum of £147 19s. lid. due by Mr. Primrose, formerly Sub-Collector at Portland Bay, nor the Sum of £160 13s. 4d. due by Mr. Strachan, the present Sub-Collector at that place.

[Annexure C.]

[1] Copy of a Letter from the Board of Customs to the Governor of New South Wales, dated the 23d August, 1844.


Having deemed it expedient, by our Order of the 25th January, 1843, to direct Mr. Barnes, the Collector of Customs at Hobart Town, to proceed to Port Phillip for the purpose of making an investigation into the manner in which the Customs Department there had been conducted and the public monies collected and brought to account, and having considered the Report of Mr. Barnes stating the result of his enquiries, we beg to transmit herewith, for the information of your Excellency, a copy of our Order thereupon to the Collector of this Revenue at Sydney, dated this 23d Instant.

We are, &c.,
R. B. Deane.
W. Outt.
S. E. Spring Rice.


The Board having had under consideration the Report of Mr. Barnes, Collector at Hobart Town, upon the Investigation made by him, in pursuance of their order of the 25th January, 1843, into the manner in which the Customs Department at Port Phillip had been conducted and the Public monies collected and brought to account are of opinion, with reference to the circumstances therein detailed and the numerous instances of extreme negligence and dereliction of duty on the part of Mr. Webb, the Sub-Collector at Melbourne, that he is an unfit person to be entrusted with the performance of the important duties appertaining to that Office, and they therefore direct that he be suspended therefrom, and that Mr. Cassell, the first Clerk to the Collector at Hobart Town, be ordered forthwith to proceed to Melbourne and take upon himself the duties of Sub-Collector until further orders, taking care upon his arrival to communicate with the local Authorities in order that prompt measures may be taken for the recovery out of any property belonging to Mr. Webb or his Sureties of such Sums as upon examination of his Accounts may be found due.

Mr. Cassell, while acting as Sub-Collector, will transmit a Special Report in regard to the state of the business and of the conduct of the Officers employed at Melbourne to Mr. Barnes, to be by him forwarded to the Board with his own observations thereon; and Mr. Barnes is to apply to the Governor to nominate a proper person to act as Clerk at Hobart Town during Mr. Cassell's absence.

The Board being also of opinion that many of the irregularities, which have been brought under their notice, could not have been practised without great remissness and neglect of duty on the part of Mr. Neville, the Acting Senior Landing Waiter at Melbourne, he is to be directed to hold himself in readiness to return to Sydney to resume his proper duty upon the arrival of some other person, who may be nominated to succeed him; and Mr. Barnes, communicating if necessary with the Collector at Sydney, is to select a proper person to act as Landing Waiter at Melbourne in the room of Mr. Neville.
Copies of this Order to be transmitted to the Collector at Sydney and to Mr. Barnes at Hobart Town, expressing to him the Board’s approval of the satisfactory manner in which he has conducted and terminated an investigation of so laborious and complicated a nature.

Letters also to the Governor of New South Wales stating the directions given, and to the Superintendent at Port Phillip requesting his assistance and co-operation.

R. B. DEANE.


Sir,
Custom House, 23d August, 1844.

The Commissioners of Her Majesty's Customs having deemed it expedient by their order of the 25th January, 1843, to direct Mr. Barnes, their collector at Hobart Town, to proceed to Port Phillip for the purpose of making an Investigation into the manner in which the Customs Department there had been conducted, and the public monies collected and brought to account, and having considered the Report of Mr. Barnes stating the result of his enquiries; I have it in command to transmit herewith for your information a copy of the Board’s Order thereupon to the Collector of this Revenue at Sydney, dated the 23d Instant; and I am at the same time to signify the request of the Board that you will be pleased to afford the Acting Sub-Collector such assistance as may be in your power, with the view of recovering out of any property belonging to Mr. Webb (the late Sub-Collector at Melbourne) or his Sureties such sums as upon the examination of his Accounts may be found due by him to the Colony or Crown.

I am, &c.,
C. SOWELL.


Having considered the Report of Mr. Barnes, Collector of Hobart Town, upon the Investigation made by him, in pursuance of an order of the 25th January, 1843, into the manner in which the Customs Department at Port Phillip had been conducted and the Public monies collected and brought to account, we are of opinion, with reference to the circumstances therein detailed and the numerous instances of extreme negligence and dereliction of duty on the part of Mr. Webb, the Sub-Collector at Melbourne, that he is an unfit person to be entrusted with the performance of the important duties appertaining to that office; and we therefore direct that he be suspended therefrom; and we acquaint you that we have directed Mr. Cassell, the first Clerk to the Collector at Hobart Town, to proceed forthwith to Melbourne, and take upon himself the duties of Sub-Collector until further orders, taking care upon his arrival to communicate with the local authorities, in order that prompt measures may be taken for the recovery, out of any property belonging to Mr. Webb or his Sureties, of such Sums as upon the examination of his Accounts may be found due by him to the Crown or Colony.

We further acquaint you that we have communicated this order to the Governor of New South Wales for his information, and that you will hereafter receive our further directions in regard to the Surcharges against the Sub-Collector, as well as upon the other matters brought before us in the Report of Mr. Barnes above referred to.

We are, &c.,
R. B. DEANE.
W. COW.
S. E. SPRING RICE.


Having had under consideration your report upon the Investigation made by you, in pursuance of our order of the 25 January, 1843, into the manner in which the Customs Department at Port Phillip had been conducted and the Public monies collected and brought to account; We are of opinion, with reference to the circumstances therein detailed and the numerous instances of extreme negligence and dereliction of duty on the part of Mr. Webb, the Sub-Collector at Melbourne, that he is an unfit person to be entrusted with
the performance of the important duties appertaining to that Office, and therefore direct that he be suspended therefrom; and that Mr. Cassell, first clerk at your Port, do forthwith proceed to Melbourne to take upon himself the duties of Sub-Collector until further orders, taking care upon his arrival there to communicate with the Local Authorities, in order that prompt measures may be taken for the recovery out of any property belonging to Mr. Webb or his Sureties of such sums, as upon examination of his Accounts may be found due by him to the Colony or the Crown, to be by you forwarded to us with your own observations thereon; and you are to apply to His Excellency the Governor to nominate a proper person to act as Clerk at Hobart Town during Mr. Cassell's absence.

And being also of opinion that many of the irregularities, which have been brought under our notice, could not have been practised without great remissness and neglect of duty on the part of Mr. Neville, the Acting Senior Landing Waiter at Melbourne, he is to be directed to hold himself in readiness to return to Sydney to resume his proper duty upon the arrival of some other Officer, who may be nominated to succeed him; and you are, in communicating with the Collector at Sydney should you deem it necessary, to select a proper person to act as Landing Waiter at Melbourne in the room of Mr. Neville. We have issued the necessary directions for the supply of Gauging Instruments, etc., as submitted by you. And we acquaint you that we highly approve of the satisfactory manner in which you have conducted and terminated an investigation of so laborious and complicated a nature.

We have communicated the directions herein contained to His Excellency the Governor of New South Wales, the Superintendent at Port Phillip, and also to the Collector at Sydney, for their information and government. And we shall hereafter give further directions in regard to the Surcharges against the Sub-Collector, as well as upon the other matters brought before us in your report above referred to.

We are, &c.,
R. B. DEANE.
W. OUST.
S. E. SPRING RICE.


With reference to that part of our Order of the 23d Ulto., which directs Mr. Cassell, upon his arrival at Port Phillip, to communicate with the local Authorities in order that prompt measures may be taken for the recovery out of any property belonging to Mr. Webb or his Sureties of such sums as upon examination of his accounts, may be found due by him to the Colony.

We direct you to furnish Mr. Cassell with the particulars of the several debits against Mr. Webb set forth in your report to us, dated the 27th March last, amounting to the sum of £17,488 19s. 1d., and to instruct Mr. Cassell to call upon Mr. Webb for his explanation of the several omissions and embezzlements with which he is charged transmitting such explanation with his report thereon to you, in order that the same may be forwarded to us with any observations you may have to offer upon the subject; but in the meantime Mr. Cassell, with reference to our order of the 23d Ulto., will take prompt measures to recover such amount as may be admitted by Mr. Webb to be due, or which can be sustained by sufficient legal evidence, proceeding in either case in communication with the local authorities, and under the advice of the Law Officers of the Crown, so as to secure payment of the amount due by Mr. Webb to the Colony out of any property of which he may be possessed.

E. STEWART.
G. B. DAWSON.
S. G. LUSHINGTON.

[7] Copy of Letter dated 30th Sept., 1844, from the Board of Customs to the Governor of Sydney, the Superintendent at Port Phillip, and the Collector of Customs at Sydney respectively transmitting copy of the foregoing Board's Letter dated the 11th Septr. to the Collector at Hobart Town.


With reference to our Communication to Your Excellency dated the 23rd Ulto., transmitting copy of an order we had given in consequence of the Report we had received from Mr. Barnes, the Collector of this Revenue at Hobart Town, detailing the result of his enquiries into the state of the Customs Department at Port Phillip, we herewith transmit for Your Excellency's information copy of a further order, dated the 11th Inst., that we have issued to our Collector at Hobart Town upon this subject.

E. STEWART.
C. G. SMITH.
W. CUST.

SER. I. VOL. XXIV—H
1844.
30 Nov.

Transmission of letter from E. Cobb.

Request for report re G. W. Cobb.

HISTORICAL RECORDS OF AUSTRALIA.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch per ship Amelia; acknowledged by Sir George Gipps, 7th July, 1845.)

Sir,
Downing Street, 30 Novr., 1844.

I transmit to you herewith a Copy of a Letter from the person described in the margin, containing an application for information relative to his Son Mr. G. W. Cobb, who is stated to have Emigrated to the Colony under your Government; and I have to request that you will transmit to me such information as you may be able to obtain on the subject of the enquiry.

I have, &c,

STANLEY.

[Enclosure.]

SIR H. VERNEY TO UNDER SECRETARY HOPE.
Claydon House, Bucles, Nov. 44.

My dear George Hope,
When Mr. Latrobe went to Port Phillip as Governor, he took with him a Claydon young man, named "Wm. Hinton," son of an old and faithful Servant and Parishioner of mine.

When Wm. Hinton had been in Mr. Latrobe's service a couple of years, he quitted him and engaged as Clerk with Messrs. Foster

* Marginal note.—E. Cobb.  
† Marginal note.—Sir H. Verney, 28 Novr., 44.
Sir George Gipps to Lord Stanley.

My Lord, Government House, 30th Novr., 1844.

I have the honor herewith to transmit a Copy of an Address recently presented to me by the Legislative Council, requesting that the same indulgences may be extended to Commuted Pensioners in this Colony, as have by Her Majesty's Government been extended to them in Canada. I also enclose a Copy of my Answer to the same, wherein I stated that I have no authority to afford indulgences to commuted Pensioners in this Colony, but that I would forward a Copy of the Address to Your Lordship.

I should explain that the Legislative Council appear to have taken up the matter in consequence of a Petition being presented to them by the Commuted Pensioners. Of this Petition, I further enclose a Copy, signed by about thirty persons; and, though I am well aware that many of the Commuted Pensioners have suffered hardships, and are objects worthy of commiseration, I regret to be forced to add that the tone of the Petition, presented by them to the Legislative Council, is such as I can in no way approve.

The last document, which I can trace in this Colony relating to Commuted Pensioners, is a letter to Sir Richard Bourke from the War office, dated the 16th Augt., 1836, No. 36546/697.

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, 1st Decr., 1844.

Herewith I have the honor to forward to Your Lordship a Copy of an Address presented to me on the 27th ultimo, also a Copy of the Answer which I returned to it.
Your Lordship will perceive that the object of the Address is to disclaim, on the part of the persons who have signed it, any participation in certain injurious expressions contained in the Report of a Committee of the Legislative Council, of which a copy was transmitted with my Despatch, No. 215 of the 30th Sept. last.

The Address was presented to me by a Deputation consisting of Mr. James Macarthur, Mr. Hastings Elwin, and Mr. John Thacker; the two former of these gentlemen are well known at the Colonial Office, the third is a highly respectable Merchant of Sydney.

I have, &c.,
Geo. Gipps.

[Enclosure No. 1.]

The humble Address of the undersigned Members of Council, Magistrates, Barristers, Clergy, Landholders, Bankers, Merchants, Traders, and other inhabitants of New South Wales, to His Excellency Sir George Gipps, Knight, Captain-General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice-Admiral of the same, etc., etc.

May it Please Your Excellency.

We, the undersigned Members of Council, Magistrates, Barristers, Clergy, Landholders, Bankers, Merchants, Traders, and other inhabitants of New South Wales, having directed our attention to certain passages contained in the Report of the Select Committee of the Legislative Council, appointed on the 30th day of May, 1844, "to inquire into and report upon all Grievances connected with the Lands of the Colony," which Report was, on the 17th day of September, adopted by the vote of a majority of the Council, consider it due to ourselves and to the character of this community, to address your Excellency on the subject.

The following are the passages to which we more particularly allude:—

"Lord Glenelg's attempt resolves itself into a misquotation of the Treasury Letter; his Lordship, in professing to quote the purport of the Treasury Letter, having introduced the words 'et caetera,' which gives a totally different complexion to the matter, and one which neutralizes the benefit intended to be bestowed upon the Colony . . . ."

"With equal disingenuousness, Lord Glenelg reserves to the Government the full and uncontrolled power of appropriating the Crown Revenue, without the consent of the Legislature." (See Report, page 13.)

"That any doubt should be attempted to be thrown upon the question after the many years of acquiescence by the British Government in the interpretation put upon the Treasury Correspondence by Sir Richard Bourke, and the enormous sums paid by the Colony for British objects in pursuance, is, your Committee think, much to be deplored, from the distrust in the honor and intentions of the Executive, which such conduct necessarily inspires." (See Report, page 14.)
STANLEY TO GIPPS.

We feel ourselves called upon to express to your Excellency our extreme regret that language so offensive, and conveying such grave imputations, should have been introduced into a public document of this nature.

We beg, on our part, entirely to disclaim the adoption either of the language, or of the sentiments, of the above passages.

It will be gratifying to us, should your Excellency be pleased to acquiesce in our wish, that this expression of our sentiments should be communicated to the Right Honorable the Secretary of State for the Colonial Department.

[Here follow the signatures.]

Reply by Sir George Gipps.

Gentlemen,

I shall have great pleasure in transmitting to Her Majesty's Principal Secretary of State for the Colonies a copy of this address; and I feel assured that the expression of opinion, put forth in it by so many Gentlemen of high standing in the Colony, will not fail to be acceptable to his Lordship and to the members in general of Her Majesty's Government.

For myself Gentlemen allow me in a particular manner to thank you for the disclaimer contained in your Address.

Government House, 27th Novr., 1844. GEORGE GIPPS.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 170, per ship Amelia; acknowledged by Sir George Gipps, 23rd November, 1845.)

Sir,

Downing Street, 4 December, 1844.

With reference to my Dispatch No. 156 of the 28th Octr. last, I have now to transmit to you a copy of a letter from the Under Secretary of State for the Home Department, with a Report from Mr. Tidd Pratt on the Act No. 6 of the 7th Vict., entitled "An Act to amend the Laws relating to the Savings Bank of New South Wales and Port Phillip, respectively."

On perusing that Report, you will perceive that the only real question, which it raises, is whether those Savings Banks should or should not be Joint Stock Concerns, dividing the profits amongst all the Shareholders. I have no doubt that this question received full consideration in the Colony, when the Act was framed; but I should wish that it should be reconsidered in reference to the observations in the enclosed Report. If the Joint Stock principle should be adhered to, the Enactments, on which Mr. Pratt has raised a doubt, would be a necessary result of that principle.

Mr. Pratt was of course not aware, when proposing that the sanction of the Lords Commrs. of the Treasury should be obtained
1844.
4 Dec.

Transmission of report.

[Enclosure.]

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

Sir,
Whitehall, 21st Novr., 1844.

I am directed by Secretary Sir James Graham to transmit to you, to be laid before Lord Stanley with reference to your Letter to me of the 31st October, the enclosed Report of Mr. Tidd Pratt on the Act to amend the Laws relating to the Savings Banks of New South Wales and Port Phillip respectively.

I am, &c.

S. M. PHILLIPPS.

P.S.—The papers which accompanied your letter are herewith returned.

[Sub-enclosure.]

MR. J. TIDD PRATT TO SIR JAMES GRAHAM.

Sir,
29 Abingdon Street, Westminster, 18th Novr., 1844.

I have carefully perused the Act to amend the laws relating to the Savings Banks of New South Wales and Port Phillip respectively.

The second section appears to me to be objectionable, as leaving the rate of interest altogether uncertain, as well as allowing the depositors to question the correctness of the Rest or Security fund, in addition to which the amount of the Rest or Security fund is to be ascertained, so as to entitle those who withdraw their money to participate in the profits.

It appears to me that, as Savings Banks are intended for the benefit of the industrious Classes, who in my opinion look more to the security and repayment of the money they have invested than to the amount of interest that may accrue thereon, it would be more advisable to fix a certain, though low rate of interest, than a division of profits. By the 9th Geo. 4th, C. 92, the Act relating to Savings Banks in England, all participation in the surplus interest or profits was repealed.

With respect to Section 5, it appears to me that considerable difficulty will arise in applying the provisions of the 9th Geo. 4, C. 92, to the Savings Banks in New South Wales. By the 9th Geo. 4, C. 92, as amended by 7 and 8th Vic., C. 88, the interest payable by the Government to the Trustees is not to exceed £3 5s. per cent, per Annum, and the interest payable to the depositors is not to exceed £3 6s. 10d.; in most Savings Banks in this Country, the Trustees have fixed the amount of interest payable to depositors at £2 18s. 4d. per Cent, per Annum.

The interest, payable by the Government does not commence until the money is paid to the Account of the Commissioners at the Bank of England; and, though perhaps some arrangement might be made, with the consent of the Lords of the Treasury, to allow the interest to commence, when the money is paid to the Colonial Government, yet I fear that the rate of interest payable by the Commissioners in this Country would not be sufficiently high. Of course, it would be necessary to obtain the sanction of the Legislature to extend the provisions of the Savings Bank Acts to New South Wales, as was the case when they were extended to Guernsey, Jersey and the Isle of Man.

Section 7, relating to the Governor guaranteeing the repayment of any loan not exceeding £50,000, is a provision which should be submitted to the approval of the Lords of the Treasury; but in my opinion this Clause should be so drawn as to apply to the past transactions and not to be available for future deficiencies, which should and ought to be guarded against.

On looking at the amount of the Annual charges for conducting the Savings Bank at New South Wales, they appear to me to be exceedingly high, averaging 12s. 6d. per Account per Annum, whilst in this Country they do not exceed 2s. 6d. per Account per Annum.

I have, &c.

JOHN TIDD PRATT.
LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 171, per ship Amelia; acknowledged by Sir George Gipps, 9th October, 1845.)

Sir, Downing Street, 6 Dec., 1844.

I transmit to you herewith a Copy of a letter from the Assistant Secretary to the Board of Admiralty, containing an application for the payment to the Paymaster General for Naval Services of the Sum of £119 15s. 11d. which had been disbursed by Her Majesty's Consul at Tahiti, for relief afforded to distressed Seamen belonging to Colonial Vessels, and sent back from that Island to their own Colony, New South Wales; and I have to request that you will propose to the Legislative Council to make provision for the repayment of that amount.

I have, &c.,

STANLEY.

[Enclosure.]

SIR JOHN BARROW TO UNDER SECRETARY STEPHEN.

Sir, Admiralty, 27 Novr., 44.

H.M.'s Consul at Tahiti having disbursed the sum of £119 15s. 11d. for relief afforded to distressed Seamen, belonging to Colonial Vessels, who were sent back to their own Colony by the Consul, vizt.:

<table>
<thead>
<tr>
<th>Seamen's name, etc.</th>
<th>Ships they belonged to</th>
<th>Ports</th>
<th>Amount.</th>
</tr>
</thead>
<tbody>
<tr>
<td>William Morris ......</td>
<td>Hannah ....</td>
<td>Sydney</td>
<td>£52 0 4</td>
</tr>
<tr>
<td>subsistence 118 days, Clothing and Medicals.</td>
<td></td>
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<tr>
<td>E. Brown .........</td>
<td>Nelson ....</td>
<td>Do</td>
<td>9 0 10</td>
</tr>
<tr>
<td>subsistence 51 days, Clothing and Medicals.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R. Hitchcock .......</td>
<td>Mary ....</td>
<td>Do</td>
<td>5 9 7</td>
</tr>
<tr>
<td>subsistence 22 days, Clothing.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>J. Nash ............</td>
<td>Lucy Ann ..</td>
<td>Do</td>
<td>3 11 9</td>
</tr>
<tr>
<td>subsistence 41 days, Clothing and Medicals.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>N. S. Uttley .........</td>
<td>Do ..</td>
<td>Do</td>
<td>13 7 0</td>
</tr>
<tr>
<td>subsistence 41 days, Clothing and Medicals.</td>
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<td></td>
</tr>
<tr>
<td>H. Smith .............</td>
<td>Do ..</td>
<td>Do</td>
<td>14 7 0</td>
</tr>
<tr>
<td>subsistence 41 days, Clothing and Medicals.</td>
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<tr>
<td>N. Highman .........</td>
<td>Curlew .....</td>
<td>Do</td>
<td>21 19 5</td>
</tr>
<tr>
<td>subsistence 51 days, Clothing and Medicals.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total ......</td>
<td>£119 15 11</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

I am commanded by the Lords Comr's. of the Admiralty to request that you will move Lord Stanley to cause the amount to be paid into the hands of the Paymaster General for Naval Services.

I am, &c.,

J. BARROW.
HISTORICAL RECORDS OF AUSTRALIA.

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1844.
6 Dec.
Allowance
of Friendly
societies act.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 172, per ship Amelia.)
Downing Street, 6 Decr., 1844.

Sir,

With reference to my Dispatch No. 156 of the 28th October last, I have now to acquaint you that the Queen is pleased to leave to its operation the Act passed by yourself with the advice and consent of the Legislative Council of New South Wales, 7 Vic., No. 10, entitled "An Act to regulate Friendly Societies in the Colony of New South Wales."

I have, &c,

STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 174, per ship Amelia.)
Downing Street, 6 Decr., 1844.

Sir,

I have received your dispatch No. 137 of the 9th July last, reporting generally the proceedings of the Legislative Council of New South Wales from the opening of the Session for the year 1844 to the date of your dispatch. I have, &c,

STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 175, per ship Amelia.)
Downing Street, 6 Decr., 1844.

I have to acknowledge the receipt of your dispatch No. 125 of the 25 June, accompanied by a Memorial from Mrs. Martha Birnie, in behalf of her husband, respecting a claim to a further Grant of 500 Acres of Land in that Colony.

It appears that Mr. Birnie received from Governor Macquarie a primary grant of 700 acres of land in 1815, and in 1819 obtained a promise from the same Governor of an additional quantity of 500 acres. A period of 24 years having thus elapsed between the date of the promise, and the application for its fulfilment, you inform me that you had considered the claim to be obsolete, and had therefore not felt justified in acceding to Mrs. Birnie's request.

I approve this decision, and request that a communication to that effect may be made to the Memorialist. I have, &c,

STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 176, per ship Amelia; acknowledged by Sir George Gipps, 15th June, 1845.)
Downing Street, 7 Decr., 1844.

Sir,

I have received your Dispatch No. 116 of the 31st May last, forwarding a copy of a Petition which had been presented
to you by a Deputation from the Inhabitants of the Districts in the vicinity of the Hunter River, praying that Newcastle may be declared a Free Warehousing Port.

Having referred that dispatch and its enclosure for the consideration of the Lords Commsrs. of the Treasury, I transmit to you a copy of the reply, with its accompanying Report from the Commissioners of Customs; and I have to call your attention to the inconvenience of omitting to consult or communicate with the Officers of the Customs in the Colony on a question of this nature, an omission, which in this case will postpone the decision of the question for at least twelve months. I have, &c,

STANLEY.

[Enclosure.]

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

Sir, Treasury Chambers, 29 Novr., 44.

I am commanded by the Lords Comrs. of the Treasury to transmit herewith copy of a Report from the Comr. of Customs, dated 22d Inst., respecting an application for Newcastle at the mouth of Hunter’s River, N. S. Wales, to be declared a Free Warehousing Port, in order that it may be submitted for the information of Lord Stanley, with reference to the Petition forwarded to this Board by his Lordship’s direction. I am, &c.,

C. E. TREVELYAN.

[Sub-enclosure.]

REPORT.

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 dispatch from the Governor of New South Wales, with a Copy of a Petition from the Inhabitants of the District in the vicinity of Hunter’s River, praying that Newcastle, at the Mouth of the River, may be declared a Free Warehousing Port.

We report, That, previously to reporting to your Lordships upon the Dispatch of the Governor of New S. Wales and its enclosures, We caused a Copy of the Petition of the Inhabitants of the District of the Hunter’s River to be transmitted for the Report of the Collector of Sydney, N. S. Wales, and that, upon the receipt of that Officer’s Report, we will lose no time in reporting further to your Lordships upon the Subject.

R. B. DEANE. H. RICHMOND.
CULLING CHAS. SMITH. GEO. R. DAWSON.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 177, per ship Amelia; acknowledged by Sir George Gipps, 12th September, 1845.)

Sir,

Downing Street, 8 Decr., 1844.

I have laid before the Queen the Address to Her Majesty from the Legislative Council of N. S. Wales of the 21st June, 1844, enclosed in your dispatch of the 9th July last, No. 140, in which Address the Council pray that Her Majesty will be graciously pleased to instruct you to place on the Estimates.
Inability to
grant compensa-
tion to reduced
officials.

1844.
8 Dec.

to be laid before them, such a Sum as may be sufficient to afford compensation, not exceeding one year's Salary in each case, to the Public Officers holding Office under the Colonial Government, only whose Offices had been abolished without their receiving any other Office during the last preceding thirty months.

The Queen commands me to instruct you to acquaint the Legislative Council that Her Majesty regrets Her inability to accede to this request. The decision of the Legislative Council to withhold the Funds, necessary for maintaining the former Police Establishment, involved, as a necessary consequence, the reductions which have taken place. Deferring to the judgment of the local Legislature that this retrenchment was inevitable, Her Majesty cannot be advised to propose an Expenditure, which would convert that retrenchment into an actual increase of the Public Burthens.

I have, &c,

STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 252, per ship Hind.)

My Lord,

Government House, 8th December, 1844.

Agreably to the directions contained in your Lordship's Despatch of the 15th June, 1844, No. 90, I have made enquiry respecting the Civil appointments held in this Colony by Lieut. Lynd, and I have to report that the only appointment held by him is that of Barrack Master, with a salary of £273 15s. per annum.

I enclose a copy of a letter from the Assistant Military Secretary respecting Mr. Lynd's appointments.

Mr. Lynd holds no appointment under the Local Government, nor does he derive any emolument from local funds.

I have, &c,

GEO. GIPPS.

ASSIST. MILITARY SECRETARY O'CONNELL TO COLONIAL SECRETARY THOMSON.

Assi. Mily. Secretary's Office,

Sir, Sydney, 30th November, 1844.

I have the honor to acknowledge the receipt of your letter of the 21st Instant, forwarding the Copy of a Despatch from the Secretary of State, enclosing Copy of a communication from the Deputy Secretary at War, requesting information respecting the Civil appointments held by Lieutenant Lynd, late of the 65th Regiment, and to acquaint you for the information of His Excellency the Governor that Mr. Lynd does not hold, nor has he ever held any other Situation in these Colonies except that of Barrack Master.

I have, &c,

W. B. O'CONNELL, A.M.S.
SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch marked "Private," per ship Hind.)

My Lord,

Government House, 11th Decr., 1844.

I had the honor on the 13th August last to receive Your Lordship's Private Despatch of the 15th March, 1844, informing me that Her Majesty's Government have under consideration the best means of enabling Her Majesty to signify, by some mark of Her Royal Favor, Her approval of services rendered by Civilians, either in the United Kingdom or the Colonies; and desiring that I will, after conferring with the other Governors of the Australian Colonies, report to Your Lordship my opinions on a proposal for the establishment of a Local Order for the Colonies, similar to that, which under the name of "Saint Michael and Saint George," was established for Malta and the Ionian Islands in the year 1818.

I have now the honor to enclose a copy of a letter, which, on Transmission of the receipt of Your Lordship's Despatch, I addressed to the Officers administering the respective Governments of Van Diemen's Land, New Zealand, South Australia and Western Australia; I also enclose Copies of the answers, which I have received from the Governor of South Australia and the Lieutt. Governor of Van Diemen's Land; but, as yet I have received no answer either from New Zealand or Western Australia.

Your Lordship will perceive that Sir Eardley Wilmot and Captain Grey agree entirely with me in thinking that the establishment of an order of this nature would probably lead to very advantageous results; and that they also think with me that the Order should extend to all the British Colonies, though it might be divided into Classes, corresponding to the Groups into which the Colonies themselves are divided, namely, the North American, West Indian, Australian, etc.

Assuming that any such Order, though essentially a Civil one, would be open to Military and Naval Officers, who by their services may have been connected with the Colonies, I would venture to offer to Your Lordship the following suggestions in respect to the persons, who might be deemed eligible for the different Classes of the Order.

The persons eligible for the First Class might be—

Governor and Lieutenant Governor; General Officers and Admirals, who may have held Command in the Colonies or in the neighbouring Seas;

Chief Justices, after a certain period of service as such, probably five years;
Proposal re persons eligible for different classes of order.

List of individuals eligible for order of merit.

Proposal for order of merit in colonies.

Opinion of Sir G. Gipps re proposed order.

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11 Dec.

Proposal re persons eligible for different classes of order.

List of individuals eligible for order of merit.

Proposal for order of merit in colonies.

Opinion of Sir G. Gipps re proposed order.

Speakers of Legislative Councils or Assemblies, after a sufficient period of approved Service;
Colonists of the highest standing.

Second Class.
Superintendents of Districts, as, for instance Port Phillip; Colonial Secretaries; Judges; Executive Councillors; Possibly some few Heads of Departments and distinguished Colonists.

Third Class.
Heads of Departments and Officers of the Army and Navy, in addition to Meritorious Colonists.

I have greater difficulty in specifying the Names of individuals connected with this Colony, whom I would humbly recommend to Her Majesty to be inrolled among the first Members of the projected Order; but I think it my duty to inclose a List of persons, whom I consider eligible for this honor.

I would further ask leave to draw Your Lordship's attention to the opinion, I have expressed in my letter to the several Governors, that the Members of the Third Class of the Order ought to exceed (and I would say, considerably to exceed) the numbers of the First and Second Classes united.

I have, &c,

[Enclosure No. 1.] GEO. GIPPS.

SIR GEORGE GIPPS TO SIR EARDLEY WILMOT, CAPTAINS FITZROY AND GREY AND GOVERNOR HUTT.

Sir,

I conclude that, before this letter can reach you, Your Excellency will have received a Private Despatch from Lord Stanley, dated the 15th March, 1844, intimating that Her Majesty's Government has had under consideration the means of enabling Her Majesty to signify, by some mark of Her Royal Favor, Her approval of services rendered by Civilians, either in England or the Colonies; and further desiring that the several Governors of the Australian Colonies, including New Zealand, will, after having communicated with each other, report to His Lordship their several opinions as to the effect likely to be produced by the establishment for the whole of the Australian Colonies of an Order similar to that of Saint Michael and Saint George, instituted in the year 1818 for the Ionian Islands and Malta.

In conformity to the instruction contained in the latter part of Lord Stanley's Despatch, I proceed to communicate to you Confidentially the impressions, which the proposal, now under the consideration of Her Majesty's Government, has produced upon my own mind.

I consider that the institution of an Order of this nature would have a tendency to strengthen the bonds, which unite the Colonies to the Mother Country; and that the dispensation of such marks of Favor from the Crown would materially add to the influence of the several Local Governments.
I am disposed, however, to think that the Order should be a general one, extending to the whole of the Colonies, though divided into branches or divisions, one for each of the principal Groups of Colonies, such as the North American, West Indian, Australian, etc.

As Lord Stanley has expressly directed that all matters relating to detail should be reserved for further discussion, I will only say that the number of persons, whom I could at present recommend for either the First or the Second Class of the Order would be very few; and I am disposed to think that the Members of the Third Class, or Companions of the Order, should be at least double the number of the Second Class, instead of being in the proportion of three to two as in the Order of Saint Michael and Saint George.

I have, &c,

GEO. GIPPS.

[Enclosure No. 2.]

CAPTAIN GREY TO SIR GEORGE GIPPS.

Sir,


I had yesterday the honor of receiving your letter of the 24th ult., marked "Private," and, although from the infrequency of communication between Europe and this Colony, Lord Stanley's Private Despatch of the 25th March last has not yet reached me, I think it better that I should at once reply to some points in Your Excellency's letter, rather than wait for the very uncertain event of the arrival of a vessel from Europe.

I entirely concur in the anticipations Your Excellency entertains of the benefits likely to result, both to the Mother Country and to the Colonies themselves, from the Queen signifying from time to time, by some mark of Her Royal Favor, Her Majesty's approval of services rendered by Her Subjects in the Colonies; and it would also appear to me that the institution of an Order, of the nature of that under contemplation, would much facilitate the dispensation of such marks of Favor from the Crown.

In as far as I have at present any means of forming an opinion upon the subject, I am inclined also to coincide in the other views expressed in Your letter of the 24th ult., and especially in the opinion you have stated as to the advisability of making the number of the Members of the Third Class or Companions of the proposed Order at least double the number of the second Class, instead of being in the proportion of three to two, as in the Order of Saint Michael and Saint George.

I have, &c,

G. GREY.

[Enclosure No. 3.]

SIR EARDLEY WILMOT TO SIR GEORGE GIPPS.

Sir,

Government House, Hobart, 16th Octr., 1844.

I duly received Lord Stanley's Despatch of the 15th March last; and I have to acknowledge the receipt of Your Excellency's letter of 24th August, communicating to me your views on the subject of Her Majesty's intentions, relating to the instituting of an Order of Merit for the Australian Colonies, similar to that of Saint George and Saint Michael for the Ionian Islands and Malta.

I agree with Your Excellency in thinking that such an Order should include all Her Majesty's Colonies, and not he confined to the Australian Settlements. Such an Order might greatly tend to
promote and increase that devotedness to their adopted Country, which is so desirable and yet so rare among the Settlers and inhabitants of these distant regions; and thus perhaps, by enlisting the Hope of Distinction in aid of better Motives, the bonds, which unite her Colonies to the Mother Country, may be strengthened.

With respect to this Colony, I believe that, at no very distant time, it will rank among the highest and most important of Her Majesty's Australian Possessions; but at present I think an Order of Distinction could receive but very few additions to it from this Colony, from the necessary character of its Constitution and Government.

I have, &c.,

J. EARDELEY WILMOT.

[Enclosure No. 4.]

List of persons considered eligible for a Local Order of Merit.

1. O'Connell, Sir Maurice.—Lieut. General Commanding Her Majesty's Troops in the Colony since the year 1888.
2. McLeay, Alexander.—Formerly Colonial Secretary, and now Speaker of the Legislative Council. Mr. McLeay is, I regret however to say, understood to be in pecuniary embarrassment.
3. Macarthur, James.—Known at the Colonial Office.
4. La Trobe, Charles Joseph.—Superintendent of Port Phillip.
5. Thomson, Edward Deas.—Colonial Secretary since the 1st Jan., 1836.
6. Snodgrass, Kenneth.—Colonel in the Army, and C.B. Coll. Snodgrass administered the Government of New South Wales from the departure of Sir Richard Bourke, 5th Decr., 1837, to the arrival of Sir George Gipps, 24th Feby., 1838, and is now settled in the Colony.
7. Stewart, William.—Major General in the Army. He formerly commanded the 3rd Buffs, and administered the Government of the Colony from the departure of Sir Thomas Brisbane to the arrival of Sir Ralph Darling (1st Decr., 1825, to the 15th of the same month). He is now settled in the Colony, and a large Proprietor in the District of Bathurst.
8. King, Philip Parker.—Captain in the Royal Navy, and son of Capt'n King, R.N., the 3rd Governor of New South Wales. Capt'n King was engaged for many years in the Survey of the Coasts of Australia, and was a Member of the late Legislative Council. He has been long settled in the Colony, and is Commissioner of the Australian Agricultural Company.
9. Campbell, Robert.—One of the oldest Settlers and Merchants in the Colony, and was the senior unofficial Member of the late Legislative Council.
10. Plunkett, John Hubert.—Attorney General, known at the Colonial Office.
11. Riddell, Campbell Drummond.—Colonial Treasurer since the year 1830.
13. Macarthur, William.—Brother of Mr. James Macarthur above named, and with him joint proprietor of large Estates in the Colony.
GIPPS TO STANLEY.

14. Icely, Thomas.—A retired Merchant, and large proprietor in
the Colony. A Crown Nominee in the present Legislative Council.
15. Hamilton, Edward.—Crown Nominee in the present Legisla-
tive Council. See my Despatch of the 23rd April, 1844, No. 86.
16. Rossi, Francis.—See my Despatch of the 23rd Nov., 1843,
No. 189.
17. Scott, Helenus.—A Settler on the River Hunter, Warden of
the District Council of Patrick's Plains, and the eldest of several
Brothers, sons of one of the oldest Settlers in New South Wales.
18. Simpson, James.—Formerly Police Magistrate of Melbourne,
and now Warden of the District Council of Bourke.
N.B.—These two last mentioned gentlemen are the only ones in
the District of Port Phillip that I can at present consider eligible.
Government House, Sydney, 4th Decr., 1844. G.G.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch marked "Confidential No. 1," per ship Hind; acknow­
ledged by lord Stanley, 20th June, 1845.)

Sir,

Government House, 13th Decr., 1844.

As a Vessel is now about to proceed to England, I think it
right to acknowledge the receipt of your Lordship's Despatch of
the 27th July, 1844, though I am not as yet able to give your
Lordship any decided information as to the manner in which
it may be possible to dispose of Exiles in this Colony.

Previous to the arrival of your Lordship's Despatch, rumours
had reached Sydney of an intention, on the part of Her Ma-
jesty's Government, again to send Convicts to New South Wales;
and that it was further intended to form a New Penal Settle-
ment in the Northern parts of the Colony; indeed an impression
still prevails that a new penal Settlement of some sort is about
to be established, though I have taken every opportunity of
explaining that, even if it be found necessary to place the
Exiles in a new Settlement, it cannot be in a penal one.

I beg further to explain to your Lordship that I fully under-
stand it to be the wish of Her Majesty's Government that the
Exiles may be fused into the population of the Colony, rather
than placed in a Settlement by themselves; but I consider it to
be my particular business to bring about this fusion, without
offending the moral sense of the Colony, or giving occasion for
the raising of an outcry against the Government.

Labour being dearer in the District of Port Phillip than in
other parts of the Colony, it is in that District chiefly that I
hope to be able to dispose of the first Company of Exiles, which
may arrive at Launceston; and a letter from Mr. La Trobe, of
which I enclose a Copy, will shew to your Lordship that there
is a fair prospect of our being able so to dispose of them.
1844.
13 Dec.

Proposed conference of governors at Melbourne.

As the Legislative Council has not yet passed an Appropriation Act for 1845, I cannot leave Sydney until after the 1st of January; but I have intimated to Sir Eardley Wilmot and Mr. La Trobe my readiness to proceed to Port Phillip, as soon as possible after the Prorogation of the Council, for the purpose of holding with them the meeting directed in Your Lordship’s Despatch; though at the same time I think it right to observe that I do not consider your Lordship’s instructions in respect to our meeting to be so imperative as to compel us to meet, should we be of opinion that the object of Her Majesty’s Government can be obtained (as it possibly may be) with greater facility by our not meeting.

I have only to add that Mr. Yaldwin* has been in Sydney, and that I have had the advantage of seeing and conversing with him.

I have, &c.,

[Enclosure.]

GEO. GIPPS.

[A copy of this letter, dated 30th November, 1844, will be found in a volume in series III.]

SIR GEORGE GIPPS TO LORD STANLEY.

My Lord, Government House, 13th Decr., 1844.

Transmission of correspondence with Sir E. Wilmot.

Proposed issue of pardons in Tasmania.

In connexion with the subject of my Confidential Despatch (No. 1) of this day’s date, I enclose to your Lordship a Copy of a letter which I received from the Lieutenant Governor of Van Diemen’s Land on the 10th inst., and also a Copy of the Answer which I caused to be returned to it.

Your Lordship will perceive that these letters relate to the proposed issue by the Lieutenant Governor of Van Diemen’s Land of Conditional Pardons, which shall be valid throughout the whole of the Australian Provinces; and, as Pardons of this nature cannot be issued without Her Majesty’s previous sanction (see 6th Vict., ch. 7, S. 2), I beg leave to repeat the request, which I have already made to Sir Eardley Wilmot, that none may be issued until the success shall be assured of the measures now in progress respecting Exiles.

I have, &c.,

GEO. GIPPS.

[Enclosure No. 1.]

COLONIAL SECRETARY BICHENO TO COLONIAL SECRETARY THOMSON.

Van Diemen’s Land, Colonial Secretary’s Office, 3 December, 1844.

Sir, With respect to the Despatch, from the Right Honorable the Secretary of State to Lieutenant Governor Sir John Franklin under date the 25th November, 1842, which has been printed and laid before the House of Commons, on the subject of Prison Discipline

* Note 10.  † Note 11.
in Van Diemen's Land, I am directed by Lieutenant Governor Sir Eardley Wilmot to acquaint you for the information of His Excellency Sir George Gipps that, on consideration of that part of the Despatch (Page 8) where it is proposed that Conditional Pardons should extend to the limits of the Australian Colonies, and Her Majesty having been pleased to grant Conditional Pardons, which are limited not to this Island but to the Australian Colonies generally, His Excellency, in consequence of the deficiency of the demand for labor in this Colony, thinks it very desirable to create a wider field for the exertions of those Men, the conditions of whose Pardons restrict them to remaining in Van Diemen's Land, in order to fulfil the expectations held out to the Pass-holders; and that it would be fair to them to give a retrospective effect to the principle which has now been adopted by Her Majesty's Government, and to grant to certain holders of Conditional Pardons, should it meet with the concurrence of Sir George Gipps, the benefit of Her Majesty's Gracious intentions.

I am, therefore, to request you will have the goodness to submit this communication to His Excellency the Governor, so that Sir Eardley Wilmot may be informed if any objection exists to prevent Sir Eardley Wilmot carrying out the intentions of Her Majesty's Government, as far as regards the Colony of New South Wales.

I have, &c.

J. E. BICHENO.

[Enclosure No. 2.]

COLONIAL SECRETARY THOMSON TO COLONIAL SECRETARY BICHENO.

Colonial Secretary's Office, Sydney, 12th December, 1844.

Sir,

I have had the honor to receive your letter of the 3rd Instant, in which you refer to that portion of the Despatch of the Right Honorable the Secretary of State to Sir John Franklin, dated 25th November, 1842, on the subject of Prison Discipline in Van Diemen's Land, where it is proposed that Conditional Pardons should extend to the limits of the Australian Colonies, and after informing me that, in consequence of the deficiency of the demand for labor in Van Diemen's Land, His Excellency Sir J. Eardley Wilmot thinks it desirable to create a wider field for the exertions of those men, the conditions of whose Pardons restrict them to remaining in that Island, in order to fulfil the expectations held out to the Pass-holders, and that it would be fair to them to give a retrospective effect to the principle which has now been adopted by Her Majesty's Government of issuing Conditional Pardons, extending to the Australian Colonies generally. You enquire whether there is any objection on the part of the Government of New South Wales to prevent Sir Eardley Wilmot's granting the benefit of this principle (so far as regards this Colony) to certain Holders of Conditional Pardons in Van Diemen's Land.

In reply, I am directed by Sir George Gipps to inform you that, having consulted the Despatch from the Secretary of State to the Lieutenant Governor of Van Diemen's Land, dated the 25th November, 1842, and also the Act of Parliament, 6th Victoria, Ch. 7, it appears to His Excellency that, unless the Lieutenant Governor has received some specific Instructions or authority from Her Majesty, as regards the particular parties in question, since the
date of that Despatch. Conditional Pardons for the whole of the Australian Colonies cannot be granted to them without the previous approval of Her Majesty.

Under the 2nd Clause of the 6th Victoria, C. 7, a Conditional Pardon is declared to be valid "within such place or places as shall be specified in such Pardon." But the same clause requires that, before the Governor or Lieutenant Governor shall issue any Such Pardon, he shall recommend to Her Majesty the Person or Persons whom he shall think deserving of that Indulgence, and shall issue the Pardons under Such Instructions as he may receive from the Secretary of State. The consent therefore of the Governor of New South Wales does not seem to be necessary, previous to the issue by the Lieutenant Governor of Van Diemen's Land of a Conditional Pardon, in order that such Pardon may be valid in New South Wales, though the approval of Her Majesty expressed through the Secretary of State is necessary.

In respect to the propriety or rather Policy of issuing in Van Diemen's Land under present circumstances Pardons, which shall be valid in New South Wales, Sir George Gipps feels it necessary to State that the issuing of any such Pardons at present may in his opinion greatly tend to defeat the measures now in progress respecting "Exiles," which are detailed in Lord Stanley's Despatch of the 27th July, 1844. It seems to His Excellency the evident wish of Her Majesty's Government that the Exiles should find employment in New South Wales, though the Inhabitants of the Colony are not to be compelled to receive them, and the Exiles are not to be turned loose upon the Colony, unless there be a prospect of their finding employment.

It is in the Port Phillip District alone that any disposition to receive the "Exiles" has been manifested, and Sir George Gipps cannot but apprehend that the reluctance to receive them, which is felt throughout the Colony in general, would be very greatly increased were it known that Persons holding Conditional Pardons from Van Diemen's Land were also to be poured into it.

I have, &c,

E. DEAS THOMSON.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch per ship Amelia; acknowledged by Sir George Gipps, 14th June, 1845.)

Sir,

Downing Street, 14th Decr., 1844.

I transmit to you herewith a Copy of a Letter from the person described in the margin,* containing an application for information relative to his Son, John Brennan, who is stated to have Emigrated to the Colony under your Government, and I have to request that you will transmit to me such information as you may be able to obtain on the subject of the enquiry.

I have, &c,

STANLEY.

* Marginal note.—D. Brennan.
Mr. D. Brennan to Lord Stanley.

Honored Sir,

No. 1 Gilbert Alley, Thomas Court.

I most respectfully beg leave to state that my son John Brennan Emigrated from 23 Meath Street, Dublin, in the month of August, 1841, and sailed from Liverpool on 6 Sept., 1841, and proceeded to Sydney, N. S. Wales; and, since wh. period of time above mentioned, I have not heard of or from him; and therefore I would be infinitely obliged to your Honor to have the kindness to be graciously pleased to direct that a search may be made regarding him; and I most humbly entreat your Honour will inform me accordingly, for wh. I will ever be sincerely thankful, and as in duty bound will ever pray.

My said Son was born in Celbridge, in the County of Kildare, Ireland, and he was by trade or occupation, a Sawyer and Carpenter. His age at present is in or about 30 years.

I have, &c,

Daniel Brennan.

Lord Stanley to Sir George Gipps.

(Despatch No. 180, per ship Amelia.)

Sir,

Downing Street, 15 Decr., 1844.

I have received your dispatches Nos. 101 and 102 of the 8 of May last, relative to the claims to compensation of Messrs. Busby and Gamack on the loss of their Offices as Medical Officers on the Convict Establishment of New South Wales.

With regard to the case of Mr. Busby, I agree with you that it would be impossible to entertain his claim to an allowance of half pay; but at the same time Her Majesty's Government will not object to the issue to him of a year's Salary, in consideration of the discontinuance of his services.

With regard to Mr. Gamack, you are authorised to grant to him a similar allowance, in the event of his Services being dispensed with. I should however wish to receive your opinion as to the necessity for retaining the services of that Officer in the Convict Establishment, as suggested by Dr. Dawson.

I have, &c,

Stanley.

Lord Stanley to Sir George Gipps.

(Despatch No. 181, per ship Amelia.)

Sir,

Downing Street, 15 Decr., 1844.

I transmit to you herewith, for your information and guidance, Copies of a Correspondence between this Department and the Society for the Propagation of the Gospel, relative to the appointment of a Chaplain on the Ecclesiastical Establishment of New South Wales, in succession to the Revd. J. E. Keane.

I have, &c,

Stanley.
1844.
15 Dec.

Request for nomination of successor to Revd. J. E. Keane.

132 HISTORICAL RECORDS OF AUSTRALIA.

[Enclosure No. 1.]

UNDER SECRETARY HOPE TO SECRETARY TO SOCIETY FOR PROPAGATION OF GOSPEL.

Sir,

The Revd. J. E. Keane having resigned his Chaplaincy in N. S. Wales, I am directed by Lord Stanley to acquaint you that his Lordship wd. be glad to receive the recommendation of the Committee of the Society for the Propagation of the Gospel in favour of any person, whom they may consider qualified to succeed to the vacancy in the Ecclesiastical Estabt. of that Colony, created by the resignation of Mr. Keane.

I am, &c.,

G. W. HOPE.

[Enclosure No. 2.]

REVD. E. HAWKINS TO UNDER SECRETARY HOPE.

Sir,

The Society for the Propagation of the Gospel has been requested to select a suitable Clergyman for the spiritual charge of the Members of the Church of England, resident in and about the town of Geelong in the District of Port Phillip. A Parsonage and School house have already been built, and a Church is also in progress. The Applicants state that, in addition to their own contributions, the Colonial Govt, will allow a stipend of £150 or £200 per annum.

The Society is most anxious to lose no time in providing one additional Clergyman for a District, where the Spiritual destitution is so crying as in that of Port Phillip. But it wishes to be able to assure a Candidate, on the authority of Lord Stanley, that he will be entitled to such a Salary as the above on his arrival in the Colony.

I have to request therefore that you will call Lord Stanley's attention to this subject.

I have, &c.,

ERNEST HAWKINS.

[Enclosure No. 3.]

UNDER SECRETARY HOPE TO REVD. E. HAWKINS.

Sir, Downing Street, 24 July, 44.

I have laid before Lord Stanley your letter of the 13 Inst., in wh. you state that the Society for the Propagation of the Gospel have been requested to select a Clergyman for the charge of a Church in the District of Geelong, Port Phillip; and having been informed by the Applicants that a Parsonage and School House have already been built, and that, in addition to local Contributions, the Colonial Govt. will allow a Stipend of £150 or £200 per annum, you state that the Society are anxious to be able to assure a Candidate, on his Lordship's authority, that he will be entitled to such Salary on his arrival in the Colony.

In reply, I am directed to request that you will acquaint the Committee of the Society that Lord Stanley has received no information from the Governor New S. Wales, wh. would enable him to give such an assurance, and that, in a dispatch wh. was received from that Officer in the month of February last, he stated that he
could not advise Lord Stanley to sanction, for the present, the embarkation for that Colony of additional Clergymen of any denomination. His Lordship has not since received any dispatch from Sir G. Gipps in any degree modifying that opinion.

I am, &c.,

[Unsigned.]  

[Enclosure No. 4.]  

REVD. G. H. Fagan to UNDER SECRETARY HOPE.

Society for the Propagation of the Gospel,

Sir, 79 Pall Mall, 30 Novr., 44.

I am directed to state, with reference to your letter of Proposal for July 24, in which Lord Stanley declined sanctioning sending a Clergyman to Geelong in the District of Port Phillip, that the Bishop of Australia, in a recent letter, expresses a hope that the appointment vacant by the resignation of the Revd. J. E. Keane has been filled up in favour of Geelong.

As, in your letter of 20th Decr., 1843, Lord Stanley requested the Society to recommend a Chaplain for the Ecclesiastical Establishment of New S. Wales in the room of the Revd. J. E. Keane, and as the Society has not hitherto been enabled to send in the name of any Clergyman, it trusts it may now be justified in promising that vacant Chaplaincy to any Clergyman whom it may be able to recommend for the Spiritual charge of Geelong, where such zealous efforts have been made by the Members of the Church.

I have, &c.,

G. H. Fagan.

[Enclosure No. 5.]  

UNDER SECRETARY HOPE to REVD. G. H. FAGAN.

Sir, Downing Street, 11 Decr., 44.

I am directed by Lord Stanley to acquaint you that he has had under his consideration your letter of the 30th ulto., and that, under the circumstances of the case, his Lordship will be prepared to sanction the Appointment to the Ecclesiastical Establishment of New S. Wales, in the room of Revd. J. E. Keane, of any Clergyman who may be recommended by the Society for the Propagation of the Gospel as eligible for that Appt. Lord Stanley must however leave it to the local Authorities to decide in what quarter the services of such Clergyman may be employed.

I am, &c.,

G. W. Hope.

SIR GEORGE GIPPS to LORD STANLEY.

(Despatch No. 253, per ship St. George.)

My Lord,

Government House, 15th Decr., 1844.

Having had the honor to receive your Lordship’s Despatch No. 49, of the 1st April, 1844, enclosing certain queries from the Commissioners of Audit on the accounts of the Treasurer of New South Wales for the year 1839, I have made all the enquiries in my power respecting the accounts in question, and submit herewith such answers to the Queries of the Board of Audit, as the information within my reach enables me to afford.

I have, &c.,

Geo. Gipps.
Replies to queries on the accounts of the Colonial Treasurer of New South Wales.

Question. Abt. D., Unfixed contingencies, February. Voucher No. 294. Payment pursuant to an authority from the Governor to Mr. McLean, the Principal Superintendent of Convicts, stated to be the balance of the sale of property belonging to Mr. Dearlove (whose ticket of Leave had been cancelled) to be placed to his credit at the Savings Bank £44 11s. 1d.?—Answer. The copies of letters (from the Auditor General, 17th Sept., 1844, and the Deputy Commissary General 17th Sept., 1844) forming appendix A to this memorandum, will shew, that a double payment was by mistake made to Capt. McLean, on account of the effects of the deceased Convict named Wm. Dearlove.

Question. Upon referring to the Accountant's Account for the year 1837, it has been found that this sum of £44 11s. 1d. had already been paid into the hands of the Principal Superintendent of Convicts, for the purpose of being placed to Dearlove's credit in the Savings Bank; and the payment was claimed in Abstract G for the month of December, 1837, in a sum of £47 0s. 1d., which was noticed in Query No. 5 on the account for 1837. The sum now in question shews a double payment to Mr. McLean of the proceeds of Dearlove's property. Explanation requested, and proof of the investment of the money in the Savings Bank should be produced?—Answer. The effects of the deceased Convict sold for £44 11s. 1d., which sum was, on the 9th Sept., 1837, paid by the Police Magistrate of Campbelltown into the Colonial Treasury, and was shortly after paid by the Colonial Treasurer to the Principal Superintendent of Convicts, and by the latter officer invested in the Savings Bank in the name of Wm. Dearlove on the 30th December in the same year. A year later, that is to say, on the 18th Decr., 1838, the same sum was (through a mistake apparently in the Auditor General's office) paid a second time to the Principal Superintendent of Convicts, and again invested in the Savings Bank. In the month of May, 1841, all the sums, standing at the Savings Bank to the credit of deceased Convicts, were paid into the Military Chest (as reported in my Despatch, No. 136 of the 18th July, 1841); and among the sums so paid were the two which had been invested in the name of Wm. Dearlove, namely, £44 11s. 1d. invested in 1837 and increased by Interest to £50 0s. 9d.; £44 11s. 1d. invested in Decr. 1838, and increased by Interest to £53 18s. 1d. — £113 18s. 10d. It is evident therefore that the sum of £53 18s. 1d. is now due from the Military Chest to the Colonial Treasury; and for the repayment of this sum I shall issue a Warrant to the Deputy Commissary General.

Question. D. June, Vour. No. 782. C. Gold, amount of his contract for painting and finishing the fence in Hyde Park, the former Contractor (John Connor) having declined to proceed with the work. £155. The accountant is requested to explain, if the Bond, which was entered into for the due performance of Connor's Contract, has been put in force, as directed by the Colonial Secretary's letter to the Colonial Architect, attached to the Voucher?—Answer. The copies of the following documents, namely. Letter of the Colonial Architect, 11th Sep., 1844; Schedule of Tenders, 22d October, 1836; John Connor's Memorial, 4th April, 1837; Second Letter from the
Colonial Architect, 14th Decr., 1844, in appendix B, to this Memorandum will shew that tenders having been called for, for the painting of a quantity of fencing erected in the public promenade called Hyde Park, the tender of John Connor was accepted on the 22d Oct., 1836. John Connor’s tender being far below any other, a Minute was added, in Sir Richard Bourke’s own writing, desiring that good security should be taken from him for the performance of the work. The whole quantity of painting was about 600 yards; and it would seem that, when John Connor had completed about one sixth of it, he was prohibited from proceeding further, in consequence of not completing it within the time specified in his contract; and the completion of the work given to the party who had tendered at the next lowest price. This party, Mr. Clement Gold, was paid for the whole quantity, including even that which had been performed by Connor; but the Colonial Architect explains that the work performed by Connor was executed with bad materials, and utterly valueless. Why Connor’s Sureties were not proceeded against can perhaps only be explained by the way, in which the Law business of the Government was conducted at the time, and which was reported in my Despatch to the Marquis of Normanby, No. 176 of the 18th Decr., 1839.

Question. D. December, Vour. No. 1521. The Colonial Architect amount of instalments paid by him to Messrs. Gough and Richards from 19th March to 18th June, 1836, on account of their contract for erecting a Gaol at Berrima £317 16s. As it appears from the Crown Solicitor’s letter to the Colonial Architect of 26th Octr., 1836, which is attached to this Voucher, that the Bond for the due performance of the Contract entered into by these parties was deemed by him to be valid for the purpose of grounding proceedings at Law, in consequence of their failing to fulfil their engagements, but suggesting that the same should be laid before the Law Officers for their opinion, before proceedings were determined upon; The Accountant is requested to communicate to the Board the opinion which may have been furnished by the Colonial Architect, after which it became the duty of the Crown Solicitor to lay the case before the Law Officers; nothing more, however, appears to have been done by that Officer, nor was the opinion of the Law Officers ever obtained. Omissions of this nature were by no means rare on the part of the late Crown Solicitor: so frequent indeed were they, as ultimately to lead to his retirement from Office, as may be seen by my Despatch to Lord Normanby, No. 170 of the 18th Decr., 1836. A copy of a Memorial (dated the 4th August, 1836) presented to the late Governor by the first Contractors, Messrs. Gough and Richards, with a Copy of a Minute made on it by Sir Richard Bourke, forms appendix C to this Memorandum.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 254. per ship St. George.)

My Lord, Government House, 16 Decr., 1844.

In obedience to the directions contained in Lord John Russell’s Circular Despatch of the 11th May, 1841, I have the
1844.
16 Dec.
Transmission of return for immigration purposes.

honour to enclose herewith a Quarterly Abstract Return* of the Immigrants landed in New South Wales, during the third Quarter of the present year, of the prices of food and clothing, the wages of labour, and other particulars, as prepared by the Agent of Immigration in this Colony.

I have, &c.,

GEO. GIPPS.

17 Dec.
Approval of proposals re distribution of military.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch marked “Military No. 8,” per ship Amelia.)

Sir,
Downing Street, 17th December, 1844.

I have to acknowledge the receipt of your despatch, No. 117 of the 10th of June last, in which you report your views as to the future distribution of the Military Force allotted for the protection of the Australian Colonies, and I have to acquaint you that I concur in those views, and that I send instructions by this opportunity to the Lieutenant General Commanding Her Majesty’s Forces to make his arrangements accordingly.

I think it very desirable that no delay, that can be avoided, should take place in moving to Van Diemen’s Land the troops which may be appointed to garrison that island. The question whether it may be expedient to remove the Head Quarters with those Troops, I have for the present left to be determined by the Commander in Chief.

I shall recommend to the Master General and Board of Ordnance to instruct their officers in New South Wales to take no steps for the sale of any barracks in that Colony without your express concurrence.

I have, &c.,

STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch marked “Confidential,” per ship Amelia.)

Sir,
Downing Street, 17th December, 1844.

With reference to your Confidential despatch of the 10th of June last, relative to your despatch, No. 117 of the same date, I have to refer you to my public despatch, Military No. 8, of this day’s date, by which you will perceive that your concurrence is directed to be obtained as to the time adopted for moving the Troops to Van Diemen’s Land, which may be appointed to garrison that Island; and you will consider yourself authorised, in judging of the proper time for that measure, to take into account the possible necessity of maintaining for the present a more considerable force than will permanently be required in New South Wales, to which you advert in your Confidential despatch.

I have, &c.,

STANLEY.

* Note 12.
SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 253, per ship St. George.)

My Lord, Government House, 18th Decr., 1844.
I have had the honor to receive your Lordship's Despatch No. 97 of the 1st July, 1844, desiring me to report whether I am aware of any objection to the confirmation of Mr. Pelham Dutton as Consul for Hamburg; and I have the honor to report that I am not aware of any reason why he should not be confirmed.

Mr. Pelham Dutton is a brother of Mr. W. H. Dutton, mentioned in my Despatch No. 73 of the 19th March, 1841.

I have, &c.

GEO. GIPPS.

GIPPS TO STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 256, per ship St. George.)

My Lord, Government House, 19th Decr., 1844.
Having received your Lordship's Despatch No. 86 of the 2d June, 1844, enclosing a further letter from Mr. H. N. McDougall, respecting the illusage experienced by his son whilst temporarily employed as an assistant to Mr. G. D. Smythe, a contract Surveyor at Port Phillip, I called on Mr. La Trobe for such information in the case as Mr. McDougall's letter seemed to require; and I have the honor now to enclose a copy of Mr. La Trobe's answer.

Your Lordship will perceive from Mr. La Trobe's letter that Mr. Henry Wm. Hutchinson Smythe was in no way concerned in the contract held by his brother Mr. G. D. Smythe; and I enclose a certificate to the same effect from the Deputy Surveyor General of the Colony.

I have, &c.

GEO. GIPPS.

[Enclosure No. 1.]

MR. C. J. LA TROBE TO COLONIAL SECRETARY THOMSON.

Sir, Melbourne, 4th December, 1844.
I beg leave to acknowledge the receipt of your letter of the 8th November, No. 44/550, referring to past correspondence relative to the case of Mr. H. N. McDougall, representing the hardships to which his son was subjected by Mr. G. D. Smythe, formerly a Contract Surveyor at Port Phillip, to whom he engaged himself as an assistant, and enclosing Copy of a despatch from the Secretary of State, Conveying a further communication from Mr. McDougall, Senior, that Gentleman's Father.

In obedience to His Excellency's request that I would report upon the assertion made by Mr. McDougall, Senior, that the Contractor in whose Service Mr. McDougall was Acting, was employed by his brother who was at the time in the public Service, it is my duty to refer you to records in the Surveyor General's Office from which it will be found that Mr. G. D. Smythe made application in the usual form to be admitted by the Government as a Surveyor.
under contract in, I believe, October, 1839; that application having been forwarded through my office to the Surveyor General on the 5th November, 1839; And further for proof that Mr. G. D. Smythe's tender was duly Accepted, as far as I can gather, early in the following year. From that time, as long as he held the Contract, he was looked upon as a Surveyor Acting independently, and payment Made to him Accordingly.

His Excellency may rest Satisfied that there existed no connexion of the character hinted at by Mr. McDougal, Senr., although I have no doubt that Mr. Henry Smythe, who has been distinguished for his good character and diligence, often helped his elder brother out of difficulties into which his irregularity of Conduct and mis-management led him.

[Enclosure No. 2.] C. J. LA TROBE.

Certificate by S. A. Perry.

Sir George Gipps to Lord Stanley.

(Despatch No. 257, per ship St. George; acknowledged by lord Stanley, 18th August, 1845.)

20 Dec.

My Lord,

Government House, 20th Decr., 1844.

With my Despatch of the 30th September last, No. 215, I transmitted to your Lordship a Copy of a Report, made to the Legislative Council of this Colony by a Committee appointed to enquire into alleged Grievances connected with the administration of the Lands of the Crown in this Colony.

I have now the honor to forward an address to the Queen, which was adopted on the 17th instant by the Legislative Council, and presented to me this day by the Speaker, in order that it may be forwarded to Your Lordship for presentation to Her Majesty.

The object of the Address is to request that Her Majesty will not withhold her assent from any Act, which may be passed by the Imperial Parliament, enacting, "that the management of the waste Lands of the Crown, and the appropriation of the Revenue arising therefrom, shall be vested in the Governor and Legislative Council of the Colony."

I have, &c.,

Geo. Gipps.

Address to the Queen's Most Excellent Majesty.

Most Gracious Sovereign,

We, your Majesty's loyal and dutiful subjects, the Members of the Legislative Council of New South Wales, in Council assembled, beg leave to approach your Majesty with the renewed assurance of our attachment to your Majesty's Royal Person and Government.
STANLEY TO GIPPS.

We humbly beg to acquaint your Majesty that, on the 30th day of May, 1844, a select Committee of this Council was appointed to enquire into and report upon all grievances connected with the lands of the Territory.

In pursuance of a Report from this Committee, which was made after a long and laborious investigation, it was resolved by the Legislative Council, amongst other things, that Petitions should be presented to your Majesty, and both Houses of Parliament, humbly praying that they will be graciously pleased to pass an Act, repealing the Act of the Imperial Parliament, 5 and 6 Victoria, cap. 36, so far as regards New South Wales: and also so much of the Act, 5 and 6 Victoria, cap. 76, as provides that no law made by the Council shall interfere in any manner with the sale or other appropriation of the lands belonging to the Crown within this Colony, or with the Revenue thence arising; and enacting that the management of the waste lands of the Crown, and the appropriation of the Revenue arising therefrom, shall be vested in the Governor and Legislative Council of the Colony.

We, therefore, humbly pray that, if the Imperial Parliament shall in their wisdom see fit to comply with our Petition, your Majesty will be graciously pleased to give your Royal Assent to the passing of an Act, by which the wishes of your Petitioners may be carried into effect.

ALEXR. MCLEAY, Speaker.

LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 182, per ship Amelia.)

Sir,

Downing Street, 21st Decr., 1844.

I transmit to you herewith a copy of a letter from the Assistant Secretary to the Board of Treasury, with copies of a correspondence between Assistant Commissary General Darling and the Colonial Secretary to your Government, relative to the examination of the account of Expenses for treatment of Lunatic Convicts in the Colonial Lunatic Asylum.

I have acquainted the Lords Commissioners of the Treasury that, in the absence of any report from you, I am unable to convey to you the instructions desired, and I have to request that you will transmit a report on the subject at your earliest convenience.

I have, &c.,

STANLEY.

[Enclosure.]

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

Sir,

Treasury Chambers, 7th December, 1844.

I am commanded by the Lords Commissioners of Her Majesty's Treasury to transmit to you the enclosed copy of a correspondence between Assistant Commissary General Darling and the Colonial Secretary in New South Wales on the subject of the examination of an account of expenses for treatment of Lunatic Convicts in the Colonial Lunatic Asylum; and I am to request that, in submitting the same to Lord Stanley, you will observe to his
Lordship that my Lords entirely concur in the Commissary remark that such an account cannot be usefully checked, unless the examining Department is furnished with a Nominal list of the Patients, containing the particulars specified in the Commissary's letter, certified by the Principal Superintendent of Convicts; and you will, therefore, move Lord Stanley to direct the Governor of New South Wales to cause the Commissary of Accounts to be furnished with a list in support of the claims upon the Convict Funds for the treatment of Lunatics for 1843, and for succeeding years.

I am, &c.,
C. E. TREVELyan.

[Sub-enclosure No. 1.]

MR. W. ELYARD, JR., TO MR. H. C. DARLING.

Sir, Colonial Secretary's office, Sydney, 9th May, 1844.

I have the honor to transmit to you an account, amounting to Two thousand one hundred and eighty nine pounds, two shillings and threepence, for the treatment in the Lunatic Asylum during the year 1843 of Individuals admitted into the Asylum as Convicts not assigned to private service; and I am directed by His Excellency the Governor to request that you will examine and report whether there appears to be any objection to the Liquidation of this claim from the Military Chest.

I have, &c.,
W. ELYARD, Junr.

[Sub-enclosure No. 2.]

MR. H. C. DARLING TO COLONIAL SECRETARY THOMSON.

Sir, Commissariat of Accounts, Sydney, 14th May, 1844.

I have the honor of acknowledging the receipt of your letter of the 9th Instant 44/36, requiring me to report if there be any objection to the liquidation of a claim upon the Commissariat Chest, amounting to the sum of £2,189 2s. 3d. for the treatment of Convicts in the Lunatic Asylum during the year 1843, and enclosing an account for the same for my inspection, on which I beg to respectfully to submit the following remarks for His Excellency the Governor's consideration.

As regards the value of the ration during the past year the sum of one shilling and nine pence appears very high for the average cost of the Hospital ration; consequently this becomes a heavy annual charge against the British Treasury, while no means are afforded me of checking or ascertaining its correctness from the absence of documentary information in support of it.

To arrive at a satisfactory examination of such an account it would be desirable that a "Nominal list" of the persons admitted into the Asylum, showing the dates of admission, whence arrived, and under what circumstances, and upon what authority they had been admitted, should be furnished by the Surgeon or Superintendent in charge of that Establishment, who might be required to certify that it is a correct Statement of Entries and discharges as taken from the daily register.

This document would be submitted to the principal Superintendent of Convicts for the purpose of being verified as to the Patients having been prisoners of the Crown on the dates of their admission into the Asylum. With such information before me, the correctness of the charge could be readily arrived at; but I beg leave with deference to submit, whether the expense of maintaining persons that had been enjoying comparative freedom under "Conditional Pardons," "tickets of leave," or other indulgences, and who may have been perhaps many years pursuing their respective trades and occupations, can with strict propriety be considered chargeable upon British funds.

I have, &c.,
H. C. DARLING, A.C.G.

[Sub-enclosure No. 3.]

MR. W. ELYARD, JR., TO MR. H. C. DARLING.

Sir, Colonial Secretary's office, Sydney, 17th May, 1844.

I do myself the honor to acknowledge the receipt of Your letter of the 14th Instant, reporting upon a claim upon the Commissariat Chest, amounting to the sum of Two thousand one hundred and eighty nine pounds, two shillings and three pence, for the treatment of Convicts in the Lunatic Asylum during the year 1843; and, with reference to the remarks therein contained, I am directed by His Excellency the Governor to inform you that, the principle upon which this charge is made against the British Treasury having been settled by competent authority, His Excellency cannot enter with you into any argument of the propriety of it.
The charge of 1s. 9d. is, the Governor is well aware, at present too high, prices having fallen very much since it was settled; but, as the same sum of 1s. 9d. is paid by the Local to the Home Government for the maintenance of Paupers in the Convict Hospitals, the excess in one charge balances the excess in the other; or, if there be any difference, it is against the Colony, not in favor of it.

I have, &c.,

W. ELYARD, Jr.

[Sub-enclosure No. 4.]

STATEMENT OF ACCOUNT.

Sydney, 4th May, 1844.

The Commissariat Department of New South Wales

Dr. to the Colonial Treasury.

For the treatment in the Lunatic Asylum at Tarban Creek of Individuals, admitted into the Asylum as Convicts not assigned to private service, from 1 January to 31 December, 1843, 25,023 days at 1s. 9d. per day £2,189 10 3

I, Joseph Thomas Digby, Superintendent of the Lunatic Asylum at Tarban Creek, do hereby certify that, during the period from 1st January to 31 December, 1843, the aggregate number of days treatment in the Establishment of Individuals, admitted as Convicts not assigned to private service, amounted to (25,023) Twenty five thousand and twenty three days.

THOS. LEE, M.D., Resident Physician.

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SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 258, per ship St. George; acknowledged by lord Stanley, 19th August, 1845.)

My Lord, Government House, 21st Decr., 1844.

In my Despatch No. 212 of the 23rd September last, I reported to Your Lordship that I had laid before the Legislative Council extracts from certain Despatches addressed by myself to Your Lordship in the months of October and November, 1843, also extracts from your Lordship's reply of the 29th March, 1844, No. 47; and I further stated that these documents had been referred to a Committee of the Council with instructions that the Committee would prepare an Address to Her Majesty to remove any misapprehensions, which may have been created in the mind of Her Majesty by these Despatches, in respect to the proceedings of the Council.

I have now the honor to forward an Address which, on the recommendation of the Committee, was adopted by the Council on the 6th inst., and delivered to me yesterday by the Speaker and a Deputation of Members, with a request that I would transmit it to your Lordship for presentation to Her Majesty.

Great as is my reluctance to persevere in any controversy with the Council, I must submit to Your Lordship that, in my Despatch of the 28th October, 1843, I made use of no expression which the facts then before me did not entirely justify.

* Note 13.
The Council, in October, 1843, claimed to have the right to appropriate the whole of the £20,000 secured for the administration of Justice by Schedule A of the 5th and 6th Vict., ch. 76; and, in proceeding to appropriate it, they proposed to abolish some Salaries, and to reduce others at their pleasure; and they especially insisted on reducing two Salaries, which had been guaranteed by your Lordship in the Queen's name, and charged on Schedule A. During the whole of these proceedings, no question respecting compensation was raised, though it is quite true that, six weeks after my Despatch was written, the Council asked me to give a year's salary to each Officer who had been actually dismissed. I have, however, I trust, sufficiently explained why I could not accede to this request, in my Despatches of the 31st December, 1843, No. 219, and 9th July, 1844, No. 140.

I enclose a Paper shewing the reductions made by the Legislative Council in the Judicial Estimates in the month of October, 1843.

I beg particularly, on this subject, to draw your Lordship's attention to another Address from the Council, which accompanies my Despatch No. 259 of this day's date; because, in this other Address, the Council, speaking of their own proceedings on the Judicial Estimates in 1843, make use of the following words:—

"We at once entered upon this Branch of the Estimates, and proceeded without interruption for some considerable time, determining which of the specified charges were necessary for the public service, curtailing the Salaries of some Officers, and abolishing as altogether useless one of the Offices enumerated in Schedule A etc."

Such being the account given by the Council of their own proceedings, I really, My Lord, cannot consider I did that Body any injustice by describing the same proceedings in the following words:—

"The Council 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."

I have, &c.,

GEO. GIPPS.

[Enclosures.]

[These papers will be found in the "Votes and Proceedings" of the legislative council.]
Sir George Gipps to Lord Stanley.

(Despatch No. 259, per ship St. George; acknowledged by Lord Stanley, 5th September, 1845.)

My Lord,

Government House, 21st Dec., 1844.

I have the honor herewith to forward an Address to Her Most Gracious Majesty, adopted by the Legislative Council of this Colony on the 6th instant, and placed in my hands yester­day by the Speaker, in order that it may be transmitted to Your Lordship for presentation to Her Majesty.

The object of the Address appears to be to explain to Her Ma­jesty the reasons why the Council has voted nothing this year for the Administration of Justice, in addition to the sum secured for that purpose by Schedule A of the 5th and 6th Vict., ch. 76. The reasons will of course be best gathered from the Address itself, but they appear briefly to be,

1stly. That the right of the Council to appropriate the £20,000, secured to Her Majesty by Schedule A, was denied in Your Lordship's Despatch of the 29th March, 1844; and, secondly, that the right of the Council to appropriate the Casual Revenue of the Crown is not admitted by myself. On this latter point, I beg to remind Your Lordship that the Revenue, over which the Council has a right of appropriation, is declared by the 34th Clause of the Constitutional Act of the Colony (5th and 6th Vict., Ch. 76) to be the Revenue arising from taxes, duties, rates, and imposts; and that of this the Casual Revenue forms no part.

In my Despatch No. 6 of the 1st January, 1844, I reported that the Council had voted the sum of £6,113 17s. 6d., in addition to Schedule A, for the administration of Justice in 1844. I have only to add that the Estimates for 1845 were laid before the Council precisely in the same form as those for 1844, but that the Council has voted nothing. Of the right of the Council to withhold a vote, there does not exist the smallest doubt.

I have, &c,

[Enclosure.]

GEO. GIPPS.

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

Lord Stanley to Sir George Gipps.

(Despatch No. 183, per ship Amelia; acknowledged by Sir George Gipps, 12th June, 1845.)

Sir,

Downing Street, 22d Decr., 1844.

With reference to my dispatch No. 167 of the 30 Novr. last, I transmit to you herewith a Copy of a Letter from the Assistant Secretary to the Board of Treasury; and I have to request
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1844.
22 Dec.

Allowances granted to
G. H. Barnes.

that you will take the necessary measures for the issue to Mr. Barnes and Mr. Cassell of the Allowances for their services in investigating the state of the Customs Department at Port Phillip, at the rates specified by the Commissioners of Customs to have been already granted to them up to the 31st January, such allowance to be continued for the remaining period during which they were occupied in that investigation.

I have, &c.,

STANLEY.

[Enclosure.]

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

Sir,

Treasury Chambers, 14th December, 1844.

With reference to the correspondence, relating to the investigation into the state and proceedings of the Customs Department at Melbourne, New South Wales,

I am commanded by the Lords Commissioners of Her Majesty's Treasury to transmit herewith, in order that it may be submitted to Lord Stanley, copy of a Report of the Commissioners of Customs, dated 5th instant, on that subject; and I am to request that you will move his Lordship to instruct the Governor of New South Wales to give such directions as may be requisite for the issue of the allowances to Mr. Barnes and Mr. Cassell at the rate specified by the Commissioners to have been already paid to them up to the 31 January, for the remaining period during which they were occupied in that investigation.

I am, &c.,

C. E. TREVELYAN.

[Sub-enclosure.]

REPORT to The Lords Commissioners of Her Majesty's Treasury.

We beg to represent to Your Lordships that, in our report of the 3d October, 1844, No. 1467, upon a Despatch which you had been pleased to refer to us from the Governor of New South Wales relative to an enquiry which had been instituted in pursuance of our directions by Mr. Barnes, Collector at Hobart Town, Van Diemen's Land, into the state of the Customs Department at Port Phillip, New South Wales, as well as to the expenses which had been incurred by that Officer during his absence from his Post, We stated that we were not in possession of sufficient information to enable us to offer an opinion as to the amount of remuneration to which Mr. Barnes might eventually appear to be entitled for his services upon the occasion in question.

That, by a communication however which we received from Mr. Barnes, subsequently to the date of our Report above referred to, it would appear that Mr. Barnes, assisted by Mr. Cassell, the Chief Clerk at Hobart Town, whose services he considered indispensable upon the occasion, was uninterruptedly employed in conducting the enquiry at Port Phillip from the 9th September, 1843, to the 27th March, 1844.

It further appears that Mr. Barnes has been paid the sum of £506 6s. out of the Colonial Funds, being the expenses of himself, his Clerk and Servant, including their travelling expenses from Hobart Town from the 9th September, 1843, to the 31st January, 1844, at the following rates, vizt.:—

Mr. Barnes, Collector ........................................... £2 2 0
Mr. Cassell, clerk to Collector .................................. 1 1 0
Collector's Servant ............................................. 0 10 6

But, upon applying to the Colonial Government for payment of the balance of his expenses at the rates above mentioned from 1st February to 27th March, 1844, amounting to £223 16s., it would appear, from a copy of a dispatch addressed by the Governor of New South Wales to Her Majesty's Principal Secretary of State for the Colonies, dated 16th April, 1844, that His Excellency had objected to sanction any further payment to Mr. Barnes in the absence of more specific Instructions, upon the ground that the sum claimed had not been covered by a vote of the Legislative Council of the Colony.
STANLEY TO GIPPS.

Under these circumstances, and as Your Lordships have already been pleased in Your minute of the 13th Octr. last to express your opinion that the important duty, which had devolved upon Mr. Barnes, would justify a considerable and liberal expenditure, we would submit whether your Lordships might not be pleased to intimate to Her Majesty's Principal Secretary of State for the Colonies your opinion that Mr. Barnes should be paid the balance of the expenses, due to him and Mr. Cassell from 1 Febry. to 27 March, 1844, amounting to £223 10s., and which we submit will not afford these Officers more than an adequate remuneration for the important services which have been rendered by them upon the occasion in question.

R. B. DEASI.
H. RICHMOND.

Custom House, 5 Decr., 1844.
GEO. R. DAWSON.
S. C. SPRING RICE.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 185, per ship Amelia.)

Sir, Downing Street, 23d Decr., 1844.

I have received your dispatch No. 148 of the 17 July last, transmitting a Petition which has been addressed to the Queen by Mr. Charles Newman, formerly a Major in the service of the East India Company, praying that he may be allowed remission in the purchase of Land at Port Phillip.

This case has already been repeatedly brought under the consideration of the Government by Mr. Newman.

You will acquaint that gentleman that I have laid his Petition before the Queen, who was pleased to receive it very graciously, but that I have not been able to advise Her Majesty to direct a compliance with the prayer of it.

I have, &c.

STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 186, per ship Amelia.)

Sir, Downing Street, 23d Decr., 1844.

I have received your dispatch No. 146 of the 15 July last, enclosing the annual Estimate of Works and Repairs required for Convict Services in the Colony during the year 1845-6, as prepared by the Commanding Royal Engineer; and I have to acquaint you that there does not appear to Her Majesty's Government to be anything objectionable in that Estimate.

I have, &c.

STANLEY.

LORD STANLEY TO SIR GEORGE GIPPS.
(Despatch No. 187, per ship Amelia.)

Sir, Downing Street, 23d Decr., 1844.

I have submitted to the Queen the two Acts Nos. 9 and 12, which formed part of the Series of those passed by the Legislature of New South Wales in the Session, which commenced on the 1st August, and terminated the 28th Decr., 1843, and to which reference was made in my Dispatch, No. 156 of the 28th Oct. last.
1844,  
23 Dec.  
Allowance of lighthouses and harbours acts.

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”; and No. 12, “An Act further to amend an Act entitled ‘An Act for the better preservation of the Ports, Harbours, Havens, Roadsteads, Channels, Navigable Creeks and Rivers in New South Wales, and the better regulation of shipping in the same.’

I have received Her Majesty’s Commands to acquaint you that Her Majesty is pleased to leave these Acts to their operation.

I have, &c.,

STANLEY.

24 Dec.  
Despatch acknowledged.

Transfer of brig Governor Phillip to government of Tasmania.

SIR GEORGE GIPPS TO LORD STANLEY.  
(Despatch No. 260, per ship St. George.)

My Lord, Government House, 24th Decr., 1844.

I had the honor on the 2d Ulto. to receive Your Lordship’s Despatch of the 13th June last, No. 89, wherein I was directed to take measures for relieving the Commissariat Department from the expense of maintaining the Brig “Governor Phillip,” lately employed in keeping up the communication between Sydney and Norfolk Island; and I have to report to Your Lordship that, previously to the receipt of Your Lordship’s Despatch, arrangements had been made between myself and Sir Eardley Wilmot for the transfer of the Brig to the Government of Van Diemen’s Land; and, as the directions contained in the Despatch did not seem to me to render necessary any alteration in these arrangements, the transfer of the Brig has been accordingly completed.

I have since understood it to be the intention of Sir Eardley Wilmot to retain the “Governor Phillip” in the service, and to discharge a Vessel belonging to the Van Diemen’s Land Government of inferior accommodation.

I have further to report that I thought it right to send the Port Master of this Colony in the “Governor Phillip” to Hobart Town, in order that the Vessel, her stores, etc., might be regularly handed over to the Government of that Colony; and for the messing of the Port Master on board the Brig, as well as for his return to Sydney by the regular passage Vessel, a charge will appear in the Quarterly Abstracts of unforeseen expenses, amounting to £10 10s., which I trust will be admitted.

The receipt for the Brig, given by the Harbour Master of Hobart Town, is dated the 30th Novr., 1844. I have, &c.,

GEO. GIPPS.
GIPPS TO STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 261, per ship St. George.)

My Lord,

Government House, 26th Decr., 1844.

I have had the honor to receive Your Lordship’s Despatch, No. 58 of the 30th April, 1844, enclosing Queries from the Commissioners of Audit on the accounts of the Treasurer of New South Wales, for the year 1833, but having reference to a transaction in the year 1827, by which the sum of £350 was lost to the Local Government.

In that year a Contract was entered into by Messrs. John and William Lucas for the erection of a Court House at Liverpool (a village about twenty miles from Sydney); but, after obtaining an advance from the Government of £500, the Contractors failed to complete their agreement, and became Insolvent. A verdict was obtained against them for the balance of £350, due to the Government, but no portion of it was ever recovered.

The Officers of the Local Government, who were concerned in the transaction in 1827, were Captain Wilson, Director of Public Works, and Mr. F. H. Moore, Crown Solicitor; but they have ceased to hold Office for many years.

I enclose Copies of the following documents, which are the Papers most important that can be traced on the subject:—

1. Letter from the Auditor General; 2. Letter from the Auditor General; 3. Letter from Capt. Dumaresq, predecessor to Capt. Wilson, as Director of Public Works, now a settler in New South Wales, and a Member of the Legislative Council; 4. Letter from the Colonial Treasurer; 5. Letter from the Colonial Architect.

I have, &c.,

GEO. GIPPS.

[Enclosures.]
[Copies of these papers are not available.]

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 262, per ship St. George; acknowledged by Lord Stanley, 20th August, 1845.)

My Lord,

Government House, 27th Decr., 1844.

In my Despatch of the 9th July last, No. 137, I reported that a Committee of the Legislative Council had, on the motion of Mr. Wentworth, been appointed to enquire into all grievances not connected with the Crown Lands of the Colony. I have now the honor to enclose a Copy of the Report of the Committee, which was ordered by the Council to be printed on the 6th Inst.; and I have further the honor to enclose an Address to Her Most Gracious Majesty, on the subject of these alleged Grievances, which was adopted by the Council on the 23rd instant.

Geo. Gipps.
HISTORICAL RECORDS OF AUSTRALIA.

The Address was presented to me this day by the Speaker and Mr. Wentworth, with a request from the Council that I would forward it to your Lordship for presentation to Her Most Gracious Majesty.

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. 263, per ship St. George; acknowledged by Lord Stanley, 20th August, 1845.)

My Lord,

Government House, 27th December, 1844.

Having in my Despatch of this day’s date, No. 262, forwarded to Your Lordship an Address to the Queen from the Legislative Council of this Colony, setting forth the Grievances under which, in the opinion of the Council, the Colony is now labouring, independently of those connected with the administration of the Crown Lands (in respect to which an Address was forwarded with my Despatch No. 257 of the 20th instant); it is now my duty to forward a Separate or third Address to Her Majesty, which was also delivered to me this morning by the same gentlemen, namely, the Speaker and Mr. Wentworth.

This Address is on the subject of the Police and Gaols of the Colony, and the prayer of it that Her Majesty will be graciously pleased to recommend to Parliament the payment of a debt due or alleged to be due to this Colony of £793,034 10s. 8d.; also to recommend that annual provision for the Police and Gaols of New South Wales be made out of Parliamentary funds to the amount of £74,195 8s. 8d., being the sum said in the Address to be still required annually “for the due coercion and punishment of the Convict and freed population, originally transported from Britain.”

The Address subsequently proposed, as an alternative for the payment of the first sum of £793,034 10s. 8d., that, during the course of the next five years, there be sent to New South Wales at the expense of Parliament Fifty nine thousand seven hundred and eighty eight Emigrants, of Moral and industrious habits, consisting of single persons of both sexes, or of young couples recently married, or of Families with sons and daughters grown or nearly grown up.

In the event, however, of the alternative of sending out the above number of Immigrants being preferred to a money
reimbursement, it will, in the opinion of the Council, be an indispen-
sable adjunct that a Loan be raised under the guarantee of Parliament of not less than £500,000 payable in five annual instalments of £100,000 each, to be spent during the progress of such Immigration in public roads, bridges and other necessary internal improvements.

I have, &c.,
Geo. GIPPS.

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

SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 264, per ship St. George; acknowledged by Lord Stanley, 30th April, 1845.)

My Lord,

Government House, 28th Dec., 1844.

I have the honor to report to Your Lordship that Mr. Jeffcott has resigned the Office of Resident Judge at Port Phillip, and that, subsequent to Her Majesty's pleasure, I have appointed Mr. Roger Therry to succeed him.

Mr. Jeffcott having on various occasions, since his appointment to the Office of Resident Judge, expressed doubts of the validity of the Commission under which he acted, much correspondence ensued on this subject, which ended in my issuing to him in November last, with the advice of the Law Officers of the Crown, a new Commission, which I hoped and fully expected would have had the effect of removing his doubts, or satisfying all his scruples; to my great surprise, however, shortly after the receipt of this new Commission, a case occurring, in which he would for a second time have had to decide on the life of a Prisoner, and possibly to have ordered him for execution, Mr. Jeffcott tendered the resignation of his Office, and announced to me his determination to return to Europe.

I cannot too strongly express to Your Lordship my persuasion that Mr. Jeffcott has acted in this matter from the purest and most conscientious motives; but nevertheless I feel bound to say that no one but himself appears to entertain any doubts of the validity of his Commission, neither the Law Officers of the Crown, nor, as far as I am informed, any one of the Judges resident in Sydney.

I feel it equally a duty to certify, in the strongest manner to Your Lordship, that no less in his general demeanour and bearing in Society, than in the discharge of his Judicial duties,
Mr. Jeffcott has given entire satisfaction to the Government, to his colleagues in office, and to the People of Port Phillip. The difference indeed in the social aspect of Port Phillip, during the residence of Mr. Jeffcott and that of his predecessor, has been most striking.

Having borne this most willing testimony to the merits of Mr. Jeffcott, it is not without some embarrassment that I proceed to speak of Mr. Therry. But I must, as an act of justice, submit to Your Lordship that however great might have been, previously to his resignation, the claims of Mr. Jeffcott to the permanent appointment of Resident Judge, his resignation must have the effect of cancelling them; and that the acceptance of the Office of Resident Judge by Mr. Therry should have the effect (considering his long course of previous service) of transferring to him the claims which were otherwise Mr. Jeffcott's.

My Despatches, during a period of very nearly seven years, will shew that few things have given me more trouble in the administration of this Government, than the appointment of temporary Judges. The granting of Leave of Absence to Mr. Justice Burton, and the calling of Mr. Justice Stephen from Van Diemen's Land in 1838, the removal of Mr. Justice Willis to Port Phillip in 1841, and still more his removal from Port Phillip and from the Office of a Judge in 1843, the removal of Mr. Justice Burton to Madras, the death of the Chief Justice (Sir James Dowling), and the numerous contending claims which grew out of these events in 1844, have been the subjects of long and embarrassing correspondence between myself and four successive Secretaries of State.

It is with a vivid recollection of all the difficulties which have arisen out of the state of the Judicial Bench, and of the Law Departments of the Government, that I venture to ask of Your Lordship the confirmation of Mr. Therry in the appointment of Resident Judge at Port Phillip; and I beg your Lordship to bear in mind that the non-acceptance of this Office by Mr. Therry, when it was last vacant, cannot stand in the way of his present claims, because, not only was he then acting as Attorney General (in the absence of Mr. Plunkett), on which account his removal from Sydney would have been most inconvenient to the Government, but also because, having as Attorney General taken a leading part in advising the Amotion of Mr. Willis, he could not with any degree of propriety have stepped into his place as a Judge.

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

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch marked “Separate,” per ship St. George; acknowledged by Lord Stanley, 30th April, 1845.)

My Lord, Government House, 28th Dec., 1844.

There is one circumstance which I did not like to advert to in my public Despatch of this day’s date, No. 264, respecting the appointment of a Judge at Port Phillip, but which I think I ought nevertheless to bring to the recollection of Your Lordship; it is that the circumstance of Mr. Plunkett and Mr. Therry being both Roman Catholics has, without any undue bias on the part of the Government, necessarily on more than one occasion proved disadvantageous to the professional advancement of the latter. I may venture, I believe, to say that, nearly ten years ago, Mr. Therry would have been Solicitor General of New South Wales, had not Sir Richard Bourke (though a very warm friend both of Mr. Plunkett and Mr. Therry) considered it undesirable that the Attorney and Solicitor General should both be Roman Catholics; and, in my recent Despatch No. 232 of the 23d October last, I stated openly to Your lordship that, in preferring the claims of Mr. Alfred Stephen and Mr. A’Beckett to those of Mr. Plunkett and Mr. Therry, I had done violence to my own feelings.

I have, &c,

GEO. GIPPS.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 265, per ship St. George; acknowledged by Lord Stanley, 21st August, 1845.)

My Lord, Government House, 30th Dec., 1844.

I have the honor to report to Your Lordship, that I this day Prorogued the Legislative Council of this Colony; and I herewith enclose a Copy of the Speech with which I closed the Session.

I have, &c,

GEO. GIPPS.

[Enclosure.

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

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LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 188, per ship Amelia; acknowledged by Sir George Gipps, 23rd November, 1845.)

Sir, Downing Street, 31st Decr., 1844.

With reference to my Dispatch No. 156 of the 28th of Oct. last, I now transmit to you a copy of a Report of the Commissioners of Customs, addressed to the Lords Commissioners of the Treasury, relative to the Act passed by the Governor of the
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Colony of New South Wales, with the advice and consent of the Legislative Council thereof, No. 18 of the 7th Vict., entitled, "An Act to amend the manner of charging ad valorem duties in New South Wales," but the provisions of which were not to come into operation, until it should have been approved by Her Majesty.

Her Majesty's Government would not deem it necessary to object to the allowance of the Act, if, on further consideration, you should think it advisable that it should be carried into effect; but, as no material inconvenience can arise from its operation being deferred, I have thought it desirable in the meantime to call your attention to the observations and suggestions of the Commissioners of Customs, in order that, with reference thereto, you may report your opinion as to the expediency of adopting the course of proceeding provided for by the Act.

I have, &c,

STANLEY.

Report by Commissioners of Customs.

MAY it please your Lordships,

Your Lordships having referred to Us the annexed Letter from Mr. Stephen, transmitting by desire of Lord Stanley a transcript of an Act No. IS of 7th Victoria, entitled an "Act to amend the manner of charging advalorem Duties in New South Wales," which had been passed by the Governor and Legislative Council of the Colony, with the view of introducing the practice which prevails in the United Kingdom under the 21st Section of the Act, 3d and 4th Wm. 4th, Chap. 52, in regard to ascertaining the value of Goods subject to advalorem Duties.

We report,

That, by the 21st and 22d Sections of the Act of the 3d and 4th Wm. 4th, Chap. 52, above referred to, it is enacted that Goods under-valued may be detained by the Officers of the Customs, and the Commissioners may cause the amount of the Valuation with 10 per cent, thereon, and the Duties upon the entry of the Goods, to be paid to the Importer, and the Goods to be disposed of for the benefit of the Crown; and, if the produce of the Sale shall exceed the sums paid and the charges incurred, one Moiety of the surplus shall be given to the officer, who may have obtained the Goods, and the remainder carried to the credit of the Crown.

That, under the Local Act of the Governor and Legislative Council of New South Wales, 3d Victoria, No. 3, founded upon the 23d and 24th Sections of the Act 3d and 4th Wm. 4th, Chap. 59, for regulating the Trade of the British possessions in America, the West Indies and the Mauritius, it is enacted that, if it shall appear to the Officers of Customs that Goods subject to Advalorem Duties upon importation into New South Wales are not valued according to the true price, the Importer or his Agent shall be required to declare, in the manner prescribed by that Act, what is the invoice price of such Articles, and that he believes such Invoice price to be the correct value of the Articles at the place from whence they were imported, and that such Invoice price with ten
per cent, thereon shall be deemed to be the value for Duty, in lieu of the value declared by the Importer; if it shall however appear that such articles shall have been entered below the true value, or if the Invoice price is not known, the Articles shall be examined by two competent persons to be nominated by the Governor, who shall declare the true value of such Articles in the Island or Colony, and the value so declared shall be the value for Duty.

And, by the same local Act, it is further enacted that, if the Importer shall refuse to pay duty upon the value so declared, the Collector shall secure the Goods and cause them to be sold, and the produce thereof shall be applied first to the payment of duties and charges and the overplus paid to the Importer.

With regard to the expediency of extending to New South Wales the practice, which obtains in this Country under the Act 3d and 4th Wm. 4th, Chap. 52, in respect to ascertaining the value of Goods subject to Advalorem Duties, and assessing the same, We have to state:

That it would appear from a Report, which we have received from the Collector at Sydney, New South Wales, upon this subject, that he entertains considerable doubts whether the object which the local Government has in view would be attained by the passing of the proposed Enactment, inasmuch as in a limited Market circumstances as Sydney is, a combination would at any time be effected with the view of bringing down the price of Goods, when put up to Sale, to the serious detriment of the Colonial Revenue; and that, had such a Law been in existence during the last three years, he has reason to believe that large quantities of Goods would, in consequence of the depressed state of the Commercial Officers of the Colony, have been entered at extreme low values, with a view of inducing the Officers to detain them in order that the parties might at once receive the amount of the valuation out of the Colonial Revenue, thereby realizing a sum, which, although considerably under the real value of the Goods, the Importer would not at the moment procure for them in the ordinary course of Trade in the Sydney Market.

That the practice, which has prevailed in the British possessions in North America, the West Indies, Mauritius, and the Cape of Good Hope under the Act 3d and 4th Wm. 4th, Chap. 59, and Her Majesty's Order in Council of 22d Feb'y, 1832, in regard to the mode of ascertaining the value of goods subject to Advalorem duties, had been found to be simple in its operation, and while it insures, in all cases where any doubt may exist as to the correctness at which the Goods may have been invoiced or valued, payment of the full duties according to their true value, to be ascertained by the Appraisers appointed for that purpose by the Governor, it has the advantage of securing the Colonial Revenue from the risk to which it would be exposed under the practice which prevails in this Country, in the event of the Goods not producing at public Sale a sum equal to that which might have been advanced to the parties by the Colonial Government, upon the Goods being detained for undervaluation by the Officers of Customs.

Under all these circumstances and after the most mature consideration, We have to submit our opinion that the practice which at present obtains in New South Wales under the Local Act 3d Victoria, and which, as before observed, is in accordance with that which prevails in North America, the West Indies, Mauritius and
the Cape of Good Hope, is better adapted to New South Wales than that which it is proposed to substitute in its place by the annexed Act of the Legislative Council of that Colony; and we have therefore to submit for your Lordship's consideration how far it would be advisable to make any alteration in the existing practice.

It may be proper, with reference to that part of the Despatch of the Governor of New South Wales, wherein His Excellency states that, during the six years he has administered the Government of that Colony, no application has been made to him by the Collector of Customs to appoint appraisers to value Goods supposed to have been undervalued, to observe that the mode, prescribed by the Local Act 3d Victoria, No. 3, for ascertaining the value of Goods by Appraisers, is constantly resorted to in the North American and West Indian Colonies; and we are at a loss to discover upon what grounds the Collector has failed in resorting to the power vested in him by Law, with a view of applying a remedy so well calculated to obviate the evil consequences which the Governor is apprehensive must result to the Colonial Revenue from the practice of producing falsified Invoices.

R. B. DEANE. H. RICHMOND.
G. R. DAWSON. CULL. CHS. SMITH.

Custom House, 27th Novr., 1844.

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LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch marked "Military No. 9," per ship Bussorah Merchant.)

Sir, Downing Street, 31st December, 1844.

Her Majesty's Government have had under their consideration your Despatches of the numbers and dates specified in the margin,* representing the loss which is occasioned to the revenue of New South Wales by the mode in which Rum is issued to the Troops in that Colony.

Her Majesty's Government are strongly impressed with the propriety of endeavouring to check the practice of frauds arising out of this system, and are ready to adopt your suggestion that a small Colonial Allowance should be paid to the Troops, in addition to that which might be granted by the Commissariat in lieu of the ration of Rum.

It appears by a letter, received from the Deputy Commissary General that the price of Spirits at Sydney is for the Current year 1s. 6d. per gallon, on which a duty of 9s. is remitted, making the cost of the Ration of 1/28th part of a Gallon less than 4d. without the duty and 4½d. with the duty. These relative rates do not appear to be higher at the Station of Parramatta, the next in importance; and, with the exception of five minor posts, at which collectively 126 daily rations only are issued, the cost of

* Marginal note.—No. 47, 7 March, 1842; No. 192, 26 Novr., 1843; No. 54, 9 March, 1844.
the spirit ration, exclusive of duty at the Out Stations of New South Wales is much lower than the average of the whole Colony.

Two causes have contributed to embarrass and delay the settlement of this question.

1st. The irregular practice, which has crept in, and been overlooked, of the Soldier receiving from the Contractor a money payment for his Spirit ration.

2nd. The extremely high rate of the Colonial duty on Spirits, which, as it is remitted on the supply provided for the Troops, has given a value on the spot to this ration far exceeding the cost to the Mother Country.

If it were not a matter of policy, both with the Home and Colonial Governments, but especially with the latter, that the issue of Spirits to the Troops should be discontinued altogether, an option might be given to the men either to take the spirits in kind, with an understanding that the Military law which prohibits the disposal of any articles provided for their use is for the future to be strictly complied with, or to accept the commutation in money laid down in the Royal Provision Warrant, vizt., 1d. per ration, which is more than its present average cost to the Home Government.

But, as all those who have been consulted on the subject are agreed that Spirits in kind ought not to form part of the Soldiers' ration in New South Wales, the question is narrowed to the consideration of the proper Sum to be granted as a commuted allowance in lieu of it.

The high rate of 3½d. per ration, which has been pressed upon Her Majesty's Government as reasonable and proper by the Military Authorities, is mainly to be attributed to the fiscal regulations of the Colonial Government, and, as that Government will obtain a considerable benefit in a pecuniary point of view by the proposed measure of discontinuing altogether the ration of Spirits, while an additional charge will be entailed upon the British Treasury equal to the difference between the original cost of the Ration of Spirits, without the duty and that portion of the money allowance to be given in lieu of the Ration, which will be defrayed by Her Majesty's Government, they consider it equitable that the whole expense of the measure should not be thrown upon this Country, but that a portion, to the extent of at least 1d. per Ration, should be defrayed from the local revenue, and paid periodically into the Commissariat Chest upon Certificates of the Commissariat Officer in charge of the amount due, with the understanding that, if at any time hereafter the Colonial duty on Spirits should be reduced to 6s. 8d. per Gallon, or below that Sum, such payments may be discontinued.
I have, therefore, to instruct you to recommend to the Legislative Council to grant the proposed Colonial Allowance; and directions have been given to the Officer in charge of the Commissariat that the arrangement for granting a pecuniary allowance of 3½d., in lieu of the Spirits forming part of the Soldiers' ration, may take effect simultaneously with any Act by which the Legislative Council may adopt your recommendation in pursuance of my present instructions.

You will of course understand that it will be incumbent on you, so far as it may rest with you, to see that the Arrears of the Drawback of duty on Spirits issued to the Troops, the last payment on which account is reported to have been made on the 11th October, 1843, are made good to the Commissariat Chest.

I have, &c.,

STANLEY.

MR. GORDON GAIRDNER TO SIR GEORGE GIPPS.

My dear Sir,

Downing Street, 31st December, 1844.

You may perhaps be struck by an omission in the series of Lord Stanley's Dispatches of Nos. 150, 151 and 152. It may be right to explain that those Dispatches were cancelled after they had been written and entered, and when it was impossible to alter the numbers of those which followed. The chasm, therefore, will remain. I trust that you do not find your very severe duties and the constant application to them too much for your health and strength.

Believe me, &c.,

GORDON GAIRDNER.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 266, per ship St. George; acknowledged by Lord Stanley, 16th June, 1845.)

My Lord,

Government House, 31 Dec., 1844.

I have the honor herewith to enclose a Bill passed by the Legislative Council on the 21st instant, which I have reserved for the signification thereon of Her Majesty's pleasure. It is intituled,

"An Act to regulate the rate of Interest on Money."

In my Despatch No. 161 of the 7th October, 1843, I reported that a Usury Bill introduced by Mr. Wentworth had been rejected by a considerable majority of the Council; and it therefore seems to me right in the first instance to explain that the Bill, which the Council has now passed, is of a far more moderate nature than Mr. Wentworth's Bill; the latter proposed to restrict interest to five per cent., and was to have been retrospective in its operation; the Bill now passed fixes the rate of interest at eight per cent., and is not retrospective in its operation. It was,
nevertheless, very strenuously opposed in the Council, and passed by a majority of one only; whilst my decision on it was still pending; two Petitions were also presented to me, praying that I would not allow it to pass into a law; of these Petitions, I enclose Copies.

I beg further to explain that I have not been induced to reserve this Bill solely by the dislike which I, on general principles, entertain to Laws professing to regulate the Interest on money; but that I was partly influenced in determining to reserve it by considerations affecting Companies, which have invested large sums of money in Mortgages in New South Wales, namely, "The Australian Trust Company," "The British Colonial Bank and Loan Company," and "the Scottish Australian Investment Company," the two former carrying on business in London, the latter at Aberdeen.

The measure may in some degree, I imagine, be considered as aimed against these Companies; and, though Your Lordship is well aware that I am not an advocate for a high rate of interest, indeed I sincerely wish the Companies would voluntarily reduce their rate of interest, I think it only fair to afford them an opportunity of appealing to Your Lordship, should they desire to do so, before the measure receives the assent of Her Majesty.

I may also remark that the Government Debentures, though bearing only an interest of six per cent. per annum, are at present at a premium of 2½ per cent., a circumstance which may be taken in confirmation of the opinion that Usury Laws are not necessary to reduce the rate of interest.

I further enclose a Copy of a Report on the Bill, which I have received from the Law Officers of my Government; and, advert- izing to the mere technical imperfections of the Bill (and there are some which are not noticed by the Law Officers), I would suggest that, even if the measure be allowed to pass into a law, it would be better that it should be reenacted in the Colony, than that the Royal assent should be given to it in its present shape.

It was, I believe, the intention of the framers of the Bill to fix the rate of interest at six per cent. instead of eight; otherwise there could have been no necessity for repealing the 2d Section of the 5th Wm. IV, No. 10, which fixed at eight per cent. the rate of interest to be allowed in Courts of Justice. This Bill in fact first repeals an enactment, which fixes at eight per cent. the rate of interest to be allowed in Courts of Justice, and subsequently re-enacts (though not very clearly) that the same rate shall be allowed.

GEO. GIPPS.

[Enclosure No. 1.]
[Enclosure No. 2.]

THE humble Petition of the undersigned Merchants and other Inhabitants of the Colony,

To His Excellency Sir George Gipps, Knight, Governor, New South Wales, etc., etc., etc.,

Humbly Sheweth,

That your Petitioners have seen, with great regret, a Bill passed by the Legislative Council, and now submitted for Your Excellency's assent, for regulating the rate of Interest, an object, the impracticability and impolicy of which is equally manifest from abstract theory and the practical experience of this Colony.

That this measure is in reality retrospective, since it limits the rate of Interest on renewed Mortgages and Bills, which are in truth nothing but old contracts continued, owing to the inability of the debtor to perform them.

That the competition of Capital has within the current year reduced interest on Bills to Six per cent., abolished interest on deposits, and reduced the rate of interest on good landed Security; and that nothing but a measure like this, which will alarm Capitalists and induce them to withdraw their funds from the Colony, can arrest this Salutary reduction.

That, by making that illegal and almost criminal, which has hitherto been the ordinary course of business and which is in many cases the interest both of borrower and lender, by enacting, in fact, that no one shall borrow at all who cannot give the very best security, this Bill holds out the strongest temptation to violate the law, and avoid the effects of such conduct by fraud and perjury.

That the Companies, which have invested so much money in this Colony, naturally considering this Bill is levelled at them, will seek to realize their capital, and that the Mortgagors, being completely in their power, in order to prevent their immediate ruin, will gladly accede to terms much more onerous than the present, such as the granting of annuities, the releasing the Equity of Redemption, and taking the land on a long Lease, reserving the interest by way of Rent, and many other evasions which legal ingenuity will not fail to suggest.

That by driving Capital out of the Colony the remainder will be made more valuable; that consequently Interest will rise, prices will fall and those who now owe Money will be obliged to pay in a denomination of a higher value.

That the fictitious Sales, false receipts, colourable instruments, and intricate transactions, to which those who have not the very best Security to offer, will infallibly be driven to avoid ruin, will give rise to endless litigation between innocent parties, and introduce a new element of uncertainty into the dealings of mankind.

That, from the failure of a similar measure in the last Session of Council when the rate of interest was much higher than at present, and the argument in its favour so much the stronger, your Petitioners entertained no apprehension that this Bill would pass, and therefore did not petition the Council on the subject; and that the measure was only carried by a majority of one, while many of the most important clauses were carried through Committee by the casting vote of the Chairman.

Your petitioners therefore humbly pray that your Excellency will be pleased to refuse your assent to the Bill.

[Here follow eighty-two signatures.]
THE Humble Address of the undersigned Bankers, Merchants, and Traders of New South Wales, To His Excellency Sir George Gipps, Knight, Captain-General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice Admiral of the same, etc.

May it please your Excellency,

We, the undersigned Merchants, Bankers and Traders resident in this Colony, beg to represent to your Excellency the concern we feel in observing that the Bill, entitled "a Bill for regulating the rate of Interest in New South Wales," has passed the Legislative Council with the support however of the smallest possible majority.

We forbear to repeat the unanswered arguments, which have so frequently and successfully been employed against the principle of any interference with the trade in or employment of money, which we are assured are familiar to your Excellency, and which have produced in England the salutary state of the existing law on the subject; no facts or reasonings have been adduced in opposition to the well established opinion of the injustice, impolicy and absurdity of any enactments for regulating the rate at which capitalists should be allowed to employ their funds; Injustice, because it controls the undoubted right of every man to employ his money as he thinks most to his advantage; Impolicy, because it injures essentially and inevitably the very parties it intends to benefit by depriving them of that competition in the money market, which would enable them to obtain the assistance they require at the lowest rate; And absurd, because all experience has shewn that no Legislative skill can prevent the borrowing and lending money at any rate agreed upon by the parties, although the borrower is by the operation of the restrictive Act driven to effect his purpose through the agency of men who will indemnify themselves for the risk of detection, the hazard of loss, and the stain on their characters by exacting from him an interest greatly beyond the highest market rate.

But we beg to offer to your Excellency's consideration a few of the consequences of the measure on this Colony, for which it should seem that some of its supporters are not prepared.

The great mischief of such a measure is, we apprehend, the impression it is calculated to produce in the minds of European capitalists as to the insecurity of any outlay in a Colony, where such a Bill has passed the Legislative Council, without having been preceded by a single petition or provoked by any complaint of extensive or even individual grievance.

The same authority, which thus volunteers to reduce the rate of Interest by one-fifth in this year, may at any subsequent period confine it within narrower limits, until it shall compel the capitalist to seek employment for his funds, where there is to be found some guarantee for fair payment for its use.

Some unfortunate events connected with this Colony have sufficiently disposed the minded men in England to make investments in Australian securities; and, if to these be now added a sense of the insecurity of the continuance of any fixed rate of Interest, it will we fear be found impracticable to obtain those supplies of
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1844.
31 Dec.
Address of bankers, merchants and traders against rate of interest bill.

capital from the only quarter from whence they can flow, which
are as essential to the progress of a Colony as any of its natural
advantages.

If the principle of interference and restriction be once admitted
and acted upon, there is no foreseeing the extent to which it may
not eventually be carried.

Another consequence of this Bill, affecting a large class of persons
of the highest respectability, appears to have been overlooked.

It may happen that the representatives of one or more of those
bodies of capitalists, who have made large investments in this
Colony, may be restricted by the most positive instructions in the
rate at which such advances should be made. And, as the clause
providing that existing contracts might be continued at the original
rate not merely until the expiration of the stipulated term but
until actually paid off, as this clause was not adopted by the Coun-
cil, it will follow that in all cases, where contracts shall have
expired, the principal must be forthwith called in at all hazard of
loss on one side, and ruinous sacrifice on the other. since the parties,
however willing to carry on their original contract, are prevented
from exercising their joint will, judgment and discretion by the
obtrusive and unbending restriction of the law, which takes no
account of the many cases in which it might be wise and prudent
to submit to the accustomed rate rather than suffer the loss of
property, which would follow those measures which it might be
the imperative duty of the representatives of the English Capitalists
to enforce.

In such a case, the party indebted must resort to quarters where
he can obtain assistance at an enormous sacrifice: while, but for
the restriction of the law, the contract might be continued, giving
the debtor the chance of a lengthened period and more favorable
circumstances to disentangle him from his difficulties.

We will not trespass on your Excellency's time by adding more
of the many instances of the injurious operation of this measure
not on the creditor but on the debtor, the object of its mistaken
protection.

But we do most respectfully and earnestly pray your Excellency
that, as being contrary to the spirit and letter of the existing law
in the mother Country, as totally illusory in the benefit it affects
to confer on one party, and absolutely unjust in its restrictions on
the other, it may not be allowed by your Excellency to pass into
a law.

[Here follow the signatures.]

[Enclosure No. 4.]

MESSRS. PLUNKETT AND MANNING TO COLONIAL SECRETARY
THOMSON.

Sir, Attorney General's Office, 24th December, 1844.

In reply to your letter of the 24 instant to the Attorney
General, transmitting the enclosed Bill, as passed by the Legislative
Council, "to regulate the rate of interest on money"; and re-
questing that he would in conjunction with the Solicitor General
advise His Excellency the Governor whether we see anything in it
which should in our opinion prevent his giving it the Royal assent;
and stating that His Excellency remarks that the punctuation in
the Second clause Seems defective, and that he is doubtful whether
Sufficient provision is made for the rate at which interest is to be
allowed in Courts of Justice.
DESPATCHES OMITTED.

We have the honor to report that, in our opinion, there is nothing in the principle of the Bill " repugnant to the law of England," nor any Strictly legal objection to its receiving the Royal assent from the Governor, if in his discretion he Shall think fit to give it.

The punctuation in the Second clause is certainly defective in a Material point. The marginal note "Sec. 23 of 5 Victoria No. 9" to first Clause Should be "Sec. 23 of 5 Victoria No. 9"; And the last Marginal note to Clause 2 Should be omitted entirely.

With reference to the Subject of His Excellency's doubt "Whether Sufficient provision is made for the rate at which interest is to be allowed in Courts of Justice," we have to State that it appears to us very questionable whether, advertiting to the repealing as well as to the enacting clauses of the Bill, interest Could be recovered except in cases where it "is the agreement (Specifically) of the parties that interest Shall be paid"; and in Actions of Trover and Trespass, and upon Policies of Insurance, in which by an unrepealed Section (No. 24) of 5 Victoria, No. 9, interest would Still be recoverable as Damages.

If this be considered by His Excellency an important ground of objection to the bill, we would Suggest that the words "and where interest is by law allowed independently of any Specific Agreement" Should be introduced after the words "that interest Shall be paid" in the Second Clause.

We have, &c.

JOHN H. PLUNKETT, Attorney General.
W. M. MANNING, Solicitor General.

SECRETARY OF STATE TO SIR GEORGE GIPPS.

The following despatches,* written in the year 1845, have been Despatches omitted:—Despatch dated numbered Transmitting

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* Note 14.
Despatches omitted.

1845.

THE following despatches,* written in the year 1845, have been omitted:— Despatch dated numbered Transmitting

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<tr>
<td>15th February</td>
<td>35</td>
<td>land and immigration returns.</td>
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<td>20th February</td>
<td>35</td>
<td>returns of intestate estates.</td>
</tr>
<tr>
<td>21st February</td>
<td>39</td>
<td>quarterly schedule of appointments and special payments by deputy commissary-general.</td>
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<tr>
<td>22nd February</td>
<td>40</td>
<td>list of convicts recommended for pardons.</td>
</tr>
<tr>
<td>8th March</td>
<td>50</td>
<td>report re issue of pardon to Miles Belly.</td>
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<tr>
<td>15th March</td>
<td>53</td>
<td>do re immigrants per ship Herald.</td>
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<tr>
<td>17th March</td>
<td>56</td>
<td>returns of intestate estates for district of Port Phillip.</td>
</tr>
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<td>23rd March</td>
<td>60</td>
<td>recommendation of William Harrison for absolute pardon.</td>
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<td>24th March</td>
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<td>statement re James Farrell, emancipist.</td>
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<td>4th April</td>
<td>68</td>
<td>returns of pardons granted in 1844.</td>
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<td>73</td>
<td>quarterly schedule of appointments and special payments by deputy commissary-general.</td>
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<td>16th April</td>
<td>76</td>
<td>report re withholding of pardon from John Smith.</td>
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<td>78</td>
<td>inquiry re sentence on Jeremiah Buckley.</td>
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<td>80</td>
<td>list of convicts recommended for pardons.</td>
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<td>28th April</td>
<td>81</td>
<td>annual returns for 1844 re convicts.</td>
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<td>7th June</td>
<td>97</td>
<td>report re pardon of Marie Smith alias Caroline Dalmas.</td>
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<td>9th June</td>
<td>104</td>
<td>quarterly return of immigrants and cost of living.</td>
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<td>22nd June</td>
<td>105</td>
<td>report on disposal of immigrants per ship Elizabeth.</td>
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<td>106</td>
<td>do re John McLeod Gillies, convict.</td>
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<td>28th June</td>
<td>107</td>
<td>do on application of John Johnson Coreney for pardon.</td>
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<td>9th July</td>
<td>112</td>
<td>report re John McCoy alias John Williams, convict.</td>
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<td>13th July</td>
<td>114</td>
<td>half-yearly return of steam vessels.</td>
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<td>21st July</td>
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<td>list of convicts recommended for pardons.</td>
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<td>return of intestate estates.</td>
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<td>24th August</td>
<td>141</td>
<td>quarterly return of prices of food and clothing and rates of wages.</td>
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<td>16th September</td>
<td>148</td>
<td>estimates for repairs to convict buildings.</td>
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<td>152</td>
<td>inquiry re sentence on Neil Patten.</td>
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<td>16th September</td>
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<td>report re Alfred Dryer, expiree.</td>
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<td>27th September</td>
<td>164</td>
<td>return of intestate estates from Port Phillip.</td>
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<td>2nd October</td>
<td>166</td>
<td>report re James McKnight, convict.</td>
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<td>13th October</td>
<td>172</td>
<td>requisition for stationery.</td>
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<td>quarterly schedule of appointments and special payments by deputy commissary-general.</td>
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<td>lists of convicts recommended for pardons.</td>
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<td>193</td>
<td>requisition for convict clothing.</td>
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<td>26th November</td>
<td>207</td>
<td>medical returns and requisitions.</td>
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<td>quarterly return of prices of food and clothing and rates of wages.</td>
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<td>23rd December</td>
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<td>report re Francis Losaght, convict.</td>
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<td>27th December</td>
<td>217</td>
<td>do re Patrick Ross, convict.</td>
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</table>

*Note 14.

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LORD STANLEY TO SIR GEORGE GIPPS.

(Despatch No. 1, per ship Bussorah Merchant.)

Sir,

Downing Street, 1 January, 1845.

I have received your Dispatch dated the 26th July, 1844, and numbered 158, in which you announce the Election of the Surveyor General and of the Sheriff of New South Wales as
Members of the Legislative Council of that Colony; and express your opinion that, on some of the more considerable measures of Your Government, you cannot calculate on their support in the Local Legislature, but may not improbably have to encounter their opposition. It is due to you that I should meet as distinctly as possible the questions, alike delicate and important, which this question raises.

In the first place, I regard as very doubtful the propriety of any public officer* of the Crown holding a seat in the Legislative Council of New South Wales, except by Her Majesty's nomination. On that question, however, I reserve the expression of my further opinion, until I shall be in possession of a report of Your own views respecting it, which you will report to me as speedily as possible. In the meantime, you will inform the Surveyor General and the Sheriff, that they are not to consider her Majesty's Government as acquiescing in this combination, in their persons, of such employments, so that, if it shall eventually be decided to call on them to make their choice between their offices and their seats, they may not have it in their power to allege the want of timely notice.

The Surveyor General and the Sheriff must further be given to understand that they must immediately make that choice, if upon any question, which you may regard as involving the character or the good conduct of your Government, they shall be unable to render to you their zealous and cordial support in the Colonial Legislature.

The necessity of making such a choice could be avoided only by methods which I am well convinced those gentlemen would refuse to adopt, and in which Her Majesty's Government would not less certainly refuse to participate—that is, either by those officers neglecting their duty to their constituents, or by their acting in direct opposition to that duty as understood and appreciated by themselves.

If Her Majesty's officers think fit to assume relations and responsibilities disqualifying them for the support of Her Majesty's Representative, they are of course perfectly free to do so, but, having done so, cannot be permitted to retain their employment. Otherwise there would not only be an end of all concert and subordination in Her Majesty's service, but the sincerity and good faith of those by whom it is administered would be brought into serious discredit.

I am not forgetful that any general rules, which could be laid down on a subject of this nature, must require qualifications and exceptions, which it is not possible distinctly to foresee and to

* Note 15.
164

HISTORICAL RECORDS OF AUSTRALIA.

provide for. I refer to your own discretion the application to particular cases, as they may arise, of the general principle which I apprehend will be sufficiently clear for your own guidance, and for the information of the officers of the Crown serving under you.

I have, &c.,

STANLEY.

SIR GEORGE GIPPS TO LORD STANLEY.

(Despatch No. 1, per ship St. George; acknowledged by lord Stanley, 17th May, 1845.)

My Lord,

Government House, 1st January, 1845.

I have the honor herewith to forward a Bill passed by the Legislative Council on the 23d ultimo, which I have reserved for the signification thereon of Her Majesty's pleasure. It is intituled,

"An Act to enable the Bank of Australia to dispose of certain real and personal property in the Colony of New South Wales in certain shares by lot," and is in reality a Bill to enable the Shareholders in the unfortunate Bank of Australia* to dispose by means of a Lottery of the large estates which, in the course of the late pecuniary distress of the Colony, have come into their possession, and which are at present unsaleable in any other way.

I have reserved this Bill chiefly, if not solely, in consequence of the great doubt I entertain of the competency of any Colonial Legislature to legalize a Lottery; but I will at once state that, much as I disapprove on general principles of Lotteries, I consider the settlement of the affairs of the Bank of Australia to be an object of such high importance to this Community, that I should be happy to see it achieved almost by any means. The Bill moreover was passed by a great majority in the Legislative Council; and the disappointment is great, which has been caused by my reservation of it.

On the legal points involved in the question, I thought it right to call on the Law Advisers of my Government for their opinion; and I have the honor to enclose a Copy of the Report I received from them, in which they very decidedly express their opinion that it is not competent to any Colonial Legislature to establish a Lottery.

I enclose, on the other hand, a Copy of a Report greatly in favor of the Bill, made to the Legislative Council by the Committee of that Body, to which the Bill was referred.

The present state of the Bank of Australia may be gathered from this latter Report and the evidence appended to it; information also respecting the affairs of the Bank may be collected

* Note 16.
from my own Despatches, dated and numbered as in the Margin;* referring therefore to these documents for more detailed information, I will as briefly as possible recapitulate the circumstances under which the Lottery is proposed.

The Bank was instituted in 1826, its Capital nominally being £400,000; but the portion paid up has never exceeded £225,000. For many years, it was considered to be in a most thriving condition, the annual profits or supposed profits ranging from ten to twenty per cent. on the paid up Capital, and the shares having been sold, as lately as in 1840, at 45 per cent. premium.

The Bank ceased its operations about March, 1843; but its unsatisfied liabilities still amount to between £220,000 and £230,000, bearing interest at not less than eight per cent. per annum; whilst its assets consist, for the most part, in an immense quantity of landed property, which is unproductive and unsaleable.

The only favorable circumstance in its condition is that its debts are concentrated, that is to say, are all owing to the other Banks of the Colony, and nearly in the following proportions:

- The Bank of Australasia, about £176,000 0 0
- The Union Bank of Australia, about 29,000 0 0
- The Commercial Bank of N. S. Wales 11,000 0 0
- Bank of N. S. Wales 10,000 0 0

£226,000 0 0

The landed Estates of the Bank may be divided into two Classes. The Estates of the first class consist of those, which having been originally mortgaged to the Bank by numerous individuals, as collateral securities for money advanced on Bills, have been taken possession of by the Directors. The second class comprehends the Estates of the single firm of "Hughes and Hosking," which, by an arrangement in 1842, when that firm became insolvent, were handed over to the Bank.

The affairs of Hughes and Hosking† are still so involved in litigation, that no sale can as yet be effected of these latter Estates; consequently, the proposed lottery scheme extends only to the other Estates, or those first mentioned; and the utmost sum looked for from the lottery is £80,000. But, in addition to the proceeds of the lottery, it is hoped that a sum of about £35,000 may be realized by the gradual collection of other property of the Bank, including overdue Bills held by it; but, even allowing this to be probable, it will follow that, independently

* Marginal note.—Nos. 40, 64, 131, 161, 31st March, 6th May, 19th Augt., 7th Octr., 1843.
† Note 17.
1845.
1 Jan.

Necessity for second lottery.

Estates of Hughes and Hosking.

Cause of ruin of bank of Australia.

Liability of shareholders.

Dispute re debt due to bank of Australasia.

Necessity for amendment of bill.

of the property of Hughes and Hosking, the utmost the Bank can hope to realize will be about £115,000, whilst its liabilities exceed £220,000.

Hence then it is obvious that, even if no impediment existed to the immediate drawing of the projected lottery, the lottery alone would not have the effect of settling the affairs of the Bank; A second lottery, namely, one for the disposal of Hughes and Hoskins' Estates, would be required; but from the intricacy before alluded to, in which the affairs of Hughes and Hosking are still involved, this second lottery could not probably be drawn within the next three or four years.

The Estates of Hughes and Hosking are very extensive, and were at one time valued at half a Million of money; but they are so incumbered with Trusts, Mortgages, Marriage Settlements, etc., that it is impossible to form a conjecture of what may ultimately be realized from them.

The proximate cause of the ruin of the Bank of Australia was the strange delusion which long prevailed in the Colony in respect to the supposed enormous wealth of Hughes and Hosking; for it was under a delusion of this sort that the Directors entered into engagements, which virtually identified the affairs of Hughes and Hosking with those of the Bank.*

Your Lordship is aware that, the Bank of Australia having been formed on the joint stock principle, every Shareholder in it is liable for the debts of the Bank to the full amount of his property. No attempt to levy on the property of any Shareholder has yet been made, but the state of apprehension, in which the shareholders live, is most distressing. They are about 176 in number, and a List of them is herewith.

The above statement contains, I believe, everything necessary to a right understanding of the project for the lottery; but I may mention, as connected with the matter, that the debt of £176,000 to the Bank of Australasia is disputed, and that legal proceedings are in contemplation which may last a considerable time.

I think it right to observe that, as by the 5th clause of the Bill the drawing of the Lottery is to take place in one year from the passing of it, it will be necessary to enlarge that time, should the Bill be allowed by Her Majesty; this, however, can be done by an Act of the Local Legislature.

* Marginal note.—Mr. Hughes and Mr. Hosking married the Coheires of Mr. Samuel Terry, the rich Emancipist (as he was usually called), respecting whose immense wealth statements were made, which excited the surprise of the Transportation Committee in 1836. Mr. Terry died in 1838.
GIPPS TO STANLEY.

I beg in conclusion to observe that it would give me much pleasure could the Bill be allowed by Her Majesty, though I can scarcely venture to hope that it can be. I have, &c.,

Geo. Gipps.

[Enclosure No. 1.]

[This was the act of counc. 8 Vict., No. xviii.]

[Enclosure No. 2.]

[This letter from the attorney-general, dated 28th December, 1844, was published in the "Government Gazette." ]

[Enclosure No. 3.]

[The report of the select committee will be found in the "Votes and Proceedings" of the legislative council.]

[Enclosure No. 4.]

A List of Shareholders Shewing the amount of Capital paid by each, as well as the various sums paid on their shares, 31st December, 1842.

N.B.—The Mark x as far as is known means the Colonial Proprietors.

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1845. 1 Jan.

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A List of Shareholders Shewing the amount of Capital, etc.— cont'd.

X.B.—The Mark x as far as is known means the Colonial Proprietors.

List of shareholders in bank of Australia.

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GIPPS TO STANLEY.

[Enclosure No. 4]—continued.

1845.
1 Jan.

List of shareholders in bank of Australia.
1845.
1 Jan.

**List of Shareholders in Bank of Australia.**

**[Enclosure No. 4]—continued.**

**A List of Shareholders Shewing the amount of Capital, etc.—contd.**

N.B.—The Mark x as far as is known means the Colonial Proprietors.

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**£131 442 585 397 679 386 223 184 774 224,960 0 0**

**Summary of shares in bank of Australia.**

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<th>Shares paid up</th>
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<td></td>
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**Sir George Gipps to Lord Stanley.**

(Despatch No. 2, per ship St. George; acknowledged by Lord Stanley, 17th May, 1845.)

My Lord,

Government House, 1st Jan'y., 1845.

With reference to my Despatch No. 1 of this day's date, on the subject of the Lottery Bill of the Bank of Australia, I
have the honor to forward herewith a Petition, which has been addressed to Her Majesty by the Chairman and Directors of the Bank, praying that the Bill may receive the Royal Assent.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

The Humble Memorial of Thomas Chaplin Breillat, Chairman, and John Gilchrist, James Norton, John Stirling and James Mitchell, a Board of Directors of the Bank of Australia,

To the Queen's Most Excellent Majesty,

Most Gracious Sovereign,

The Memorialists, Your Majesty's most dutiful Subjects, beg most humbly to approach Your Majesty with assurance of their attachment to your Majesty's Royal person and Government.

Your Memorialists, referring to a Bill which has passed the Legislative Council of this Colony and has been referred by His Excellency the Governor for the consideration of your Majesty, entitled, "a Bill to enable the Bank of Australia to dispose of certain real and personal property in the Colony of New South Wales in certain shares by lot," most humbly submit the following reasons in support of the measure:

1st. That the position of the affairs of the Bank of Australia is one of the chief causes of the continued depression of the Mercantile and monetary interests of the Colony, by holding in suspense over an already depressed market property to the extent of upwards of One hundred thousand pounds in value, being equal in the proportion of population to an amount in England of upwards of twenty Millions Sterling (£20,000,000), and that a Satisfactory arrangement of their affairs would tend greatly to relieve the prevalent distress and be a public benefit.

2nd. That, from the State of the markets especially as regards Landed property, it is impossible to dispose of the numerous and extensive landed properties held by this Institution by Sale in the usual manner, and consequently that without some measure of relief this incubus will for years depress the value of landed property and affect the sale of such property, either by private individuals or the Government.

3rd. That this Bill (which has met with the almost universal approbation of your Majesty's Subjects in this Colony as shewn by the Petitions in its favor from every District in the Colony presented to the Legislative Council) is the only measure, which has been, or as your Memorialists believe can be suggested, sufficient to meet the difficulty of the case; and, in support of this opinion, Your Memorialists would most humbly refer your Majesty to the evidence taken before the Committee of Council, and to the report of the Committee founded upon that evidence.

4th. That, altho' the operation of this Bill is limited to twelve months, it is proposed to apply to the Legislature (pending its reference to your Majesty) for an extension of this period; and your Memorialists have reason to believe that the calamity, which
1845.
1 Jan.

Petition from directors requesting allowance of bank of Australia lottery bill.

must inevitably befall this Institution and the Colony unless this measure be assented to, will be stayed until your Royal pleasure be known.

Your Memorialists therefore most humbly pray that your Majesty will be graciously pleased to give the Royal assent to the passing of an Act, which will avert so great a calamity and afford so much relief to the Colony.

For and on behalf of the Proprietors of the Bank of Australia,

THOS. C. BREILLAT, Chairman.
JOHN GILCHRIST, J. NORTON, JOHN STIRLING, Js. MITCHELL,

Directors.

Sydney, N. S. Wales, 1st January, 1845.

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SIR GEORGE GIPPS TO LORD STANLEY.
(Despatch No. 3, per ship St. George.)

My Lord, Government House, 3d Jany., 1845.

Referring to my Despatches, dated and numbered as in the margin,* on the subject of the issue of Debentures; also to your Lordship's Despatch No. 127 of the 26th August, 1844, I herewith enclose a List of Debentures, of which the Interest is payable in London by Mr. Barnard; and I have the honor to report that in order to meet the interest on these Debentures up to the 30th June, 1845, I have this day paid into the Military Chest the sum of £441 15s. 4d.

The List, which I enclose, comprehends the Debentures only which have actually been sent to England, and of which the interest is actually to be paid in London.

There are other Debentures to the amount of £14,500 which may at any time, at the option of the holders, be sent to England, though the interest is now paid on them in New South Wales.

I am happy to report that I have at present funds sufficient to meet all the engagements of my Government, as I shall more fully shew as soon as the Accounts for the year just ended can be made up.

With reference also to my Despatch of the 7th October last, I am happy to be able to state that the whole of the Debentures, which were then bearing interest at eight per cent., have been cancelled, and others substituted for them bearing interest only at six per cent.

I have, &c.,
GEO. GIPPS.

*Marginal note.—No. 57, 9th March, 1844; No. 90, 27th April, 1844; No. 105, 10th May, 1844; No. 106, 11th May, 1844; No. 221, 7th Oct., 1844.
**GIPPS TO STANLEY.**
1845.
3 Jan.

**Statement shewing the amount of Interest which will be payable on the 30th day of June, 1845, on the Debentures which have been transmitted to London.**

<table>
<thead>
<tr>
<th>Names</th>
<th>Numbers</th>
<th>Amount</th>
<th>Period</th>
<th>Amount</th>
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<tbody>
<tr>
<td></td>
<td>From</td>
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<td>From</td>
<td>To</td>
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<tr>
<td>A. B. Smith and Co.</td>
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<td>61</td>
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<tr>
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<td>153</td>
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<td>24th June</td>
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<tr>
<td>Messrs. Larkins and Co.</td>
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<td>111</td>
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<tr>
<td>Thomas Larkins</td>
<td>174</td>
<td>186</td>
<td>1,300 0 0</td>
<td>25th July</td>
</tr>
<tr>
<td>Arthur Daintry</td>
<td>187</td>
<td>189</td>
<td>200 0 0</td>
<td>6th Aug.</td>
</tr>
<tr>
<td>William West, M.D.</td>
<td>189</td>
<td>214</td>
<td>130 0 0</td>
<td>21st Aug.</td>
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<tr>
<td>Thomas Larkins</td>
<td>198</td>
<td>214</td>
<td>1,700 0 0</td>
<td>29th July</td>
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</table>

**Total amount of Interest**   ...   **£411 15 4**

Colonial Treasury, 2nd January, 1845.

**SIR GEORGE GIPPS TO LORD STANLEY.**
(Despatch No. 4, per ship St. George.)

My Lord,

My Lord, Government House, 4th January, 1845.

In further continuation of my Despatches, dated and numbered as in the margin,* I have the honor to forward a Copy of a letter, which I received on the 28th ulto. from Captain McArthur, the Commandant of the Settlement at Port Essington.

Since the date of my last report, I have received your Lord­ship’s Despatch, No. 36 of the 14th March, 1844, respecting the affairs of Port Essington; but I have only to state in reply that the directions contained in it will be attended to.

The Convict Ship “Cadet,” having on board a party of Marines for Port Essington, reached Hobart Town on the 24th August last, and sailed again on the 23d of Sept., but did not touch at Sydney, as the passage through Torres Straits, not being open between September and March, she was obliged to proceed from Hobart Town to Port Essington by the Western route, that is to say, by Swan River or Western Australia; and I am sorry to say that I in consequence missed the opportunity of writing by her to Captain McArthur.

I have, &c.,

GEO. GIPPS.

[Enclosure.]

*A copy of this letter, dated 14th May, 1844, will be found in a volume in series IV.*
Sir George Gipps to Lord Stanley.
(Despatch No. 6, per ship St. George.)

My Lord, Government House, 4th January, 1845.

Referring to my Despatch No. 222, of the 7th October, 1844, I think it right to inform Your Lordship, that I am still without the expected citation from the Judicial Committee of the Privy Council, in the matter of Mr. Willis' appeal against his removal from the Office of a Judge in this Colony.

I have, &c.,
Geo. Gipps.

Sir George Gipps to Lord Stanley.
(Despatch No. 7, per ship Hamlet; acknowledged by Lord Stanley, 30th September, 1845.)

My Lord, Government House, 5th January, 1845.

I have the honor herewith to transmit, for the Gracious allowance of Her Majesty, the Acts passed in the Session of the Legislative Council of this Colony, which commenced on the 28th May, and closed on the 30th December, 1844.

7th Vict., No. 28.—"An Act to authorize the issue of Wine, duty free, to Military Officers serving in the Colony of New South Wales."

This Act was proposed by me to the Legislative Council, and passed, agreeably to the directions contained in Your Lordship's Despatch marked "Military" No. 3 of the 17th June, 1843.

7th Vict., No. 29.—"An Act to further amend, and continue for a limited time, An Act intituled, 'An Act for regulating the Constitution of Juries, and for the trial of issues in certain cases, in the Supreme Court of New South Wales.'"

This is merely an Act to continue the existing Jury Laws of the Colony. The second clause of the Act restricts the number of places on which the Jury Lists are to be exposed to public view; it was previously necessary to place them on the door of every place of Worship in Sydney. The third clause slightly reduces the allowances formerly made to Jurors.

Another Act materially altering the Law in respect to Juries in Civil cases was passed later in the Session (see infra., 8th Vict, No. 4).

8th Vict., No. 1.—"An Act for improving the Law of Evidence."