BRISBANE TO BATHURST.

At Windsor, Liverpool and Parramatta, to the Chairman of the Bench of Magistrates, and, at other Stations, to the Commandants in order that, if found correct, it may be verified by the Signatures of such Officers respectively.

The Return thus signed, with the Gaoler's receipt for the Provisions actually received and expended in each month, will form the final voucher in the Commissariat accounts for the Issue.

IX.

Mode of accounting for the Issue of extra allowances of Provisions. The Issue of all extra Allowances to Overseers, Constables and others beyond the established Ration, with the exception of the Penal Settlements and convict Gangs, is to be accounted for by a monthly nominal Abstract of the persons receiving such extra allowance, with their respective receipts for the Same.

The issue of the Extra allowance earned by Clearing Gangs is to be Supported by a monthly Abstract for each District, specifying the Station, the No., and the name of the Overseer of the Party, the number of Acres cleared and in what manner, for which the allowance is granted, and a Satisfactory certificate from the Proprietor or Chief Assistant Engineer, as to the correctness of the quantity of labor stated to have been employed; as well as by a receipt from each Overseer of the regulated allowances issued there-upon.

P. GOULBURN. WM. LITHGOW, As. Cy. Genl.
WILLIAM CORDEAUX, D.A.C.G. FRANCIS ALLMAN, Capt. 48 Regt.
J. OXLEY. JAS. TOD. GOODSIR, D.A.C.G.
P. ROBERTS, D.A.C.G.
Sydney, 27th December, 1824.

[Sub-enclosure No. 1.]

Return of Male Convicts in Hyde Park Barracks, Sydney, entitled to and supplied with Rations from the Commissariat victualled.

Stores from the 25th September to the 24th October, 1824, inclusively, accounting for the Numbers and the amount of Rations issued on each day of that period.

<table>
<thead>
<tr>
<th>Date</th>
<th>No. of Men joined</th>
<th>Received</th>
<th>Discharged</th>
<th>Discharged to</th>
<th>Daily rations</th>
<th>No. of Men on each day</th>
<th>No. of Rations issued</th>
</tr>
</thead>
<tbody>
<tr>
<td>1824</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sept. 25</td>
<td>Saturday</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>439</td>
<td>439</td>
<td></td>
</tr>
<tr>
<td>26</td>
<td>Sunday</td>
<td>None</td>
<td>None</td>
<td></td>
<td>439</td>
<td>439</td>
<td></td>
</tr>
</tbody>
</table>
## HISTORICAL RECORDS OF AUSTRALIA.

### [Sub-enclosure No. 1]—continued.

**Return of Male Convicts in Hyde Park Barracks, &c.—contd.**

<table>
<thead>
<tr>
<th>Date</th>
<th>Day of the Week</th>
<th>Increase</th>
<th>Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sept. 27 Monday</td>
<td>Hospital</td>
<td>1</td>
<td>Discharged to</td>
</tr>
<tr>
<td>1</td>
<td>Carter's Barracks</td>
<td></td>
<td>1 Hospital</td>
</tr>
<tr>
<td>3</td>
<td>Private Service</td>
<td></td>
<td>4 Gaol</td>
</tr>
<tr>
<td>1</td>
<td>Clearing Party (Mr. Chandler)</td>
<td>5</td>
<td>5 Private Service</td>
</tr>
<tr>
<td>1</td>
<td>Runaway Mr. Cox's (C.J., P.)</td>
<td>10</td>
<td>1 Emu Plains</td>
</tr>
<tr>
<td>2</td>
<td>Pennant Hills</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Emu Plains</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>441</td>
<td>442</td>
</tr>
<tr>
<td>28</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tuesday</td>
<td>3 Hospital</td>
<td>1</td>
<td>Carried forward</td>
</tr>
<tr>
<td>1</td>
<td>Carter's Barracks</td>
<td></td>
<td>1 Hospital</td>
</tr>
<tr>
<td>2</td>
<td>Clearing Party (Mr. Brown's)</td>
<td>2</td>
<td>1 Clearing Party (Mr. Blaxland)</td>
</tr>
<tr>
<td>1</td>
<td>Runaway (Emu Plains)</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Pennant Hills</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>437</td>
<td>439</td>
</tr>
</tbody>
</table>

### [Sub-enclosure No. 2.]

**Return of Male Convicts in Hyde Park Barracks, Sydney, from 25th September to 24th Octr., 1824, continued.**

<table>
<thead>
<tr>
<th>Date</th>
<th>Day of the Week</th>
<th>Increase</th>
<th>Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sept. 29</td>
<td>Hospital</td>
<td>1</td>
<td>Brought for'd.</td>
</tr>
<tr>
<td>1</td>
<td>Private Service</td>
<td>3</td>
<td>1 Hospital</td>
</tr>
<tr>
<td>1</td>
<td>Out of Barrack (Boats)</td>
<td>3</td>
<td>2 Camp</td>
</tr>
<tr>
<td></td>
<td></td>
<td>437</td>
<td>436</td>
</tr>
</tbody>
</table>

And so on, to the 24th of the Month inclusively.

Total Amount of Rations issued from to
I do hereby declare that I have kept daily Registers and taken at least Weekly Musters of the Convicts under my Charge; that I have Carefully Checked the foregoing Return by such Registers and Musters; that it contains a true and faithful Statement of the Number of the said Convicts and of the Rations issued them on each day of the abovementioned Period; and that I have used every means in my Power to limit the Issue of Rations to the number due to the Persons entitled to receive them.

Signature of the Superintendent.

I Certify that I carefully and minutely mustered the Establishment of Convicts abovementioned on the following days, Vizt. on the ...............; that from such Musters, and after a strict and careful examination of the foregoing Return by comparing it with the Nominal Lists and Registers of the said Convicts and from every other information in my possession, I believe the same to be correct in every particular.

Signature of the Principal Superintendent or Inspecting Officer.

[Sub-enclosure No. 3.]

I THE UNDERSIGNED Certify that the quantities of Provisions and articles expressed below opposite my Signature have been actually issued to the Parties within described, being for the Number of Rations for each Weekly Period, as Stated within, as well as opposite each of my Signatures respectively.

<table>
<thead>
<tr>
<th>Period</th>
<th>Number of full weekly Rations in—</th>
<th>Pounds in—</th>
<th>Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>From the date of each issue on Saturday the</td>
<td>To Friday inclusively the</td>
<td>Words at Length.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total Amount.
Regulations for issue of rations to convicts.
Form for nominal lists of convicts in detached parties.

**ABSTRACT of the Nominal Lists of the Detached Parties of Male Convicts (not Clearing Gangs) in the employ of Government entitled to and supplied with Rations Weekly from His Majesty's Stores at ................. from the 25th of .......... to the 24th of .......... 182 , inclusively.**

<table>
<thead>
<tr>
<th>Description of the Several Parties</th>
<th>Overseer or Person in charge of each Party</th>
<th>Actual number on the Saturday or issuing day of each week, being the first day of the following Weekly Periods</th>
<th>Dates on which each Party was Mustered in the above Monthly Period by the Principal Superintendent</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>From To</td>
<td>From To</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>From To</td>
<td>From To</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>From To</td>
<td>From To</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>From To</td>
<td>From To</td>
<td></td>
</tr>
</tbody>
</table>

**Total Amount of Weekly Rations ...............**

Signature of the Commandant...

Signature of the Superintendent...

Signature of the Engineer...
BRISBANE TO BATHURST.

(Sub-enclosure No. 5.)

ABSTRACT of the Nominal Lists of Male Convicts on Government Employ in the several Clearing Parties in the District of

Weekly from His Majesty's Magazines at

from the 25th of to the 24th of 1825 inclusively.

<table>
<thead>
<tr>
<th>No. of the Party</th>
<th>Name of the Estate</th>
<th>Name of the Proprietor</th>
<th>Where employed</th>
<th>Actual number on the Saturday or 1st day of each Week, being the first day of the following Weekly periods.</th>
<th>Dates on which each Party was mustered in the above Monthly Period by the Sub-Inspector or Superior Inspecting Officer.</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total Amount of Weekly Rations

<table>
<thead>
<tr>
<th>Signature of the Inspector or Superintendent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do.</td>
</tr>
</tbody>
</table>

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch per ship Mangles.)

Government House, Sydney, New South Wales,

My Lord,

8th February, 1825.

I do myself the honor to forward for your Lordship's information the General Monthly Returns of the Troops serving in this Territory from 25th October to 24th December, 1824, inclusive.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

[Copies of these returns are not available.]
SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch No. 33, per ship Mangles; acknowledged by Earl Bathurst to Governor Darling, 31st July, 1825.)

Government House, N. S. Wales,
8th Feby., 1825.

My Lord,

The enclosed Copy of a Deed of Trust, which I have the honor to transmit, has been executed, subject to your Lordship's approval, in furtherance of the endeavours of the London Missionary Society to improve the condition of the Aborigines of New South Wales.

The success of the Members of the Society in the South Seas has induced me to accede to the application, which has led to this appropriation of so large a Tract of Land.

I understand that a condition will be proposed to your Lordship, in London, securing the reversion to the Crown in case of the failure of the present project. I have, &c.,

THOS. BRISBANE.

[Enclosure.]

DEED OF TRUST TO ABORIGINAL MISSION.

By His Excellency Sir Thomas Brisbane.

KNOW ALL MEN by these presents that, Whereas the Revd. Daniel Tyerman and Geo. Bennet, Esquire, the Members of a Deputation sent by the London Missionary Society to visit and establish Missionaries in the South Seas and in the East, have undertaken on behalf of their Society to provide for the maintenance of one Missionary or more to be settled in New South Wales for the improvement of the religious and civil condition of the Aborigines thereof. And Whereas, in furtherance of their benevolent design, I have ordered that ten thousand acres of Land, suitably situated in the said Colony, be reserved for the use of the Aborigines, and be subject to such appropriation and appointment, as hereinafter expressed: Now therefore, by virtue of my Authority as Governor of the said Colony, and in order that the interests of the Crown and the aforesaid objects may be duly protected, I do nominate the Revd. Samuel Marsden, being a Life Director of the said London Missionary Society, John Oxley, Esq., Surveyor General of New South Wales, Wm. Wemyss, Esq., Deputy Commissary General, Edward Riley, Esq., Alex. Berry, Esq., Robert Campbell, Esq., all of Sydney, and Francis Allman, Esq., Commandant of New Castle, to be Trustees of the Land to be hereafter granted, and now reserved for the purposes aforesaid, that is to say, Ten thousand Acres, more or less, to be marked out as soon as it can be conveniently surveyed; and the same Land shall be selected by the said Surveyor-General, and the said George Bennet and Daniel Tyerman at or near an
Inlet, called Yawanba or Reid’s Mistake; and it shall be settled in such a manner, by Act of Council or otherwise, as may be approved by Earl Bathurst or His Majesty’s Secretary of State for the Colonies; and the said Trustees shall hold the same upon the Trusts following: not to alienate the said Land or any part thereof; to make any sale, gift, settlement or demise thereof, or any part thereof at will for years, or for any other Estate, except as hereafter mentioned; that is to say, that they shall permit such person or persons to establish him, her or themselves on any part of the said Lands, as may now or shall hereafter be appointed by the said Daniel Tyerman and George Bennet, or by the said London Missionary Society, with his, her or their attendants or servants; and that, at the request of the Chief Appointee or Appointees aforesaid, they shall convey, and they are hereby empowered to convey, for terms of years, or in tail, or in fee simple, any portion of the said Lands, not exceeding thirty acres, in such situation as the said Appointee or Appointees may select, to any Aboriginal Native or to any Offspring of Black and White parents, subject to this condition that the same shall not be sold, let or given to any White person. That, at the request of the Chief Appointee or Appointees as aforesaid of the said Daniel Tyerman, Geo. Bennet, or of the London Missionary Society, the said Trustees shall give due notice to any intruders or trespassers, and take proper legal steps to remove them from the Land; and that the expence of the said Trusts shall be defrayed by cutting Timber on any part of the said Land, except what is actually under cultivation, or reserved by the said Chief Appointee or Appointees’ directions, for shelter or ornament; and no other Timber shall be cut except by the Aborigines or their descendants, always subject to the directions and approbation of the resident Missionary or Missionaries, and except any Timber to be hereafter cut for use on the said Land or for the Boats for the Establishment thereon. That the said Trustees shall not in any manner interfere with the Missionary or Missionaries, appointed or to be appointed as aforesaid in the management of the said Lands, or his, her or their appropriation of any part thereof; and if any dissatisfaction shall arise between the said Trustees and the said Appointee or appointees, the same shall be referred to the London Missionary Society; but if pressing danger shall arise to the objects of the said Charity, requiring, in the judgment of the said Trustees, immediate check, they shall apply to the Supreme Court of New South Wales for a remedy for the same. And the said Trustees shall in all respects, so far as their duty as Trustees of the said Lands require, be guided by the following principle on which the London Missionary Society is founded.
which is as follows:—"It is declared to be a fundamental principle of the London Missionary Society that our design is not to send Presbyterianism, Independency, Episcopacy, or any other form of Church Order and Government" (about which there may be difference of opinion among serious persons) but "that it shall be left (as it ought to be left) to the minds of the persons, whom God may call to the fellowship of His Son from among them, to assume for themselves such form of Church Government as to them shall appear most agreeable to the Word of God."

And from time to time, when any of the said Trustees cease to be resident in New South Wales, they or the survivors of them, or their successors and any survivors of their successors, with the approbation of the Governor of New South Wales for the time being, shall appoint new Trustees in three months after a vacancy.

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SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch No. 34, per ship Mangles.)

Government House, N. S. Wales,

My Lord, 8th February, 1825.

Accompanying I have the honor to transmit to Your Lordship Mr. Balcomb's personal Bond for Thirty Thousand Pounds Sterling, agreeably to the instructions conveyed in your Lordship's Despatch of the 2nd of October, 1823, announcing Mr. Balcomb's appointment.

I have, &c,

THOS. BRISBANE.

[Enclosure.]

BOND GIVEN BY MR. WILLIAM BALCOMBE.*

KNOW all men, by these Presents, that I, William Balcombe, Treasurer of the Colony of New South Wales, am bound to Our Sovereign Lord the King in the Penalty of Thirty Thousand Pounds Sterling to be paid to Our Sovereign Lord the King, His Heirs, Successors or Executors, or to His or their Attorney, for which payment is to be well and truly made, I bind myself, my heirs, Executors and Administrators, and each and every of them, by these Presents Sealed with my Seal this seventh day of February in the year of Our Lord One Thousand Eight Hundred and twenty five.

Now the condition of this obligation is such that, if the said William Balcombe shall at all times, during his continuance in the said service, faithfully and diligently execute and perform the duties of the Office of Treasurer of New South Wales, and, as soon as he shall be thereunto required, shall give a just and true

* Note 131.
account of all monies, coins, notes, Commissariat Bills and Store Receipts, that, in the execution of the duties of the said Office, shall come into the hands of the said W. Balcombe, and pay the balance of such account to the said Governor of New South Wales for the time being, or to such person or persons as such Governor shall appoint, and shall deliver all Papers, Books, Writings and other things, pertaining to the said Office, as the said Governor shall direct, then the said Obligation shall be void; otherwise to remain in full force.

Signed and delivered in the presence of

Robert Stirling, Lieut. 3d Regt.
J. S. Harrison.

THOS. BRISBANE.

[Enclosure No. 1.]

SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch No. 35, per ship Mangles.)

My Lord,

8th Febry., 1825.

Accompanying I have the honor to transmit to you certain Documents relating to the late Governor Bligh's Grant of Land,* in order that your Lordship may order legal steps against Admiral Bligh's Heirs in England, who are understood to have possession of the Deeds in Question. I have, &c.,

THOS. BRISBANE.

[Note 132.]
Bligh in the Colony, during which time it was impossible that Governor Bligh could have had the Land measured or known anything respecting its situation.

In the knowledge of these facts, and in consequence of the necessity (no other land being available) of erecting on the ground a valuable and important public building, together with the extension of the Town of Parramatta in that quarter, rendered it incumbent on the late Governor Macquarie to represent the circumstances of the case to His Majesty's Ministers, and received special Instructions from His Majesty's Principal Secretary of State for the Colonies to hold the same null and void, and the Land to be resumed for the use of H.M. Government. A general Order to this effect was published in the Sydney Gazette, dated 5 Augt., 1819, a copy of which I beg leave to enclose. In obedience to this Order, the Registry of the Grant aforesaid was cancelled in my Books, but the Heirs and Assigns of the late Governor Bligh have not yet surrendered the original Deed.

It being considered that the mere publication of the General Order of the 5th August, 1819, did not amount to a Legal resumption, that it would be necessary to show that the Grant was illegal and irregular on the face of it, in consequence of Your Lordship's Instructions I wrote a Statement of the case to the Attorney General, pointing out the necessity of perpetuating the Testimony of Mr. James Meehan, the sole surviving Witness to the Deed, Mr. Meehan being at that time Acting Deputy Surveyor and having complete knowledge of the execution of the Deed by Governor King having been made long after the Government was vested in Governor Bligh, as, in the event of Mr. Meehan's Death, there would be no legal proof of the facts stated in that report, and the consequences of repossession of the Ground being taken by the Heirs of Governor Bligh would involve the loss of immense public and private property, as the greater part of the Land is now built over and occupied by the Government and private Individuals holding of the Crown.

I have, &c,
J. Oxley, Surveyor-General.

[Enclosure No. 2.]

Government and General Orders.

Govt. House, Sydney, 5th August, 1819.
Civil Department.

His Excellency the late Philip Gidley King, Esquire, formerly Captain General, Governor and Commander in Chief in and over His Majesty's Territory of New South Wales and its Dependencies, having, by a certain Deed under his hand and the Seal
of the Territory, bearing date the 10th day of August in the
year of Our Lord, 1806, given and granted unto William Bligh,
esquire, his heirs and Assigns, to have and to hold for ever, one
hundred and five acres of land lying and situate in the District
of Parramatta (for a private residence near Parramatta), com-
encing six chains to the Westward of the present Bridge, and
running from the river north 30 chains, thence N.W. to Smith's
Farm, along the S.E. line of said Farm to the River, which was
then to be the Boundary on the West and South sides, except as
therein mentioned; the said 105 acres of Land to be known by
the name of Mount Betham. And the Grant of Land, so made by
the said Governor King, having been in direct contravention of
his instructions as Governor, and without any special authority
from His Majesty's Ministers; and His Excellency the Governor,
having in consequence thereof received Instructions from His
Majesty's Principal Secretary of State for the Colonies to hold
the said Grant as null and void, is hereby pleased to order and
direct that the said Grant of Land be resumed for the use of
His Majesty's Government, and the Surveyor General of the
Colony is hereby commanded to cancel the Registry of said Grant,
and the Heirs and assigns of the said William Bligh are hereby
required to bring the aforesaid Deed of Grant into the Office of
the said Surveyor General for cancellation, and the said Deed is
hereby declared to be absolutely void and is of no effect in Law
or Equity.

By His Excellency's Command,
J. T. CAMPBELL, Secretary.

A true copy of the Proclamation of the 5th of August, 1819.
J. OXLEY, J.P.

[Enclosure No. 3.]

ATTORNEY-GENERAL BANNISTER TO SIR THOMAS BRISBANE.

Sir, Sydney, 1st Febry., 1825.

The Surveyor General has placed in my hands a Pro-
clamation, issued by His Excellency Governor Macquarie de-
claring the ground upon a certain Deed granted by Governor
King to Admiral Bligh was invalid, and calling on the Heirs of
Admiral Bligh to produce the said Deed for cancellation. As the
Heirs are, I understand, in England, I have to submit to your
Excellency that it will be proper that a copy of this Proclamation
be sent thither in order to enable Earl Bathurst to cause pro-
cceedings to be instituted against them. The Deed is also said
to be in their personal possession, so that the utmost, that can be
accomplished here in this matter, is to take steps for the perpetua-
tion of the evidence of Mr. Meehan, whom the Surveyor-General
states to be the only surviving witness to the Deed.
HISTORICAL RECORDS OF AUSTRALIA.

If Mr. Oxley be directed to state the case for transmission to England, the proper proceedings can in the mean time be had here.

I have, &c.,
S. Bannister.

[Enclosure No. 4.]
ATTORNEY-GENERAL BANNISTER TO SIR THOMAS BRISBANE.

Sir,
Sydney, 5th Feb., 1825.

I have read the Papers, returned herewith, relating to the Grant of Mount Betham, and I have the honor to report to Your Excellency that they appear to me to be sufficient to enable Earl Bathurst to direct the proper measures to be taken in England for the cancellation of the Deed referred to, if it be illegal.

The Heirs of Governor Bligh are in Europe, and no effectual Suit can be commenced I think here, except for the purpose, mentioned by the Surveyor General, of perpetuating the testimony of the single surviving Witness.

I have, &c,
S. Bannister.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 36, per ship Mangles; acknowledged by Earl Bathurst, 23rd July, 1825.)

Government House, N. S. Wales,
9th Feb., 1825.

My Lord,

I have long delayed taking any further steps in regard to the coin in the Colony, as I saw by the Debates in Parliament that the subject was under the consideration of the Chancellor of the Exchequer. I was, therefore, unwilling to trouble your Lordship with any arrangement of mine by fixing the rate of the Spanish Dollar with reference to English Sterling, as it must cause its nominal value to be always fluctuating, because we have no Sterling Metallic money in the Colony, and the Value of Bills of Exchange, the only remaining criterion, must depend on the rate of Exchange itself, and upon the accidental state of the Trade between this Colony and Great Britain.

It appears, therefore, the better way to fall in with a system, which is becoming general, to stipulate that the payment of all Taxes, as well as the Salaries of Public Servants and other engagements, shall be made on the part of Government in Dollars eo nomine without reference to any value; and in those cases where it may be necessary to express Sterling money to specify that the Dollar shall be taken nominally at five shillings.

Should His Majesty's Government deem it expedient to mint a coin for the use of the Colony, I should humbly beg to suggest that it might be advisable to divide such Coin, with reference to
the Dollar, into halves, quarters and eighths of Dollars, and that
the Copper medium should be calculated upon the same basis.
The intrinsic value of the Spanish Dollar at present is estimated
at 4/3ths.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 37, per ship Mangles.)

Government House, New South Wales,

My Lord, 9th February, 1825.

It is with feelings of a most grievous Sensation that I
have the honor to transmit to your Lordship some hasty replies

to many of the foulest, most unjust, illtimed and most unprovoked
attacks on my character, which hitherto had been the pride of my
life, as well as my most cheering consolation in reflection that,
through a life time devoted to my Country's Service, it had
remained even unsuspected until villified in the Morning Chronic-
le of last August, but more particularly in that Paper of the
19th of that Month, in which it proclaims to the World that "the
Governor's word alone is not to be believed." Did the wide Gulf
not separate me from the author of these falsehoods, who I am
persuaded to be Mr. Field, late Judge of the Supreme Court, I
should not fly to your Lordship for protection; did not this
Weighty consideration impel me to intrude myself for that re-
dress, which I trust I may in the mean time be enabled to receive
through Your Lordship's interference in my behalf from the
peculiarity of my Situation.

I have written to private friends on the same subject and trust
by the next ship to send Your Lordship further details of Proof

to contradict the wanton accusations made against my reputation,
which has been dealt with so freely by the same anonymous
Author, whose pen I have no doubt was dipped in gall whilst
here, and whose actions bespoke the same offensive ingredient,
but which the immediate sailing of the Mangles precludes me
from accomplishing.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

SIR THOMAS BRISBANE'S REPLY* TO ARTICLE IN THE "MORNING
CHRONICLE."

As to Mr. Lang's case and the Presbyterian Address, upon which the
imputation of the Governor's Word is founded.

Mr. Lang, a Minister of the Scotch Church, did not come here by
the express or by any invitation of Sir Thomas Brisbane, or of any
part of his family to his knowledge, then or now, for any purpose.

* Note 134.
Until his arrival, Sir Thomas Brisbane did not hear of his intentions; he never gave Mr. Lang liberal promises of personal patronage; but public Support he has always been willing to give to the Scottish Church in common with any other religious denomination.

Sir Thomas Brisbane did not correct the Address nor show to Mr. Lang the answer he proposed making. In fact, he never wrote an answer but gave general and Sincere assurances of Support.

Reply to address from Presbyterians.

Sir Thomas Brisbane gave orders to the Colonial Secretary to prepare an answer to the Address,* and did not see it till a few minutes before the Meeting.

As to the inquisitional Police Regulations.

It is not true that a Stranger cannot enter the Town of Parramatta on business or pleasure without being asked by the Convict constable on duty the questions mentioned in the letter. But it is true that the Police of the Colony has been thought to be necessary in a Convict country upon a different principle from that which governs the Mother Country. A System of requiring Passes to be carried by persons, who at Home would not be objects of suspicion nor under restraint, was till lately held to be lawful under the orders of the Governors from the foundation of the Colony. Whether this System is necessary now under the new Act of Parliament and Charter is a Subject of considerable importance and has been much thought of. The legislative power, now existing in the Governor with the advice of the Council, enables him to meet the question satisfactorily. Hitherto he assumed that to be Law which all his predecessors had done under the eye of Parliament for more than thirty years without control.

It is not true that the Magistracy of Parramatta consisted at the writing of this Letter of the persons only mentioned in it. It is the regular Bench of the neighbourhood, and although a change was recently thought necessary, yet, during that change, Dr. Harris the oldest Magistrate of New South Wales belonged to it.

It is not true that the Government Officials gain 20 per cent. on their incomes by the Dollar change. They gain something, but the imputation here cast on them is wilfully unjust; but this Subject has long been referred to His Majesty's Ministers.

As to the exercise of the Censorship of the Press.

The Agricultural Society has a distinct Article against extending its proceedings to Political questions, and the manner in which this Address was got up proved that a party purpose was the sole object of the few members concerned. The passage in question was not only an exception to this rule, but on a subject much in dispute in the Colony; the impartiality of Judge Field was the last topic his friends should have praised. But the motive, which influenced Sir Thomas Brisbane in expunging the passage, was that he considered animadversions on the conduct of Judges on the Bench indecent, and the more particularly as coming from a Body in which general subjects were specially rejected.

As to the Condition in the Leases.

True as to Parramatta, &c.

* Note 135.  † Note 136.
BRISBANE TO HORTON.

As to Mr. Rumker.
I never pass even fifteen minutes in the day in my Observatory*; the only hours I go there are after eight o'clock at night when the Public have no further claim on my Services.
My recreations of Shooting, &c, have never interfered with my public duties, in proof of which the business of the Colony has never suffered from my neglect of it.
The above is an accurate Statement of facts.

THOS. BRISBANE.
Government House, New South Wales, 9th February, 1825.

SIR THOMAS BRISBANE TO UNDER SECRETARY HORTON.
(Despatch per ship Mangles.)
Government House, Sydney, New South Wales,
Sir,
9th February, 1825.
The explanation which your letter of the 30th of August, 1823, requires from Mr. John Macqueen, a Merchant in Sydney, I have the honor to enclose in this Despatch; and, as he intimates in that Communication his intention to be in England shortly, by the Vessel in which he may embark I propose notifying to Mr. Boddy the departure from this Colony of Mr. Macqueen.
I have, &c,

THOS. BRISBANE.

[Enclosure No. 1.]
SECRETARY GOULBURN TO MR. JOHN MCQUEEN.
Sir,
Colonial Secretary's Office, 21st April, 1824.
By the direction of Lord Bathurst, I request an explanation of the circumstances that have prevented your transmitting to Mr. Boddy of His Majesty's Yard at Woolwich the funds, which came into your Hands in the year 1820 on the death of his Son Joseph.
I am, &c,

F. GOULBURN.

[Enclosure No. 2.]
MR. JOHN MCQUEEN TO SECRETARY GOULBURN.
Sir,
Sydney, 31st May, 1824.
In reply to your letter of the 21st Ulto., I beg leave to recapitulate what I have already stated verbally, vizt. that Joseph Boddy died without leaving a Will. Joseph Boddy, the deceased, particularly desired me to share what funds I might have belonging to him (in case of his death) between his sisters. I have not had an opportunity of safely settling this matter to my satisfaction, but, as I expect during the present year to be in England, I shall fulfil my duty as near as I can to the wishes of the deceased.
I have, &c,

JNO. MCQUEEN.

* Note 137.
HISTORICAL RECORDS OF AUSTRALIA.

1825.

9 Feb.

Letter of introduction for E. Macarthur.

SIR THOMAS BRISBANE presents his Compts to Mr. Wilmot Horton, and takes the liberty of presenting Captain MacArthur, the bearer of this, who will be happy to afford Mr. Wilmot Horton any information respecting the Colony of New South Wales, in which he has resided for some months.

Government House, New South Wales, 9th February, 1825.

10 Feb.

Recommendation of T. Walker for land grant.

SIR,

Downing Street, 10 February, 1825.

I am directed by Earl Bathurst to transmit to you the accompanying copy of a letter from a Mr. Walker, who is desirous of obtaining a Grant of Land for his Son, who is at present at New South Wales; and I have the honor to request that you will further his views in this respect upon being satisfied that Mr. Thos. Walker possesses the Capital stated by his Father.

I have, &c.,

R. W. HORTON.

[Enclosure.]

MR. J. T. WALKER TO EARL BATHURST.

My Lord, No. 8 Billiter Square, London, 7 Febry., 1825.

I take the liberty of soliciting a Grant of Land in New South Wales for my son Thomas Walker, who has proceeded to Sydney without being furnished with an order for it from His Majesty's Government.

He has the means of bringing into cultivation the allotment usually made to Settlers, possessing £2,000 of capital; as he is a Native of, and was Educated in Scotland, my friends here are not acquainted with him. I am, therefore, prevented furnishing the usual testimonials as to respectability of Character, but beg to annex a Certificate of my own pledging myself for that of my Son's justifying Yr. Lordship's favoring him with a Grant of Land, etc.

I am, &c.,

JAS. THOS. WALKER.

[Sub-enclosure.]

We hereby certify that Mr. J. T. Walker is known to us as a person of honor and respectability.

WM. THOMPSON.

ROBT. FARRANDS.
HORTON TO BRISBANE.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.
(Despatch per ship Norfolk.)

Sir, Downing Street, 13 Feby., 1825.

I am directed by Earl Bathurst to transmit to your Excellency the enclosed Copy of a letter, which Dr. Douglass addressed to me previously to his departure for New South Wales, recommending the appointment of a proper person to superintend the Male and Female Orphan Schools in that Colony. Lord Bathurst has not deemed it advisable to acquiesce in Dr. Douglass's suggestion that a Clergyman should be sent out from this Country for this particular object. But his Lordship has directed me to acquaint your Excellency that he has no objection to sanction an appointment of the nature of that recommended by Dr. Douglass, should you be able, in concert with Archdeacon Scott, to select a proper person in the Colony to fill that situation.

I have, &c.,

R. W. HORTON.

[Enclosure.]

DR. DOUGLASS TO UNDER SECRETARY HORTON.

Dear Sir, London, 10th Feby., 1825.

I had the honor, in obedience to the directions of the Colonial Government, to address two letters to you stating the absolute necessity for a person of fit and proper acquirements being sent to New South Wales to Superintend the Male and Female Orphan Schools. I assure you, Lord Bathurst could not confer a greater boon upon the rising generation of the Colony than in acquiescing with, not only the wishes of Sir Thomas Brisbane, but the earnest desire of the Colonists in this respect, so much depends upon proper principles and usefull knowledge being instilled into the Minds of the Children of these Schools.

It is, therefore, with Sincere pleasure I have the honor to enclose, according to your Commands, a letter directed to me by The Revd. E. Groves, A Clergyman whose Talents are acknowledged and whose practical value in the different departments of Education, as well as his Philanthropic character, have been and will be borne ample Testimony to by some of the most valuable Men of the day. I do not think you could render the Colony a more essential Service than by sending out this Gentleman to Superintend the Schools under the Control of Archdeacon Scott. Mr. Groves at present holds an Office under The Irish Government with £250 per Annum, which he is ready to relinquish for an appointment, Connected with general Education in New South Wales; he is Married and his Lady is a highly Accomplished Person, the daughter of a worthy Clergyman.

I remain, &c.,

HENRY G. DOUGLASS.
SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 38, per ship Hope; acknowledged by Earl Bathurst to Governor Darling, 16th August, 1825.)

Government House, Sydney, New South Wales,

My Lord,

20th February, 1825.

It is with grief that I announce the decease of Mr. James Mileham, Senior Assistant Surgeon on the Medical Staff of New South Wales. In full practice as a Physician, the French Revolution obliged him to emigrate from his country; when the British Government, commiserating his misfortunes and appreciating his talent, allowed him to bear to this Colony, in the year 1796, His Majesty’s Commission as an Assistant Surgeon. Devoted incessantly to the duties of his appointment, he saw his companions hourly improving their opportunities of enriching themselves, which he allowed to pass by unheeded himself; and he remained a solitary instance of one who had continually resided in this Colony nearly thirty years, and yet was in want. His latter years were pinched by penury; his declining health was alleviated by no comforts; and he terminated his mortal career after a lingering and distressing illness, leaving behind him a widow, whose prayer is offered to your Lordship in the enclosed Memorial, dependant for her existence on your favorable consideration.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

THE MEMORIAL OF MRS. MILEHAM.

To His Excellency Major General Sir Thomas Brisbane, K.C.B., Governor and Commander in Chief of the Territory of New South Wales and its Dependencies, etc., etc.

The Memorial of Susanah Mileham, relict of the late James Mileham, Senior Assistant Surgeon on the Colonial Establishment and one of His Majesty’s Justices of the Peace of this Colony, Esqr., most respectfully sheweth,

That Memorialist’s late Husband arrived in this Colony, with His Majesty’s Commission as an Assistant Surgeon, in the year 1796 (only eight years after its first Establishment); when he became immediately attached to the Colonial Medical Staff, an appointment which he continued to hold without one intermission from that to the time of his death, the 28th Ultimo, a period attended the greater part of it with unavoidable but considerable difficulties and painful privations, both such as affected him in general with others, as a mere member of this community in its then early stage, and such more especially as related to him in his medical capacity.
That, in the year 1808, he was put in Commission of the Peace, which, as a mark of the approval of Government of his invariably useful and faithful conduct, was confirmed by His Excellency Govr. Macquarie in the year 1811, and which he continued to hold up to the hour of his demise, having executed the duties of this Office also with the full approbation of the Government, both for his steady upright and humane discharge of those duties.

That, in the year 1818, in consequence of the retirement of D'Arcy Wentworth, Esqre., the then Principal Surgeon, he had every reason to expect that, in due course from the date of his standing and the established usage of the Department, he had become eligible to be appointed, and, more especially with his claims as above cited, would be appointed Principal Surgeon of the Colony, when he was induced to waive such his claims to advancement from the considerations that his age and his then state of very reduced bodily health would render him incompetent to an efficient and conscientious discharge of its duties.

Further, that Memorialist's late Husband, fully occupied in his official functions in the various Districts to which he became successively appointed to act, and that with a salary barely adequate to that mere respectability, which his official situations made it incumbent on him to maintain, was utterly precluded from providing means for the future support of his family; and that Memorialist is in consequence now left without the means of subsistence.

That Memorialist, therefore, from the consideration of the very long useful and approved services of her deceased Husband, and in addition his though unavoidably yet painfully frustrated expectations as to advancement, is induced to solicit that Your Excellency will be pleased to give to her peculiar circumstances your favorable attention, and to cause that she may be allowed, as his widow, such means of subsistence as to your Excellency may seem most fit, and your Excellency's Memorialist as in duty bound will ever pray.

S. Mileham.
1825.
23 Feb.
Returns relating to crime and land grants to be transmitted.

In the system, I have to signify to you His Majesty's Commands that you do take immediate measures with a view to the transmission of such Returns, commencing from the 1 January, 1821, up to the latest period that the same can be made up; and you will continue to forward these Returns to me annually for the Information of His Majesty's Government. I have, &c.,

BATHURST.

[Enclosure No. 1.]

A Return of all commitments to the Court of Criminal Session from the 1 Jany., 1821, to the latest period the same can be made up and to be continued annually according to the following form:

<table>
<thead>
<tr>
<th>Date of Committal</th>
<th>Prisoner's Name</th>
<th>When tried or bill ignored</th>
<th>Verdict</th>
<th>Sentence</th>
<th>If remitted and why</th>
<th>Name of Comm'g Magistrate and District</th>
</tr>
</thead>
</table>

[Enclosure No. 2.]

A Return of all grants of Land made in N. S. Wales from the 1 Jany., 1821, until the latest period to which the same can be made up according to the following form and to be continued annually.

<table>
<thead>
<tr>
<th>Date</th>
<th>No. of acres</th>
<th>County or District</th>
<th>Name to whom granted</th>
<th>When taken up</th>
<th>No. of Conv. assigned</th>
<th>If Vict'd, for how long</th>
<th>Capital stated</th>
<th>Nature of improvement</th>
</tr>
</thead>
</table>

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 21, per ship Norfolk.)

24 Feb.

Instructions re land grants to unauthorised immigrants.

Sir,

Downing Street, 24 Feb'y, 1825.

Frequent applications having been made of late to His Majesty's Government for Grants of Land by Persons, who, having proceeded to New South Wales without any intention permanently of residing in that Colony, have after their arrival been anxious to become Residents, and who in such cases have
experienced a difficulty of obtaining Land in consequence of not being provided with the usual authority from me, I have to convey to you the King's Commands in all instances of Individuals wishing to occupy Land in New South Wales, who have proceeded to the Colony under similar circumstances, that they should receive a Grant, in the same proportion and under the same conditions with respect to Capital, as persons who have previously obtained my sanction for the same; provided always that they shall satisfactorily shew, on making such applications to you, that they possess adequate means for bringing the Land into a sufficient State of Cultivation, and that there has been nothing in their general conduct or repute, which would make them unfit for receiving such a Mark of Favor; and in all such instances the case to be sent home for confirmation.

I have, &c.,

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 22, per ship Norfolk.)

Sir, Col'l Office, 25 February, 1825.

As it appears to His Majesty's Government to be highly expedient that some portion of the attention and labor of Mr. Busby, who proceeded to New South Wales as Mineral Surveyor and Civil Engineer in the year 1823, should be appropriated to the Colony of Van Diemen's Land, where the want of professional Research has rendered unavailable many of its natural productions, I have to instruct your Excellency to put yourself in Communication with Mr. Busby upon this subject, and if you should find that he does not consider Van Diemen's Land as included in the agreement,* which was entered into between him and His Majesty's Government, you will consider yourself authorized to make some arrangement with Mr. Busby, by which his professional assistance may be rendered in exploring that settlement, so far as Minerals and Geology are concerned, more especially with respect to Coals and Iron, of the existence of which strong indications have appeared in the Southern part of the Island.

I have, &c.,

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 23, per ship Norfolk.)

Sir, Downing Street, 26 February, 1825.

His Majesty's Government having had under their Consideration a Memorial from Mr. Gregory Blaxland, in which he submits the propriety of allowing a Drawback or remission of the

* Note 138.
Remission of duty on brandy used in wine for export.

26 Feb.

EARL BATHURST TO SIR THOMAS BRISBANE.
(Despatch No. 24, per ship Norfolk.)

Sir, Downing Street, 27 Febry., 1825.

With reference to my Dispatch of the 16 August last, in which I directed you to assign out of the Police Fund a Sum equal to one Third of what, upon an estimate first approved by yourself, might appear to be sufficient for the erection of a Church at Sydney, in which the Ordinances of Religion might be dispensed according to the institution of the Church of Scotland; I do myself the honor to acquaint you that, the Revd. Mr. Lang having represented that it would be more satisfactory to the Presbyterians in the Colony of New South Wales that a Salary should be allowed to a Clergyman in connection with the Church of Scotland than that they should receive the assistance above specified, His Majesty has signified His pleasure that the sum of £300 should be applied annually, out of the unappropriated Revenues of the Colony, for the support of the Minister of the Scot's Church at Sydney; but you will observe that this allowance to the Minister is to be in lieu of the assistance, which it was proposed to afford to the Presbyterians of New South Wales for the erection of their Church. I have, &c.,

BATHURST.

[Enclosure.]
South Wales to have a salary allowed by His Majesty's Government to a Clergyman, in connection with the Church of Scotland, than to receive assistance in the Erection of the Church," I have received Lord Bathurst's commands to acquaint you that, upon this representation, his Lordship will instruct Sir Thomas Brisbane to apply the sum of £300 annually, out of the unappointed Revenue of the Settlement, for the support of the Minister of the Scots Church at Sydney; and Sir Thomas Brisbane will also be informed that this allowance is to be granted to the Minister in lieu of the assistance, which he was directed to assign to the Presbyterians of New South Wales for the erection of their Church.

I am, &c.,

R. W. Horton.

Sir Thomas Brisbane to Earl Bathurst.

(Despatch No. 39, per ship Hope; acknowledged by Earl Bathurst to Governor Darling, 12th November, 1826.)

Government House, New South Wales,

My Lord,

4th March, 1825.

As the circumstances connected with the Merchant Ship "Almorah" have caused a great sensation here,* and as I have no doubt every attempt will be made in England to excite misrepresentation, I deem it my Duty to give your Lordship a detail of the whole.

In the end of August last, finding that the wheat had risen to 30s. per bushel, Mr. Wentworth, Superintendent of Police having subsequently stated to me it had advanced to 50s., as it was then four months from the Harvest, combined with a long continued drought, and as there were other contingencies from physical causes over which there was no human control, as these might operate to impair the crop when it did arrive, I considered it expedient to instruct Mr. Wemyss, Deputy Commissary General, to charter a Vessel to bring a cargo of rice and flour from Batavia, our nearest port for supplies; in which measure I considered myself fully justified, not only in guarding against the pressure of want, or diminishing the expence to the Crown of the number to be fed, but guided by the precedent of the Ports in England being thrown open to the importation of grain, when it exceeds a certain price; I considered these as legitimate motives for the step, and a copy of this letter, No. 1, I have the honor to transmit to your Lordship.

The Ship "Almorah," being considered by me as having tendered for this Service most advantageously of those that were in the Harbour, and disposable as stated by Mr. Wemyss, was consequently engaged, and Sailed the 10th of September, and arrived here the 17th of last month. On the day following, I

* Note 139.
Seizure of ship Almorah by
captain of
H.M.S. Slaney.

Cargo on
ship Almorah.

1825.
4 March.

Quaified
approval of
actions of
W. Wemyss.

Criticism of
importation
of dollars.

Negotiations
with
C. Mitchell.

Attempts to
recover
government
property.

learnt with Surprize of her having been seized in the harbour by
Captn. Mitchell, commanding H.M. Ship "Slaney." On a com-
munication with the Attorney General as to the cause of the
seizure, I learnt with surprise that it arose from there being 300
quarter chests of Tea on board; And, on receiving a Report from
the Naval Officer, I discovered with much astonishment that there
were 53 Chests more, 106,000 Dollars, 288 Bags of Sugar, and
480 Bushels or Bags of wheat. As none of these articles were
even contemplated by me, or any others beyond those expressed
in my letter above alluded to, I could not but consider that Mr.
Wemyss had assumed to himself a latitude he was by no means
authorized to exercise; and, on my expressing myself to that
effect, in the presence of the Attorney General, he said he con-
sidered himself fully borne out by his Instructions, producing
them at the same time, and adding that he would relieve me from
all responsibility; I therefore only felt it necessary for me to
sanction the transaction on the part of Government here, so far
as to protect the interests of the Crown; and as I viewed it as a
bona-fide transaction between the Commissary and the Crown, I
stated to the Attorney General that, under that impression solely,
I should Sanction the transaction, in order to enable him to sue
for it as Crown property, as having been paid for by Treasury
Bills, reserving to myself the exoneration to your Lordship as to
the items of the Cargo at a future period.

Touching these, I must view Mr. Wemyss having sent for so
large a quantity of Dollars as a most inexpedient measure, as one
of the many obnoxious proceedings he had resorted to, and which
excited increased confliction between him and the Inhabitants;
and I am fully borne out in this opinion as the premium on
Treasury Bills here, at the time they were negociated at Batavia,
did not differ one per cent., which would not justify the respon-
sibility or warrant such a risk under any circumstances connected
with it. Negociations were going on for several days between
the Attorney General and the Law Officers of the Crown, and
Captain Mitchell and his legal advisors, and I must lament to
report the issue. After I had agreed to give Treasury Bills to
the amount of the Cargo, as my letter (No. 2) to the Attorney
General on the subject will acquaint Your Lordship, which the
Captors would not accede to, unless I consented to lodge the
money in the New South Wales Bank, which proposal I declined
from many reasons; I then directed the Attorney General to
obtain a Warrant and to proceed with Mr. Clements the Commis-
sariat Officer, who had gone to Batavia for the Cargo, and to
identify the Crown property, in order that he might recover it
under the sanction of the Attorney General's presence, which
BRISBANE TO BATHURST.

1825.
4 March.

Attempts to recover government property.

seemed the best means of preventing personal violence; I however wrote myself a letter to Captain Mitchell (No. 3) directing him to issue his orders that no violence should be used by his Officers or men on board the “Almorah” in charge of her, whilst Mr. Bannister was in the discharge of his duty going on board her; and I particularly instructed the Attorney General to give this letter to Capt. Mitchell before he went. Your Lordship will learn with no less surprise than regret that after all these precautions that many loaded muskets were fired at his boat as he approached the Almorah, then in charge of Lieut. Mathews of H.M. Ship “Slaney,” and was told by that Officer that he would sink her; Mr. Bannister, not being allowed to come near the Ship, deemed it prudent to return. Lieut. Mathews and his lawless crew on this gave three cheers. The Attorney General saw Capt. Mitchell after this had happened, and prepared to proceed a second time to see if he could be more successful, when Capt. Mitchell told him from his boat “He had better not go on board” (the Almorah), thus identifying himself with the transaction and the felonious orders he had given to fire on all boats which should approach the “Almorah”; and which reception the Attorney General experienced a second time, as he was repeatedly fired at with ball, which struck the water so near the boat, that nobody could mistake them. I was anxious from the beginning to get so large an amount of Crown Property into my possession from various considerations; and one of my most cogent reasons was the impression that, in the event of a condemnation on behalf of the Captors, the value might be lost before an appeal home could be obtained to direct a restitution to the King. This was a chief ground of that anxiety to possess the cargo. Throughout the whole transaction I had shown the utmost forbearance to Capt. Mitchell after Seizing the “Almorah”; although in my opinion, and confirmed by the Law Officers of the Crown, that the Seizure was illegal, still I was unwilling to recover the Almorah at so grievous a rate, as the expence of human life or shedding of blood, which I was fully aware would be the effect of proceeding to lay hold of the Crown property, and which assertion is fully justified by the unwarrantable, illegal and unjustifiable proceedings of Capt. Mitchell with the Officers and men of H.M.S. Slaney, who came here to protect the King’s property, but have been the first to violate it, to outrage the Law in the grossest manner, and to set my authority at defiance. Had I been as little regardless of life or the Shedding of blood as Capt. Mitchell or his First Lieutenant, is it to be for a moment supposed that, by manning all the boats in the Harbour with troops, I could not have obtained possession of the Almorah? But I was actuated by very different feelings, both of a moral and political
nature; and, as regards the former, could I have acquitted myself to my own mind in time of profound peace, to sacrifice many lives, whilst the bounty of Providence had happily placed us beyond the immediate want of the Cargo of the Almorah, so as to justify such a measure? In the next place, how could I reconcile establishing a conflict between the two Services? These grave considerations outweighed every other possible bearing of the case. Although Capt. Mitchell has no plea to justify his conduct, and seems to have been actuated by no motives beyond personal advantages which were at issue; and I should presume never once reflected on the baneful tendency of establishing here, above all countries in the world, the evil example of so dangerous a proceeding as a pre-eminence to the Law of the Land, as also an utter contempt of my authority; and I have no hesitation in pronouncing that the danger arising from this example is incalculable; and if the Law, as it now Stands, does not place a Naval Officer under the control of the Governor, I should humbly beg to Submit to your Lordship the propriety of an alteration being made on this head. I am induced to believe that your Lordship will hardly credit that, after all the precautionary measures with Capt. Mitchell and the amicable negotiations still pending, he should, in the course of the following night, have removed the Almorah, and had her unlawfully sent to Sea without any Sanction, and without a Port Clearance, as also in defiance of all remonstrance; and his First Lieutenant with a body of Marines are gone in her in order to defend her against any attempt to take her. I have to add another act of equal violence and injustice on the part of Capt. Mitchell, in refusing to allow Mr. Clements, the Officer of the Commissariat, to proceed in the Almorah to the Port he proposed to send her, I presume lest he might claim the property of the Crown, and substantiate all the facts connected with this extraordinary transaction.

I have availed myself of a Ship going to India to transmit a Statement of this Case to the Governor General, and I have pressed the necessity of Sending Lieutenant Mathews down here to be tried for the offence he has committed against the Law of the Country; and I deem it of much importance that he should be tried here for the sake of example, where he has so grossly outraged the Law; and I trust your Lordship will concur in the opinion of the propriety of this measure. I shall only further press in the Strongest manner upon your Lordship the urgent necessity of visiting Capt. Mitchell with all the responsibility his conduct merits; as however lawful and fair the seizure of the Ship Almorah and her cargo might be, nothing in my mind can
justify the unlawful and outrageous conduct of Capt. Mitchel in the gross violation of the Law as connected with the whole proceedings, or in personal disrespect to myself; and I fear he has allowed himself to be misled by his legal Advisers Dr. Wardle and Mr. W. Wentworth, who, unfortunately, are not responsible for any opinion they give, or act arising from it, and whose report of it in the “Australian,” of which they are the Editors, is stated to me by the Attorney General to be grossly inaccurate.

I have the honor to send your Lordship a copy of the letter which I have transmitted to the Governor General in India, accompanying notarial copies of all Papers connected with the case of the Almorah. I have also the honor to transmit to your Lordship the Attorney General’s Report of the case, and I have only to hope that they will view these proceedings in England as well as in India in their just Light. I have, &c,

THOS. BRISBANE.

[Enclosure No. 1.]

[A] SIR THOMAS BRISBANE TO DEPUTY COMMISSARY-GENERAL WEMYSS.

Sir, Government House, Parramatta, 2nd September, 1824.

I have just been favoured with your different communications respecting the chartering of a Vessel to proceed to Batavia for Rice, Flour, &c. and the Almorah appearing to me the most advantageous terms to the Public, I hereby authorize you to engage her for that purpose, and the utmost dispatch should be used in sending her.

I have, &c,

THOS. BRISBANE.

[B] SIR THOMAS BRISBANE TO DEPUTY COMMISSARY-GENERAL WEMYSS.

Sir, Government House, Sydney, 1st March, 1825.

I hereby direct you to order Mr. Clements to proceed to Crown property the Almorah for the Crown property in her; and, in performance of that service, he will attend to the Instructions he will receive from the Attorney General, who I have ordered to be present.

I have, &c,

THOS. BRISBANE.

[Enclosure No. 2.]

[A] SIR THOMAS BRISBANE TO ATTORNEY-GENERAL BANNISTER.

Sir, Government House, Parramatta, 19th February, 1825.

In consequence of the accompanying intimation from Captain Mitchel, of H.M. Ship “Slaney,” of his having seized the Ship “Almorah” for having on board contraband Goods, I beg leave to acquaint you with the circumstances connected with this

* Note 139.
transaction, with the view to enable you to defend the interests of the Crown. I have to request you will call in the aid of the Solicitor General, should you find it necessary.

In the end of August, finding Wheat had risen to 30s. per Bushel, and Mr. Wentworth, Superintendent of Police, having subsequently stated to me that it had advanced to 50s., as it was then four months from the harvest, and as physical causes might occur to injure the Crop, when it did arrive, over which there was no human control, I considered it expedient to instruct Mr. Wemyss to Charter a Vessel to bring a Cargo of Rice from Batavia, which ship consequently sailed the 10th September and arrived the 17th Instant; as I am not aware on what grounds the Vessel has been seized, I beg to receive a communication from you as to the legality of the seizure.

Referring to the Naval Officer's report, it seems Sugar, Wheat and Tea forms a large proportion of the cargo; all of which articles were not even contemplated by me, nor was I made acquainted with the intention of importing them; exclusive of which, I have six Cases of Wine for myself with a few Spices, Seeds, Plants, etc.

I have, &c,

THOMAS BRISBANE.

[BR] SIR THOMAS BRISBANE TO ATTORNEY-GENERAL BANNISTER.

Sir,

Government House, Sydney, 28th February, 1825.

On reflection since you left me, I think it might expedite matters and prevent ultimate loss, if you could meet the legal advisers of the seizing Officers and arrange some course of proceeding on the following basis: That in the event of the seizors agreeing to put the Government in possession of the Almorah's cargo belonging to the Crown, that the Government should stipulate to make good the value to the seizing Officers upon condemnation, or in other words that the Government would abide by any decision ultimately pronounced by a Court of competent Jurisdiction.

I have, &c,

THOS. BRISBANE.

[C] MEMORANDUM FROM THE GOVERNOR TO THE ATTORNEY-GENERAL.

The Governor has no objection to the Tea being reserved, nor to giving Treasury Bills for the value of the rest of the Crown Property, to be deposited in the hands of the Colonial Treasurer to abide the result of a legal decision in any competent Court of Law, in whatever form the questions involving this case may arise.

If this proposal is not acceded to, the Attorney General is hereby ordered to accompany Mr. Clements, the Officer of the
BRISBANE TO BATHURST.

Commissariat, in demanding, in the name of the King, the re-

possession of the Crown Property now in the Almorah. The 1825.

Attorney General will merely take legal processes in this case 4 March.

not extending to personal violence.

Thos. Brisbane, Governor.

Government House, Sydney, 1st March, 1825.

[Enclosure No. 3.]

Sir Thomas Brisbane to Captain Mitchell.

Sir,

Government House, Sydney, 1st March, 1825.

Understanding that the Almorah has been removed pend-
ing negotiations, I have to express my regret that such steps ofwoience.

should have been taken, and to inform you that I have given 94x484.

orders to the Attorney General to proceed with proper authority 94x473.

on board the Almorah to claim the Crown Property in her; and I 94x462.

have to desire that you will issue your orders that no violence be 94x451.

used upon the occasion by the Officers and men of H.M. Ship 94x441.

Slaney, in charge of her.

I have, &c.,

Thos. Brisbane.

[Enclosure No. 4.]

Attorney-General Bannister to Sir Thomas Brisbane.

Sir,

Sydney, 5th March, 1825.

Reserving for another report the details of the whole case of the "Almorah," I have the honor of stating to Your Excel-

lency at present such circumstances only, as appear to be neces-
sary to be considered in framing a dispatch to the Governor-

General in India, both with regard to the Property of the King 93x336.

on board that Ship, and with regard to the criminal proceedings 93x325.

proper to be had there against Lieutenant Matthews, if he be 93x314.

found within the Jurisdiction of the East India Company. Your 93x303.

Excellency will, also perhaps, deem it to be right to transmit a 93x293.

Dispatch on the latter subject to the Naval Commander in Chief 93x282.

on the Indian Station.

I trust it is quite clear from the manner, in which the pur-

chases of the Commodities claimed on behalf of the Crown were 98x140.

conducted by the Commissariat Officer in Batavia, from the 98x139.

instructions given to that Officer, from his report when at 98x128.

Batavia to the Lords of the Treasury, from the Bills of lading, 98x117.

and from Your Excellency's ultimate adoption of the Com-

modities so purchased with Treasury Bills, that the whole of 98x106.

them, including the Tea and Dollars, belonged to the Crown from 98x95.

the time of the purchases being made until the arrival of the 98x84.

"Almorah" in Port Jackson.
In such a case, the sole question worthy Your Excellency's attention is, I think, whether forfeiture of these commodities was at any time incurred?

I have never ceased to consider that this question must be answered in the negative, on the great principle that the King is not bound by the acts of Parliament, securing certain privileges to the East India Company against "the King's subjects." In the procuring of these commodities, there was not the slightest approach to trading; the measure was purely one of supply; and the various points of policy, with the various facts of the matter upon which Your Excellency may have occasion to make representations in England, do not in the slightest degree, I apprehend, affect the question of the legal ownership of the things supplied.

The legal learning, which supports these opinions, is very simple; and I do not consider it necessary that the arguments should be stated by me. They will be perfectly familiar to the advocates, who will be instructed to defend the rights of the Crown in Calcutta, or elsewhere; and directions will, I presume, be given to the Commissariat Officer proceeding thither to appeal to the King in Council, if the decision in the minor Court happens to be in favour of the seizing party.

Independantly of the question of the property being liable to be condemned by a competent Tribunal, I have to recommend that instructions be given to the advocates in Calcutta to prosecute the parties for the damage, which may have occurred from the seizure itself. It by no means follows that the seizure was legal, even if the commodities ought not to have been imported; a right of action only might have arisen.

It will also be proper, I think, that every Document, connected with the proofs of these commodities belonging to the Crown, be formally certified by a public notary. Inaccuracy in this respect will, however, be the less important, as the course pursued by Captain Mitchell has been in defiance of all arrangements due to the Crown; and no judgment can be obtained by him in any Court without full opportunity being granted for the procuring whatever evidence may be necessary to understanding the rights of the Crown. But as the first step, to be taken in Calcutta by the Officer now to be sent thither, should be to follow the Crown Property so illegally carried off, and to commence proceedings for it, he should be prepared with the best proofs of the ownership; and upon them his legal advisers in Calcutta will have no difficulty in directing the proper course.

With regard to the criminal proceedings against Lieutenant Matthews, I have to report to Your Excellency that, on the calmest consideration, I find myself bound to press the prosecution. I
have commenced by filing an information against him under Lord Ellenboro's act.* There may be doubts about the extension of that act to New South Wales, but the best law opinion in the Colony is that it does bind us; and, having no doubt of clear legal evidence being producible of some Muskets loaded with Ball having been wilfully discharged directly at the boat by Mr. Matthews's orders, there is, I apprehend, no discretion left to me.

I have, therefore, humbly to recommend, that a copy of the process of the Supreme Court against this Officer being transmitted to the Governor General of India with Your Excellency's request, that the usual mode of proceeding shall be had for sending him hither to be tried. I have, &c.,

SAXE BANNISTER, Atty.-General.

[Enclosure No. 5.]

SIR THOMAS BRISBANE TO THE NAVAL COMMANDER ON THE INDIAN STATION.

Government House, New South Wales,
21st March, 1825.

Sir, It is with much regret that I have the honor to acquaint you that Charles Mitchel, Esqr., Commanding H.M. Ship Slaney, is under prosecution criminally for an unlawful Act, committed in the Harbour of Port Jackson, in breach of the Peace and against the law of the Country. I have further the painful communication to make to you that Lieut. Matthews, first of the same ship, is more deeply implicated in the same transaction, so as to render it necessary for me to apply to His Excellency the Governor General that he should be ordered from Calcutta to stand his trial under so heavy a charge as that of Felony. But, if it rests entirely with you, I have to solicit that you will be pleased to order this Officer down here in order to stand his trial for the above outrage.

Enclosed are certain documents, which enable you to form an opinion upon this case; and I have to acquaint you that I have solicited that His Excellency the Governor General do make you acquainted with the whole of the particulars of this case.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 6.]

MAJOR OVENS TO THE SECRETARIES OF HIS EXCELLENCY THE GOVERNOR-GENERAL OF INDIA.

Government House, Sydney, New South Wales,
7th March, 1825.

Sir, I am directed by His Excellency Sir Thomas Brisbane to address you upon an occurrence, which has recently taken place within His Government, in which the Rights of the Crown are

* Note 121.
1825.
4 March.

In consequence of apprehensions entertained by the Government that the crops of wheat and other grain would prove insufficient for the consumption of His Majesty's Forces and other public Departments within the Colony, His Excellency Sir Thomas Brisbane was induced to order the Chief Commissary to charter a British ship, called the "Almorah," for Batavia, the nearest place at which it was hoped to obtain a seasonable supply of grain and other Articles for the public service.

The "Almorah" was accordingly dispatched to Batavia under the charge of an Assistant Commissary, and received on board a Cargo, consisting of Rice, Wheat and three hundred quarter Chests of common black Tea, together with one hundred and six thousand Spanish Dollars, all of which were intended for the sole use of Government and were paid for by Bills drawn by the Assistant Commissary at Batavia upon His Majesty's Treasury in London.

The "Almorah" arrived at Port Jackson on the 17th day of February, and on the following day the Ship and all the Articles on board were seized by order of Charles Mitchell, Esqr., commander of His Majesty's Ship "Slaney," for an alleged infraction of His Majesty's Charter and a violation of the Statutes passed for the protection of the privileged trade of the Honorable East India Company.

As doubts appear to have been entertained whether there was any Court of competent Jurisdiction within the Colony to try the case, whatever the legal merits might be, and many days had elapsed without any measures being taken to bring the question to adjudication, His Excellency the Governor, with a view to secure the property of the Crown as well as to relieve the seizing Officer from the heavy responsibility which he had drawn upon himself, proposed to Capt. Mitchell that he should give up the cargo of the "Almorah" and the Dollars on board to the Government, and that His Excellency would enter into any proper stipulation, that might be required, on the part of Government to abide the ultimate decision of the case, and in the meantime to secure to Capt. Mitchell every advantage he could have by retaining possession of the property under seizure.

Negociations were accordingly entered into; but, while they were pending, the "Almorah" was removed from the Harbour to the entrance of Port Jackson, apparently with an intention of being carried to sea; and, intimation being received by the Governor that such in fact was the intention of Captain Mitchell, the
Commissariat Officer, who knew the commodities belonging to the Crown, was sent to the ship to recover them, and the Attorney General of the Colony was sent in the boat with the Chief Constable and a Warrant in order to prevent personal violence; when within a considerable distance of the “Almorah,” they were beckoned to keep off, and, on going nearer, were fired at with musketry. It was known to Lieut. Matthews who they were, and by making signs they intimated having no intention of committing violence, which they had no means of doing.

Notwithstanding which information, Lieut. Matthews persisted in ordering the King’s Officers to keep off at their peril; and, on the boat continuing to approach the “Almorah,” it was repeatedly fired at with loaded muskets and compelled to return to the shore. A second attempt was afterwards made to go to the “Almorah,” and was attended with a similar result, the ship lying all the time at anchor within the limits of Port Jackson. In the course of the night, the “Almorah” got under weigh and was carried to sea from Port Jackson, with the intention of proceeding to Calcutta, as His Excellency has learnt from common report, for He has not yet been informed by Captain Mitchell to what Port he has sent the “Almorah,” although an Official letter has been sent to that Officer some days since requiring such information, as might enable His Excellency to forward the necessary documents to defend the property of the Crown against the seizure.

The outrage, which has thus been offered to the Government and the Peace of the Colony by officers of His Majesty’s Navy, His Excellency considers will require no comment on his part to induce His Excellency the Governor General of India to take such measures, as His Excellency may deem expedient, to compel Lieutenant Matthews to return to this Country and take his trial for a capital felony, with which he stands charged in the Supreme Court for firing upon the Officers of the King while in the execution of their duty.

Neither can His Excellency feel it necessary, after the statement of the above transactions, to move His Excellency the Governor General of India to cause legal steps to be taken either to obtain restitution of the ship “Almorah” and the cargo, or to defend the interests of the Crown in the event of legal proceedings being instituted against them. His Excellency Sir Thomas Brisbane does not feel himself called upon, even if he were qualified, to pronounce any opinion upon the legal merits of the case; but he feels it necessary in his own justification to state that nothing short of most extreme necessity should have induced him to sanction any importation into this Colony, which could be deemed in any manner to derogate from the chartered rights.
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HISTORICAL RECORDS OF AUSTRALIA.

1825.
4 March.

Reasons of Sir T. Brisbane for authorising importations.

Papers transmitted.

Probable evil effects of conduct of C. Mitchell.

Commissariat officer sent to India.

Instructions to J. T. Goodsir.

and privileges of the Honorable East India Company. He had been advised that a supply of necessary articles, intended merely for the public service, paid for by the public money, and imported solely on the Public account, could not be deemed a trading within the meaning of the Charter of any Act of Parliament; and he was confirmed in this opinion by referring to the practice which had before been adopted in this Colony, whenever the exigencies of the public service required an importation of Grain or any other articles from places within the limits of the Charter.

Together with this Dispatch, His Excellency has caused official copies of all documents and proceedings, connected with the case of the "Almorah," to be transmitted for the information and guidance of the Government of India; and His Excellency feels fully assured that effectual measures will be adopted to secure the property of the Crown from the spoliation, to which it has been wantonly exposed by the conduct of Captain Mitchell and his first Lieutenant, and to rescue the Government of this Colony from those consequences which, composed as it is of a population who are only kept in subjection by the strong arm of Authority, must inevitably ensue, if the flagrant violation of the Laws and the gross contempt of the Executive, which have been perpetrated by gentlemen bearing the Commission of His Majesty, should be allowed to pass with impunity.

I have further received His Excellency the Governor's Commands to request that the bearer of these Dispatches, Mr. Goodsir, the Officer of the Commissariat Department, may be presented to His Excellency the Governor General, and that there may be communicated to the Naval Commander of the Indian Station any parts of the documents which relate to Lieutenant Matthews.

Mr. Goodsir is instructed to place, subject to His Excellency the Governor General's Orders, the state of this case, as shown by the documents he brings with him, in proper legal hands for the best interests of the Crown.

I have, &c.,

J. Ovens, Private Secretary.

EARL BATHURST TO SIR THOMAS BRISBANE.

(A circular despatch per ship Norfolk.)

Sir,

Downing Street, 5 March, 1825.

With reference to my Circular Letter, dated the 20th November last, wherein you were directed to notify to me the Names of those superior Officers within your Government whom you might consider most deserving of the Honor of wearing the particular Uniform, which His Majesty had been pleased to

5 March.
Uniform to be worn by chief justice and members of council.
BRISBANE TO BATHURST.

appoint for the use of the Civil Officers in the Colonies, I have now to signify to you His Majesty's pleasure that the privilege of wearing this Uniform should be confined to the Chief Justice and the other Members of His Majesty's Council.

I have, &c.,
BATHURST.

SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch No. 40, per ship Hope.)

Government House, New South Wales,
My Lord, 7th March, 1825.

I had the honour to receive your Lordship's Dispatch, No. 21 of the 18th July, by the Henry last week on the subject of a Letter addressed by the Rev. Samuel Marsden, Principal Chaplain, to the Secretary of State in behalf of a Convict named James Ring, who has been in the service of the Revd. Gentleman, and who has made his escape from the Colony while under sentence of transportation. Mr. Marsden states that he did read a letter to me, addressed as above, in favor of James Ring. But I must be permitted distinctly to disclaim ever adding either my sanction or approbation as to the correctness of the statements or assertions, contained in Mr. Marsden's letter, further than giving assent to his interfering in behalf of the man with the Secretary of State in as far as to spare his life, should the Convict find his way to England.

In the first place, I was unwilling to trouble Your Lordship in this affair, being uncertain that James Ring had then done more than betake himself to the Woods; and, in the next place, the transaction was never brought under my notice; but the whole merits of the case being before the legal tribunals of the Colony, I should have felt a delicacy in interfering in it, nor should I venture to have hazarded any opinion in a matter of such grave importance, to which I had never given the slightest investigation, and consequently totally unprepared to have complied with Mr. Marsden's request, beyond the bare permission of addressing the Secretary of State in the case, without in the most remote degree exercising any judgement as to the correctness or incorrectness of Mr. Marsden's assertions, as I presumed he would be aware that he must be held responsible for any deviation.

Had I considered myself as in any shape pledged for the accuracy of the contents of his letter, I should naturally have requested the Revd. Samuel Marsden to have left it for me to transmit officially; but, as I considered it a mere request of privilege to address the Secretary of State, I was induced to give my assent
13 March.

My Lord,

Sir Thomas Brisbane to Earl Bathurst.

(Despatch No. 41, per ship Hope.)

Government House, New South Wales,

13 March, 1825.

I have the honor to acknowledge Your Lordship's Dispatch, No. 22 of the 20th day of July, 1824, conveying His most gracious Majesty's Commands that I should forthwith confirm to Capt. King, or his Agent in the Colony, the Grant of 1,500 acres of land, which had been promised by me to him, and described in Major Goulburn's letter of the 23rd day of Sept., 1823, and calling on me to explain why the promise of the Grant of Land made to Capt. King had been revoked.

In explanation, I have to observe that it never was my intention to recede from the promise I had made to Capt. King; and I have to regret he should have found it necessary to trespass upon your Lordship's valuable time with the complaint of a grievance, which has only been apprehended, and which, by representation to me, would have proved to have been without foundation. The facts are shortly these.

After Captain King's departure from this Colony, Mr. McHenry, a respectable Settler contiguous to Capt. King, represented the great inconvenience that would be sustained by him in being deprived of about three hundred acres of that land, which had been reserved for Capt. King. As it was possible that Capt. King might be willing to give up the three hundred acres and take an equivalent elsewhere, Notice was given to Capt. King's Overseer not to fall any timber on the 300 acres in question. It was determined by me that things should remain in that state, until Captain King's pleasure should be known. An application was shortly after made to me by Capt. King's Overseer for a grazing station at Bathurst, which he now holds, and which I consented to give on his agreeing to allow Mr. McHenry to occupy the 300 acres, subject however to Capt. King's ratification or an arbitration on the claim set forth by the former. The Overseer, on behalf of Capt. King, not only consented to these terms, but assured me he was perfectly satisfied with the arrangement, and accordingly took possession of the land at
Brisbane, which he still retains together with the original land promised to Capt. King, with the exception of the 300 acres so conditionally given up to Mr. McHenry. From this state of the case, I trust Your Lordship will feel satisfied that Capt. King has had no just cause of complaint, but would rather seem to have been a gainer by the transaction to which he has alluded. I have further to add that Mr. McHenry, a short time before the receipt of Your Lordship’s Dispatch, applied for a Grant of the land in question, but was refused until Capt. King should give his consent to the terms entered into by Capt. King’s Overseer.

In reference to that part of Capt. King’s letter in which, after assuming what your Lordship will have observed was never my intention, he is pleased to ascribe my want of good faith towards him to personal pique at his having given a passage to Doctor Hall, and to certain rumours of his having misled me to the course he meant to take in going to England, I beg leave distinctly to disclaim any personal feeling whatever against Capt. King on account of his carrying home Doctor Hall, and in respect of the rumours, by which my feelings were supposed to be influenced, I not only disbelieved but have, more than on one occasion, openly contradicted them.

Before I conclude this Dispatch, I beg leave to state to Your Lordship that the case, above referred to, is one of several in which the propriety of a suggestion, which I have now the honor to lay before Your Lordship, has pressed itself upon me, and which I now humbly submit to Your Lordship’s consideration with the hope that, in the event of its meeting your approval, it may save your Lordship a great deal of unnecessary trouble and myself the painful reflection of lying under imputations for so long a period, as must necessarily elapse between complaints submitted to your Lordship and the opportunity afforded of making my explanations upon them. I have, therefore, to submit to your Lordship whether it might not be expedient to require that all persons, who may have causes of complaint against the Colonial Government, should make their representations through the local authorities in order that an opportunity might be afforded me of redressing any complaint, which might appear to be well founded, or of transmitting, at the same time with the complaint itself, such explanations as may enable your Lordship to take a view of the whole case in the substance, and to determine at once upon the merits of the charge and of the justification.

I feel the less diffidence in submitting this proposition to Your Lordship, as I understand it to be the practice of the Indian Government, a practice which has probably been rendered necessary from the similar circumstance of great distance, and which
1825.
13 March.

must frequently render both redress and explanation alike ineffectual from the time which must necessarily be consumed in communication with this remote part of the Empire.

I have, &c.,

THOS. BRISBANE.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 25, per ship Norfolk.)

Sir, Downing Street, 14 March, 1825.

I have had the Honor to receive your Dispatch of the 27 Novr., 1823, accompanied by a report of the proceedings in the case of John Cahill, capitally convicted before the Court of Criminal Judicature at New South Wales of a Burglary and Assault, but whose sentence was commuted to that of banishment for life to Port Macquarie; in respect to the commutation of punishment granted to the Prisoner, this case forms one of that Class, respecting which I have had already occasion to intimate the opinion* of His Majesty's Government. I have deemed it right however under all the circumstances to recommend to the Secretary of State for the Home Depart't that the Prisoner's name should be submitted for a pardon on condition of banishment for life to Port Macquarie. But in transmitting the enclosed Warrant, which His Majesty has been graciously pleased to grant to that effect, I deem it necessary to call particular attention to the observations of the Secretary of State for the Home Depart', to which this reference has given rise; and I have at the same time to signify to you His Majesty's Commands that especial care be taken to prevent a recurrence of irregularities, similar to those which occurred in the particular cases to which Mr. Secretary Peel's observations apply.

I have, &c.,

BATHURST.

[Enclosure.]

UNDER SECRETARY HOBHOUSE TO UNDER SECRETARY HORTON.

Sir, Whitehall, 10 March, 1825.

Having laid before Mr. Secretary Peel the several Papers, transmitted in your letter to me of the 14 ultimo, relative to the case of John Cahill capitally convicted before the Court of Criminal Judicature at New South Wales, for whom Lord Bathurst recommends a Pardon on condition of his Banishment for Life to Port Macquarie, I am directed to transmit to you the enclosed Warrant, which His Majesty has been graciously pleased to grant confirming the sentence passed upon the Prisoner and commuting such sentence to Imprisonment and hard labor for his natural life, as recommended; and I am to desire you to

* Note 140.
lay such Warrant before Lord Bathurst, and order his Lordship to be pleased to forward the same to the Governor of New South Wales in order that the Prisoner may receive the benefit thereof.

I am, at the same time, to request that his Lordship will take such notice, as he may deem proper, of the great irregularities exhibited in the course of the present case. It appears that the criminal was convicted so long ago as the 16th of October, 1822, when, as four Members only of the Court concurred in the Judgment, it became impossible to execute the sentence without a signification of the King's pleasure. The Governor grants him a Respite upon certain conditions, with a stipulation (as he states) that, if those conditions were broken, execution should be immediately done upon him. Yet he does not take the means of enabling himself to carry his purpose into effect, nor does he report the case, until after Cahill breaks the condition, and the Governor is under the necessity of remanding him with a Threat only to the place of Banishment assigned to him. In this state of things, the Governor requests the King's confirmation of the sentence, so that his original intention of keeping him at a penal Settlement with the sentence of Death impending on his Escape may be effected. With this request, Mr. Peel, under all the circumstances, has not thought it fit to comply; and His Majesty has been advised to extend His most gracious Pardon to the Prisoner on the Terms recommended by Lord Bathurst.

I am, &c.,

H. HOBHOUSE.

[Sub-enclosure.]

[A copy of the warrant for pardon is not available.]

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 26, per ship Norfolk; acknowledged by Sir Thomas Brisbane, 30th September, 1825.)

Sir,

Downing Street, 18 March, 1825.

I have considered it my duty, in addition to the directions conveyed to you in my Dispatch of the 14th inst. on the subject of Free Pardons, to call your attention to the observations on this head contained in the latter part of the Report of the Select Committee of the House of Commons on Transportation in the year 1812, and to the Instructions, which were issued by His Majesty's Commands at that period in conformity with such Report; and I regret that a renewal of those Instructions should have been rendered necessary in consequence of the improvidence, with which pardons have frequently of late been granted in New South Wales and Van Diemen's Land without the least attention to the nature of the Offences for which the Convicts have been transported.
For the greater facility of reference I transmit to you an extract of the Report of the Committee, together with an extract of the Instructions to which I have adverted. I have, &c.,

BATHURST.

[Enclosure No. 1.]

EXTRACT from a Report of the Select Committee appointed to inquire into the manner, in which Sentences of Transportation were executed.

"10th July, 1812.

The same advantages, as are allowed to Convicts having served their time, are given to those who have been pardoned or emancipated by the Governor; and your Committee do not wish to dismiss the subject without making some observations upon the power possessed by him of granting to Convicts either the entire or partial remission of their sentence, or tickets of leave, by which they are altogether relieved from its severity. They do not see any necessity for the Governor's possessing a power to grant these absolute or conditional pardons; it is a power liable to great abuse, and which appears to have been at times very much abused. It is in evidence that, in some years, 150 pardons have been granted; that pardons have been granted to Convicts immediately upon their arrival, without reference to their characters or merits; and it appears rather to have at times been made an instrument to gain popularity, than the means of rewarding exemplary conduct by a well deserved extension of His Majesty's Mercy.

"Your Committee, therefore, suggest that no pardon whatever, real or conditional, be granted but through the Secretary of State. This may create a delay, perhaps of a year, in obtaining the pardon of any Convict; but that inconvenience will not be great, for, by granting to him a ticket of leave, the Convict will in the mean time be entirely relieved from the pressure of his Sentence. Upon the subject of Tickets of leave, Your Committee feel that the power of granting them ought to remain in full force with the Governor; but it is a power, which they would wish to see sparingly and cautiously made use of, and with this view they recommend that an annual return be made to the Secretary of State's Office of the number of Tickets of leave issued in the year with a statement of the grounds, upon which each was granted."

[Enclosure No. 2.]

An EXTRACT of a Dispatch from Earl Bathurst to Governor Macquarie, bearing date 23d November, 1812.

[This extract comprised the paragraph beginning "The attention of His Majesty's Government"; see page 674, volume VII.]
BRISBANE TO BATHURST.

SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch No. 42, per ship Hope.)

Government House, New South Wales,
18th March, 1825.

My Lord,

In conformity to the 34th section of the Act of Parliament of His present Majesty, I do myself the honor to transmit to Your Lordship a list of the Names of persons, who have received from me Absolute and Conditional Pardons from the commencement of last year down to the present period, in order that the names of those who have received Absolute Pardons should be inserted in the next General “Pardon which should pass under the Great Seal of Great Britain after the receipt of such duplicate.”

I have to express a hope that your Lordship will not deem the numbers, who have received remission of sentence, too numerous, as I beg to assure your Lordship I am most particular in giving the most attentive consideration to these claims, and that nothing short of perfect good conduct in any Individual can obtain for Him such merciful mitigation of Punishment.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

LIST of Absolute Pardons Granted by His Excellency Sir Thomas Brisbane, K.C.B., between the 23rd day of January, 1824, and the 8th day of February, 1825, inclusive.

[This enclosure contained the names of fifteen convicts pardoned, together with the place and date of trial, the sentence, the ship by which transported, and date of arrival in the colony, and the reasons for granting the pardons. There were also six blank spaces:

“These were Blank Absolute Pardons sent to Lieutenant Governor Sorell for distribution on his delivering up the Administration of the Government of Van Diemen’s Land.”]

[Enclosure No. 2.]

LIST of Conditional Pardons Granted by His Excellency Sir Thomas Brisbane, K.C.B., between the 23rd day of January, 1824, and the 1st day February, 1825, inclusive.

[This enclosure contained the names of five recipients of conditional pardons, together with particulars similar to those given in enclosure No. 1. There were also ten blank spaces:

“These were Blank Conditional Pardons Sent to Lt. Govr. Sorell for distribution on his delivering up the Administration of the Govt. of Van Diemen’s Land.”]

* Note 141.
1825,
18 March.

Transmission
of returns
from principal
surgeon.

Comparative
returns of
convicts
employed by
government.

Development
of botanical
garden.

HISTORICAL RECORDS OF AUSTRALIA.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 43, per ship Hope.)

Government House, New South Wales,

My Lord,

18 March, 1825.

I have the honor to transmit to Your Lordship the Returns
of the number treated and of the expenditure of Medicines in
the Colonial Hospitals of New South Wales and Van Diemen's
Land during the year 1823, furnished by the Principal Surgeon
of the Territory agreeable to the forms enclosed in your Lord­
ship's Dispatch of 13th March, 1824; and I have to express my
regret at the delay, which has originated with the Principal Sur­
geon, as I have only just received the Returns.

I have, &c,

THOS. BRISBANE.

[Enclosures.]

[Copies of these returns are not available.]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 46, per ship Hope.)

Government House, N. S. Wales,

My Lord,

18th March, 1825.

I consider I cannot more effectually convey, to the satis­
faction of your Lordship's mind, the attention I have bestowed
on the Instructions, conveyed in your Lordship's different
dispatches, on the subject of diminishing as much as possible the
number of Mechanics and Convict Labourers in the hands of
the Government, than by transmitting the accompanying state­
ment of the number of Prisoners in the hands of the Crown to
supply its wants now, compared with what I found on my arrival,
When I called for the Return in question from which the
accompanying is extracted. To account for the increase in the
Botanical Garden,* I have only to state that I have added five
acres to the Old Garden; that nearly 3,000 varieties of Grapes,
Trees, Fruits and other valuable productions of the Vegetable
Kingdom have been introduced and cultivated with success in
that Establishment in the above period, which I consider of
inestimable value to this Colony, and Mr. Fraser, Botanist, highly
qualified to do every justice to his appointment from zeal, talent
and enthusiasm which has brought him in correspondence with
all quarters of the Globe, from which he is constantly deriving
benefit to the public Service by importations of new, valuable
and varied productions.

I have, &c,

THOS. BRISBANE.

* Note 142.
### Comparative Statement of the Number of Convict Mechanics and Labourers under the Orders of the Chief Engineer, or in the employ of Government, in the Year 1821 and the Year 1825, specifying each class.

<table>
<thead>
<tr>
<th>Stations</th>
<th>Establishments</th>
<th>December 1821</th>
<th>March 1825</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sydney</td>
<td>His Majesty's Dock Yard</td>
<td>112</td>
<td>72</td>
</tr>
<tr>
<td></td>
<td>Lumber Yard</td>
<td>316</td>
<td>179</td>
</tr>
<tr>
<td></td>
<td>Town Gang</td>
<td>34</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>Miscellaneous employ</td>
<td>65</td>
<td>49</td>
</tr>
<tr>
<td></td>
<td>Boats Crews</td>
<td>138</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>Stone-masons, Quarrymen, and Labourers</td>
<td>472</td>
<td>109</td>
</tr>
<tr>
<td></td>
<td>Bricklayers, Plasterers, Brickmakers, etc.</td>
<td>189</td>
<td>186</td>
</tr>
<tr>
<td></td>
<td>Street Gang</td>
<td>125</td>
<td>87</td>
</tr>
<tr>
<td></td>
<td>Labourers, Woodcutters, and Lightworkers</td>
<td>154</td>
<td>19</td>
</tr>
<tr>
<td></td>
<td>Gaol Gang</td>
<td>8</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>Shell Gang</td>
<td>40</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>Stationary Servants</td>
<td>77</td>
<td>32</td>
</tr>
<tr>
<td></td>
<td>New Lumber Yard</td>
<td>106</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>Botanical Garden</td>
<td>13</td>
<td>14</td>
</tr>
<tr>
<td></td>
<td>His Majesty's Stores</td>
<td>58</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>Boys</td>
<td>48</td>
<td>33</td>
</tr>
<tr>
<td>Botany Heads</td>
<td>Various employals</td>
<td>14</td>
<td>38</td>
</tr>
<tr>
<td>Grose Farm</td>
<td>do</td>
<td>141</td>
<td>26</td>
</tr>
<tr>
<td>Longbottom Farm</td>
<td>do</td>
<td>168</td>
<td>38</td>
</tr>
<tr>
<td>Barren Hills</td>
<td>do</td>
<td>40</td>
<td>69</td>
</tr>
<tr>
<td>Booty Hill Farm</td>
<td>do</td>
<td>9</td>
<td>103</td>
</tr>
<tr>
<td>Parramatta</td>
<td>Lumber Yard, Public Works, etc.</td>
<td>354</td>
<td>179</td>
</tr>
<tr>
<td></td>
<td>Various employments</td>
<td>193</td>
<td>134</td>
</tr>
<tr>
<td>Liverpool</td>
<td>do</td>
<td>89</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td>Road Parties</td>
<td>368</td>
<td>204</td>
</tr>
<tr>
<td></td>
<td>do</td>
<td>685</td>
<td>433</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>4,031</td>
<td>1,861</td>
</tr>
</tbody>
</table>

**Notes:**

- **1825.** Comparative statement of labourers and mechanics employed by government.
- **20 March.** Maintenance of numbers of military in N.S.W.

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**Under Secretary Horton to Sir Thomas Brisbane.**

Colonial Office, 20 March, 1825.

Sir,

I am directed by Earl Bathurst to transmit to you herewith for your Information the Copy of a Letter, addressed to me by Sir Herbert Taylor relative to the arrangements, which have been adopted by His Royal Highness The Commander in Chief, for keeping up the Military Force at New South Wales to a sufficient number.

I have, &c,

R. W. Horton.

**[Enclosure.]**

**Major-General Sir Herbert Taylor to Under Secretary Horton.**

Horse Guards, 15 March, 1825.

Sir,

I am directed by the Commander in Chief to request that you will acquaint Earl Bathurst that, as by the new arrangement the Rank and file in New South Wales and its Dependencies will be reduced from 1,152 to 1,032, which, supposing...
1825.
20 March.
Maintenance of numbers of military in N.S.W.

both Establishments Effective, would cause a diminution of 120 upon a station, where the Numbers are even now stated to be too small, it is His Royal Highness's intention that, whenever a Regiment is ordered to that Station (its ulterior destination being India), the Depot Companies shall accompany it; by which arrangement the Forces there will be kept up to a sufficient number.

H. TAYLOR.

SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch per ship Hope.)

Government House, Sydney, New South Wales,

My Lord, 22nd March, 1825.

I do myself the honor to forward for Your Lordship's returns information the General Monthly Returns of the Troops serving in this Territory from 25th December, 1824, to 24th February, 1825, inclusive.

THOS. BRISBANE, M.-Gen'l.

[Enclosure.] [Copies of these returns are not available.]

SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch No. 44, per ship Hope; acknowledged by Earl Bathurst to Governor Darling, 1st October, 1825.)

Government House, New South Wales,

My Lord, 24th March, 1825.

I had the honor to send to Your Lordship by the "Mangles," which sailed the 12th Ultimo, a refutation of the offensive matters, which were purely personal and which appeared in the Morning Chronicle of the 19th of last August; these were of too gross a nature to do more than contradict them that it did not appear to me to be becoming for me to collect proofs in my own Government of the extreme falsity of these imputations. As Mr. Lang, the Minister of the Scots Church, is now in Great Britain, I trust He will have contradicted the statement of His having been invited to this Colony by me; therefore, there could be no pretence for its being said that any disappointment, felt by him, should be occasioned by my unkindness, that I am utterly unacquainted with His being disappointed at all.

On the Subject of Your Lordship's Dispatch* as to the answer given to the Petition of the Members of the Scots Church, I have the honor to transmit the statement of the Colonial Secretary to that transaction; and I have further the pleasure to send Your Lordship a copy of the reply of the Committee of the Members of that Church on my communicating His Majesty's

* Note 143.
most gracious donation; and I trust these will impress upon Your Lordship's mind that a very different feeling exists from that respectable body towards me than that which is ascribed to them by the anonymous writer in the Morning Chronicle.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

SECRETARY GOULBURN TO SIR THOMAS BRISBANE.

Colonial Secretary's Office, Sydney,

Sir, 9th February, 1825.

Having received your Commands to report on the circumstances that preceded the Presbyterian Address, presented to Your Excellency in September, 1823, I take the liberty of submitting that the upper room of the new School House* was appropriated, by your Orders, about the beginning of June in that year to the performance of Divine Service according to the Institutions of the Church of Scotland.

This building was then in progress towards completion; and, when it had arrived at that stage at which it became necessary to plaster the place, the Presbyterians were using, their meetings were removed into the room underneath.

When that operation was ended, I myself went to see their benches replaced in proper order upstairs, and caused a civil note to be written by my Chief Clerk (himself a member of the Church of Scotland), acquainting his Brethren that everything was in readiness for their re-occupation of their former Assembly room.

It happened unfortunately that the Room, which the Presbyterians were leaving, was required at this very juncture to supply the place of a part of the main Body of the General Hospital, which had been used for three years as a Court House during week days, and upon Sundays as a Place of Worship for the Roman Catholics.

When this circumstance became known to the Members of the Church of Scotland, they declined attending service under the same roof with the Catholics, and their meetings from thenceforth were adjourned, I believe, to a Chapel of the Wesleyans.

I have, &c.,

F. GOULBURN.

[Enclosure No. 2.]

MESSRS. PIPE, MCWITHE AND WALKER TO SIR THOMAS BRISBANE.

Sir, Sydney, 15th March, 1825.

We have the honor to acknowledge the receipt of Your Excellency's Warrant to the Colonial Treasurer for the payment of the sum of Two thousand four hundred Spanish Dollars, being

* Note 144.
1825.
24 March.

Acknowledgment of payment for erection of church.

HISTORICAL RECORDS OF AUSTRALIA.

an amount which the Right Honble. the Earl Bathurst has directed to be paid to us, as Committee of Management, for the erection of a Scots Presbyterian Church in this place; and we gladly take advantage of the opportunity, now offered us, to return the united thanks of the Body of Presbyterians in the Colony and our own for the very handsome sum, contributed by His Majesty's Government for the accomplishment of so desirable an object. And we further beg to express our sense of the kind interest and trouble, which your Excellency has manifested for the furtherance of this important undertaking.

We have, &c.,

JOHN PIPER.

THOMAS MCVITIE.

WILLIAM WALKER.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 45, per ship Hope.)

Government House, New South Wales,

My Lord, 24th March, 1825.

Annual return Accompanying I have the honor to transmit to your Lordship's Dispatch, which I believe to be as accurate as the time and the nature of so complicated an undertaking will admit of, for a first attempt; and I have to hope that if the information therein contained be not sufficiently extensive, or explicit, that these deficiencies may be remedied in the subsequent years, which are now in progress.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

[A copy of this return is not available.]

SIR THOMAS BRISBANE TO UNDER SECRETARY HORTON.

(Despatch per ship Hope.)

My dear Sir, Gt. House, N. S. Wales, 24th March, 1825.

Preparing for I am preparing, as fast as possible, to give effect to Earl Bathurst's Orders to resume possession of Norfolk Island; but the unfortunate affair of the "Almorah," which you will see fully detailed in my official communication, has presented a great obstacle; I have, however, called for Tenders from the Ships here to see if I cannot engage one on reasonable terms, which I propose shall call at Port Macquarie to carry from thence all the Capital respites as well as desperate and dangerous characters,

* Note 145.
BRISBANE TO HORTON.

who are not safe there, and commence the Settlement of Norfolk Island. I have purchased a large ship, the Phoenix,* for £1,000, of near 700 tons which met with an accident here in getting opened and breaking her back, altho' she will serve some purposes for these 20 years, and, in consequence of being hove down and thoroughly repaired, is worth three times what I paid for Her. As our new Goal will not be completed for four years, at least, this Vessel I propose to Serve as a hulk in the Harbour of Port Jackson to give employment to Bushrangers, against whom I propose to proceed against in the most vigorous way, the Law will admit, in order to root them out altogether. Finding they did not avail themselves of my late Proclamation,† which expired on the 20th inst., I have ordered an increased number of constables for the present, with Soldiers and aborigines to accompany them, with a reward of £5 for every Bushranger; these, as they are brought in, shall be sent on board the Hulk, and removed as necessary to Morton Bay, which I should recommend as the Second place of punishment, viz. Port Macquarie for first grave offences; Moreton Bay, for runaways from the former, and Norfolk Island, as the ne plus ultra of Convict degradation. The Subject of hunting down Bushrangers, or, in other terms, public Robbers, has long pressed itself upon my mind, and the more I reflect upon it, the more I see the necessity of eradicating it out of the Colony, as one which gives great insecurity to property, is the nucleus of a dangerous System which, if not put an end to, might be productive of the worst of consequences, to say nothing of the evil example to the better disposed convicts of such proceedings before their eyes. However extensive the numbers may be who are sent to penal Settlements, I consider, I am fully persuaded, that, by a judicious application of their labors, they can, in some employment or other, be made to earn their own livelihood, and, if it were not too repugnant to the Laws of England, I should consider it very fitting to have Norfolk Island completely under Martial Law, which would not only form part of the punishment in itself, but save the complicated machinery of Civil Courts, or of Sending people for trial here, reserving, however, capital cases for reference here. I shall only send a Captain in the first instance to command there; but, as the numbers augment, I propose a prudent Field Officer to regulate the whole; I cannot see myself that Felons, who have forfeited all claim to protection from the Law, should complain of being in a worse state than our Soldiers are in a Campaign. My experience convinces me that there is nothing so effectual with Convicts as Summary Proceedings, and they have taken advantage of the temporary deficiency of Magistrates to hold Sessions, to commit crime, since the promulgation of the New Charter.

* Note 146. † Note 147.
I send you the Sydney Gazette of this day in order that you may see the arrangement,* which I have made for the Sale of Land, which I trust will meet with Lord Bathurst's approbation; I have delayed the publication for a long period in the hope of receiving some decision on a dispatch† which I wrote 15 Months ago on the Subject; but as His Lordship has decided that Captain King's grant should come under the new system of quit rent, it decided me on giving publicity to the whole. I am sorry to repeat great frauds are practised here, as to obtaining extent of land agreeably to Capital. A new Settler comes out for instance; He brings a certain quantity of goods on board the Ship with him; He goes to a Merchant and obtains a certificate of the amount to the utmost Supposed value here of the articles purchased in England, whether it Sells well or ill; and I believe the Merchants often lend their names to very improper certificates of this nature, and which will ever be the case, as long as the Crown grants Land in any shape, unless the Grant is withheld for a certain time, Say two years, in order to see what the person does in the way of improvement of it, and not until then to obtain the Grant.

I regret much to state to you that the whole business of the Colony is retarded by the conduct of the Colonial Secretary, against whom every one seems to complain; and it is impossible for me to represent, to what extent the unfavourable feeling seems to exist against him, so as to paralyze the exertions of all who are brought in Communication with Him: I have already officially brought his name‡ before Lord Bathurst for unbecoming conduct towards myself; and I am sincere in expressing my firm conviction that nothing beneficial to the public Service, advantageous to the Colony, or creditable to myself, can result while he holds his present Office; and it is most lamentable that a gentleman of his honorable feelings and extensive information should have no controul over his tongue.

I am happy to enclose you a sample of our Sydney Cotton, which I flatter myself, in point of either colour or staple, is not to be exceeded. It is real Georgian; the Seed was sent me by a Mr. Pinsent of the City, who, I believe, is well known at the Colonial Office. I have further the pleasure to inform you that an excellent substitute has been discovered, about 70 miles in the interior at Coxes River, of a compact bed of Millstone, equal perhaps to the French burr; I am trying a pair at Emu Plains the result I shall shortly, therefore, communicate to be favourable. I rest assured that there are endless varieties of useful materials, both in the mineral and vegetable Kingdoms, yet to discover, as many of those of the former, which I have sent home to Professors of Mineralogy, are not at all known. I give instructions to all travellers and public Officers to pick up

* Note 148. † Note 149. ‡ Note 150.
specimens of all minerals, merely labelling them to say where found, and whether in masses or only fragments. This simple mode brings us acquainted with many varieties. I had understood that some of the French circumnavigators had seen the burl Stone in the Colony, but would not say where.

I have also to announce to you the discovery of a new and valuable Country of great extent, extending from Lake George towards Western Port, in Bass’s Straights, by two young men, Messrs. Hovell and Hume, the latter Colonial; they are directed by me to try and reach Spencer’s Gulf, in the hope of intercepting any Rivers that might run South to that parallel of longitude, and discharge themselves into these Straights. They were absent near 3 months, but only got to the former place. It is my intention, as soon as I have the means, to send a Colonial Vessel to Western Port, to have that explored, as it seems to have escaped Flinders and others; the above persons seem to have performed their duty well.

You perceive if the Australian Agricultural Company selected their Lands in the neighbourhood of the Hastings, there is an end of Port Macquarie as a penal Settlement. I have always considered it would be necessary to abandon that for such purpose, as soon as the tide of free Settlers extended that far, in the same way I acted in regard to Newcastle; and I consider it always the preferable mode to form a penal Settlement, in the first instance, in order to pave the way for the free Settler, who could never venture so far amongst savage Tribes, until Government had preceded them; and as there were various shades of crime, so there ought to be graduations of Punishment. While we are on this Subject, I should strongly recommend that Government should send out 2 small craft here, to increase our Marine, as we cannot keep up a sufficient communication with these Settlements without it; Schooners I should consider best calculated from their rig for these Seas, as they are easily worked, whereas a Cutter, from their boom, is very unhandy. Two Bermuda built Schooners for Sydney, and one for the Derwent, would be all we should require. I have many Months ago officially represented this.

I am proceeding to carry into effect the recommendations of the Commissioner of Enquiry, as fast as circumstances will admit; but there are various points which require legalizing by Council, and I cannot but view the establishing of Distilleries as the worst step that ever was adopted, and that the Colony will not be ripe for such proceeding for at least 10 years to come. It will have the effect of enriching a few Individuals at the public expense, impairing to a great extent our Revenue as well as our health and Morals; and this is not my opinion only, but that of the

* Note 151. † Note 152. ‡ Note 153.
Chief Justice and others, who are Competent to decide on such points. I wrote you, in my last letter, that many important points are in progress, altho' I have transmitted no official details from the peculiarity of my Situation and from the total disinclination of Major Goulburn to co-operate cordially in any measure, which does not originate with himself, and that a Rheumatic affection of my right arm, of old Standing, renders writing rather troublesome; but that you might rest assured, everything was in a wholesome and sound state of progress, although the detail of the case might be tardy. It is his conduct and that of the Chief Commissary, Mr. Wemyss, which have brought me in conflict with Individuals, which never could have occurred but for them. I think there is a sufficient case to establish with the Lords of the Treasury to induce them to remove him. Indeed, I have given him leave to go home to explain Himself to them for his transactions in the affair of the Almorah; and I have written to Mr. Moodie to take charge of the Department. Altho' I believe Mr. Wemyss to be an honest Man, he is full of weakness, caprice and malevolence, and his sending near £80,000 of Treasury Bills for negociation to Batavia, when the premium was nearly the same here, establishes these allegations pretty strongly. Add to this he never deigned to consult me, or even acquaint me of his intentions; this has justly incurred him the odium of all the merchants here, where there is plenty of money to be had on a premium of 14 per cent. on Treasury Bills, without risk and without giving Offence. Had Mr. Wemyss consulted me, I should have refused it point blank.

I am unwilling to tell you that, by my System of throwing the Colony a little upon its own resources, it has discovered to individuals various objects of exportation, independent of internal industry, which has raised the value of money, and has produced that premium upon Bills; but examine the history of the Colony from its foundation, you will never discover a Treasury Bill above par before this introduction, which now forms a very prominent feature in the reduction of expenditure. I send you also a comparative Statement of prisoners now employed by the local Government, compared with what I found it on my arrival, as the first thing I did was to call for the Return in question; I also send you a duplicate copy of the return exhibiting the march of crime for the last six years, which is gratifying; and shall conclude by assuring you that the best interests of the Crown have never been lost sight of by me, during which my personal interests have suffered materially; and that no earthly reward could induce me to undergo the Sacrifice of feeling, which I have suffered since my arrival in this Colony; and I have waited patiently to see if my representations are likely to be productive
of relief, which I now alone find in that peace of conscience, on which I repose with confidence, to enable me to account for every act of mine; and I trust that relief is not remote in one shape or other.

I have to press a thousand apologies on you for this long intrusion and more particularly so for those of a personal nature, coming from a Stranger; and I have to include the same consideration for a Letter of equal length, also a private one, sent by the Mangles, by which conveyance I wrote Lord Bathurst, also a private Letter, satisfactorily I trust accounting for all the transactions contained in his Letter.

I have, &c.,

THOS. BRISBANE.

There is one subject still I feel I ought to touch upon viz. the classification of Female Factory at Parramatta. Experience has convinced me of the absolute necessity of Classification, which the old building would not admit of. I have therefore begun an addition, the stone wall of which is nearly complete, capable of containing 60 Females under Sentence, who will be separated from the convict women sent here. I also had a building of Logs made at Port Macquarie for the Same purpose, plaistered within, capable of holding 50 Women, which is now ready; and I now begin to give effect to the Sentences of the Courts, and Women ordered there are Securely placed and employment of a useful nature found. Both men and women are easily managed as long as you can keep Drink from them; but, if that was not carefully prevented, all the Soldiers here would not keep them in Order. I have written to Lt. Governor Arthur to acquaint Him that those Subjects, he cannot manage in V.D. Land, to send me to be conveyed to Norfolk Island.

T.B.

[Enclosures Nos. 1 and 2.]

[These returns were also forwarded as enclosures to despatches numbered 40 and 22, and dated 18th March and 28th January, 1825, respectively.]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 47, per ship Hope.)

Government House, New South Wales,

My Lord, 5th April, 1825.

I have the honor to acknowledge Your Lordship's Dispatch No. 36, dated 21st September last, and which arrived by the "Hugh Crawford" Private Ship, accompanied by copies of certain declarations transmitted to Your Lordship from this Colony, and requiring my explanations thereon. I already had the honor, in my dispatch of the 6th September, 1822, to lay before Your
Interview of H. Macarthur with governor.

Denial of statement by H. Macarthur.

Statement re dismissal of magistrates in case of Ann Rumsby.

1825.
5 April.

Lordship the Proceedings of the Magistrates in the case of Anne Rumsby, Prisoner of the Crown, and the necessity I felt myself under of requiring their resignation. In Your Lordship's Dispatch of the 1st April, 1823, I had the satisfaction to find that my Conduct on that occasion had met with Your Lordship's approbation. In the report which I made to Your Lordship, no mention was made certainly of the conversation with Mr. Hannibal Macarthur, which is stated by that Gentleman to have taken place on the 24th August. As this interview and the conversation said to have taken place between myself and Mr. Hannibal Macarthur, appears to have given a different turn to the case in the opinion of Your Lordship, and as the four points of enquiry, contained in Your Lordship's Dispatch, are directed to that particular communication, I beg leave distinctly to state that Mr. Hannibal Macarthur did not on the 24th of August, nor at any other time, assure me on the part of the Magistrates that they would make any concessions which I could wish, or desire, and that I did not on that occasion express my Satisfaction in the conduct of the Magistrates in the whole affair.

In order to put Your Lordship in possession of the object of Mr. Macarthur's interview with me, and of the tenor of what conversation did take place at it, I will briefly recall to Your Lordship's recollection the state of the question as it stood between the Magistrates and myself.

The Magistrates at the instance of Dr. Hall had commenced an enquiry into the conduct of Dr. Douglass, who it appears did not think proper to attend to the investigation at the mere verbal requisition of one of the Magistrates. This act of Dr. Douglass was construed by the Magistrates into contempt of their authority, and they entered into Resolutions* which are already before Your Lordship. As the resolutions left me no alternative but that of abruptly dismissing Dr. Douglass from the Magistracy, of whose guilt of the charge imputed to him I was by no means satisfied, or of accepting of their Worships' resignation, I thought I was bound by every fair principle not to condemn a person unheard, merely on account of the number and weight of his accusers, and in thus acting I felt fully Confident of Your Lordship's approbation and support. Under this impression, the letter, 21st August, giving the Magistrates their choice of rescinding the resolution or of sending in their resignation, was written by the Colonial Secretary. In answer to which, I received the Magistrates' Letter, 23rd August, professing every respect for myself, but insisting on the dismissal of Dr. Douglass as the only terms on which they would consent to remain in the commission of the Peace. A Second meeting was held by certain other Magistrates of the Colony, at which the two Judges were present, approving

* Note 154.
of the conduct of their brethren in the case of Ann Rumsby; but I firmly believe it to have been the opinion of every liberal and disinterested person in the Colony, and even of the Magistrates themselves in their cooler moments, that their conduct was ill-judged and improper. In this state of feeling, Mr. Hannibal Macarthur called on me and stated that his brother Magistrates had been actuated by no motive of personal hostility towards myself, but from a sense of what they owed to their private Station and Public Character. In courtesy, I gave him and his Brother Magistrates credit for their professions, and disclaimed on my part any feelings of hostility towards them. I cannot remember the exact expressions, which were used upon either side, after such a lapse of time; but of this I am confident that no offer was made to concede the point at issue between us, and nothing fell from me, which could be construed into a waver of that point. Indeed it was not probable, as it is by no means usual, that I should have adjusted this affair in a private conversation as the whole had hitherto been conducted by written communications.

Before I had the honor to receive Your Lordship's dispatch proposed upon the Subject of the dismissed Magistrates, I had it in contemplation to have restored them gradually to the Bench; but I was unwilling to do so, while a representation from them was pending before Your Lordship, as such a step on my part might have been construed into an apprehension of Your Lordship's disapproval of my conduct. As I now find the only ground upon which they have raised any case is (to apply no stronger term) a great misrepresentation of what took place at a personal interview with one of their Members, I cannot but feel relieved from any doubt as to Your Lordship's ultimate decision; and, acting under that impression, I shall hold out such terms to those Gentlemen, who I think it would be Your Lordship's pleasure I should restore to the Magistracy, which I trust may be accepted without any compromise of principle or feeling on either side.

I have, &c.,

THOS. BRISBANE.

5 April.

1825.

Interview of H. Macarthur with governor.

Proposed restoration of dismissed magistrates to bench.

PARLIAMENTARY VOTE FOR CIVIL ESTABLISHMENT.

The House of Commons having voted the sum of £23,934 0s. 0d. for the Civil Establishment of New South Wales and Van Diemen's Land, from the 1st January to the 31 December, 1825, I am directed by Earl Bathurst to enclose for your information a copy of the Estimates upon which the Grant is founded. A few alterations have taken place from the Estimate.
of the preceding year. The Salary of the Governor of New South Wales has been increased from £2,500 to £4,200, and an additional salary of £1,000 per annum has been added to the Emoluments of the Lieut. Governor of Van Diemen's Land. Provision has also been made on the Estimate for the Salary of an Archdeacon. The Frequent Representations, which have been submitted to Lord Bathurst of the insufficiency of the former Clerical Establishments in consequence of the rapidly encreasing and widespread Population of New South Wales, have led to the appointment of an additional number of Chaplains for the Service of that Colony, and a proportionate augmentation has also been made to the Clerical Establishment of Van Diemen's Land.

I have, &c.,

R. W. HORTON.

[Enclosure.]

[A copy of the estimates is not available.]

SIR THOMAS BRISBANE TO UNDER SECRETARY HORTON.

(Despatch per ship Deveron.)

Government House, New South Wales,

Sir, 15th April, 1825.

In reply to your different communications, as also those of Messrs. Garry and Curtis, on the subject of the experiment of cultivating flax seed in the Colony, I am sorry to report unfavourably of it, in consequence of its arrival at the worst season, viz. January, when the crops are all reaping, and during which season, it is almost impossible to break up ground by plough or otherwise, and its being also completely destructive to vegetation to sow here during the summer months; the moment the autumn came, I was anxious to commence the experiment, and directed the casks to be opened for the purpose, when it was discovered that the flax-seed had suffered most severely during the voyage from having been heated. In consequence of which, Mr. Berry, a respectable merchant, and the Colonial Botanist were directed by me to hold a survey on it; by which it appears that only one grain out of 150 retains its germinating principle; and as there was no known land in a state to give the experiment its full benefit, I availed myself for that purpose of giving public notice that Settlers might be supplied with a small quantity, who were desirous of entering on the Cultivation of Flax, which seems to succeed here very well, as I had previously to the receipt of your communications, or those of Messrs. Garry and Curtis, had it tried on Emu Plains on a considerable scale, where I have the pleasure to state it succeeded perfectly, and has been subsequently spun into fine linen at the Female Factory.
I beg to add that I have given directions, in conformity to Lord Bathurst's instructions, to remit to the Agent for the Colony, in Payment of Messrs. Garry and Curtis, the sum charged for the flax-seed amounting to £856 16s. 5d. I have, &c.,

THOS. BRISBANE.

[Enclosure.]

MESSRS. FRASER AND BERRY TO DEP. COMMISSARY-GEN. WEMYSS.

Sir, Sydney, 11th April, 1825.

In answer to the request of His Excellency the Governor calling upon us to survey the flax seed imported in "The Ann and Amelia," and report thereon, we had the honor of stating that its appearance indicated a considerable degree of damp, which naturally destroys to a certain degree its vegetative powers; and, since that period, we have tried it in various situations and find that its germinating powers average only one out of one hundred and fifty seeds.

We have, &c.,

C. FRASER.
A. BERRY.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 27, per ship Brothers.)

Sir, Downing Street, 16 April, 1825.

I do myself the honor of transmitting to you the Copy of a Letter (with its enclosures), which has been addressed to my Under Secretary of State by direction of Mr. Secretary Peel, whereby it appears that John Quin, who was transported in the Minerva in December, 1817, was only sentenced to seven years Transportation, not for life as erroneously stated in the assignment of the Convicts. I have therefore to desire that the Man in question may receive the benefit of this information as early as possible.

I have, &c.,

BATHURST.

[Enclosure.]

MR. G. R. DAWSON TO UNDER SECRETARY HORTON.

Sir, Whitehall, 11 April, 1825.

I am directed by Mr. Secretary Peel to transmit to you the accompanying Copy of a letter, with its enclosure, which has been received from Mr. Gregory; and I am to desire that you will be pleased to move Lord Bathurst to make an early communication of the same to the Governor of New South Wales in order that the person therein named (John Quin) may receive the benefit thereof.

I am, &c.,

GEO. R. DAWSON.
MR. GREGORY TO UNDER SECRETARY HOBHOUSE.

Dublin Castle, 7 April, 1825.

Sir,

It appearing that John Quin, who was tried at Armagh Summer Assizes, 1817, and who was returned to this Office as sentenced to Transportation for Life, and so entered in the List annexed to the Warrant transferring the services of the Convicts in the "Minerva" to the Governor of New South Wales, and dated 30th December, 1817, was really sentenced to transportation for seven years, as is substantiated by the enclosed certificate of the Clerk of the Crown of the County of Armagh, I am commanded by the Lord Lieutenant to desire you will signify to Mr. Secretary Peel His Excellency's request that he will give the necessary directions, in order that the Governor of New South Wales may be informed, with as little delay as possible, of the true sentence passed on the convict in question and have the error corrected.

I have, &c.,

W. GREGORY.

CERTIFICATE OF SENTENCE ON JOHN QUIN.

Search being made amongst the pleas of the Crown for the County of Armagh, I find that, at a General Assizes and General Gaol delivery held at Armagh in and for said County, on Monday the twenty eighth day of July, one thousand eight hundred and seventeen, John Quin was in due form of law indicted, tried and convicted of wilful and corrupt perjury, and thereupon Judgment was given by the Court that he the said John Quin should be transported for seven years. All which I certify, this fourteenth day of March, 1825.


EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 28, per ship Brothers.)

Sir, Downing Street, 17 April, 1825.

My Dispatch No. 20 of the 13 July last will already have informed you of the formation of the Australian Agricultural Company, and of the terms upon which it has been considered expedient to give encouragement to this Association.

I have now the Honor to inform you that His Majesty has been graciously pleased to grant a Charter of Incorporation to the said Company, dated the 1st November last, for the purpose of enabling them to hold Lands, etc., in New South Wales, and for
other purposes therein stated; and I herewith enclose to you a
Copy of the same, duly verified upon oath before one of the
Masters in Ordinary of the High Court of Chancery, in order
that it may be enrolled in the Supreme Court of New South
Wales according to the provisions required by the act of the
5th Geo. 4th, Cap. 86, sec. 3. As the Charter itself specifies the
terms, under which the Grant is to be made, and the conditions
respecting the levy or redemption of Quit-Rents, the employment
of Convicts, and the alienation of any of the Land on the part of
the Company at any future period, it will be unnecessary for me
to detail them in this Dispatch. I have only therefore to direct
your attention to the concluding declaration, and to desire that
you will take especial care that in all Grants, which may be made
to the Company in pursuance of a Warrant under His Majesty’s
Sign Manual, the Company be expressly bound to observe and
perform the several conditions, Provisions and Restrictions en­
forced upon them by the terms of the Charter. Mr. Robert
Dawson has been appointed the Agent of the Company, to whom
you will afford every reasonable facility in prosecuting the objects
with which he is proceeding to the Colony.

He will lose no time, after his arrival, in examining the tract
of Country, which may be considered most eligible for the pro-
posed undertaking; and I have to desire that as soon as the
situation has been fixed upon for the proposed Establishment,
that you will make the same known to me, in order that I may
take the necessary measures for carrying into immediate effect
the Gracious Intentions of His Majesty by submitting a Warrant
for the Royal Signature, in pursuance of which a Grant of Land
may be made to the Company upon the conditions specified in
the Charter.

I have, &c.,

BATHURST.

[Enclosure.]

CHARTER OF INCORPORATION FOR AUSTRALIAN AGRICULTURAL
COMPANY.*

GEORGE the Fourth, by the Grace of God of the United Kingdom
of Great Britain and Ireland, King, Defender of the Faith,
and so forth, to all to whom these Presents shall come,
Greeting:

Whereas in and by a certain Act of Parliament, made and
passed in the fifth year of Our Reign, entitled “An Act for grant-
ing certain powers and authorities to a Company, to be incor-
porated by Charter, to be called ‘The Australian Agricultural
Company’ for the Cultivation and improvement of Waste Lands
in the Colony of New South Wales, and for other purposes re-
lying thereto”; After reciting that there are in the Colony of

* Note 68.
New South Wales divers waste lands, which might be cultivated to advantage, if sufficient Capital were raised and advanced for that purpose, and that there are in the said Colony a large number of Convicts, who are at present maintained at the public Ex pense, but who might be advantageously employed in the Cultivation of such waste Lands as aforesaid, and thereby a considerable annual saving would accrue to the public, and that divers persons are willing to contribute and raise by subscription among themselves such a Capital sum as will be necessary for bringing into cultivation such of the Waste Lands, as We may be pleased to grant to them, and for the employment thereon of a large number of Convicts; and further reciting that the beneficial Objects aforesaid cannot be effectually attained, unless we should be pleased by our Charter to constitute and declare the Persons aforesaid one body Politic and Corporate; It is enacted that in case we shall, within three years after the passing of the said Act, be pleased, by Charter under the Great Seal of Great Britain, to declare and Grant that such and so many persons, as should be named thereon, and all and every such other person, as from time to time shall be duly admitted Members into their Corporation, shall be a Body Politic and Corporate, by the name of the Australian Agricultural Company, and to declare that the said Corporation, so to be made and created, shall be established for the purpose of Cultivating Waste Lands in the Colony of New South Wales; then and in that case it shall and may be lawful for the said Corporation to hold to them and their Successors such Lands, Tenements and Hereditaments, within the said Colony of New South Wales as shall or may be granted by Us to them and their Successors within the said Colony, or as shall be contracted for and purchased, or acquired by them therein, and to hold, alienate, sell and dispose of all such Lands, Tenements and Hereditaments, upon, under and subject to such Conditions, Provisos, Limitations and restrictions, as we by Our Charter may impose, direct or prescribe; and, in and by the said Act, provision is made for the Government, and for the due management and regulation of the affairs of the said Company, Now Know ye that we, of Our Especial Grace, mere motion, and certain knowledge, have granted and declared, and by these presents Do grant and Declare, that John Smith, William Manning, Cornelius Buller, John Baker Richards, William Astell and Campbell Marjoribanks, Esquires, and all and every such other person or persons as from time to time shall be duly admitted Members into their Corporation, shall be a Body Politic and Corporate by the name of "The Australian Agricultural Company"; and by that name shall have perpetual succession and a
Common Seal; and by that name shall and may sue, and be sued, plead and be impleaded at Law or in equity; and we do hereby declare that the said Corporation shall be and is established for the purpose of Cultivating Waste lands in the said Colony of New South Wales; and that the business and affairs of the said Corporation shall be managed and conducted and the Officers thereof elected and appointed in the manner and form in and by the said Act of Parliament provided in that behalf, and in none other; and we do hereby further declare that all such Lands, Tenements and Hereditaments within the said Colony, as shall or may be granted by Us to the said Corporation and their Successors within the said Colony, or as shall be contracted for and purchased or acquired by them therein, shall be held, alienated, sold and disposed of upon under and subject to the Conditions, Provisions, limitations and restrictions following, that is to say:—

Firstly. That all Grants of Land in the said Colony, which may be made to the said Company by Us, Our Heirs and Successors, shall be passed under the Great Seal of the said Colony, in pursuance of such Warrants under our Royal Sign Manual as may for that purpose be issued by Us through one of Our principal Secretaries of State.

Secondly. That, for and in respect of all such Lands as may be granted by Us, Our Heirs and Successors, to the said Company in fee simple, to be holden by them in Free and common Soccage, there shall be reserved and paid and payable to Us, Our Heirs and Successors, an annual Quit-rent, which shall amount to the sum of Thirty Shillings and no more for each and every parcel of the said Lands of the value of one hundred Pounds Sterling; and that each and every acre of the said Lands shall for the purpose of calculating the amount of such Quit-rent be taken and estimated as of the value of one Shilling and sixpence Sterling and no more.

Thirdly. That no quit-rents shall accrue due or be payable by the said Company, for or in respect of any such Lands as aforesaid, during the term of Five years to be computed from the date and execution of any Grant and in which such Lands may be so granted.

Fourthly. That, upon giving one Month's notice in writing under Common Seal to the Governor of the said Colony, it shall be lawful for the said Company to redeem the said Quit-rent or any part thereof upon payment into Our Treasury, in British Sterling Money, of a Capital sum, equal to twenty times the amount of the Rent so to be redeemed; Provided always that the redemption of any portion of the said Quit-rents shall not
17 April.

Charter of incorporation for Australian agricultural company.

Convicts to be employed by company.

Superintendents of convicts.

Prohibition of dealing in lands for five years.

Tenure of land.

Conditions to be fulfilled before alienation of lands.

exonerate or discharge any part of the Lands to be Granted to the said Company from the payment of the whole or any part of the Quit-rents remaining unredeemed.

Fifthly. That the said Company shall employ upon the Lands, so to be granted to them, such a number of Convicts as shall at the least be equal to the number of free Labourers employed, if the Governor for the time being of the said Colony shall be able and willing to supply a sufficient number of Convicts for that purpose.

Sixthly. That the said Company shall at their own expense employ fit and proper persons, not being or having been Convicts, to act as Superintendents of the Convicts, so to be employed by them, in the proportion at the least of one such superintendent to every fifty Convicts.

Seventhly. That no land granted to the said Company by Us, Our Heirs and Successors, shall by the said Company be granted, bargained, sold, conveyed, demised or alienated, and during a period of five years to be computed from the date of the Grant in which any such Lands may be comprised, and if any such Grant, bargain, Sale, Conveyance, Demise or alienation shall, during any such period as aforesaid, be made or executed the Lands therein comprized shall be and become absolutely forfeited to and vested in Us, Our Heirs and Successors.

Eighthly. That the Lands to be granted to the Said Company by Us, Our Heirs and Successors, shall be held by them in Mortmain, and be absolutely inalienable by them, except upon the terms and conditions following:—that is to say, that it shall be lawful for the Governor and Legislative Council of the said Colony and they are hereby required, upon application to them for that purpose made by the said Company, to direct the Surveyor General for the time being of the said Colony to enquire and report whether the sum of Ten thousand Pounds Sterling hath been laid out and expended by the said Company in the formation of roads, the erection of buildings, the Cultivation, clearing, fencing, draining or other improvements of any such Lands, and, if the said Surveyor General shall report to the said Governor and Council that the sum of Ten thousand pounds Sterling hath been so expended, it shall be and become competent to the said Company without licence from Us, Our Heirs and Successors, to alienate and convey in fee simple, but subject to the Quit-rents aforesaid, any part or parts of the Lands granted to them not exceeding Fifty thousand acres in the whole, and such and the same proceedings shall from time to time take place upon each successive application of the said Company for the purpose aforesaid to the said Governor and Council; and,
upon each successive report, so made as aforesaid, of the further expenditure upon any such Lands of any further sum of Ten thousand Pounds, the said Company shall be and become competent to alienate Fifty thousand Acres, or any smaller quantity of the Lands to be granted to them, until one moiety or equal half part of such Lands shall in manner aforesaid become alienable; Provided always that such Report as aforesaid shall be enrolled in the Supreme Court of Justice of New South Wales; Provided also that it shall be lawful for the said Company to alienate any of the Lands to be granted to them upon obtaining a special Licence for that purpose through one of Our principal Secretaries of State.

Provided further that every Grant or Conveyance of Lands to be made by the said Company shall be absolutely null and void, unless the same shall expressly refer to and peculiarize the Surveyor General's Report or the Licence from Us (as the Case may be), under the authority of which the same may be so granted or conveyed. Provided, Nevertheless, that nothing herein contained shall extend to or prevent any demise of any such Lands, made by the said Company for any term not exceeding Twenty one years without any Covenant of renewal, so as that not more than one moiety of the Lands, so to be granted as aforesaid, be demised within twenty years next succeeding the date of any such Grant.

Ninthly. That the quit-rents to accrue due upon any lands to be granted to the said company by Us, Our Heirs and Successors, for and during the term of five years to commence and be computed from and after the expiration of the first five years next following the date of any such Grant, shall not be actually collected and received until the expiration of such second term of five years; and that at that time all Quit-rents then due and in arrear by the said Company shall be remitted, if six hundred Convicts shall have been regularly employed and maintained by the said Company for and during the greater part of such second term of five years.

Tenthly. That the said Quit-rents, to accrue for and during the further term of five years to commence and be computed from and after the expiration of the second term of five years next following the date of any such Grant, shall not be actually collected and received until the expiration of such third term of five years, and that at that time all quit-rents, accrued, due and then in arrear by the said Company in respect of such third term of five years, shall be remitted if one thousand
1825.  
17 April.  
—  
Charter of incorporation for Australian agricultural company.  
Collection of quit rents at end of twenty years.  

Remission of all future quit rents by expenditure of £100,000 on convicts.

Convicts shall have been regularly employed and maintained by the said Company for and during the greater part of such third term of five years.

Eleventhly. That the said Quit-rents, to accrue due from and during the further term of five years to commence and be computed from and during the expiration of the third term of five years, next following the date of any such Grant, shall not be actually collected until the expiration of the said term of five years, and that at that time all Quit-rents, accrued, due and then in arrear by the said Company in respect of the said term of five years, shall be remitted if one thousand four hundred Convicts shall have been regularly employed and maintained by the said Company for and during the greater part of such term of five years.

Twelfthly. That, if at any time within twenty years next after the date of any such Grant, it shall be made to appear to the satisfaction of Us, or of Our Governor for the time being of the said Colony, that the said Company hath by the employment of Convicts exonerated Our Treasury from a charge equal in the whole to the sum of one hundred thousand pounds Sterling, then the Lands which may, by Us, Our Heirs and Successors, have been granted to the said Company, shall be for ever discharged of and from the Quit-rents originally charged thereupon; and in calculating the amount of the sums from which Our said Treasury has been so exonerated, it shall be assumed and taken that the said Treasury has saved the sum of twenty pounds Sterling for each and every Convict, who shall appear to have been maintained during one whole year by the said Company. And We do further Declare that, in any Grants to be made to the said Company of any Lands situate in the said Colony, all necessary Covenants shall be made and entered into by the said Company for insuring the due observance and performance on their part of the several Conditions, provisos and restrictions aforesaid.

In Witness whereof we have caused these Our Letters to be made patent.

Witness Ourself, at Our Palace at Westminster, this first day of November in the fifth year of Our Reign.

By immediate Warrant,

Scott.

5 May.
Nomination of H. G. Douglass for military duty.

Earl Bathurst to Sir Thomas Brisbane.
(Despatch No. 29, per ship Brothers.)

Sir,

Downing Street, 5 May, 1825.

In consequence of the announcement in the London Gazette of the 5th March last that Mr. Henry Grattan Douglass had been nominated to the 12 Regt. of Foot, and not being aware, at the time I appointed him conditionally to the situation of
Clerk of the Council at New South Wales, of the circumstances which rendered him liable to be called to attend to the duties of another Service, I deemed it right to refer to the department of the Secretary at War for information on that point. The enclosed letters, which are transmitted for your Excellency's information, have been received in answer from that office and the Army Medical Board by my Under Secretary of State.

As the gross breach of Military Discipline, of which Mr. Douglass has been guilty, has been already visited by as strong a mark of His Majesty's Displeasure as is usually applied upon such occasion, I shall not adopt any severer measures with respect to him; but I request that you will intimate to Mr. Douglass that I expect he will explain his conduct in neglecting to take notice of the frequent notifications, which appear to have been addressed to him by Sir James Macgregor, some of which must necessarily have reached him, and that I cannot but feel greatly surprised that, notwithstanding the frequent Interviews which were held with him at my Department previously to his embarkation for the Colony, he should not have thought it necessary to mention the situation, in which he stood in relation to his professional duties and his liability to be recalled to the Military Service.

I have, &c,

Bathurst.

[Enclosure No. 1.]

Mr. W. Merry to Under Secretary Horton.

Sir, War Office, 26 April, 1825.

Your letter of the 31st Ulto, relative to Assistant Surgeon Douglass having been referred to the Army Medical Department, and an answer, of which the enclosed is a copy, having been received stating that, when gazetted to full pay in the 12th Foot, he had left London without any apology or explanation, and had repeatedly neglected to reply to the official letters apprising him of his recall to the Service, I am directed to acquaint you, for the information of Earl Bathurst, that under these circumstances it was deemed proper that Mr. Douglass should take the consequences, which attach to the neglect or refusal to serve again in the Army when called upon, and that he has accordingly been superseded with the forfeiture of his half pay.

I have, &c,

W. Merry.

[Enclosure No. 2.]

Sir James McGregor to Mr. William Merry.

Sir, Army Medical Department, 15 April, 1825.

I have the honour to acknowledge the receipt of your letter of the 13th Instant, with the accompanying copy of a letter from the Office of the Secretary of State for the Colonial
Department, respecting the appointment of Assistant Surgeon Henry G. Douglass to full pay on the 18th Inst., and requesting to be furnished with a report thereupon.

In reply, I beg leave to state, for the Secretary at War's information, that in the first place Dr. Douglass went abroad without regular permission, and a considerable period elapsed before his place of residence could be ascertained, notwithstanding repeated notices that his Services would be required were sent to his Agent and to his former address in Ireland. As soon as it was known that he was in New South Wales, letters were addressed to him there. When he was lately in London, he was again warned for Service, and told that he would be immediately Gazetted, and that, if he did not then join, he would be superseded. He was also seen by me and personally informed that I had no power to excuse him; after all when Gazetted, this Gentleman left London without sending any letter in explanation.

I have, &c.,
J. McGregor, Director General.

Under Secretary Horton to Sir Thomas Brisbane.
(Despatch marked “Private,” per ship Brothers.)

Sir,
Downing Street, 5 May, 1825.

I have received the directions of Earl Bathurst to transmit to you the enclosed application from Mr. Waithman in behalf of Mr. Robson of Sydney, who is desirous of being confirmed in a grant of 1,360 acres, which appears to have been reserved by your Excellency for him, until orders from home; and I am to request that you will cause the Land in question to be permanently allotted to that Gentleman, should the improvement, which he has made in his previous Grant, give him a claim to this indulgence.

I remain, &c.,
R. W. Horton.

[Enclosure.]

Mr. R. Waithman to Under Secretary Horton.

Dear Sir,
Winchmore Hill, 3rd May, 1825.

I should not deem it necessary to remind you of my application for a grant of land to Mr. Jno. Robson at Sydney, as I have no doubt, from your known correctness and attention, you would not suffer it to escape you; but I hope you will not consider me troublesome in stating that I have just received letters from him, giving a most flattering account of his success and prospects, and also inclosing a remittance for his sister, which is a practical proof of his success; this, as well as what I hear from other quarters, convinces me that he is deserving of your attention, and I hope will induce you to comply with his wishes. I beg to
give you the following extract from one of his letters. "In my last, I made a request to you to endeavour to procure me an order for land; since writing, the Government have given me 640 acres, and ordered a further portion of 1,360 Acres to be reserved for me, until I can obtain an order from home. I have therefore selected 2,000 Acres, and I have no doubt, being established in business, the full will be granted to me; but to provide against mischances, I should feel obliged by your applying to the Colonial office for a special order for 1,360 acres, which I at present hold during pleasure."

Mr. Robson is highly respected in the Colony, and has been noticed by the Governor, with whom he has dined. Mr. Icely, who is now here, speaks very highly of him, and would satisfy you in every particular; under these circumstances, I trust you will feel no difficulty in complying with my request.

I have, &c,

ROBT. WAITHMAN.

SIR THOMAS BRISBANE TO UNDER SECRETARY HORTON.

(Despatch per ship Deveron; acknowledged by under secretary Hay to Governor Darling, 5th November, 1825.)

Government House, New South Wales,

Sir, 13th May, 1825.

In reply to your Letter of the 18th July, 1824, enquiring, by desire of Lord Bathurst, after a Person named George Wesson, I have the honor to transmit to you for the information of His Lordship the copy of a communication from the Colonial Secretary on the subject.

I have, &c,

THOS. BRISBANE.

[Enclosure.]

SECRETARY GOULBURN TO SIR THOMAS BRISBANE.*

Sir, Colonial Secretary's Office, 9th April, 1825.

The George Wesson, Ship Lord Eldon, to whom the enclosed letter from Mr. Wilmot Horton refers, was Sentenced on the 26th of last February by the Quarter Sessions at Parramatta to transportation for three years, and at the present moment is at Port Macquarie.

I have, &c,

F. GOULBURN.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 53, per ship Deveron.)

Government House, New South Wales,

My Lord, 14th May, 1825.

In pursuance to the instructions contained in your Lordship's Dispatch No. 24 of the 22nd July, 1824, received by the Granada, 23rd January, 1825, directing me to report upon the

* Note 155.
measures, which had been acted upon, or in progress of being carried into effect in the Colony, pursuant to your Lordship's Dispatch,* founded on the recommendation of the Commissioner of Enquiry in his investigation on New South Wales, I have the honor to transmit the same for your Lordship's information. I beg to observe that there are several points recommended by the Commissioner requiring Legislative Authority, which had been retarded from a peculiar circumstance. Until the arrival of Colonel Stewart, the Lieutenant Governor, an opinion prevailed that, according to the Council Clause of the Act of Parliament, four members only having notice, could not legally be held,† and therefore under this impression I felt a delicacy in pressing upon the Council any subjects which were not of daily business, or matters of emergency did not require. This will therefore account to your Lordship for the delay in carrying into effect many of these measures, and at the same time explain why a greater number of Acts have not passed the Council, since the promulgation of the names of the Members in September down to the present period. In the meantime, enquiries have been always proceeding upon many important subjects, which will soon come before the Council; And I must be permitted to say that the delay in my opinion has not been without advantage, in the opportunity it has given to the Officers employed by me in canvassing and gaining information on the subjects of some new Laws.

I have, &c.,
THOS. BRISBANE.

[Enclosure No. 1.]

ABSTRACT

Of the heads of the three Reports on New South Wales, submitted to Parliament by Mr. Commissioner Bigge, and the comments on each by His Excellency Sir Thomas Brisbane, K.C.B. &c. &c. &c.

The mark (No. 7) denotes that the Subject was alluded to in a former Dispatch, No. 7 of 1823, to Earl Bathurst, dated 28th April, 1823.

(Pages 13 and 156).—The Anchorage of Convict Ships between Dawes' Battery and the New Fort, and that communication between the Inhabitants and Convicts on board be not allowed?

Strictly complied with in every instance (No. 7).

(14 and 157).—Enquiries of the Secretary into the Conduct of the Master and Surgeon during the passage?

Acted upon as already reported (No. 7).

That the Muster of the Convicts and its accuracy are of the first importance?

Duly attended to as reported (No. 7).

* Note 156. † Note 157.
(15).—That the Governor has been in the habit of addressing the Convicts at their inspection, on arrival, and assuring them that no retrospect will be had to crimes?

Duly attended to as reported, except that, in regard to a retrospect, no reference has been made to its not being had (No. 7).

(16 and 17).—That Convicts' clothes and Bedding be taken care of on their landing, and that money belonging to individuals be deposited for the ultimate use of the Party?

Complied with as far as practicable (No. 7).

(17 and 19).—Objections to the Monopoly of Mechanics and useful persons on the part of the Crown?

These objections no longer exist (No. 7).

(18).—Objections as to the mode of remuneration of Convict Clerks and Overseers by the Assignment to them of working Convicts?

Objections totally removed (No. 7).

(18).—As to applications being made to the Principal Superintendent instead of the Colonial Secretary?

These no longer apply in the new System of Regulations.

The propriety of a different treatment of those transported a second or third time?

Invariably removed on a second or third Offence to a penal settlement; but, perhaps the Sentence in England might direct this with many advantages (No. 7).

(29, 30, 31, 39).—The Difficulties and Danger of the System of taskwork in the different Gangs?

Entirely removed as appears by the new Arrangements of the Chief Engineer (No. 7).

(32).—The necessity of the Chief Engineer, Superintendent of Convicts, and Colonial Architect visiting all working Parties?

Regularly attended to as far as is practicable, with regard to the Chief Engineer, in the distant districts; and effectually as far as regards other Officers (No. 7).

(33).—That the classification with reference to crime be carried into effect with the Men as well as Boys?

Attended to as far as practicable.

(34, 35).—That Corporal Punishment should not be inflicted when milder means can be resorted to with due effect?

System of Corporal punishment much abridged by milder means and with advantage.

(36).—The Superintendent to have a view of the Convicts at Church?

Pew of the Superintendent in the new Church placed for that purpose.
The depositing of their Clothes and Books in Hyde Park Barrack?

Duly attended to.

Expenditure and Employment of Stores to be accounted for by Overseers?

Duly attended to

(37).—That Agricultural Establishments should be encouraged.

Refer to report on clearing gangs and on the effect of these establishments; and an experiment has been begun by a competent person, Mr. Busby, the author of a treatise* printed in Sydney, which will be transmitted to Your Lordship (No. 7).

(39, 41).—Comments on the Incompatibility of the duties performed by Mr. Fitzgerald at Emu Plains with those at Windsor?

This office renewed in 1822.

(41).—Recommending light manual labour for Convicts of Education, in preference to their being employed as Clerks or Compositors?

Generally sent to Bathurst far removed from temptation.

(46 and 47).—The evils arising from the System of paying extra wages, or Services, in Rum or Sugar, at Van-dieman's Land?

Never done here, now no longer at Van Dieman's Land.

(48).—How far the opinion is correct, that it is more desirable to separate Convicts than to Confine them indiscriminately?

The less Convicts are congregated together the better their moral State of improvement.

The necessity of providing them a lodging on their landing?

The diminution of numbers of Convicts generally in Sydney has left the Prisoners' Barracks capable of holding such Men as are not forthwith distributed among the Settlers.

(50).—Comments on the propriety of discontinuing any ornamental work in the Public Buildings,† until those of more immediate utility are completed?

Objections totally removed (No. 7).

(128).—The great defect in the present mode of registering Convicts, with the difficulty of identifying them?

The Suggestion adhered to, and the Prisoners can now be more easily traced than formerly.

The incompetence of W. Hutchinson?

Mr. Hutchinson removed; objections no longer exist.

(54).—A change recommended in the System of granting passes to Convicts on Sundays?

This System new modelled.

(58, 59, 60).—Recommending money payment to Superintendents instead of remuneration by rations?

In full operation.

* Note 158. † Note 159.
(61).—Remark the impropriety of taking the spare Clothing from the Convicts on their arrival?

The course no longer exists.

(63, 64, 65, 66).—The Commissioner's general remarks upon the Subject of rations?

Rations have been recently newly arranged by boards assembled for that purpose, as appears by the accompanying regulations.*

(65).—The necessity of preventing the supply of Vegetables to the Convicts' Barracks, from Major Druitt's and the Military Garden?

Entirely removed.

(67).—Suggestions on the propriety of concentrating the Concentration of working parties, in as much as it facilitates Superintendance?

Duly attended to.

Detection of Overseers conniving at the absence of Convicts from work?

Every possible steps taken to prevent the evil.

(76).—The expediency of not entrusting Convicts as Servants Assignent of to any but opulent Settlers?

The general principle followed as far as circumstances of expediency will admit.

(78, 79).—Objections to the Sunday Musters when entrusted Musters of to the District Constables?

The Country Sunday Musters done away with, and only the Convicts in Government employment mustered at all. They are always mustered by their Sup'ts previous to going to Church or chapel.

(85).—Remark that the Medical Stores in the General Hospital are applied to the use of Persons, who can afford to pay for them?

Discontinued.

(98).—The necessity of Alphabetical references, to the names of Convicts, in the annual record Books of the proceedings before the Magistrates?

Duly attended to and a better System meets.

(100).—Inconvenience of not sending Certificates of the period of transportation fixed by their Sentences in Great Britain, with the Convicts sentenced to the Coal River.

Now duly attended to, and no irregularities exist on this head.

(106, 107).—Comments on the inefficiency of District Constables, and the importance of paying them with regularity?

Duly attended to, and general System of Police under arrange-

(117).—The impropriety of the Convicts at the Coal River becoming Agricultural Settlers?

Objection totally removed.

* Note 160.
1825.
14 May.
Comments by
Sir T. Brisbane
on measures
recommended
by J. T. Bigge.

Pardons and
tickets of leave.

Remission of
sentences to
convicts on
Bathurst road.

L. Halloran
and his school.

Ticket of leave
given by
W. Cox.

Tickets of leave.

Surgeon's report
on convicts.

Assignment
of convicts.

Custody
of money of
convicts.

Assignment
of mechanics.

(119).—The allotment of one Day in each Year for preferring applications for remissions of Punishment?

Applications received at all times (No. 7).

(120, 121).—That the terms of Certificates, specified in the orders of 1813, are not strictly complied with in consequence of the inattention of the Magistrates?

Now regularly adhered to.

(122).—The system pursued in granting Conditional Pardons, Emancipations and Tickets of Leave, with the necessity of careful reference to the records of Criminal Proceedings, previous to the issue of such Pardons or Remissions of Punishment?

Attention to moral Character and Certificates most rigidly adhered to, before any indulgence or remission can be given; except in rare instances in which, in my judgment the general conduct of the Individual weighed sufficiently against an occasional Observation.

(124).—Remissions of Sentence to the Convicts employed on the Bathurst road, where the motives of recommendation appear suspicious?

No longer exists.

(127).—Recommending that no further indulgence be given to Lawrence Halloran, and that the Local authorities institute occasional enquiries into the management of his School?

No additional indulgence has been granted to Lawrence Halloran, and his School is managed with much credit to himself; little visitation can be made.

(128).—The fact stated of Mr. Cox having bartered a Ticket of Leave for work?

Circumstance alluded to, previous to my arrival in the Colony, and never brought before me.

(131).—The necessity of regulating the mode of granting Tickets of Leave.

A Regular System pursued (No. 7).

(156).—Concerning the report of the Surgeon Superintendant as to the Conduct of Convicts during the passage?

Always regularly required and examined into (No. 7).

(157, 158).—That no Settler having less than 50 Acres of Land should have a Convict assigned to him?

Attended to as far as expediency will admit.

(158).—That the funds of Convicts should be placed in the Sydney Savings Bank?

Regularly attended to as much as possible, but little is deposited (No. 7).

That a proportion of Mechanics be assigned to each Settler, and that such Settler be obliged to take inferior Convicts?
BRISBANE TO BATHURST.


(158).—The inexpediency of encouraging Manufactures in the Towns?

My opinion is quite in unison with Your Lordship’s and Mr. Commissioner Bigge’s, and has been acted upon accordingly.

(159).—Process for clearing the ground of Stumps and Roots, and the description of Convicts for that work?

System of clearing stumps &c. perfectly understood in this Country, and duly enforced.

(161).—That Settlers, having Stations for feeding Sheep in the interior, should have a free and unconvicted person as a resident Overseer?

System has a tendency to correct the evil complained of, but some of the large Stock holders will trust a Convict in preference to the freemen they get here.

(163).—The expediency of withdrawing the worst classes of Servants from Agricultural Settlers?

The administration of the Law provides for this evil in some respects, and perhaps more of the better class of Men are in the hands of the Settlers than at any former period.

That Buildings should be erected to employ Mechanics at Employment of mechanics.

Duly attended to, and for the proportion of those now in the employ of Government compared with those of 1821, See accompanying Return* (No. 7).

That the best conducted Convicts be selected for the Hospital and Commissariat?

Duly attended to.

That the Old Men and Boys remain in Sydney, the latter to be confined to the Carters’ Barracks and instructed in trades, and afterwards assigned to Settlers?

Uniformly adhered to.

(166).—The necessity of an entire change in the System of Superintendence of Convicts, and that local Superint’s should have a proportion of the profit of the produce sold for the benefit of Government?

Duly attended to, in reference to Regulations on that head.

(163).—Suggestions on the expediency of Convicts being Segregation separated (where it is practicable) from the general mass of Population?

Duly attended to as far as the nature of their employ will admit.

1825.
14 May.

Comments by Sir T. Brisbane on measures recommended by J. T. Bigge.

Manufactures.

Overseers on sheep stations.

Note 161.
(165).—Suggestions on the arrival, inspection, distribution and management of the Female Convicts, with the impropriety of giving them Tickets of Leave on their arrival, and the necessity of their landing in the dresses provided by the Navy Board; that all applications for Servants be addressed to the Colonial Secretary, and that, on their removal from Sydney to Parramatta, The Superintendent of the Factory be instructed to accompany them?

All these suggestions are minutely attended to; and, with the view of perfect classification, an addition to the Factory to contain Sixty Women will be completed in two months, in which building will be confined those Sentenced by Magistrates for crimes committed after their arrival, and whose situation will be more of restraint than the other Women, and all indulgences of Tea, Sugar &c. withheld (No. 7).

(168).—The absolute necessity of establishing a classification of Female Prisoners at Parramatta, and that the future assignment of Servants to Settlers be regulated by the joint discretion of the Magistrates at Parramatta and the Female Superintendent there?

Necessity fully apparent and means are in progress to enable me to accomplish it (No. 7).

That Convicts be not retained in the Service of Government, whenever their good Conduct should partly entitle them to the advantage of a favourable location with individual Settlers, or to any remission of Punishment?

All Convicts prefer their claim on the principle of the Regulations laid down respecting indulgences.

(169).—That the lapse of a certain period be necessary to entitle the Convict to prefer his claim for a Ticket of Leave, and that, upon being refused, he be informed of the general nature of the objection.

Uniformly adhered to as adopted in the accompanying regulation, published for general information, and acted upon, to show the Convict the grounds of refusal.

(168).—Suggestions for consideration whether the System of Annual Wages is compatible with the Penal Services demandable from a Convict in a State of Punishment?

An equivalent given to Convicts in Govt. employ in provisions, and is paid to them by Overseers, and is found to be attended with good effect; and, it is now under consideration how far Govr. Macquarie’s order,* referred to in the report on this Subject, can be best qualified.

(170).—That no Ticket of Leave be granted on arrival, except on the recommendation of the Secretary of State?

None has ever been granted.

* Note 162.
That the practice of assigning Convicts to Magistrates, Clerks, and Overseers be limited to the former?

New regulations forbid this System.

That the names of Convicts having Tickets of Leave and Pardons be published in the Sydney Gazette?

Regularly published (No. 7).

That detailed accounts of all remissions should be sent home periodically?

Has been done in conformity to Act of Parliament.

(171).—That no other claim for a Ticket of Leave should exist than good Behaviour; and that Convicts merely holding them be not permitted to acquire property?

No other claim ever recognized, but gallant conduct in apprehending Robbers and giving information of great crimes has sometimes obtained this and even Emancipation, when strongly recommended by Magistrates.

(172).—That Convicts be made to understand that conviction before the Magistrates will form an impediment to a remission of Sentence, and that no personal Services will ever again be permitted to form a ground for such indulgence?

New regulations prescribe this as an indispensable requisition, with rare exceptions.

(173).—Stating that the grants of Land given to emancipated Convicts has been abused, and that no Grants, beyond 10 Acres, be in future given unless to those possessed of Property?

Attend to as far as considered expedient to due encouragement to that class of Inhabitants, combined with the means they possess of doing Justice to a Grant of Land.

That the period of affording Rations to Convict Settlers be extended from Six to twelve Months?

Six Months being considered a fair period has consequently been acted upon.

That the Certificate of a Magistrate or Chaplain as to the good Conduct of a Convict, on which some remission be founded, might be dispensed with.

Such Certificates have always been required previous to obtaining any indulgence.

(2d. Rt. P. 13).—That the Schedule of Fees of the Provost Marshall be referred to the Judge for revisal, for proportionate augmentation in certain cases there stated.

Office of Provost Marshall no longer exists, and the Sheriff's fees have been fixed by the Chief Justice.

(59).—That the Schedule of fees, by which the charges of Solicitors are now regulated, be reduced?

Referred to the Chief Justice.
1825,
14 May.
Comments by Sir T. Brisbane on measures recommended by J. T. Bigge.
Returns of persons dying intestate.

Allowances and wages for constables.

Removal of convicts.

Regulation of liquor traffic.

Registration of carts and houses.

Observance of the Sabbath.

Issue of copies of information.

Departure of passengers and ships' crews.

That the fees, now payable to the Registrar, be accounted for upon oath to the Treasurer of the Police Fund, from whence a competent and fixed annual Salary be assigned to the registrar not exceeding £400?

New appointment.

(60).—That the Registrar of the Ecclesiastical Courts be required to transmit to the Agent of the Colony a list of all persons dying intestate in the two Colonies, together with an inventory of their effects and that to him be addressed all enquiries of relations concerning the same?

This will be attended to.

(61, 62).—That the remuneration of District petty Constables be reduced to a Single Ration, 7 lbs. of Meat and 7 lbs. of Flour weekly, with an annual allowance of £20 paid quarterly to the District Constables, and £10 and certain Clothing to the petty Constables?

Has been acted upon for some time past, and the remuneration of Constables again under consideration.

(63, 64).—That the regulations respecting the removal of Convicts from one Master to another, or from one district to another, be more exactly and carefully enforced?

Due attention is uniformly paid to this.

(65 to 71).—On the System of granting licenses to Publicans and the necessity of every restraint on the immoderate use of Spirits that can be effected?

Restraint imposed by an act of Council,* of which a Copy will be transmitted with the other acts.

(71).—That the names of the owners of Carts and boats be exhibited upon them; and the numbers of each House in the Towns?

Duly attended to and fines levied for non-compliance, and the old orders about to be perpetuated by an act of the Governor in Council.

That Regulations be enforced for the due observation of the Sabbath?

The Sabbath reverently observed in all the different Townships, and suitable guards about to be laid before the Council.

(74).—The impropriety of allowing parties under prosecution to obtain copies of the informations taken by the Magistrates, from the office of their Clerk?

Abuse no longer prevails, from the improvement of the Character of the new free Clerks.

(79).—The Muster of Ships' Crews by the Colonial Secretary, and that the Passengers repair to his Office to have their names inserted in the clearance before the Vessel weighs Anchor.

Legalized totally by an act of Council.*

* Note 163.
(Vide 3 rt., P. 55).—That the advertisements in the Gazette and Certificates of no detainers be dispensed with, as to Captains, Mates, and Sailors of Colonial Vessels?

Subject considered in the act of Council.

(82).—The necessity of increasing the number of Magistrates? Number greatly augmented.

(83).—That the evidence upon which Sentences are founded be entered in the record Book?

Regularly entered in Books provided for that purpose.

(83).—That Returns be made out Quarterly of all Punishments inflicted, Fines or penalties levied, by order of one or more Magistrates?

Has been acted upon in some degree and will be more rigidly required under the new act of Parliament.

The Commissioner suggests that the Office of Asst. Superintendent of Police in Sydney might be discontinued, and his remarks as to the number of Clerks required in the Offices of the Superintendent of Police?

No longer exists; but with the new Apartment new measures will be introduced.

(84).—Comments on the duty of Police Clerks and of the Clerks of the Magistrates and on their remuneration both as to Salary and Fees?

Has been considered, and has been acted upon.

The impropriety of allowing Clerks to give any copies of Informations or Proceedings, without the order of the Magistrates?

Never, now, permitted.

That the Magistrates be allowed to apply the funds, arising from fines or penalties, in the reward of Constables for activity in the pursuit and apprehension of Offenders?

Regular accounts of all these fines kept by the Magistrates, in Books for that purpose, and an increased activity has been attempted to be given to the Police of the Colony by entrusting the Magistrates with the power of drawing on the Col. Treasurer in any exigency, in form of Checks, such herewith will explain the System, which is as yet only temporary.

That copies of their accounts be annually laid before the Chief Justice, and then transmitted to the Governor?

Shall be duly complied with if on further consideration found compatible with the office of the Chief Justice.

That the allowances to all functionaries be equalized with a view to the simplification of the Com's't accounts, and the transference of a portion of the charges of the police from the Treasury at home to the Colonial Funds?

Object has been uniformly borne in mind as far as the Colonial Revenue would admit.
1825.
14 May.

Comments by Sir T. Brisbane on measures recommended by J. T. Bigge.

Chief constables.

Police patrols.

Duties of chief constables.

Erection and management of gaols.

Suppression of drunkenness.

Reduction of licensed houses.

The importance of great attention in selecting Chief Constables, and the necessity of allowing a horse for each of these Officers at Parramatta and Windsor?

Much attention has been paid to the selection of Chief Constables and an occasional Horse always allowed, when the public Service required it: and it has been for some time under consideration, whether the state of the Colony now renders a permanent allowance of a horse proper.

(Vide also 1 Rt., P. 107).—The establishment of Patroles on the roads from Parramatta to Sydney, to Windsor, and from thence to Liverpool?

A proposal, transmitted to Your Lordship in my Dispatch of last June, to be permitted to raise a Colonial Troop of Cavalry of 25 Men, being considered the most efficient force, and the Subject now under careful consideration.

(85).—Specifying the duties of the Chief Constables, and the necessity of printed forms for the Returns of the Musters of Convicts &c.

Duly attended to and with the greatest care.

(87, 88, 89).—That new Gaols be erected at Sydney and Parramatta, and that the regulations of the Gaol at Hobart Town be introduced into Gaols in New South Wales?

New Gaol in Sydney in progress, and one is about to be built at Parramatta, as also one Building at Hobart Town; and a Hulk fitted up for prisoners at Sydney.

That the Magistrates be enjoined to visit them in rotation and make a report once in every month to the Chief Justice, and that they also enter in a book, to be kept in the Gaols, minutes of their observations?

The Grand Jury presentments always embrace this point; That the special charge of the Gaol is entrusted to the Sheriff as in England; Magistrates have a general duty of visiting the Gaol, and of entering the remarks in a Book.

(90, also p. 3).—Recommendatory of the vigilance of the Police Officers, in the Suppression of Drunkenness, being stimulated by high rewards?

Attended to as much as possible.

That the number of licensed houses be gradually reduced to that granted in 1820, that good securities be given for good Behavior, and that no Magistrate having an interest in the sale of Spirits, or who is the owner of any house, shall be continued in Commission of the Peace?

The Subject has lately been legalized by an Act of Council,* and any Magistrate owning a Public House disqualified from being a licenser, but not struck off the list.

* Note 163.
BRISBANE TO BATHURST.

(3d Rt., P. 17).—Suggestions on the necessity of improvement in the communication between Bathurst and other Districts by roads and the Sea Coast, and the establishment of a Stock Yard and a Military Station at the foot of Mount York?

Already carried into execution, a new road* has been cut down the ascent of Mount York much more practicable, and a new road* quite level is making from Richmond to Collit's Inn, which avoids Mount York altogether, and shortens considerably the distance. An Inn* and the natural pasture seems to render a Stock Yard by Government unnecessary.

Recommending an examination of the Coast with a view of discovering the existence of Harbours and Rivers, with the nature of their communication with the interior; also land surveys to ascertain the capacity of the Country for Colonization?

The Coast, North and South of Port Jackson for 500 Miles, has been most minutely examined and Your Lordship has already been made acquainted with the highly favourable results.

(31).—Recommending a communication between the Sea Coast and the Plains of York and Westmorland in Van-dieman's Land?

Carrying on in Van-dieman's Land by that Governor.

(32).—Regulations by which the Contracts for the supply of Government may be kept free from Monopoly? contracts. Attended as much as circumstances will admit.

(33).—The necessity of Building additional Granaries at Windsor, Parramatta, Liverpool, Hobart Town, and Port Dalrymple?

Granaries have been built or hired, equal to contain Nine Months consumption for the whole of the Individuals victualled by the Crown.

(36).—Requiring an alteration in the Surveyor General's Department, as to arrears of Business?

Arrears have been greatly brought up, and the System of expedition in Grants much improved; but it will be necessary to extend the office, which is in arrear from the great press of increased business.

Plans to be permanently adopted as to Grants and Quit Rents? Regulations for land grants.

Orders from His Majesty's Ministers have been duly acted upon on this head.

(37).—Observations on the condition of Cultivation?

See a Circular Letter to the Superintendants and of the Agricultural establishments, with the answers to the conditions of Government farms.

The Danger of a literal, or some times a partial enforcement of conditions, as have hitherto been prescribed, as to Capital possessed by emigrants.

* Note 164.
Most difficult to ascertain the real extent of property possessed by Individuals emigrating here; on this head I should recommend only one half of the Grant to be given to a Stranger on first coming, but on his fulfilment of the conditions required then to obtain the remainder.

(38).—The expediency of withdrawing the reservation of Timber fit for Government purposes?

New form of Grant transmitted by me has effected this.

(39).—Recommending new Grants of Richmond and Nelson's Commons to be made out, reserving Glebe for the Clergymen of Windsor and Richmond?

Not done, and recommended to be postponed till the arrival of the Archdeacon, who is supposed to have instructions on this head.

(40).—Regulations to be adopted for the formation of Public roads and plan for keeping them in repair?

Very good regulations exist, and the roads are in very good order.

(44).—The necessity of paying attention to the direction of Streets and Positions of Houses?

Duly attended to, according to previous plans approved by me.

That any equitable interest, which Mr. Lord may have in a piece of ground at Hobart Town fronting the Harbour, be purchased for the improvement or defence of the Town, at the expiration of his lease?

Has been referred to the Lieutenant Governor.

(45, 46).—That the Settlement at Launceston* be continued there?

Has been attended to.

(47).—The expediency of an entire separation of the Offices of Surveyor General in New South Wales and Van dieman's Land?

Has been attended to in conformity to a recent Dispatch.

The abolition of the Office of Surveyor of Roads and Bridges, and collector of Quit Rents, the latter to become part of the duty of the Colonial Treasurer?

No such office now exists; the Treasurer collects all Quit Rents.

That an allowance be made to two Asst. Surveyors of £25 Per Annum each, for a Horse?

Has been ordered.

(48).—The reservation of Lands for the Clergy and Schoolmasters in the several districts?

Has been uniformly attended to by me.

(49).—Recommending that a Survey division and Sub-division of each County be made with a view to facilitate the location of land to Settlers, and that access be given to Settlers to inspect the Chart of such Survey?

Plan Proposed acted upon, and every facility given to new Settlers to inspect all Charts and Surveys.

* Note 165.  † Note 166.
That a Registry be kept of all transfers of land held of the Crown, and that no conveyance of any such land be legal unless so registered?

Has always been duly registered; but a general registry Bill of circumstances on land and real estate is now preparing.

(50).—Remarking that it is no longer necessary to issue Cattle to Settlers from the Government Herds, nor that Convicts allotted them as Labourers be subsisted by the Crown, with the exception of loans of Cattle to the Sons of Persons, who have been Convicts and are alive and settled in the Country?

System totally abandoned by former orders from Home.

The course as to the account of Quit Rents to be furnished by Mr. Meehan?

Has been duly rendered by Mr. Meehan.

That a license for Tanning be required, with the measures necessary for the protection of the hides from Injury?

Will require to be legalized by an Act of Council.

(51).—The inexpediency of continuing Convicts at the Pottery except in the coarser branches of the trade?

Pottery now on a much limited Scale and entirely a Private Concern.

(53).—Desiring the Plantation of Phormium Tenax?

Has been much attended to, several Cargoes have arrived from New Zealand.

(60, 87).—Relative to Drawbacks on Reshipment of articles from the South Seas, and ordering the repeal of Colonial Duties on Sandal Wood, Seal Skins, Bechelamer, Pearl Shells, Oil, Wood and Coals?

Has recently been included in an act of Council* under the Head of Port regulations. The duties repealed in the Government of Major General Macquarie.

(61).—The state of the water tanks, and the charge to Vessels stated to be unjustifiable, also the adoption of measures for securing a better supply of water for the Town of Sydney?

System going on with the view of bringing water into Sydney by means of pipes from a distance.

(61).—That the fee for permission to trade be abolished?

No longer exists.

That the Wharf at Sydney should be either enlarged or the tax repealed?

A plan for the improvement of the wharf has been submitted to me, and will be soon begun upon.

That attention be paid to the State of Sydney Cove?

Any improvement on a useful Scale will be attended with a very heavy expence.

* Note 165.  † Note 167.
1825.
14 May.

Comments by Sir T. Brisbane on measures recommended by J. T. Bigge.

Imports on convict ships.

Bank of N.S.W.

Comments by Sir T. Brisbane on measures recommended by J. T. Bigge.

Imports on convict ships.

Educational system.

Farm for teaching agriculture.

Schools in Tasmania.

Musters.

Brewing licenses.

Duty on tea and sugar.

Turnpike tolls.

(62).—That an alteration should take place in the mode of levying the Wharfinger's fees?

A new System has been adopted on this head.

(63).—Relating to Goods being landed from Convict Ships not specified in the lists transmitted by the Commissioners of the Navy?

Nothing permitted to be landed but what is authorized by the Charter Party of the Commissioners of the Navy, where all articles are included.

Relative to renewing the Charter of Incorporation to the Sydney Bank after its expiring in the Year 1824?

Charter renewed in 1824.

(69).—That a place of Worship and interment is wanted at Pitt Water, in Van-diemann's Land, and also another Chaplain?

The Lieutenant Governor has completed this Suggestion.

(74).—That the System of Education, in Districts and Towns, should be extended?

Has recently undergone many favourable changes, and reports have been received, from all the Districts, on the present state of Education, and measures will be adopted accordingly. An infant School has been recently established at Sydney, with fair prospects of Success.

(75).—That a Farm be established at Parramatta for instruction in Agriculture?

The Crown has no land in the neighbourhood of Parramatta fit for this purpose; but near Liverpool, it has been attended to; a copy of the contracts entered into with Mr. Bushby for the management of the vine at Liverpool will be sent to Your Lordship.

(78).—That two more Schools be formed in Van dieman's Land.

Recommendation attended to by the Lieutenant Governor.

(79, 80).—Proposing an alteration in the manner of taking Musters, and that returns of them be made on regular printed forms?

An alteration has been made, and the Muster now taken Alphabetically, which simplifies the proceedings very much.

(88).—Proposing a reduction on the licenses to Brew from £25 to £5?

Has been done by act of Council.*

That the duty on Tea and Sugar be levied according to weight?

Has been done.

That no augmentation take place on the Tolls at the different Turnpikes?

None has taken place.

* Note 163.
BRISBANE TO BATHURST.

(89).—Recommending the internal Revenue to be entrusted to a Person to be named by the Colonial Treasurer, and that to him the Post Master be accountable for the receipts of his Office, after deducting £100 for his annual Salary?

Colonial Treasurer lately appointed, who collects all Revenues; a bill on the Post Office has been laid by me before the Council; but some difficulties have arisen connected with the English Post Office department, upon which communications will be made to Your Lordship.

That a Post on horse-back be established from Sydney to Parramatta, and from thence to Windsor?

Mail Coaches* convey Letters to the different Townships under new regulations.

Desiring that the leases of the Coal mines for a term of Years be granted, reserving an annual rent and a portion of the Coals raised?

Has been hitherto kept in the hands of the Government as there is no fit person to lease them on the usual principles of a Lordship, and, if let to unskilful Individual, might inundate and destroy the mine: Coals are very productive revenue.

That attention be paid to the Botanical Gardens†?

Due attention has been paid to this; the original Garden has been nearly doubled, and 3,000 varieties of exotic plants, Grasses, bulbs, fruits and vegetables have been introduced within the last Year.

(94).—Arrangement for augmenting the Salary of the Colonial Secretary?

Has been attended to.

(95).—That the Natives of the Colony be employed as Clerks in preference to Persons who have been convicted?

Due attention has been paid to this as far as circumstances will admit.

(96).—That all rations to that class of functionaries at Sydney denominated Superintendants, Pilots, Gaolers, Schoolmasters, &c., be done away with, and that a proportionate money payment be made to them out of the Police Fund?

Has been acted upon for the last twelve Months.

(97).—On the reduction of the Public Herds at the Cow-pasture and the continuance of them at Bathurst and Rooty Hill?

Has been attended to.

The necessity of purchasing Horses, instead of the exchange of them for Cattle?

Has been invariably attended to as recommended.

* Note 168. † Note 142.
The expediency of receiving Wheat from the Settlers by weight instead of by measure?

*Due attention has been paid by the Commissary in his contracts, in specifying the weight of Wheat per Bushel, viz. 56 lbs.*

(104)—Recommending that a Storekeeper of Medicines and an apothecary be provided?

*Such persons to fill these situations much wanted.*

Regulations as to the Supply of Medicines to Government Officers &c.

*System has been duly regulated.*

Recommending that allowances of Horses be made to the Principal Surgeon and his Ass'ts at Parramatta, Liverpool, Hobart Town and Launceston?

*Attended to.*

That the pay of Assistant Surgeons be 7s. per diem, with the allowance of Rations, &c.

*This recommendation has not yet been universally acted upon.*

THOS. BRISBANE.

[Enclosure No. 2.]

(This return was similar to the enclosure to the despatch numbered 46 and dated 18th March, 1825; see page 549.)

[Enclosure No. 3.]

**FORM OF ORDER FOR PAYMENT.**

_The within named_ was sent by_ to_ a distance of_ miles, and was absent from his Home on this Service_ days

N.B.—The nature of the Service is either to be mentioned briefly, or, if Disclosure be improper, it is to be Stated that the Party (or Parties) performed certain Services detailed in a Report to His Excellency the Governor.
Brisbane to Bathurst.

Sir Thomas Brisbane to Earl Bathurst.

(Despatch marked "Private," per ship Deveron.)

Government House, New South Wales,

My Lord,

15th May, 1825.

I embrace the first opportunity, which has been presented, to have the honor to reply to your Lordship's private letter of the 29th December last, which arrived in the "Hercules" on the 7th Inst., acquainting me of the measures your Lordship had considered it expedient to recommend in consequence of the misunderstanding between me and the Colonial Secretary, without attaching blame to either; and I do most solemnly assure you that, if in your Lordship's opinion the recalling me* from the Government of this Colony the public interest should thereby be benefited, I cordially submit to your Lordship's decision, having much at heart the interests of the Colony. Many years acquaintance with Colonel Stewart has convinced me how incompetent he is to have the reins of so difficult, so delicate and so arduous a Government entrusted to his care. I have, in consequence of this and from a letter which I have received from M. General Darling, wherein he states his intention of not quitting England before June, and consequently may not arrive here until October or November, I have made preparations to quit this about that period; and I beg to assure Your Lordship that I feel much fortified in the necessity of adopting this course, as Lieut. Colonel Thornton, who would become second in command, can scarcely be considered responsible for his actions arising from the severity of the fits, with which he is repeatedly attacked, and it was my intention to have brought this subject under your Lordship's consideration to enable you to guard against accident. I had already written privately to M. General Sir Herbert Taylor on it, for the information of His Royal Highness the Commander in Chief, as also publicly in my Half Yearly Reports. I trust my arrangement will meet your Lordship's approbation.

I beg to return my grateful acknowledgements to your Lordship for the expression of your consideration of me on a future occasion; and in consequence I take the liberty of soliciting your Lordship to recommend me to His Majesty for a humble retirement from the active scenes of Life; in doing which I trust I do not prefer an unreasonable claim, after 36 years of constant service in every variety of Climate, but for which I do not consider twenty five Shillings per day as the adequate reward.

I have, &c.,
Thos. Brisbane.

* Note 99.
1825.
17 May.

Recommendation in favour of W. Shairp;

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.*

Sir,
Downing Street, 17 May, 1825.

Mr. William Shairp will have the honor of delivering this letter to you; and, having been strongly recommended to Earl Bathurst by Sir Alexander Hope, I am to desire that you will make to Mr. Shairp, on his arrival in New South Wales, a Grant of Land in proportion to his means of cultivating it, with any facilities which you may have it in your power to afford him in the selection of the same.

I am, &c.

R. W. HORTON.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.*

Sir,
Downing Street, 17 May, 1825.

and of Eager.

and of Eager.

and of Eager.

and of Eager.

and of Eager.

I am directed by Earl Bathurst to bring to your notice the Bearer of this letter, Mr. Eager, in whom the Bishop of Norwich takes some interest.

Mr. Eager is about to proceed to New South Wales, where his relations are understood to be now residing, and his Lordship requests that you will give to Mr. Eager your countenance and protection.

I am, &c.

R. W. HORTON.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 30, per ship Brothers.)

Sir,
Downing Street, 18 May, 1825.

The distance, at which the Establishments of the Australian Company will be formed from the more populous parts of the Country, where a local Magistracy is fixed, renders it very desirable that Mr. R. Dawson should be invested with greater control over the Convicts employed in the Service of the Company, than will probably attach to him in the Capacity of their Agent, or than would have been necessary under other circumstances; and, as I have received the most satisfactory assurances of Mr. Dawson's respectability, I am of opinion it would contribute to the General Interests were he to be appointed a Magistrate over the particular Districts, in which the Company's Establishments will be erected; and I have to request that Mr. Dawson's name may be added to the Commission of the Peace, and that he may be invested with the customary authority.

I have, &c.,

BATHURST.

* Note 10.
Sir,

Downing Street, 18 May, 1825.

In reference to my letters of the 13th July, 1824, and the Proposals for the formation of the Australian Agricultural Company, I have the honor to transmit to you a copy of the written proposals, which were laid before me on the 22nd of May, 1824, by the persons, who had then associated themselves together to form the Australian Agricultural Company. These proposals were subsequently approved by me on His Majesty's behalf.

I have, on the present occasion, to direct your particular attention to the 8th and 9th Articles of these proposals; from which you will perceive that the Company is to receive a Grant of 1,000,000 Acres of Land; and that, within the limits defined in the 9th Article, the Agents of the Company are to select the Lands to be comprised in that Grant, provided that the whole be taken in one distinct and continuous location.

Mr. Dawson, the general Agent of the Company (the gentleman whom I have introduced in my dispatch of the 17th April), will, at the earliest practicable period, transmit to you a written notice, signed by himself and attested by two creditable witnesses, in which he will point out with all convenient precision what are the particular Lands which the Company proposes to accept. Upon receiving this notice, you will instruct the Surveyor General to repair to the place thus selected, and, in concurrence with Mr. Dawson, to make as full and accurate a survey of this Tract of Country as may be possible. In carrying this instruction into effect, it will be the duty of the Surveyor General to avail himself of all natural Land Marks, which may best contribute to define permanently, and with precision, the limits of the Company's territory; considering the importance of preventing all uncertainty upon the subject, the Surveyor General will not be precluded from making a small addition to the District selected by the Company, if it be necessary for preserving a well defined natural boundary. In the absence of conspicuous natural objects, such artificial Land marks must be substituted as may be best adapted to answer the same purpose.

The Surveyor General and the general Agent of the Company will then concur in drawing up a Report, addressed to yourself, in which they will describe with the utmost exactness the tract of Country to be granted to the Company, especially enumerating all Land Marks, whether natural or artificial, by which the limits of the Grant can be most clearly ascertained. This report, being signed in duplicate by the Surveyor General and the Company's Agent and attested by two Witnesses, you will lose no time in

* Note 68.    † Note 169.
transmitting one copy of the Instrument to me, in order that I may submit to the King a Warrant for his Signature, authorizing you to pass the Grant under the Great Seal of the Colony.

Immediately upon receiving the report from the Surveyor General and the Company's Agent, you will grant to the Company a written license for the occupation of the Lands described in it; and you will take care that possession of those Lands be delivered to the Company's General Agent in the most public manner and with such solemnities, as may most conveniently be adopted for perpetuating the memory of that transaction. If, instead of receiving a Grant of the whole of these lands in one continuous and unbroken Tract, the Company's General Agent should make a written Application for receiving two distinct Tracts of Land, you will be at liberty to carry these Instructions into effect with that variation, unless you should be of opinion that any serious inconvenience is to be apprehended from such a deviation from the original plan.

The Company having requested to be allowed to purchase a small tract of Land on the Banks of the Coal River for the erection of Quays and other Buildings, where Cattle and other Articles may be shipped or landed, or receive a temporary Shelter, you will permit the General Agent to purchase on the Company's behalf any tract of Land on the Banks of the Coal River, not exceeding 2,000 Acres in the whole, provided that the purchase be made upon the same terms in every respect as if a private person were the purchaser. In conclusion, I have to direct your attention to the circumstance that, in carrying the written proposals into effect by the Act of Parliament and subsequent Charter, some modifications were introduced by the desire or with the consent of the Company; upon all such points, therefore, you will consider the written proposals as superseded by the Charter.

I have, &c.,
Bathurst.

[Enclosure.]

PROPOSALS.

1st. The Company to be incorporated by Letters Patent or Act of Parliament, according to the usual form.

2nd. The Charter or Act to be obtained, if possible, in the present Session of Parliament, and to regulate, according to customary forms, the proceedings of the Company at home.

3rd. The Capital of the Comp'y to be £1,000,000 sterling, divided into 10,000 shares of £100 each.

4th. The present Committee of Management to form the first Court of Directors and Auditors, but at the expiration of the 5th year, one sixth of the number to go out by rotation.
5th. The Directors going out by rotation to be re-eligible.

6th. The qualification of a Director to be fifty shares.

7th. That no Rival Incorporated or Joint Stock Company, with similar Objects, shall be established in New South Wales for 20 years, it being however expressly understood that no other exclusive privileges and no peculiar jurisdiction in the Colony are desired.

8th. That a Grant of Land to the extent of 1,000,000 acres shall be made to the Company, subject to such Conditions as shall be hereafter determined.

9th. That the Agents of the Company shall be permitted (subject to the public convenience and not interfering with private rights) to select the situation of the proposed Grant, either between the Blue Mountains and the River Hastings, with means of access to the Coal River, or in the Country recently explored between Lakes George and Bathurst, or in the Interior westward of the Blue Mountains.

10th. But the primary object of the Company being the production of fine Merino Wool as an article of Export to Great Britain, they propose to purchase in the Colony such flocks of Sheep, as can be procured, of good quality, and to increase and improve them by importations of the purest race from Spain and the Electoral Dominions of the King of Saxony.

The Company engage 11th. To erect suitable houses and other buildings upon the Lands granted to them.

12th. To send out free and experienced persons as Agents and Overseers, and to employ the Convicts under their superintendence and direction.

13th. That the Shepherds and Labouring Men shall consist principally of Convicts; and, in this manner, it is calculated that about 1,400 may be eventually employed, which will diminish the Government expenditure to the extent of £30,800 annually.

14th. To employ those Men under such discipline and regulations, as may best conduce to the great object of Government in establishing and continuing the punishment of Transportation.

15th. To send from Europe persons skilled in the management of Merino Sheep, and in the mode of assorting and preparing the Fleeces for the London Market. To afford also facilities to the diffusion of this useful knowledge throughout the Colony.

16th. To promote (subordinate to the raising of fine Wool) the cultivation of the Olive, Vine, and such productions as may appear best adapted to the climate and soil; and with this view to send from France, Italy or Germany, some families skilled in the management of Olive Grounds and Vineyards.
18th. To encourage and assist (as far as may be found practicable) the emigration of useful Settlers and of Female Servants.

18th. To promote, to the utmost of their power, the system of rural industry directed by His Majesty's Government (on the recommendation of the Commissioner of Inquiry) as being best adapted to the state and circumstances of the Colony, and to diffuse the knowledge and practice of it amongst all Classes of the Inhabitants.

**Quit Rents.**

A Quit Rent, being 30s. per cent. on the estimated value of 1,000,000 acres at 2s. per acre, would amount to £1,500. The sum necessary to redeem that quit rent at 20 years' purchase would be £30,000.

But, as this Grant will be in one continuous location, it is probable that one fourth of it will consist of Land, which would be rejected in the case of a Grant to a private Individual, and therefore the Quit rent to be demanded in this Case shall not be raised on more than 750,000 acres.

The quit rent to be paid by the Company will thus be reduced to £1,125 per annum, which (at 20 years purchase) may be redeemed for £22,500.

But, as it is calculated that the operations of this Company will ultimately require the services of 1,400 Convicts, there will be no objection to provide that, at the termination of the first 5 years, the quit rents (which under the Regulations affecting Grants of Land will then first become due) shall not be demandable, provided that 600 Convicts are at that time maintained by the Company; nor at the end of ten years, provided 1,000 Convicts; nor at the end of 14 years, provided 1,400 Convicts are then maintained by the Company. And whenever £100,000 shall be actually saved to the public by the maintenance of Convicts (calculating the expense of each Convict to Government at £20 p. annum), the Quit rent of £1,125 shall be considered to be redeemed by the Company and shall not be again demanded.

Approved by the General Committee:

London, 22nd May, 1824. John Smith, Chairman.

**UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.**

Sir, Colonial Office, 18th May, 1825.

My Dispatch* of the 17 ultimo informed you that Mr. Robt. Dawson had been selected by the Australian Company to proceed to New South Wales to superintend the Agricultural concerns of the Company in that Colony. The object of this

* Note 169.
BRISBANE TO BATHURST.

Letter is to request your protection to Mr. Dawson, and your favorable attention to any wishes that he may make known to you, connected with the new Establishment which he is instructed to form, previously to the commencement of more extensive operations; and you will afford to him, in the execution of that Service, every reasonable facility which may not be inconsistent with Established Regulations and with what may be due to the Rights of other persons.

I remain, &c.,

R. W. HORTON.

SIR THOMAS BRISBANE TO EARL BATHURST.

Government House, New South Wales,

My Lord, 21 May, 1825.

I have the honour to acknowledge Your Lordship's Dispatch No. 35, dated 20 Sept., 1824, and received in the Colony in April, calling my attention to certain affidavits, which had been lodged in the Privy Council in the case of Campbell versus Macarthur and desiring some explanation thereon. As the matter contained in the Affidavits related entirely to the business of the Registrar of the Court of Appeals in this Colony, I desired him to furnish me with the means of making a satisfactory explanation to your Lordship. I have since received a communication from the Registrar, from which it appears that the same steps were adopted in the case of Campbell v. Macarthur as were usually adopted in cases of Appeal. But, as the Registrar is desirous of giving the fullest explanation and with a view of enabling him to do so, I have caused him to be furnished with copies of the affidavits transmitted to me. I have not deemed it necessary to trouble your Lordship with the above statement of the Registrar, until I shall have received his final explanations upon all the points set forth in the affidavits. I have only to add that, as far as relates to my own conduct in the transaction, I was guided by no views of affection or favor towards either party, and that, if I have erred of which I am not yet conscious, it is at the most but an error in judgement.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

Government House, New South Wales,

My Lord, 21 May, 1825.

In my former communications of last month, I replied to your Lordship's Dispatch No. 47,* and, as I trust, satisfactorily convinced Your Lordship that the statement, respecting the

* Note 170.
Magistrates having offered to rescind their resolutions not to sit on the same Board with Dr. Douglass, was unfounded in fact. In order to remove every possible doubt, I have since written to Mr. Marsden requiring from him a definite answer whether such was the fact. His answer I now lay before your Lordship without any comment. They will speak abundantly for themselves.

I cannot close this Dispatch, however, without reminding your Lordship that this has been the third time,* in which I have lately been called upon to answer false statements proceeding from this Colony; and I am myself reminded of another report, which has reached this country from England, where it was unknown before, that I had improperly sent convict women to the penal Settlement at Emu Plains for impure purposes. I am confident that your Lordship will entirely discredit this report; and I only allude to it as an illustration of the prevailing practice of setting up stories, thro' private channels of information, to the dishonor of the Government of this Colony.

Should your Lordship have heard of the Report, I feel that I could not place in your hands a better refutation than is to be found in the Australian,† a Newspaper of this Country rather opposed to the Government. The advantage, which this refutation has, is this, that it was made in the face of that public, who had the best means of knowing the truth, and no one has stepped forward to contradict it. I can only assure your Lordship that, except to the few individuals‡ from whence it proceeded, such a report was entirely unheard of in this Colony; and your Lordship must feel that it would not have been got up without some malicious motive or sinister purpose. The simple state of the case is this: there were a great number more women in the Factory at Parramatta than it could accommodate. I deemed it expedient to send some of them to Emu Plains, provided they were willing to go; 32 volunteered for that purpose, when they were separated by nearly the space of a mile from the male convicts, and placed under a guard, which was deemed sufficient to prevent any improper intercourse with the male Prisoners. They were there employed under proper Superintendents in useful pursuits. They conducted themselves creditably; 24 of the number are since married and settled. The residue were afterwards sent back to the Factory, and not a word of imputation was ever cast upon the transaction until it reached us from England. I do solemnly pledge myself to your Lordship that nothing immoral was contemplated, nor to my knowledge has ever taken place in the above transaction.

I have, &c.,

Thos. Brisbane.

* Note 171.  † Note 111.  ‡ Note 172.
THE BENCH OF MAGISTRATES AT PARRAMATTA TO SIR THOMAS BRISBANE.

Sir, Parramatta, 9th May, 1825.

The letter, with which you have been pleased to honor the Revd. Samuel Marsden, has been by that Gentleman communicated to us; and in reply to Your Excellency's question whether we had expressed a willingness to rescind our Resolution entered into on the 16th August, 1822,

We beg most respectfully to assure your Excellency that no such representation has been made by us, individually or collectively, to Earl Bathurst.

In giving this answer, we would wish to assure your Excellency that we were actuated, throughout the discussion of that affair, by no feeling of disrespect towards your authority. Had we understood at that time that our Resolution was objectionable, and had Doctor Douglass been brought to acknowledge the just interference of the Bench, and to submit himself to Their Official Jurisdiction, We certainly could not have hesitated to rescind our Resolution, which was only intended to convey an honest expression of our view of Doctor Douglass's conduct.

So far from changing our opinion of the measures, to which we were driven by the unprecedented and insulting conduct of Doctor Douglass, we have been confirmed in the justice of them by Facts which have subsequently come to our knowledge.

Most respectfully offering to Your Excellency every Tribute of our sense of your consideration towards Us, In thus referring to the subject, we lament that we can only meet it by again declaring that such association with Doctor Douglass renders us unworthy the confidence and consideration, with which you have been pleased to honor us.

With the greatest deference, we have, &c.,

SAMUEL MARSDEN. JOHN PALMER.

J. BLAXLAND. GEO. THO. PALMER.

H. MACARTHUR.

[Enclosure No. 2.]

EXTRACT from the issue of the "Australian" newspaper dated 7th April, 1825.

"We have this week refrained from giving insertion to any part of the Debates in the Committee on the New South Wales Bill, in order to afford our Readers a greater diversity of Articles from the recent English Newspapers, and also to give ourselves the opportunity of introducing some remarks, which want of space last week compelled us to postpone.

* Note 164.
On reading the Debates, which have appeared, we could not help experiencing a degree of surprize at the slight attention, shown by the whole House to one of the worst features in the colonization of New South Wales, the comparative amount of males and females. Possessing as this Country does every advantage arising from climate and facilities for support, and considering the aggregate number of persons of all descriptions, who have annually resorted or have been sent hither, every statistical Enquirer must be struck with the paucity of inhabitants and the slowness of their increase. When the principal cause of these circumstances was glanced at by Mr. Bennet, it was unattended to; and the mention of that monstrous disproportion of the men to the women in the Colony, a disproportion which was stated to be, three or four years ago, fifteen to one, elicited no comment, and by consequence gave no hopes of remedy. All that we can do then is to point out the cause and the evils of it, in the expectation that, when the subject is again brought under the consideration of Parliament, it may meet with more serious attention. The cause of this disproportion, which has been going on in an accumulating ratio for some years, may be easily traced. It is principally owing to the impolitic plans pursued with regard to the sending out of prisoners. The thinness of the population is attributable partly to the same cause, and partly to the treatment of the female prisoners when they arrive here; though it may in some measure be ascribed to the elementary materials of which the Society is formed, especially the female part of it. The ships annually arriving with male prisoners have at all times exceeded those which contained females; but, during late years, this inequality has been much increased. In the treatment of women too on their arrival, changes have been introduced, which, so far from correcting the general morals of the people, have had a tendency quite opposite to, an effect the very reverse of, melioration. If, according to Mr. Bennet, it is necessary to legislate on the civil and political rights of a people according to their necessities, and adapt their institutions to their condition, it is equally, if not more necessary, to establish a system of moral and religious instruction and guidance, best calculated for their peculiar habits, sentiments and principles, and the most likely to induce them to approximate to a virtuous course of life. And when the supreme power in the State can from circumstances exercise a control over the domestic economy of families, can prescribe rules of conduct to them in their homes, as is the case with the prisoners here, it is fit that they should exercise this power; but it is also fit that, in so doing, they should consider the suitability of their rules to the parties for

* Note 126.
BRISBANE TO BATHURST.

whom they are made, so that, when they have to deal with a class of people like those in question, they may gradually recover them from loose and irregular habits of life, and induce them to adopt such as may lead to and be as an earnest of future improvement. At some periods of the history of this colony, when a ship arrived in the Cove with females, every man, whose industry and labour enabled him to provide for a housekeeper, was allowed to select, from amongst them, one that met his approbation and was likely to make his home comfortable. This, no doubt, reasoning with the feelings which every moral mind possesses, was an immoral connexion; abstractedly considered it was indefensible. But compare this with the life and course of conduct of most of those, who formed these connexions; compare it with the total dissoluteness, which might ensue on being turned loose, as must have been the case; compare it with what has ensued since that practice was abolished, and the women shut up in the Factory; and the apologies for the system are obvious. Its total discontinuance (when we might have seen an improvement on it) has been followed by the commission of immoralities to an unknown extent, and a lamentable check has been given to the growth of the Colony. Even the philosophic, the moral Paley, though he condemns, not less than we condemn, any obligation between men and women which is not sanctioned by an irrevocable tie, distinguishes between that intercourse which the voluntary and precarious undertaking of the parties alone renders durable, and that which is erratic and casual. "There is," says he, "a species of cohabitation distinguishable no doubt from vagrant concubinage, and which, by reason of its resemblance to marriage, may be thought to participate of the sanctity and innocence of that estate. I mean the case of kept mistresses under the favourable circumstances of mutual fidelity." A contract, even of this kind, is preferable to the dissoluteness and crime which is prevented. How many parties are living to this day together by virtue of no other bond? How many at this day are there who, after conducting themselves in an exemplary manner in that state of "resemblance to marriage," have been made honest women, and who, but for the forming of this species of obligation, would have been vagrants in the streets? How many have been irrevocably bound by the marriage ceremony after living together under no pledge but that of "mutual fidelity"? And where the men "had it in their power to dismiss the women at their pleasure, or to retain them in a state of humiliation and dependence, inconsistent with the rights which marriage would have conferred upon them!" How many by mutual industry have rendered miserable hovels comfortable homes? How many families have sprung
up where nothing but a wilderness would have been seen? Had this order of things continued, even in this objectionable shape, many a vagabond, who has been lost to Society, might have been reclaimed; might have become a decent Settler; and have been rendered serviceable to the Country. But by improving on this plan, by amending instead of totally destroying a system so highly faulty, as we have before stated, morality might have revived, and the prosperity of the Country would have been accelerated instead of retarded. Had the importation of women been increased twofold in place of being diminished almost fourfold; had there been offered to those, who might have been allowed to take helpmeets to themselves, an additional few acres as an inducement to intermarry, for each who took a Mistress would as readily have taken a wife if temporal interests were thereby promoted, we should hardly have heard of crimes, which are an indelible blot on the name and character of a nation; we should not have witnessed the depravity and pollution, which prevails throughout the Colony, and had to lament the infertility which keeps the population almost stationary. But we live in an age, when it is fashionable to assume a demureness of manner, an extraordinary degree of godliness, and lay claim to an uncommon share of holy endowment. In this Colony, as well as in England, there are persons who adopt the outward forms only of that religion, they profess to venerate; who affect a purity which does not belong to them; who, while the genuine precepts of Christianity are foreign to their hearts, make a show of austerity and humiliation for temporal purposes and laugh at the credulity of their dupes. It is the counsels of these people, aided by a few deluded zealots, that have been listened to. It is their crude notions that have been acted on in the injurious changes that have been made in some parts of the policy adopted towards this Country. All, that had been done in reference to the discontinuance of sending to the Colony the usual number of females, has been the work of those Saints, or pretended Saints, for we wish not to be misunderstood. We know how, and we mean to discriminate between the true worshipper and the worse than idolater, between those who in public pray, in private sin, who decry the errors of others while they overlook their own offences. The philanthropy and purity of these benevolent enthusiasts have inflicted a deeper injury on the morals of the people, have occasioned more detriment to the Colony, and have tended more to neutralize the industry of all classes, than the most indiscriminate intercourse among the sexes could have accomplished, or the best efforts of sound policy will for years be able to repair. As correctives to vice, they got Penitentiaries built in England for the reception of women, and a Factory filled with them in New
South Wales, rendering thereby the lives of these unfortunate creatures useless, their vices in no degree the less. A few only of female prisoners are now allowed to quit England; and those who are sent hither, as soon as they arrive, are marched to this Factory, and there pent up without the chance of moral improvement, and become useless to themselves and a burden to the Public. Instead of encouraging marriages, instead of adopting wise measures for promoting legal and moral compacts, so essentially important to the accumulating necessities of the Colony, the whining hypocrites of the day set up the howlings of an impure faith, the ravings of fanaticism, and the frenzied mockery of religion. The cry was raised against existing abominations; the bad system was abolished; but a worse order of things ensued; and demoralization and crime increased; the sacred rites of the Church were nominally upheld, but offences against God and man were committed with tenfold enormity. So that with their Penitentiaries and their factory here, mischievous intermeddlers have occasioned the commission of sins we cannot mention, mischiefs we need not detail. They were fully resolved "Not to do evil that good may come," but in the affected ardor of their immoderate zeal "Of two evils they forgot to choose the lesser."

[Enclosure No. 3.]

LEADER from the issue of the "Australian" newspaper, dated 21st April, 1825.

"We request our Readers to notice a useful document, which will be found in another place, shewing "The number of female convicts received on and discharged from the Establishment of Emu Plains from the 1st of May, 1822, to the 31st Decr., 1824."

"It will be found highly interesting, as connected with the observations which appeared in the Australian of the 7th Inst., and receive great attention from all who have considered the subject which gave rise to them. It would have appeared last week, but the confined limits of our Paper would not admit of its insertion. Documentary illustration is at all times desirable, seldom fails to render arguments conclusive, and in the present instance this, we now furnish, will amply repay every one, who will take the trouble to compare it with the previously mentioned Article of the 7th Inst. A short time before May, 1822, the condition of the above Establishment was such as to attract the notice of Government and call for active interference. The histories, that were detailed respecting it, were truly appalling, and decisive measures became immediately necessary. There was
only an alternative either to proceed upon the work of punishment and extermination, or prescribe some antidote to the extensive evil which prevailed. Scrutiny seemed out of the question. The Government therefore adopted palliatives, not caustics, sought to cure not to destroy. They knew that crimes were commonly the result of wayward and corrupt minds; but that they might be the off-spring of situation, the creature of circumstance. Nothing proves a more powerful excitement to human action, and tends more to reclaim from vice, than social communion of man and womankind. Its influence is acknowledged by all the human race, exists in every grade, differing only in degree. It was thus the Government reasoned; on this view they acted. They knew that the Prisoners, who were at Emu Plains, had forfeited their rights in Society, and were then pursuing a system of wickedness, but that it was perhaps not impossible to restore them to comparative respectability by placing, within their reach, inducements to reformation and enabling them to participate in the charities of life. Of the thirty two women, who in consequence became labourers at Emu Plains, eight were found to have been improperly selected for such occupation, inasmuch as they did not possess sufficient strength for the laborious duties of field work. They were therefore immediately returned to the Factory, and have since been discharged. Twenty four consequently may be considered as the number, by which the merits of the trial may be ascertained. Of these, nineteen are married! have been made honest women! By what jargon can these religious maniacs, who so bitterly inveighed against the provident solicitude of Government, attempt to convince us that twenty four abandoned wretches in the Factory support the Holy Gospel of God, the divine doctrines of the revealed religion of Heaven, better than nineteen Married Women, respectably and usefully settled in the Colony; or by what dismal cant will they teach others that the votaries of incontinence and crime, crowded within the walls of that receptacle of Sin, uphold and extend moral feelings better than reformed offenders dispersed over the country. The pious Christian will feel the force of this picture. When Sir Thomas Brisbane acquiesced in the policy, which was adopted at Emu Plains and which was attended with such satisfactory results, all the reproaches, hypocrisy could invent, were most bountifully ejaculated; the Church would be overturned was the cry; the world ride triumphant; the holy mandates of Heaven had been contemned and violated; and imprecations were invoked upon the authors of the profaneness. Alas! this religious impetuosity proved too successful. That Government, which strong in the consciousness that the necessities of the occasion required it, had prescribed this sanative remedy, wavered, yielded, and at
length forsook a system, fraught with good and resorted to with the best intention. A system which, when reduced to practice, showed that, according to the simple rule of Three, nineteen twenty-fourths of the prison population might be brought into a steady and orderly course of life; that the people, by it being adopted generally, would have been blessed with the grateful spectacle of nineteen families brought into existence for every twenty-four women in the Factory; and that they would have had to support out of the public fund only five, where they have now twenty-four profligates. It is a most remarkable fact, and deserving of particular attention, that among thirty-two women, taken without any rule of selection, there should be proved to be only two, so hardened in sin, so irreclaimable as to spurn the hand of kindness extended towards them and reject all inducements, 'to turn from their wickedness and live.' Only two were returned to the Factory for 'repeated misconduct.'

"In obedience, however, to the religious feelings of the sincerest Christians, these very wicked violations of the divine laws were discontinued; and the objects of the inhibition and restraint have been left to pursue the old and moral practices, thankful for being allowed to preserve the bias of their own good taste, and for being upheld in their pursuits by the countenance of the followers of Christ."

[In the same issue of the newspaper, returns relating to the women, who were sent to Emu Plains, were published, of which the following is a summary:—]

Married and living on the Establishment ............... 9
Do. settled in different parts of the Colony ........... 10
Returned to the Factory at their own request .......... 2
Do. do. for misconduct ................. 2
Do. do. unfit for field work ............. 8
Free by servitude ................................ 1

Total sent to Emu Plains ..................... 32

SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch No. 50, per ship Deveron; acknowledged by Earl Bathurst to Governor Darling, 19th February, 1826.)

Governement House, New South Wales,

My Lord,

21 May, 1825.

In my former Dispatch No. 13, dated 2nd Dec., 1824,* I proposed

the comparative benefit of retaining that Settlement for the general purposes of Colonization or converting it immediately into a penal Depot.

* Note 172.
Since the forwarding of that Dispatch, I have had the honor to receive a Dispatch from your Lordship, No. 25,* rather intimating it as Your Lordship's opinion that Morton Bay should be open to Colonization.

As Port Macquarie has become almost useless as a penal Settlement from the many facilities afforded to the escape of Prisoners by the extension of Settlers along Hunter's River, and as Norfolk Island would not be sufficient to contain the persons, whom it is found necessary to remove for minor offences to remote parts of the Colony, I have thought it would not be assuming an unsound discretion, if I should take measures for immediately preparing Morton Bay for the reception of Prisoners; and I have adopted this step with the less diffidence, as the Establishment of Penal Depots is the best means of paving the way for the introduction of free population as the example of Port Macquarie abundantly testifies.

In order that your Lordship may otherwise clearly understand the views I have entertained of the subject, I shall give a brief outline of the whole plan, which appears to me best suited to the present state of exigency of the Colony.

Port Macquarie, as I have already mentioned to your Lordship, is no longer tenable as a penal Settlement; it is quite ready for the reception of free Emigrants, if your Lordship should accede to the policy of giving it up for that purpose.

In consequence of the recent Acts of Parliament, which assign the removal of the Convict from one part of the Colony to another as the punishment of a numerous class of offenders, such removal has been very common, and consequently requires a Depot of sufficient extent and capacity to receive and maintain a great number of persons. It will readily occur to Your Lordship that there must be a necessity for classification of Offenders, which to make effectual will require different Depots of different systems of discipline.

Norfolk Island is confined; the access to it difficult; and consequently it is not suited to receive many Prisoners or frequent transportations. I have, therefore, thought it advisable to reserve that place for Capital respites and other higher class of offences. I could wish it to be understood that the felon, who is sent there, is for ever excluded from all hope of return. For minor offenders, who are much more numerous, I have thought Morton Bay would be the fittest Depot on account of its distance and almost impossibility of escape, Its means of immediately affording employment and subsistence for the Prisoners, who may be sent there, and the facilities that a penal settlement in the first instance will afford to the free Settlers, when it may be deemed expedient to throw open that part of the Colony; as an Auxiliary

* Note 173.
Brisbane to Bathurst.

to both Norfolk Island and Morton Bay, as also to relieve the Goals of Sydney, I have caused a Vessel of about 600 Tons to be purchased and be fitted up as a Hulk; the purchase of which Vessel has been effected upon such low terms and the means of fitting her for the reception of Prisoners by the materials, which were rejected by the Prison Ships on their arrival here as useless, have so great and of such little cost to Government, that I cannot but anticipate your Lordship's fullest approbation of this measure. I consider this Hulk, which will not have cost Government more than £1,500, equal in point of accommodation to a Goal, which would have cost as many thousands and which possesses many advantages over a Prison on shore. The Hulk will be ready to receive Prisoners by the end of the present month, when it will not only relieve the Goal, but, as I intend to work the Prisoners in Irons, by so doing I have no doubt it will have a very salutary effect in repressing crime. My reasons for purchasing the hulk were originally suggested by the length of time, which it will necessarily require to finish the New Goal; but I have been since led to anticipate so many peculiar advantages in having a Hulk in Sydney Harbour, and my opinion on the subject has been so confirmed by the sentiments of many persons here, that I feel it would under any circumstances always have been a great accession of strength and terror to the Police of the Colony.

I hope that the views, which I have taken on the subjects of this Dispatch, will meet your Lordship's approbation.

I have, &c.,

Thos. Brisbane.

Sir Thomas Brisbane to Earl Bathurst.

(Despatch No. 51, per ship Deveron.)

Government House, New South Wales,

21st May, 1825.

My Lord,

I have the honor to acknowledge the receipt of your Lordship's Dispatch No. 51* on the 7th Inst't by the "Hercules," signifying that His Majesty had been pleased to relieve me from the Government of New South Wales; and I beg to inform your Lordship that I shall take the earliest opportunity of complying with His Majesty's Commands.

I hope I shall not be deemed insincere, if I assure your Lordship that I have received His Majesty's Commands without regret. The Government of this Colony is onerous and peculiar, and a stranger coming as I did must be indebted to more than ordinary good fortune, if He can retire from it without having fallen into many errors and incurring some discredit.

* Note 173.
Your Lordship will do me the justice to bear in mind that, upon my assuming the functions of this Government, I had neither a Council to consult, Crown Lawyers to advise, nor even a Private Secretary to assist me, aids which are deemed indispensable in the smallest and most unimportant of the other Colonies; I assure your Lordship, therefore, that I do most willingly resign a Government, in which experience has taught me how difficult are the Duties to be performed, and how easy it may be to lose some portion of that reputation, which may have been hardly earned by a long course of zealous and approved publick Service in various other parts of the World.

I beg to reserve only the privilege of explaining those parts of my administration to your Lordship, for which I have been called upon to account.

I have, &c,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch No. 52, per ship Deveron.)

Government House, New South Wales,

My Lord, 23rd May, 1825.

Having seen a letter which appeared in the Morning Chronicle of the 21st of last August, containing remarks prejudicial to me, I have thought it right to have the honor to transmit to your Lordship remarks on each paragraph.

The falsehoods and exaggerations of most of its Statements I think will appear to your Lordship satisfactorily confuted, and that your Lordship will cause steps to be taken in vindication of my reputation, which has thus wantonly been attacked.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

OBSERVATIONS ON A LETTER WHICH APPEARED IN THE MORNING CHRONICLE OF THE 21ST AUGUST, 1824.

The Letter.

1. "You will be surprized to hear that the Colonial Govern't has obliged the Inhabitants of Towns to take either grants or leases of the houses and lands occupied by them; to which have been annexed such unfair and oppressive conditions that no person can possess his property in security. For instance, the lessee cannot divide, alienate, sell, let, or make any alteration to his house or garden without first having obtained permission to that effect from the Governor, or more properly speaking his Secretary Major Goulburn; so that I, who am unavoidably burdened with two houses, am not permitted to let the one I do not occupy, without asking the leave of our despotic rulers; when, even if I should
obtain Sir Thomas Brisbane's consent, I am subject to have my land resumed unless I also obtain the Secretary's, for the Governor's word alone cannot be depended on. This measure must doubtless receive the disapprobation of Government at home, for none can be more pernicious to an infant Colony than that which tends to create any doubt of a man's right to property."

Remarks.

1. The policy of imposing restraint upon the alienation of Property in Towns without license is here reprobated as a measure essentially evil. The true question is, whether, in this peculiar Country, such a system possesses advantages superior to its acknowledged deficits. Restraints on the enjoyment of property can certainly only be justified by the goodness of the purpose for which they are imposed, and probably the strong disinclination, felt to these restraints, sufficiently proves their inexpediency. Perhaps in regard to property, the time is come when New South Wales ought not to be considered a peculiar Country. The rapidly increased numbers of Freemen by emigration has almost merged the convict character of the Colony.

These restraints were however intended to secure to the Government, what was thought a proper influence; great facility seems to have been allowed to the mere possession of land in Towns, but very great numbers of titles exist, subject to resumption for public purposes, and, as an equivalent for the Buildings, a new Grant. In the formation of new Towns, things are done in haste, and the relative importance of situations is unavoidably over seen. The Government has always probably felt this; and whether the methods taken for repairing errors, made by such oversight, have been good, it is for your Lordship to determine. It was under a wish to preserve due authority that the restraints here complained of were recommended.

There are unbiased persons, who think those restraints are inexpedient under all circumstances.

Letter.

2nd. "I have said above, Sir Thomas's word alone cannot be depended on. This may certainly appear a harsh thing to say of a Governor and an Officer of such high rank; but the following particulars of an event, which had occasioned no little ferment here, will convince you that the assertion has not been inconsiderately made; Mr. Lang, a Minister of the Scotch Church, and a son of a pew tenant on Sir Thomas Brisbane's estate in Scotland, came here lately by the express invitation of Sir Thomas to found a Presbyterian Church under his Sanction,
1825.
23 May.

Treatment by governor of members of Presbyterian church.

and with liberal promises of personal patronage and public support. He preached some time, and gave such satisfaction, that the principal Presbyterians met and formed an Address* requesting the assistance and co-operation of Government to build a church. This Petition was shown privately by Mr. Lang to Sir Thomas, who kept it three or four days, corrected it, and, on returning it to Mr. Lang, shewed him the answer he proposed making as the Official reply, in which, after paying a handsome compliment to the Presbyterian religion (in which the Governor had been educated), he assured them they should receive the same liberal public support as the Roman Catholics had experienced on building their chapel. This answer was actually brought down to Sydney in his pocket; but fancy the astonishment of the Addressors when, instead of having a repetition of the assurances of support, as they expected read them in a steady tone, they saw Sir Thomas stop short at the second or third sentence, and then, after hemming and coughing, stammer to the end of the insulting reply, which had been put into his hand by the Colonial Secretary a few minutes before."

Remarks.

2nd. A gross imputation on my word is connected with the topic of the Leases in a most loose and hasty manner; and in order to prove the imputation to be correct, circumstances are mentioned which, if true, would be infinitely more disgraceful to my character.

The circumstances, if true, must have been known by very numerous witnesses, and it was a thing so impossible to be concealed in New South Wales that the general disposition of the Letter writer will be duly estimated after a simple exposure of the utter incorrectness of a statement, which he makes the argument of public slander.

I neither invited Mr. Lang to this Country directly nor indirectly, nor did I in any way originate the founding of a Presbyterian Church.†

I did not show Mr. Lang an answer to the Petition alluded to, or even write one; although not a Presbyterian, I did not refuse such assistance as I was able to give to others; and I supported their attempt to raise a Scotch Church, and have uniformly done so.

The reply to the Address deserves explanation. In the ordinary routine of business, the Colonial Secretary in his Department prepares the detailed answers to Public Papers from short instructions; some altercation had, during the progress of this Petition, occurred at Sydney between the Presbyterians and others. The Presbyterians were generally thought to have then

* Note 80. † Note 174.
acted most unreasonably, but by no means did I consider them deserving of public rebuke. In this case the instructions were that a polite reply should be prepared for me to give their Memorial. Without having time previously to consider the document thus written by Major Goulburn, I felt, on reading it, regret that it had not been expressed in more conciliatory terms. The feuds which existed required to be checked; but I never ceased to support the general exertions of the members of the Scotch Church. The following papers* will show how unremittingly my support has been given to them, and how little the true sources of intelligence on this subject have been sought by this writer.

**Letter.**

3rd. "Many of the new Settlers, who possess Capital, are returning to England in disgust. The Government, instead of forwarding their Views, and giving its attention to the real interests of the Colony, is occupied in the most ridiculous cabals and private intrigues. I have no doubt Ministers will see the necessity of appointing an Executive Council, and they ought certainly to give free men the privilege of Trial by Jury. Lately that unhappy man † had been tried by the Criminal Court, which from its Component parts, is in fact a Court Martial, and sentenced to transportation for life, having fired at a soldier of the 48th Regt., who was stealing hay or grass from one of his paddocks. The sentence is generally considered extremely severe. The wretched fate of this unhappy man, who attempted self destruction during the trial, appears to have engaged the attention and excited the indignation of all classes of the Colonists."

**Remarks.**

3rd. New South Wales has been fortunate in the acquisition of some Individuals of considerable Capital, and they are now in the Country; but, like other new Colonies, it presents many difficulties to be overcome, which may alarm the most persevering; it possesses some peculiar disadvantages, and capitalists do not often go to new countries; but I am not aware of the names of the new Settlers of this description, who are returning to England. The bad character of the Masses of the Inhabitants must in itself be for many an extreme difficulty to settlers from Europe.

Mr. Gore's case is mentioned in that paragraph. It is an unhappy one; but the wills of the Law are strongly against distinguishing the higher from the lower Classes in the application of criminal Justice. Here the mostly great majority of offenders are Labourers, and a strong sense of injustice would
1825.
23 May.
Reply by
Sir T. Brisbane.

610 HISTORICAL RECORDS OF AUSTRALIA.

have arisen if Mr. Gore's condition in life had been considered. The offence was his defending the grass on his lands with a violence never yet tolerated by Law. The temptation to personal violences here requires a vigilant restraint to be put by the Law upon the effects of the ebullitions of passion when they occur. There never was any intention to carry into execution the capital sentence of the Court. The difficulty of property in a thinly peopled country renders personal affrays very frequent, and perhaps, where Death does not follow the punishment, the law might be wisely lessened in favor of offenders; a sympathy is always raised against the Law in these cases that thwarts the execution of the Law.

Letter.

4th. "The Police is in a miserable state. One of our inquisitonal local regulations is that a stranger cannot enter the town of Parramatta on business without being asked by the Convict constable on duty, his name, where he came, whither he is going, and what is his business, which particulars are to be reported to the Police Magistrate, an Assistant Surgeon on the Colonial Establishment and formerly in the army, who, with two other military men, one a young inexperienced officer of the Buffs, and the other Sir Thomas Brisbane's household Physician (a Half Pay Surgeon in the Army), administer the magisterial duties of the place. This triumvirate has sometimes called to its assistance another Son of Mars, a Lieutenant in the Army on half pay, who with the first of these worthies lately cut a sorry figure in an action, brought against them by Mr. Marsden, for having in their Magisterial capacity convicted him of a breach of the Colonial regulations, without producing any proofs, or hearing any evidence on the occasion. I would give the particulars of this filthy case, in which the Government have also dirtied their fingers by paying the expenses of the action, which cannot be less than £500 (O tempore! O Mores!) but think it must become public, when you will see the malice of Mr. Marsden's enemies, and that the Support that is held out by the Government to anyone who will vilify or traduce the character of those over whom they choose to tyrannise, more fully made known."

Remarks.

The Magistrates alluded to in this Paragraph are Mr. Douglass, Captain Barlow, Dr. McLeod and Mr. Lawson. Of Mr. Douglass, it is unnecessary for me to say anything, as your Lordship has seen him, and by that and other means had ample opportunity of judging whether he is fit for the Magistracy; Mr. Lawson is the gentleman called the Lieutenant on half pay; he has been a Magistrate in New South Wales about
17 years, and is one of the most extensive Land and Stock owners in the colony; he would probably be a Magistrate in any County in England. He was successively Commandant of the new Settlements of Newcastle and Bathurst. As other Magistrates, he may have fallen into legal errors, of which, however, I know of but the instance against the Rev. Mr. Marsden,* but he is a reasonable and not illiberal man. The annexed copy of a Letter from Governor Macquarie illustrates his character. Your Lordship is acquainted with the circumstances rendering in my opinion two new Magistrates necessary; I mean the removal of others alluded to in another part of the Letter. Dr. McLeod and Captn. Barlow were the two I appointed; Of Dr. McLeod's good sense I have never had reason to doubt. The Magistracy has been a burden to him, without any equivalent benefit.

Captain Barlow of the Buffs looked young. He is a Captain of near five years standing. I have heard no instance in which his conduct gave dissatisfaction.

In a recent and arduous Command at Melville Island, I have reason to believe him to have shewn considerable talents.

Of the inquisitional questions complained of in this Letter, I never heard before, and I have caused particular enquiry to be made, and, with an exception hereafter mentioned, no instance is known of the Police report, alluded to, having been made in the last four years. It would be impossible with a trebled establishment of Constables to carry into effect the system spoken of by this writer.

The exception, I alluded to, is one in which a very improper course was for some time pursued by Dr. Douglass. It appears, after a very careful enquiry, that he did not confine his Police examinations to the conduct of vagrant Convicts or suspicious persons, but he actually endeavoured to note, by means of intelligence from Constables, the goings and comings of every person in the Colony (however well known and respectable) to and from Parramatta, and a constable has been ascertained to have once made personally to a gentleman extremely improper enquiries as to his name and business at an Inn in the Town; this system, however, was not that of the Police at Parramatta; the other Magistrates opposed or did not know of it, and belonged exclusively to Dr. Douglass's Views; no complaint on the subject was ever brought me, nor do I think did ever occasion complaints in the Courts.

It appears that in 1811 something of this kind was attempted, but it soon fell into disuse.

In the regulations of the Police in 1810, there is an order that every housekeeper residing in Sydney should enter or cause

* Note 177.
to be entered with the Superintendent of Police their respective
names, places of abode, the amount of their children, and ser-
vants, and also the names of strangers or other persons resident
with them, or remaining in their houses beyond 24 hours.

Many old Orders of this Kind may, without doubt, be dis-
covered, which would be intolerable at present; they were issued
by Governor Macquarie and his predecessors with a principal
view to the Convict character of the population; of late years
such Orders, altho' not formally cancelled, have been disregarded.

It is however a question of the utmost moment in a Country,
where crimes are, in proportion to the population, six times
greater than in England, whether a vagrant law of great rigor is
not needed; perhaps by destroying a principle of the British
Constitution, such a Law would defeat its only justifiable object,
general utility.

Letter.

5. In respect to the Spanish Dollar.

Remarks.

5th. Upon the question of Dollars, your Lordship has, in former
dispatches and in those* which have more recently been sent by me
in the case of the Almorah, the means of considering with their
Lordships, the Commissioners of the Treasury, whether the Cur-
rency arrangements of this Colony are properly managed.

Letter.

6th. “The dismissal of five Magistrates.”

Remarks.

6th. The case of the removal of the Parramatta Magistrates is
also before your Lordship fully, and replies* to the late Dispatches
on this subject are transmitted herewith.

Letter.

7th. “Sir Thomas spends the greater part of his time in the
Observatory or shooting Parrots. Lately he has been deprived of
his Principal Assistant, Mr. Rumker, who, report saith, hath re-
tired to his Farm, either from anger or disgust; if it be so, what
figure will the future astronomical correspondence from Parra-
matta Observatory† cut in the Journals and transactions of our
Learned Societies? for it is well known that the reports, which
have already appeared in them, are due to the perseverance and
ability of Mr. Rumker, whose present disaffection is a loss to
science and the world in general.”

* Note 178. † Note 137.
Remarks.

7th. My time has been so fully occupied that, even of a Sunday, I have been engaged all day; Consult the Chief Justice, Attorney General, every other Public Officer of the Crown, if the business of the Colony ever stands still from my inattention to it; and so far from spending the greater part of my time in the Observatory or shooting Parrots, I am prepared to prove by my medical attendant that my health has materially suffered from constant confinement to business; I am equally prepared to prove that I have never passed one quarter of an hour for days in my Observatory from sunrise to sunset. Mr. Rumker rendered himself obnoxious to myself and family, completely failed in the fulfilment of his original engagements with me, and, when I found him devoted alone to his own objects and pursuits, consequently became of no further use to me.

Letter.

8th. “By referring to the Gazettes, of which I send you the Allegations three last (5th, 18th and 19th Febby.) you will see how satisfactorily to himself our late worthy Judge Field left us. The suppression of that part of the Address* of the Agricultural Society, which compliments the Judge on the impartiality of his Conduct on the Bench will astonish you, but it has caused no wonder with us; we are getting accustomed to those arbitrary acts; yet are we not the less indignant at them, and despise the littleness of that mind, which can bring itself to act in so unjust and unprecedent a manner.”

Remarks.

8th. With respect to the Omission in the Gazette of part of the Address to Mr. Field, it was ordered in consequence of the serious breach of the Rules of the Agricultural Society committed in that part.

The well understood principle, upon which I sanctioned the existence of the Society, was that political questions should be discarded from the deliberations. The passage in question utterly disregarded this principle; and I struck it out rather in order to preserve the Society from the evils of the precedent, than from any wish that Mr. Field should be deprived of any merited honors.

Letter.

9th. “The Governor directs that all Memorials, Letters, or other Papers intended to be submitted to himself shall be sent open, under cover addressed to the Colonial Secretary; failing which they will be returned unanswered to the parties from whence they came.”

* Note 136.
1825.
23 May.
Reply by
Sir T. Brisbane.

Dismissal of committees.

Remarks.
9th. The reply to this was the multiplicity of Letters and Papers constantly sent in, which no one Individual could attend to, even if his whole time was exclusively directed to them. The precedent before me of a similar nature by my Predecessors in a Government and General Order of 8th April, 1820; this joined to the want of a Private Secretary required some arrangement for the dispatch of business; as soon as that appointment was made, notice was given in the Sydney Gazette of the 20th May, 1824, that the previous Order of the former year was neutralized, or done away with; and subsequently, on your Lordship's confirmation of the Appointment of my private Secretary, public notice was immediately given in the Sydney Gazette of 27th January, 1825, that the General Order of 28th May, 1823, was rescinded, and copies of these Notices are accordingly transmitted.

Letter.

10th. "The sudden and insulting dismissal of the Orphan School and Native Institution Committees for venturing to remonstrate against taking convicts' children into the Orphan School, who were not orphans, and for whom the Institutions was never designed."

Remarks.
10th. The Changes alluded to in this Article were made because the Committee was nearly about to die a natural death by the removal of the two Judges, which required the Committee in consequence to be new modelled, but there was not the shadow of personality in the measure.


SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch No. 55, per ship Devoren.)

Government House, Sydney, N.S.W.,

My Lord,
23rd May, 1825.

I have the honor of transmitting herewith two lists of Offenders, whose terms of Transportation, by virtue of His Majesty's Commission under the great seal issued in pursuance of an Act* passed in the 30th Year of the reign of his late Majesty George the third, I have shortened since the 1st Day of January, 1824, and in compliance to the regulations contained in the 35th Section* of the 4th of George the 4th, Chap. 96.

I respectfully solicit, through your Lordship, His Majesty's approbation of every such remission, in order that the instruments, whereby these terms have been severally shortened, may have within New South Wales and its dependencies thereof such

* Note 179.
BRISBANE TO BATHURST.

and the same effect in the law, to all its intents and purposes, as if General Pardons, in which the names of such offenders had been included, had passed under the Great Seal of Great Britain on the days of the dates of such instruments respectively.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

[A copy of this return is not available.]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 54, per ship Devoren.)

Government House, New South Wales,

My Lord, 24th May, 1825.

Circumstances* of some importance, connected with the Revenue of the Colony, having recently occurred, I shall put your Lordship in possession of them by the next ship, which is expected to sail in about a fortnight. The facts are shortly that an attempt has been made to avoid the payment of Duties by a few merchants, and to recover the sums they have paid to the Revenue for the last two years. The grounds of these attempts are alleged incorrectness in the Proclamations, issued under the Act of Parliament of the 3rd year of His present Majesty, authorizing Duties to be levied in this Colony. I have no reason to believe that those parties will succeed.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 56, per ship Devoren.)

Government House, N. S. Wales,

My Lord, 24th May, 1825.

There is an Act of Council,† to which I would request to draw Your Lordship's attention, namely that which enables one Magistrate to inflict punishment on prisoners of the Crown; the 19th clause of the act of Parliament† directs that two at least should be present at the pronouncing of every sentence on such men, and this departure from an act, so recently and so carefully passed in England, is to be justified only by the universal voice of the magistrates of the Colony; in order to meet the exigencies of the act of Parliament, I have greatly increased the number of magistrates; but the distance, at which gentlemen reside from each other, seems to render the meeting of two for adjudicating upon daily small offences impossible; and it is for your Lordship's consideration in the amending of this act in 1827 whether this point may not be proper to be more materially considered.

* Note 180. † Note 181.
The act of Council very carefully limits the power, which it was thought absolutely necessary to confer upon a single magistrate; and this necessity will account to your Lordship why the act of Council is at variance with the act of Parliament; with regard to increase of the number of magistrates, an important point upon the present system is the increased expense with which it is attended; and as some gentlemen actually decline receiving the emoluments, prefer a perfect independent feeling for those of their rank, altho' they do not resign the income; but it should appear invidious to others of different sentiments.

I beg the favor of your Lordship's instructions on the subject, as these stipends, on the present limited number of Magistrates, approach to £1,800 per annum. I, therefore, beg to be made acquainted how far your Lordship's views coincide with this principle. I beg to state to your Lordship that in my opinion that the entire independence of the Magistrates throughout the Colony would tend to increase their respectability; and as the appointment of stipendiary Magistrates for the different Townships must speedily be adopted, the diminished duty of the Magistrates will in consequence lessen their Claim to indulgence as heretofore.

I have, &c,

THOS. BRISBANE.

25 May.

Problem of government domain at Sydney.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 57, per ship Devoren.)

Government House, New South Wales,

My Lord,

I have for some time had it in contemplation to address your Lordship upon the very important subject of the Government Domain,* as it is called in Sydney, and the want of a suitable Government House and Public Offices; and I have now the honor to lay my Views before your Lordship. It will be perceived, by referring to Capt. King's Chart† of Port Jackson, that one half of Sydney Cove, in which Sydney Harbour‡ is situated, has been reserved by Government, and at present is of no further use than affording a pleasing prospect to the Eye; While the remaining half is crowded with the Stores and Houses of the Merchants to an inconvenient degree, from the want of sufficient space for shipping and other Commercial purposes. I am of opinion that it would be highly desirable to sell or let on building leases the whole of the water side of the Domain, as far as Fort Macquarie, and so many feet back as may be sufficient for the erection of Stores and Warehouses, so as to admit of a Street fronting the present Government House, which is in a most

* Note 182. † Note 183.
dilapidated state, unfit for the residence of the Governor in consequence. This arrangement may be done without any substantial loss to the Domain, as the land thus disposed of is applied to no valuable purpose at present.

The Revenue, arising from this manner of disposing of part of the Domain, will I apprehend afford ample funds for the erection of a suitable residence for the Governor in Sydney; and the present Government House, which is very unfit for such a purpose, may with great convenience be converted into Public Offices, which are very much wanted and cannot be procured but at a very considerable expense. I would further beg to suggest that the Gothic Building on the pleasantest Scite of the Domain, which was intended for Government Stables, is utterly useless at present from the great disproportion of the Establishment of the Government, may be easily and advantageously improved into a Government Residence.

In submitting this Measure to your Lordship, I feel an assurance that it will be attended with great gain to the Public, in convenience as well as Revenue, and a great saving of expense to the Government.

I have, &c.,

THOS. BRISBANE.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 32, per ship Brothers.)

Sir,

Downing Street, 2nd June, 1825.

I have had the honor to receive your Dispatch No. 7 of S. Bannister’s application, which had been addressed to you by Mr. Bannister His Majesty’s Attorney General, to receive the portion of his salary payable from the Colonial Fund from the date of his embarkation in this country; the favorable decision of which question involves that of a similar Indulgence to the other Officers who have recently been appointed to situations in the Colony. On referring to what has been the practice in respect to judicial appointments in other Colonies, I find that some of the Salaries have commenced from the date, at which Mr. Bannister has claimed the commencement of his emoluments; but in all such instances the persons have been under the necessity of defraying the expense of their own passages out to the Colony, whilst in the case of Mr. Bannister and the other Gentlemen, who have received appointments at New South Wales, passages have been provided at the expense of the public. Upon a consideration, however, of all the circumstances, I am induced to sanction the payment of half salary to Mr. Bannister and the other Gentlemen, whose cases are similar,

* Note 182.
from the date of their respective embarkations; and it will therefore be necessary that you should call upon the Individuals in question, to whom it appears that you have already issued full salary in anticipation of a favorable result to their applications, to refund, by such instalments as will not be inconvenient to them, the amount which they have thus received over and above the sum to which they will be entitled under the arrangement, which I have now sanctioned. With respect to Mr. Bannister's application for a house and for the assistance of a Clerk, I cannot hold out any prospect of such being allowed to him. His salary was fixed at £1,200 per annum upon a consideration of the duties, which he would be required to perform, and without reference to any other emoluments than those, which he might have expected to obtain by his private practice; and, if the profits of the latter have fallen short of those expectations, it affords no ground for additional remuneration.

I have, &c.,

THOS. BRISBANE.
BRISBANE TO BATHURST.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 59, per ship Harriet.)

Government House, New South Wales,

My Lord, 2nd June, 1825.

I do myself the honor to acknowledge the receipt of Your Lordship's dispatch No. 46, which was conveyed by the "Hercules" to the Colony on the 7th ult. Immediately on the receipt of the dispatch, I addressed a letter to Dr. Macleod, who has had almost the entire charge of the female Factory at Parramatta since Dr. Douglass left the Colony fifteen months ago, to know how far the Revd. Samuel Marsden had made a faithful and well founded representation to the Bishop of London of having been refused to obtain permission for the children of the Women in the Factory to be baptized in the Church.

As I now have the honor to transmit Your Lordship copies of these letters, It is unnecessary to trouble Your Lordship further on the subject, than to express my surprise that the Revd. gentleman had never stated his objection to me until his unfortunate difference with Dr. Douglass; and, as I considered that all those Children in the Factory were illegitimate, it was becoming to baptize them in the quickest possible manner in order not to offend public decency in the least possible degree; and with this view, I have submitted Your Lordship's dispatch to the Archdeacon, who says that the presence of the Mothers may be dispensed with; and I beg to observe that had such course been pursued in the first instance, Your Lordship would have been spared the trouble of addressing me on the subject, whilst I should have been absolved from an imputation, I do not consider the Revd. Samuel Marsden had legitimate grounds for establishing against me.

I have, &c.,

THOS. BRISBANE.

[Enclosures.]

[Copies of these two papers are not available.]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch per ship Harriet.)

Government House, New South Wales,

My Lord, 3rd June, 1825.

Although I do not mean to trouble Your Lordship with a justification of any of the Acts of my Administration, still I am anxious to impress upon your Lordship that I had often been attacked in many points in which I was certainly not vulnerable.

* Note 184.
620

HISTORICAL RECORDS OF AUSTRALIA.

My primary object is to remove imputation upon my character; whilst my next is to impress upon your Lordship that I have not been inattentive to the best interests of this delicate and difficult colony to govern since my arrival in it.

With this view, I take the liberty of sending your Lordship a refutation of the Calumnies, circulated in the Morning Chronicle of last August, wherein I trust I shall appear completely to have succeeded in refuting them to the satisfaction of your Lordship's mind, as also I trust in the eyes of the community at large.

I take the liberty, also, of sending your Lordship the Australian of the 7th and 21st of April, wherein the subject of the women sent to Emu Plains is treated; and I trust I shall appear absolved from blame in that transaction, which was imposed upon me from circumstances as almost one of necessity; and I trust it has proved not an invaluable experiment. I understand the women were represented as having been sent to a penal settlement contrary to their wish; but the fact is they all volunteered to go there. The newspaper in question would gladly have seized the opportunity of misrepresentation had there been grounds; but it appears that these misrepresentations on the subject have been confined to Great Britain, as here the measure caused no sensation.

But I have more fully explained this Affair in my Official Dispatch,* where I had made a mistake as to the number, which should have stood 19 out of 24 married and settled; whereas in that Dispatch I had stated them to be 24 out of 32, and the error did not occur to me until after it had gone. The mistake I afterwards explained and corrected in my Duplicate Dispatch. I beg most solemnly to assure your Lordship that no circumstance, either improper or unbecoming, had ever occurred from the measure; and I have since traced the whole of that misrepresentation to a few Individuals,† by whom it had been got up and amongst whom it had been solely confined. I consider I cannot give your Lordship a more unequivocal proof of the advantages resulting from the women thus having been sent there, than the fact that not one of the 19, stated to have been married, have since been returned to the Factory for misconduct.

I shall now quit this subject and proceed to one of more interest as combining the general prosperity of the Colony. With this intention, I take the liberty of sending your Lordship 9 different Returns being official records. No. 1 will shew your Lordship that crime is happily on the decrease, notwithstanding the great increase of population during the last six years. No. 2 will tend to show your Lordship that the resources and consequent Revenue of the Colony have gone on progressively increasing for the last four years. No. 3 will establish the beneficial

* Note 184. † Note 172.
 effects of the present financial system and the amount resulting from the measure of selling Treasury Bills to the highest bidder, whereby so large an amount has been rendered available to the Public Service. No. 4 will establish how faithfully I have fulfilled your Lordship's Instructions of keeping as few Mechanics and Labourers for the wants of Government as possible.

I have the further gratification of reflecting that every Mechanic and Labourer now does work fully equal to his expenses to the Crown, as can be fully and satisfactorily shown by the valuation of the Public Buildings and work executed since my arrival.

No. 5 shews the amount of the fund arising from hiring out Mechanics to Settlers at only 3s. 6d. per week for each, whereby their wants are supplied without favoritism; whilst a fund is thus raised to enable me to pay in money the overseers, etc., who formerly had their salaries paid by an assigned Mechanic or Labourer on the Stores.

No. 6 will show your Lordship the care I have taken to remove Rations issued from the Stores all Individuals, who had not a fair and legitimate claim to such an indulgence, and which advantage had previously been most unsparingly misapplied.

No. 7. I have already brought the subject of the Clearing Gangs under your Lordship's consideration in my Dispatch* on that measure No. 2; the important benefits resulting from which I may venture to assert has never been surpassed by the Local Government, independent of the prospective considerations resulting from it. The value in wheat of the land so cleared, Vizt. 20,031 Acres taken at six shillings per bushel (altho' the present price is nearly double), the sum will exceed £42,000.

No. 8 is in reality ingrafted from the preceding measure. Formerly all provisions consumed by Road or Clearing Gangs, however distant, were transported at the expense of the Crown, whereas Contracts are now made with the nearest Settler to supply them, The Return exhibits the diminished expense of the entered Transport for last year; by which the Settler has his produce consumed on the spot, is spared the loss and delay of sending it to market. The Government is also spared the expense of sending it to these remote stations, whilst the unfortunate Convict is ensured good wholesome provisions, which was not always the case during the very hot weather of this Country, during which meat will scarcely keep for 24 hours.

No. 9 exhibits the amount of Bills drawn by the Commissariat for the Service of the Colony during the last 6 years, and is I trust not an unsatisfactory exposition.

When the practical effects, resulting from these different measures, are considered in combination with those which have

* Note 184.
1825.  3 June.

Reforms introduced.

been introduced and acted upon by me, as resulting from the recommendation of the Commissioner of Enquiry, a copy* of which has gone home officially in duplicate, I trust I may not be deemed by your Lordship as having been altogether inattentive to the best interests of the Colony during my Administration; many of which measures had been acted upon by me long before the receipt of these Reports in the Colony.

I have only to claim your indulgence for having trespassed so long on your Lordship's time and patience, in conclusion to assure your Lordship that no earthly consideration could recompense me for the sacrifice of peace of mind, I have undergone during the three first years of my Government, from the incessant attacks of the wicked and ill-disposed part of the Community; whilst, in point of finance, I am largely a loser, viz. not less than £5,000. Your Lordship cannot be aware that my passage alone to this Country cost me £1,790 more than I was allowed by Government; assuming nearly a similar sum for my return to Europe, I have taken the whole at the first stated amount, as I did not draw the full salary until my arrival in the Colony. Combined with this, after 36 years of as active service as any officer of my standing, having served Eleven Campaigns of the war in the Field in most quarters of the Globe, having purchased every Commission in the army, with a constitution now much impaired, and my finances considerably reduced, I am consoled with the reflection that, in my retirement, I shall be rewarded by the Enjoyment of twenty five shillings per day for a life time of no ordinary activity and privation.

I sincerely hope your Lordship has received my former private letter† of the 26th January, in reply to your Lordship's of the 23rd August. My letter left this in the "Mangles" the 12th February, and I trust is now near its destination and that it has proved satisfactory to your Lordship. I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

[This return was similar to the enclosure to the despatch numbered 22 and dated 28th January, 1825; see pages 478-9.]

[Enclosure No. 2.]

Abstract of the Revenue of New South Wales for the Year 1821, 1822, 1823 and 1824.

<table>
<thead>
<tr>
<th>Year</th>
<th>Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>1821</td>
<td>147,129 60</td>
</tr>
<tr>
<td>1822</td>
<td>161,062 46</td>
</tr>
<tr>
<td>1823</td>
<td>153,489 88</td>
</tr>
<tr>
<td>1824</td>
<td>167,900 31</td>
</tr>
</tbody>
</table>

$692,582 26 3/12

* Note 184. † Note 185.
[Enclosure No. 3.]

New South Wales and Van Diemen’s Land.

An Account of Premiums obtained on Treasury Bills for the undermentioned periods, vizt.

To Amount of Premiums between

<table>
<thead>
<tr>
<th>Periods</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>25th June and 24th Decr., 1822</td>
<td>£2,869 18 0</td>
</tr>
<tr>
<td>do. do. 25th Decr., 1822, and 24th Decr., 1823</td>
<td>18,966 8 11</td>
</tr>
<tr>
<td>do. do. 25th Decr., 1823, and 24th Decr., 1824</td>
<td>26,260 8 11</td>
</tr>
</tbody>
</table>

£48,096 15 10

Making a Total of Forty Eight Thousand and Ninety Six Pounds fifteen shillings and ten pence in Spanish Dollars at five Shillings each.

WM. WEMYSS, D.C.G.
Commissariat Office, Sydney, 3rd May, 1825.

[Enclosures Nos. 4 and 5.]

[These returns were similar to the enclosures to the despatches numbered 46 and 20, and dated 18th March and 17th January, 1825, respectively; see pages 549 and 472.]

[Enclosure No. 6.]

New South Wales and its Dependencies.

Statement of Rations issued from His Majesty's Magazines to the Military, Staff, Commissariat, Settlers, Convicts, etc., calculated at the proportion allowed for a single Ration.

<table>
<thead>
<tr>
<th>Date</th>
<th>Rations Daily</th>
</tr>
</thead>
<tbody>
<tr>
<td>24th December, 1821</td>
<td>12,109</td>
</tr>
<tr>
<td>24th June, 1822</td>
<td>11,963</td>
</tr>
<tr>
<td>24th December, 1822</td>
<td>11,196</td>
</tr>
<tr>
<td>24th June, 1823</td>
<td>11,206</td>
</tr>
<tr>
<td>24th December, 1823</td>
<td>11,255</td>
</tr>
<tr>
<td>24th June, 1824</td>
<td>10,633</td>
</tr>
</tbody>
</table>

The whole of the accounts for December have not been received. I am, therefore, unable at present to give the number of Rations issued at that period; but I do not apprehend it will differ materially from that of June, 1824.

WM. WEMYSS, Dy. Cy.-Genl.
Commissariat Office, Sydney, 25th April, 1825.

[Enclosure No. 7.]


<table>
<thead>
<tr>
<th>Periods specified Underneath</th>
<th>Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>From the 25th March, 1822, to the 24th December following</td>
<td>2,408</td>
</tr>
<tr>
<td>Nine Months say</td>
<td></td>
</tr>
<tr>
<td>From the 26th December, 1822, to the 24th December, 1823, Twelve Months</td>
<td>6,241</td>
</tr>
<tr>
<td>From the 1st January, 1824, to the 30th June following, Six Months</td>
<td>4,355</td>
</tr>
</tbody>
</table>
### Abstract of Lands cleared, &c.—continued.

<table>
<thead>
<tr>
<th>Period</th>
<th>Quarterly Amount</th>
<th>Annual Amount</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1821. 25 December to 24 March 1822.</td>
<td>£105 5 11</td>
<td>£105 5 11</td>
<td>£105 5 11</td>
</tr>
<tr>
<td>1822. 25 March to 24 June 1822.</td>
<td>£213 16 10</td>
<td>£213 16 10</td>
<td>£213 16 10</td>
</tr>
<tr>
<td>25 June to 24 Septmr. 1822.</td>
<td>£260 1 1</td>
<td>£260 1 1</td>
<td>£260 1 1</td>
</tr>
<tr>
<td>25 Septr. to 24 Decr. 1822.</td>
<td>£226 11 7</td>
<td>£226 11 7</td>
<td>£226 11 7</td>
</tr>
<tr>
<td>25 Decr. to 24 Mar., 1823.</td>
<td>£114 6 0</td>
<td>£114 6 0</td>
<td>£114 6 0</td>
</tr>
<tr>
<td>25 March, 1823 to 24 June, 1823.</td>
<td>£289 4 5</td>
<td>£289 4 5</td>
<td>£289 4 5</td>
</tr>
<tr>
<td>25 June, to 24 Septr., 1823.</td>
<td>£156 17 10</td>
<td>£156 17 10</td>
<td>£156 17 10</td>
</tr>
<tr>
<td>25 Septr., to 24 Decr., 1823.</td>
<td>£145 18 10</td>
<td>£145 18 10</td>
<td>£145 18 10</td>
</tr>
<tr>
<td>25 Decr., 1823 to 24 Mar., 1824.</td>
<td>£130 9 9</td>
<td>£130 9 9</td>
<td>£130 9 9</td>
</tr>
<tr>
<td>25 Mar., 1824 to 24 June, 1824.</td>
<td>£30 8 10</td>
<td>£30 8 10</td>
<td>£30 8 10</td>
</tr>
<tr>
<td>25 June, to 24 Septr., 1824.</td>
<td>£156 16 5</td>
<td>£156 16 5</td>
<td>£156 16 5</td>
</tr>
<tr>
<td>25 Septr., to 24 Decr., 1824.</td>
<td>£54 15 10</td>
<td>£54 15 10</td>
<td>£54 15 10</td>
</tr>
<tr>
<td>25 Decr., 1824 to 24 Mar., 1825.</td>
<td>£62 7 8</td>
<td>£62 7 8</td>
<td>£62 7 8</td>
</tr>
<tr>
<td>25 Mar., 1825 to 24 May, 1825.</td>
<td>£57 6 0</td>
<td>£57 6 0</td>
<td>£57 6 0</td>
</tr>
<tr>
<td><strong>Total cleared to 30th April, 1825.</strong></td>
<td></td>
<td></td>
<td><strong>20,081</strong></td>
</tr>
</tbody>
</table>

[Enclosure No. 8.]

### Comparative Statement of the Amount of Bills drawn on His Majesty's Treasury for the Service of New South Wales during the following Years.

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1819</td>
<td>£129,499</td>
</tr>
<tr>
<td>1820</td>
<td>181,376</td>
</tr>
<tr>
<td>1821</td>
<td>166,315</td>
</tr>
<tr>
<td>1822</td>
<td>229,826</td>
</tr>
<tr>
<td>1823</td>
<td>95,828</td>
</tr>
<tr>
<td>1824</td>
<td>199,112</td>
</tr>
</tbody>
</table>

A second Regiment with a Ship of War included in 1824, but in no former Year, combined with a partial failure of the Crop and the consequent high price of Grain will account for the increase during this Year.
[Additional Enclosures.]
Copies of the issues of the "Australian" newspaper, dated 7th and 21st April, 1825, were forwarded with this dispatch. Similar copies were also forwarded with the despatch numbered 49 and dated 21st May, 1825; see page 597 et seq.

EARL BATHURST TO SIR THOMAS BRISBANE.
(Despatch No. 33, per ship Brothers.)

Sir, Downing Street, 4th June, 1825.
I have the honor to receive your Dispatch No. 14 of the 6th November last, explaining the grounds on which you were induced to impose the duties, which formed the subject of my Dispatch No. 12/1824. But although I cannot admit the explanation, which you have afforded, as a sufficient reason for enforcing the duties in question, which were evidently illegal, yet, as it appears that you acted by the advice of one of the Crown Solicitors, I am willing to allow that there is some excuse to be urged in your favor for having adopted that measure.

I have, &c., BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.
(Despatch No. 34, per ship Brothers.)

Sir, Downing Street, 5 June, 1825.
I do myself the honor of transmitting to your Excellency the copy of a petition addressed to His Majesty's Government by Mr. Thomas Icely, representing the circumstances under which he had imported into New South Wales a quantity of European Spirits, and complaining of a partiality shewn to a Mr. Jacob with respect to the remission of the duty, in consequence of which he has been subjected to very considerable loss. From the Correspondence, which has taken place between Mr. Icely and the Colonial Government, Copies of which accompany his memorial, it appears that his application was refused on the following grounds: First, his having purchased on commission the spirits for which he solicited a remission of the duty, and which would not have remained on his hands but for the loss of the Invoices.

Secondly: that Mr. Icely's correspondents in this country purchased the Spirits, which they had been directed to provide, with a full knowledge of the alterations which were about to take place in the duties on their Importation into the Colony.

Lastly: that it was the opinion of the Attorney General, whom your Excellency consulted, that you were not competent to grant him redress "as an Individual."

SER. I. VOL. XI—2 R
1825.
5 June.

Purchase of spirits on commission.

Question of ignorance of new duties.

Reference to opinion of attorney-general.

It does not appear to me to be of any importance, with reference to the principal point at issue, whether Mr. Icely provided the Spirits on his own account or on Commission; for had the parties, by whom Mr. Icely was employed, not been enabled to take advantage of the loss of the Invoices by returning the goods upon Mr. Icely's hands, the merits of the question would have remained the same, and a similar claim to the present would in all probability have been brought forward although proceeding from a different party.

Nor can I acquiesce in the second ground, urged by the Colonial Government, for refusing to admit the claim of Mr. Icely, who, having no knowledge of the new duty when he ordered the Spirits in question from England, must be considered as standing on the same footing as the Individual in whose favour the additional duties were remitted. Mr. Icely's correspondents in this country may not have been ignorant of the intended augmentation of the duties; but, in the absence of any specific authority for exercising a discretion in the execution of an order, it is not to be expected that they would volunteer such a responsibility, however satisfied they might feel that the Requisition had been forwarded to England in ignorance of the new arrangement, and that, had Mr. Icely been aware of it, he would not have wished them to execute the order.

Since, however, Your Excellency has taken upon yourself to exempt the Importation of Spirits by Mr. Jacob from the additional duty in force at the time of their arrival, His Majesty's Government consider themselves bound in fairness to authorize the same exemption, however erroneous, which it certainly is in principle, to be extended to Mr. Icely, the reasons assigned for the distinction appearing to be insufficient to justify it. I have, therefore, to direct that the duty, which has been paid on account of the Importation in question, be returned to Mr. Icely, and that, in the event of any part of the original cargo still remaining in bonded Store, the amount may be remitted; and I cannot conclude my Dispatch without pointing out to you the injurious consequences, which must result to private Speculators, as well
BATHURST TO BRISBANE.

as to the general Interests of the Colony, if distinctions are made between Individuals, so as to interfere with that fair competition in their mercantile transactions, to which every Inhabitant has an equal right; not to mention the absolute loss, which has accrued in the present instance to the public, and which cannot be averaged at less than from twelve to fourteen thousand Pounds, from your having rendered inoperative for more than a twelve month an Act of Parliament passed with the view of increasing the pecuniary Resources of the Colony.

I have, &c.,
BATHURST.

[Enclosure.]

THE MEMORIAL OF THOMAS ICELY, MERCHANT AND SETTLER OF NEW SOUTH WALES.

To The Right Honorable The Earl Bathurst K.G. one of His Majesty's principal Secretary's of State.

Most Humbly Sheweth,

That, in the year 1819, your Memorialist embarked as a Merchant to Settle in New South Wales, and, foreseeing the advantages to be gained by a connection with respectable Mercantile houses in London, he came to England in the Year 1821 to make the necessary arrangements for carrying on trade with the Colony; and that he returned to New South Wales the same year: that, in the year 1822, he wrote to his Correspondents in London (Messrs. Buckles, Bagster and Buchanan) to forward to him a quantity of Spirits consisting of Brandy, Hollands, and West India Rum;—At the time of Your Memorialist transmitting the said order, the duty per gallon on Spirits was Ten Shillings Currency:—on the arrival of the said spirits, they were accordingly landed and placed in the Bonded Stores, where the Brandy and Hollands still remains, except a small quantity which Your Memorialist was induced, to reship and send at a risque to try another market, in consequence of the following partial proceedings of the Government of New South Wales, which your Memorialist humbly begs to lay before your Lordship, under the full persuasion that he shall receive such redress, as in Your Lordship's wisdom and judgement may be thought due to him as a fair and honorable Trader:—In the year 1820, there came from the East Indies to the Colony a Mr. Vickers Jacob, an officer of the army, not as a Merchant or Trader but upon the score of Health: he recovered, and returned to India; and some months afterwards, he came back to Sydney* with a cargo of spirits (still holding a commission in the Army) under the same circumstances as those of your Memorialist, namely (after the

* Note 186.
new duty had been laid on). The great grievance, your Memorialist has to complain of, is that this accidental speculation of Mr. Jacob has defeated the views of your Memorialist in the Sale of his Spirits by underselling him, which he has been well enabled to do from his being charged no more than Ten Shillings (10s.) duty per gallon on Spirits 28 and 80 P. Cent. over proof; while your Memorialist at the same time, and under the same circumstances (except those of your Memorialist being a regular Trader and Mr. Jacob an accidental adventurer) stands chargeable with a duty of Fifteen Shillings (15s.) Sterling per gallon on Proof Spirits (Brandy and Hollands) and Ten Shillings, 10s., Sterling on West India Rum; Your Memorialist did not fail to point out this grievance to His Excellency Governor Brisbane and Major Goulburn, the Colonial Secretary, copies of whose replies he begs to have the honor of laying before your Lordship, together with Copies of his applications to them, wherein your Memorialist stated to them the additional hardship he laboured under from the loss of the Invoices, either through the Carelessness of the Master of the vessel or the Postmaster of Sydney; the Master asserting that he had regularly delivered all the packages and parcels in his possession, and the postmaster as positively declaring that he had delivered all that had been put into his office. Under this loss of Invoices, the parties, who had authorised Your Memorialist to send to England for the Spirits, refused taking them; and although your Memorialist had made every possible Search, they were not to be found.

Your Memorialist, knowing it is the object of the Government to give every encouragement to the Trade of the British West Indies by levying a less duty on such of Five Shillings per Gallon, laments that the Government of New South Wales has allowed Mr. Jacob to pay a duty of Ten Shillings per gallon on Bengal Rum, 28 per cent. over proof; while your Memorialist, a fair and regular Trader, has been obliged to pay a duty of Ten Shillings (10s.) on West India Spirits not stronger than 6 per cent. above proof, thereby giving Mr. Jacob an advantage of 22 per Cent. over the West India Produce, which is proved by the accompanying report of the Commissary General (No. 8). In addition to which, your Memorialist begs to state that these spirits cannot come in competition with the Spirits since allowed to be distilled in the Colony, as the latter pays a duty of only two shillings and six pence P. Gallon.

Your Memorialist sensibly feeling the great loss he had sustained by the difference of duties between himself and Mr. Jacob, amounting to upwards of Seven thousand five hundred pounds, as well as the injury done him in his connections at New South
Wales and with his Correspondents in London, and, not being able to obtain redress from the Government of New South Wales, determined to repair to England with the original letters between himself, His Excellency the Governor and the Colonial Secretary, for Your Lordship's consideration.

For the quantity and quality of the Spirits so landed, Your Memorialist begs to refer your Lordship to the accompanying reports of the Commissary General and the Storekeeper.

Under the apparent hardship to which he is subjected, your Memorialist humbly prays for that redress to which, in Your Lordship's view of all the circumstances of the Case, he may be entitled; he will have the honor to remain

With every sentiment of respect,

Your Lordship's most obedient, &c.,

THOMAS ICELY.

No. 5 Woburn Place, Russell Square,
15th March, 1825.

[Sub-enclosure No. 1.]

THE HUMBLE PETITION OF THOMAS ICELY OF SYDNEY, MERCHANT.

To His Excellency Sir Thomas Brisbane, K.C.B., General, and Governor in Chief of the Territory of New South Wales, &c., &c., &c.

Sheweth,

That your petitioner, in the month of September, 1822, entered into a contract with two Merchants residing in the Colony to obtain a quantity of merchandize from England, and to deliver the same at Sydney, on or before a time fixed for that purpose; that part of the merchandize consisted of Three thousand, nine hundred and forty seven gallons of Brandy, and two thousand, six hundred and forty four gallons of Hollands.

That the duty on Brandy and Hollands was at that time ten shillings per gallon; that your petitioner ordered the said spirits without any knowledge whatever of the increased duties, now imposed by your Excellency's Proclamation* of 5th June, 1823, under act of Parliament in such case provided; and that the said goods arrived in the Colony in the Month of September, 1823, being three months after your Excellency's Proclamation had been made. That, owing to the accidental loss of the Invoices of such goods, your Petitioner was unable to compel the parties, with whom the contract was entered into, to Complete the same and was unavoidably saddled with the Goods so ordered by him.

That the whole of the Spirits were landed in H.M. Bonded Stores, where they now remain unsold, and, in consequence of the

* Note 187.
1825.
5 June.
Petition of T. Icely for remission of duty on spirits.

Refusal of prayer of petition.

Effect of remission of duty granted to V. Jacob.

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duty now imposed, are wholly unsaleable, and as your petitioner finally believes will not realize the amount of the duties payable on the same. That your petitioner only acted in this business as Agent, and must sustain a most serious Loss, unless your Excellency may be pleased to remit such part of the duties as have been imposed since the order given.

And your petitioner will ever pray,

Sydney, 24th October, 1823.

THOMAS ICELY.

[Sub-enclosure No. 2.]

SECRETARY GOULBURN TO MR. THOMAS ICELY.

Sir,
Colonial Secretary's Office, 13th November, 1823.

Having laid before the Governor your Memorial of the 24th ulto., I am directed to have the honor to acquaint you, His Excellency regrets that, owing to an accidental loss of the Invoices of the Goods you have imported, you find yourself unable to compel the parties, with whom you had entered into a contract binding you to obtain for them a quantity of Spirits before a given time, to fulfil their part of its condition; but is of opinion that your case is one, in which he cannot interfere by a remission of the duties augmented lately by Parliament.

I have, &c,
E. GOULBURN.

Remark in reply to (No. 2).

The parties at New South Wales, who had authorised Mr. Icely to purchase the Spirits, took advantage of the loss of the Invoices, seeing that an additional duty had been laid on, by which refusal he was thrown into the Market to take the Chance for the Sale thereof; but the partial low rate of duty allowed to be paid by Mr. Jacob enabled him to undersell Mr. Icely from Eight shillings and sixpence to nine shillings per Gallon on Foreign Spirits, Brandy and Hollands, and 22 per cent, on spirits the produce of the West India Islands:—Had the Market been fairly open alike to all, Mr. Icely would have had little cause to regret the additional duty or the loss of the Invoices, and which inconvenience was felt by him alone.

THOMAS ICELY.

[Sub-enclosure No. 3.]

MR. THOMAS ICELY TO SECRETARY GOULBURN.

Sir,
Sydney, 22nd December, 1823.

I have the honor to acknowledge the receipt of your letter of the 13th ulto., conveying to me His Excellency the Governor's opinion that he cannot interfere by a remission of the augmented duties on the spirits imported by me subsequently to the operation of the last parliamentary Enactment.
I cannot however contemplate the very heavy loss that must in consequence of his Excellency's determination, without entertaining his Excellency's attention to the situation, in which I am placed by the Indulgence extended by his Excellency to Mr. V. Jacob, a Merchant of this place. Mr. Jacob, subsequently to the imposition of the present duty, imported from the East Indies twenty four thousand gallons of Rum, Brandy and Gin, and was accordingly subject to the payment of the present duty of 15s. p. Gallon. On the remission of this sum to the old duty of 10s. p. Gallon, I certainly conceived that His Excellency had exercised the authority given by the Act, imposing the present duty, and which provided "that it shall be lawful for the Governor, or other person administering the Government of New South Wales by any Proclamation or orders to be by him for that purpose issued, to discontinue or reduce any such duties from time to time as occasion may require." And I felt that I should have participated in the general relief that such a measure was calculated to afford to those individuals, who were suffering from the very sudden manner in which the Act has been carried into effect, and the comparatively small quantity, held by those individuals and myself imported subsequent to His Excellency's proclamation, the whole being 8,772 Gallons of Brandy and Gin out of which I am the holder of 7,050 Gallons.

By your letter, however, I am led to conclude that His Excellency's indulgence towards Mr. Jacob was of a personal nature, and not in exercise of the power intrusted to his Excellency for the discontinuation or reduction of the duties.

The indulgence thus offered to Mr. Jacob has been productive of the greatest hardship and injustice towards me, as it has enabled him to bring his spirits into the market, and actually become a Seller at a very large profit, after the payment of the duty imposed on him, at a less sum than the duty alone, which I am called upon to pay, amounts to.

This circumstance, added to the State of the Market and the probability of the supply from the colonial Stills, totally precluded the possibility of a sale of my Spirits; and I must either ship them to some other place, and again incur the Freight and a chance of a bad market for the Sale, or let it remain a total loss in the Bonded stores; in neither case could any advantage be deriv'd by Government; as in the former no duty could be payable, and in the latter, as there is no chance of realizing the amount of the duty, the Spirits must be wholly condemned according to the usage of the Mother country, in order to prevent an unfair monopoly, the purchasers at a low rate would have over the fair trader who had paid the full duty. And having
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1825.  
5 June.

Request for remission of duty.

mentioned this usage, I cannot but pray his Excellency’s consideration to the care that it displays to preserve a fair competition between Settlers, and that in a market, where the advantage of one individual could scarcely be said to operate on the general interest of the numerous persons to whom he is opposed; and I cannot help at the same time expressing a hope that his Excellency seeing the extreme hardship of making so great a distinction between Mr. Jacob and myself, and the loss that will be sustained by the Colonial Revenue, should the full amount of the duty be insisted on, will feel at once the justice and expediency of extending towards me the benefit of the remission made on behalf of Mr. Jacob.

I have, &c.,

THOMAS ICELY.

[Sub-enclosure No. 4.]

SECRETARY GOULBURN TO MR. THOMAS ICELY.

Sir, Colonial Secretary’s Office, 30th December, 1823.

In consequence of your letter of the 22nd instant, I have now the honor to repeat to you in writing the reply which has been verbally communicated to you three times.

The spirits, for which you solicit remission of duty, were purchased by you upon Commission and remain on your hands in consequence only of the loss of their invoice. This accident having arisen from culpable neglect, a legal remedy for all your loss is open to you, if the neglect do not rest with yourself. The Case of Mr. Jacob, to which you refer, can never be considered as parallel to your Situation, because his Agent purchased his spirits in entire ignorance of the new duty, yours with its fullest knowledge. If, however, at a future period, Colonial distillation, not as yet commenced, should render the price of European Spirits so low as to preclude to a certainty the profitable sale of your importation, then will it become indeed a fair question with the Government whether the remission of some part of these duties ought not to be conceded.

I have, &c.,

F. GOULBURN.

Remark in reply to (No. 4).

The order of Mr. Icely to his Correspondents in London was to ship and send out a certain quantity of spirits; this order was given positive, without any discretionary power, and without any knowledge of a new duty; the shipments were made accordingly. Mr. Jacob stood precisely in the same situation; he brought a cargo of Bengal Rum under the same circumstances, and being allowed to dispose thereof at the rate of only Ten Shillings, 10s. p. Gallon, wholly precluded Mr. Icely from selling:—Had it not been for this partiality, Mr. Icely could have gone into the
Market as readily as Mr. Jacob: the letter of Captain Piper (No. 7), Collector of the Government duties, will at once show that it is the only instance of a remission of duties on Spirits, arriving subsequent to the Governor’s promulgation of the Act of Parliament.

[Sub-enclosure No. 5.]

THE HUMBLE PETITION OF THOMAS ICELY, OF SYDNEY, MERCHANT.

To His Excellency Sir Thomas Brisbane, K.C.B., General and Governor in Chief of the Territory of New South Wales, &c., &c., &c.

Sheweth,

That your Petitioner, in the month of September, 1822, directed his Correspondents in London to Ship to your Petitioner a quantity of Merchandize, consisting amongst other things of the articles hereafter mentioned.

That a duty of Ten Shillings p. Gallon only was then imposed on spirits of every description imported into the Colony. That your petitioner accordingly received by the Lusitania and Allies several Quantities of Brandy and Hollands, and which were deposited in His Majesty’s Bonded Stores, where your Petitioner has still undisposed of nearly 8,300 gallons.

That, in the month of May, 1823, and a short time previously to the arrival of the above vessels, the Act of Parliament of the 3rd of George the 4th reached this Colony, by which your Excellency was authorised to impose a duty of 15s. Sterling P. Gallon on Spirits of the description imported by your Petitioner. That, by your Excellency’s Proclamation* of the 5th June following, immediate and full effect and operation were given to the said Act.

And your Petitioner further sheweth that Mr. V. Jacob, a Merchant of this place, having received a consignment of upwards of 24,000 gallons of Brandy, Hollands and Bengal Spirits shortly after your Excellency had given effect to the said Act, Your Excellency, in exercise of the general discretion vested in your Excellency by the Act authorising the duty, was pleased, on a representation of the ruinous consequences that must ensue to Mr. Jacob, to remit the additional duty imposed by the Act, and to require payment of the old duty of Two dollars P. Gallon only. That your petitioner must, under any circumstances, have suffered to a very great loss by the unexpected imposition of the present duty of 15s. Sterling on the Spirits he had ordered, in contemplation of the old duty of 10s. only; but when Mr. Jacob was, by your Excellency’s indulgence, enabled to supply the Market with so large a quantity of spirits under circumstances so advantageous to himself, your Petitioner was totally prevented from Selling, Mr. Jacob being enabled to supply the Market at

* Note 187.
1825.
5 June.
Petition of T. Icely for remission of duty on spirits.

a profit with the Spirits imported by him for a less sum per Gallon than the duty your Petitioner is liable to pay would actually amount to.

That your Petitioner has not only suffered a loss of the Sale of the whole of the Spirits, under such circumstances imported by him, but has also suffered very considerably by losing the connexions he had established in consequence of his inability to continue to supply the demand; and, unless your Excellency should relieve him from the payment of the increased duty, your petitioner must sustain a total loss of the Spirits so imported by him, while the revenue will at the same time fail to derive any augmentation from the importation, and the Spirits must remain only to encumber the Bonded Stores.

Your Petitioner, therefore, humbly prays that your Excellency will take his petition into consideration, and mitigate the extreme hardship of his case, and place your Petitioner on a footing with Mr. Jacob, by making a remission of the present additional duty on the spirits imported by him, or by affording to your petitioner such a relief, as to your Excellency his case may appear to warrant.

And your Petitioner will ever pray,

THOMAS ICELY.

Sydney, 10th June, 1824.

[Sub-enclosure No. 6.]

SIR THOMAS BRISBANE TO MR. THOMAS ICELY.

Sir,

Government House, Parramatta, 17th June, 1824.

Having consulted the Attorney General on the subject of affording you the redress you solicit in your Memorial respecting the exemption of the present duties of Fifteen Shillings per Gallon on the Quantity of spirits, imported by you into the Colony (Expressed in the Margin*), under the impression that the said Spirits were ordered from England, when the duty was only ten shillings per gallon, and antecedent to the Act now in force imposing the former duty: It being his opinion that I am not competent to grant you redress as an Individual, I have, therefore, to express my regret that I have not the power to comply with your request; but, as you are about to proceed to England, I should recommend you to submit your case to His Majesty's Government, where alone the power is vested of enabling you to obtain redress, and I shall, under the particular circumstances of your Case, be happy to learn that it meets with favorable consideration.

I have, &c.,

THOMAS BRISBANE.

* 8,300 Gallons.
BATHURST TO BRISBANE.

[Sub-enclosure No. 7.]

MR. JOHN PIPER TO MR. THOMAS ICELY.

Sir, Naval Office, 7th July, 1824.

In reply to your letter of this day's date, I have to inform you that the Rum, imported per John Shore and Governor Phillips, paid a duty of ten shillings Sterling Per Gallon, the Brandy and Gin imported per said vessels paid a duty of ten shillings Currency P. Gallon, and which vessels arrived respectively, the Brig Govr. Phillips, the 16th May, and the Brig John Shore, the 8th July, 1823, this being the only instance of a remission of the duties on Spirits arriving since His Excellency the Governor's promulgation of the Act of Parliament.

JOHN PIPER,
Naval Officer and collector of Government duties.

[Sub-enclosure No. 8.]

ACCOUNT of Spirits Imported by Mr. V. Jacob and Mr. Icely, New South Wales.

Mr. Jacob.

1823.
May 21, Govr. Phillips, Casks 11 1,300 proof Brandy
" " do. Cases 307 690 proof do.
" " do. " 39 230 2 u.p. Gin
" " do. Casks 37 5,000 28 o.p. Rum
July 18, John Shore " 241 17,000 27 o.p. do.

Mr. Icely.

Sept. 22, Allies .......... 20 2,227 27 o.p. Rum
" " do. .......... 22 2,390 1 u.p. Gin
June 13, Lusitania ...... 4 600 3 u.p. Brandy
March 5, Wm. Shand ..... 148 16,280 6 o.p. Rum
do. .......... 50 5,750 1 u.p. Gin

WM. ALEXANDER, S.K.

Approved:—W. WEMYSS, Dep. Com.-Genl.

8th July, 1824.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 35, per ship Brothers.)

Sir,

Downing Street, 5 June, 1825.

I transmit to you enclosed an Order of His Majesty in Council, which declares that a tender or payment of British Silver money to the amount of four Shillings and four pence shall be considered as equivalent to the tender or payment of One Spanish Dollar, and so in proportion for any greater or smaller amount of debt. The order further declares that British Copper money shall be made a legal tender for its due and proper

Fixation of sterling value of dollar.

Payment in copper coin.
proportions of British Silver money, as by Law established in Great Britain, but that no person is compelled to take more than 12d. in Copper Money at any one payment.

I likewise enclose for your information the Copy of a Circular Instruction, which the Lords Commissioners of His Majesty's Treasury have addressed to the Officers in charge of the duties of the Commissariat in the British Colonies, in regard to the payment of the troops; in addition to which you will receive instructions from their Lordships as commanding the Forces, in which the principle and grounds upon which 4s. 4d. of British Silver and Copper money is declared to be equivalent to the Spanish Dollar are fully explained.

The object of His Majesty's Government in making the arrangement referred to in these papers is two fold. First, for establishing an unobjectionable and unvarying medium for the payment of the Troops; and secondly, for establishing an uniform Currency in the whole of His Majesty's Foreign Possessions, founded upon and having reference to the currency of the United Kingdom.

With a view of giving permanence to the arrangement, as well as for securing the uniform circulation of the British Silver Money, I have to signify to you His Majesty's Commands that public notice be given that the Holders of British Silver Money may demand, from the Officer in charge of the Commissariat department, bills upon the Lords Commissioners of the Treasury at 30 days sight in exchange for any Sums, whatever tendered by them in British Silver, not less in amount than £100, at the fixed rate of a bill for £100 for every £103 of British Silver Money so tendered; but you will not fail to observe that it is not the intention of the Lords Commissioners of the Treasury that any other coin should be received into the Military Chest, in exchange for Bills upon that board, at any other than the current rate of Exchange; so that, in negotiating bills upon England for Dollars or any other Coin excepting British Silver Coin, the same course as exists at present will be observed.

I am to desire that, in publishing these orders, you will declare the sum of the "Money of Account" to which the British Money is in the spirit of these Instructions equivalent; thus, in Colonies where the Spanish Dollar is current and is equivalent to 5s. of such "money of account," that 17s. 4d. of British Silver Money is equal to one Pound of such "Money of Account." In those Colonies where the Spanish Dollar is equivalent to 5s. 4d. of such money of account, that 16s. 3d. of British Silver Money is equivalent to one Pound of such money of Account; and that in those Colonies where the Spanish Dollar is current at 6s. 8d. of
money of account, that 13s. of British Money is equal to one Pound of such money of account. From these examples, the proportion between British Money and the “Money of Account” of the Colony may be easily calculated according to the actual Sum, at which the Spanish Dollar is rated in the “Money of Account” of such Colony.

From the date of the promulgation of the above Orders, the Salaries of all Civil and Military appointments should be issued either in Spanish Dollars or British Silver Money, computing 4s. 4d. of the latter as equivalent to one Spanish Dollar; any other Silver Coins circulating at New South Wales should be issued at a fixed value with reference to their intrinsic worth, compared with British Standard Silver at 5s. 2d. per oz. Troy or with the Spanish Dollar at 4s. 4d. each.

I have further to desire that you will take measures for preparing and issuing a new Schedule of rates, Duties, etc., payable to the Crown, in which Schedules the present rates in Spanish Dollars or other coin, in which the Duties are charged and the New Rates in British money at the proposed fixed rate of the Spanish Dollar, shall be specified; and you will instruct all Collectors and other civil Servants of your Government to render this account in British Money.

It only remains for me to acquaint you that, with a view of carrying this measure into effect, £40,000 in Silver, with a proportionate supply of Copper, will be shipped for New South Wales as soon as a proper conveyance may offer, and to desire that you will officially promulgate the Order of His Majesty in Council and give every publicity to the Instructions of the Board of Treasury.

I have, &c,

BATHURST.

[Enclosure No. 1.]

ORDER IN COUNCIL.

At the Court at Carlton House, 23d March, 1825.

Present:—The King’s Most Excellent Majesty in Council.

Whereas it has been represented to His Majesty at this Board, by the Lords Commissioners of His Majesty’s Treasury, that they have given directions that His Majesty’s Troops serving in the several British Colonies and Possessions Abroad should in certain cases be paid in British Silver and Copper Money, and that with a view of securing the Circulation of such Money in those Colonies it would be expedient that an Order in Council should be issued, declaring that in all those Colonies, where the Spanish Dollar is now either by Law, Fact or Practice considered as a legal tender for the discharge of Debts, or where the Duties to the Government are rated or collected, or the Individuals

1825.
5 June.

Proportion between British money and "money of account."

Payment of salaries to civil and military.

Schedule to be prepared in sterling values.

Accounts to be kept in British money.

Proposed shipment of silver and copper.

Order-in-council regulating values of dollars and payments in British copper.
have a right to pay in that description of Coin, that a tender and payment of British Silver Money to the amount of Four Shillings and Four Pence should be considered as equivalent to the tender or payment of One Spanish Dollar, and so in proportion for any greater or less amount of Debt.

And whereas it has been further represented by the Lords Commissioners of His Majesty's Treasury that, with respect to the Cape of Good Hope, where there are not any Spanish Dollars in Circulation, but where the Circulation consists entirely of Paper Rix Dollars and its proportions; and with respect to Ceylon, where the Circulation consists of Silver and Paper Rix Dollars as well as of a variety of other Coins, which are generally received and paid with relation to their value as compared with Rix Dollars, it would be expedient that a tender and payment of 1s. 6d. in British Silver Money should be considered as equivalent to a tender and payment of one such Rix Dollar so current at the Cape of Good Hope and Ceylon respectively, and so in proportion for any greater or less Sum; and also that British Copper Money should be made a legal tender in all the British Colonies for its due and proper proportions of British Silver Money as by Law established in Great Britain; but that no person should be compelled to take more than 12d. in Copper Money at any one payment; His Majesty, having taken the said representation into consideration, is pleased, by and with the advice of His Privy Council, to approve of what is therein proposed, and the Right Honourable the Lords Commissioners of His Majesty's Treasury and the Right Honourable Earl Bathurst, one of His Majesty's Principal Secretaries of State, are to give the necessary directions herein as to them may respectively appertain.

C. C. Greville.

[Enclosure No. 2.]

[This was the printed circular number 89, dated "Treasury Chambers, 12th February, 1825."]

Earl Bathurst to Sir Thomas Brisbane.

(Despatch No. 36, per ship Brothers.)

Sir,

Downing Street, 5 June, 1825.

With reference to my Dispatch to Governor Macquarie, dated the 24 July, 1818, in which he was directed to discontinue the practice, which at that time existed of making liberal Grants of Land and other Indulgencies to Civil and Military Officers, I have now the honor of acquainting you that, as the circumstances, under which that Regulation was adopted, are now changed, and as the present system of granting and settling the Crown Lands in New South Wales will remove the objections, which were
formerly entertained upon that subject, His Majesty’s Govern-
ment feel no longer any necessity of excluding Civil Officers from
becoming Proprietors of Lands in the Colony upon the same
terms as the other Settlers; you will therefore consider that part
of my former Instructions upon this subject, as far as the pro-
hibition relates to the Civil Officers of your Government, as
annulled.

The objections, which appear to have existed with respect to
Grants being made to Officers of the Government, originated
from the circumstances of the Grantees being too frequently
divided between their private concerns and their Official Duties;
while in many cases the Grants were made a matter of mere favor,
and land obtained for no other purpose than to be disposed of to
advantage at a subsequent period when the extended cultivation
of the surrounding Country afforded opportunities of so doing.
In any Grants, however, which you may in consequence of this
Instruction be disposed to make to the Civil officers of your
Government, you will take especial care that no Individual be
allowed to pursue his farming Concerns at the expence of his
public duties, to which his attention should be exclusively de-
voted; with which view you will require him, under the penalty
of a forfeiture of his Grant, to employ an Agent who should
continually reside on the Spot, The Grantee himself being obliged
to reside at the seat of Government, or wherever the duties
of his Office might immediately require his presence; and
you will equally guard against any Indulgence being shewn to
Officers of the Government in respect of their Grants, which may
not be given to the Settlers in general. I have, &c,

Bathurst.

Under Secretary Horton to Sir Thomas Brisbane.
(Despatch per ship Midas.)

Sir,
Downing Street, 10 June, 1825.

Lord Bathurst has directed me to transmit to you the copy
of an application, which has been addressed to him by Mr. Hamilton, Surgeon and Superintendent of the Norfolk Convict
Ship, now on her passage out to New South Wales, for a Grant
of Land in that Colony or Van Diemen’s Land; and I am to
request that in the event of Mr. Hamilton being desirous of
becoming a Settler and provided he shall have conducted himself
in a manner to merit your approbation, that a Grant of Land
may be given to him under the usual conditions, and in propor-
tion to his means of bringing the same into cultivation, his
retired allowance being considered as so much Capital available
to that purpose.

I have, &c,

R. W. Horton.
[Enclosure.]

SURGEON HAMILTON TO EARL BATHURST.

My Lord,

Norfolk Convict Ship, Spithead, 9th Apl., 1825.

I have the honor to be a Surgeon in His Majesty's Royal Navy; and I am at present employed (my third Voyage in this Service) as Surgeon and Superintendant of this Ship, taking 180 Male Convicts to New South Wales, and, as I will at the end of the Voyage be entitled to a retirement of Fifteen Shillings a day, I am desirous of having a Grant of Land given to me in the Colony, or in Van Dieman's Land, which ever I may prefer; and I trust that upwards of Twenty nine years of Actual Service will give me some claim on the Indulgence of His Majesty's Government.

I have therefore to request that your Lordship will be pleased to give such Orders, or Directions, to His Excellency the Governor of New South Wales, or His Honor the Lieutenant Governor of Van Dieman's Land, as you may think fit in the business. And having had this Settlement in View before, but which my engagement with the Board, I was serving under, prevented my putting in Execution, I beg leave to Enclose for your Lordship's inspection, some Correspondence that took place on the Subject, and I trust the Testimonials of my Conduct therein will Entitle me to your Lordship's Consideration without troubling your Lordship with references for Characters from the Boards I have so long and so constantly served under; as well as to several Officers of the Highest distinction in the Navy whom I have served under.

I have, &c,

WM. HAMILTON, Surgeon, R.N.,
and Surgeon and Superintendant of the Norfolk Convict Ship.

[Sub-enclosure No. 1.]

EXTRACT of a letter from Lieut. Governor Sorell, dated Hobart Town, 12th Decemr., 1820, addressed to Govr. Macquarie.

MR. HAMILTON, Surgeon of the Maria, is I believe known to Your Excellency, having been before in New South Wales.

He has brought out his Convicts in a manner highly creditable on this occasion.

This Gentleman and Captain Walker of the Maria have stated to me their intention to become Settlers in this Colony; but, being necessarily obliged to return home, they have expressed their wish to have some reserve of land promised to them. From the usage in similar cases, I felt more than doubtful of the admissibility of the application; but I considered it as bearing affinity to a recent instance, vizt. that of Captain Taylor of the
Ship Caroline, who has delivered to me an order from Lord
Bathurst for a Grant of Land in this Settlement subject to no
conditions.

I, therefore, thought it right to lay the application of Mr.
Hamilton and Captain Walker before Your Excellency, under the
impression that both, and particularly Mr. Hamilton, would form
a real acquisition to a new Colony. I explained to them clearly
that I could not take upon me to make any engagement of reserve
in Land; but I assured them that I would state the matter to
Your Excellency.

[Sub-enclosure No. 2.]

CERTIFICATE FROM LIEUT. GOVERNOR SORELL.

Van Diemen's Land.

I do hereby certify that Two Officers, Thirty two non-
commissioned officers and privates, as the Guard, with Five
Women and one child and one passenger, and one Hundred and
fifty Six Male Convicts were landed on the sixth Instant from the
Ship Maria, Mr. Hamilton, Surgeon Superintendant; that the
Convicts stated themselves to have been treated with humanity
during the Voyage, and that they landed in a state of health,
order and cleanliness, highly satisfactory to me and creditable to
the Officer in charge.

I further certify that I have examined the Journal of the
Surgeon Superintendant, and consider his management of the
Convicts to demand the fullest testimonial of approbation.

Given under my hand at Government House, Hobart Town,
this Twelfth day of December, 1820.

WM. SORELL, Lt.-Govr.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 37, per ship Midas.)

Sir,

Downing Street, 12 June, 1825.

I do myself the honor of transmitting to you herewith the
Copy of a letter and its Enclosures, addressed to my Under
Secretary by the direction of Mr. Secretary Peel, whereby it
appears that John Grady, a Convict in New South Wales, who
was embarked on board the “Medina” Convict Ship, which sailed
from Cork on the 5th Sept., 1823, was only sentenced to seven
years Transportation, not for life as erroneously stated in the
assignment of the Convicts; and I am to request that you will
take measures for correcting the error, which appears to have
occurred with respect to the said Convict, in order that he may
receive the benefit thereof.

I have, &c.,

BATHURST.
HISTORICAL RECORDS OF AUSTRALIA.

1825.
12 June.

[Enclosure No. 1.]

UNDER SECRETARY HOBHOUSE TO UNDER SECRETARY HORTON.

Sir, Whitehall, 7th May, 1825.

I am directed by Mr. Secretary Peel to transmit to you the enclosed Copy of a Letter from Mr. Gregory, with its enclosure from John Grady on the subject of an error with respect to the Crime and Sentence of John Grady, a Convict in New South Wales, who was embarked on board the Medina Convict Ship, which sailed from Cork on the 5th Septr., 1823; and I am to desire that you will submit the same to Lord Bathurst, and move his Lordship to be pleased to make a communication to the Governor of New South Wales, in order that the error therein mentioned may be corrected.

I am, &c.,

H. HOBHOUSE.

[Enclosure No. 2.]

MR. W. GREGORY TO MR. G. R. DAWSON.

Sir, Dublin Castle, 4 May, 1825.

I enclose a letter from Mr. Blacker, with respect to John Grady, who was convicted under the Insurrection Act in the County of Tipperary and Sentenced to Seven years Transportation, together with the letter therein referred to; and having ascertained that the Error mentioned in John Grady's letter, with respect to the crime and Sentence of the Convict, has occurred in the Warrant transferring the Services of the Convicts embarked on board the Medina, which Sailed from Cork on the 5th of September, 1823, to the Governor of New South Wales, I am to Signify His Excellency's desire that you will Submit to Mr. Secretary Peel His Excellency's request that He will give the necessary directions in order that a Communication may be made to the Governor of New South Wales for the purpose of correcting the Error in the Warrant, with respect to the Said Convict John Grady.

I am, &c.,

W. GREGORY.

[Enclosure No. 3.]

JOHN GRADY TO MRS. JOHN GRADY.

Sydney Cove, New South Wales,

My dear Wife, 5th Jany., 1824.

I embrace this favourable opportunity of writing these few lines to you, hoping to find you and the Child in good health as this leaves me in at present, thanks be to God. My dear, I sailed from the Cove of Cork on Septr. 5th, 1823, and arrived here on Monday Evening, Decr. 29th, attended with the happiest voyage that could be mentioned, there had been but one Died during the
passage. My dear, I have a very grievous circumstance to mention in this letter to you, which have occurred against me after my Arrival in this Country, which is the following:—at my Inspection here by the Secretary, he asked me what was my Sentence; I told him 7 years; he told me I was for Life, which thunder struck me; I answered him that I was tried under the Insurrection Act, and that no Individual could be sentenced to more than 7 years; he thought I was scheming on him and asked the Doctor of the Ship my character, which he could not give better to his Brother, had he been in my place. My dear, I told the Secretary that there was one John Grady from Burne Leigh which is But Twelve Miles from Nenagh; that the said John Grady had been tried at the Clonmell Assizes for House burning and received Sentence of Death, but had been respited to Transportation for Life, My dear Wife, when I was sent to the Depot of the City of Cork. In a few days after I been at the Depot, this John Grady from Burne's Leigh near Nenagh came from Clonmell Gaol to the Depot, and whether it had been a mistake of Mr. Murphy's or at the Castle of Dublin, this John Grady was sent off in the Brompton Convict Ship under my Sentence, and I remained under his. Now, my dear wife, you must do all in your power to get the Sentence Altered and my former Sentence renewed. Go to Mr. O'Hara, the Magistrate, and show him this Letter, and let him let all the other Magistrates know, that were on my trial, this unfortunate circumstance, and to make no delay but to write to Judge Blacker, and also let him know it, as no other man can decide the Business but him, and to forward the Account as soon as possible to the Govr. of New South Wales as I will suffer Death by the Laws of this Country If I am for Life. So, my Dear, I am still in hopes, as I am innocent of this laid Against me. My dear, I have sent a letter before this to Counsellor Dillon concerning this affair. But the Letter to you had some delay on Account of this Ship; she was to go to the Indies for her Cargo, Before she would return to London; it is by one of the Sailors, I have sent it; he was from Cove where we sailed from; this was the Ship I came in, called the Medina. You know, my dear, this is a serious circumstance to be left undone and would have rendered me of ever seeing you Again. My dear, keep up your spirits, and if this Business can be decided, I will see you Again as, with the assistance of God, I will be able to get Home after my time being expired. I cannot give you any Particular Account this time concerning the country; But will write to you by the next opportunity; only that I see young Tom Dwyer, the Sawyer, and let his Mother know that he is very well, and Likewise let Tomas Kenny's Mother know that he is very well, and John Joice's Brother know that he is well; those
1825.
12 June.

Account by J. Grady of mistake in his sentence.

are all in Sidney Town. But I do not know where I am to stop as yet. My dear, there is a great difference between this John Grady and me, as he is not a Nailor and I am, which can be settled in the Castle, as my trade has been sent to the Castle along with my crime.

No more at present from your Dr. Husband Until Death,

JOHN GRADY.

Sidney Cove, New South Wales, 5th Jany., 1824.

I was nearly forgetting my dear Mother and Sisters; let them know that I am well and that I send my kind Love to them and to all enquiring friends.

_____  

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.
(Despatch per ship Midas.)

Sir,

Downing Street, 12 June, 1825.

I am directed by Earl Bathurst to request that Mr. Richards, who proceeded to New South Wales as Assistant Surveyor under an appointment from his Lordship in the year 1823, and whose Salary appears not to have commenced until his arrival in the Colony, may be allowed to receive the same from his Embarkation in this Country. And his Lordship has further directed me to inform you that it is his wish that Mr. Richards should be promoted in his Department in rotation, as opportunity may offer.

I have, &c.,

R. W. HORTON.

_____  

EARL BATHURST TO SIR THOMAS BRISBANE.
(Despatch No. 38, per ship Midas.)

Sir,

Downing Street, 14 June, 1825.

I have much pleasure in having anticipated the Representations contained in your Dispatch No. 6 of the 16 August, relative to the deficiency of Colonial Chaplains in New South Wales, by having, since that Dispatch was written, appointed five additional Chaplains in that Establishment including the Revd. Thomas Hassal, whose warrant was forwarded to him by Archdeacon Scott.

I have, &c.,

BATHURST.

_____  

EARL BATHURST TO SIR THOMAS BRISBANE.
(Despatch No. 39, per ship Midas.)

Sir,

Downing Street, 14 June, 1825.

I have had the honor to receive your Dispatch No. 8 of the 2d October, representing the advantages which were likely to result from the appointment of Mr. Lithgow as Auditor of the
Colonial Revenue of New South Wales, and recommending that a Salary should be allotted to him out of the Colonial Revenues amounting to £100 p. annum, in consideration of the additional labour, which will be imposed upon him in consequence of that arrangement; and I have much pleasure in acquainting you that the measure, which you have proposed, agrees with one which had been recommended to the Lords Commiss'rs of His Majesty's Treasury for adoption previously to my receiving your Dispatch.

I have, &c.,

BATHURST.

SIR THOMAS BRISBANE TO EARL BATHURST.  
(Despatch per ship Harriet.)

Government House, N. S. Wales, 16th June, 1825.

My Lord,

I do myself the honor to transmit to your Lordship the Memorial of Deputy Surveyor General Evans of Van Diemen's Land, who filled that situation for twenty years, and was also previously employed for several years in other Departments under Government; and having expressed his desire to retire in consequence of a Chronic Rheumatism, which prevents his being any longer capable of undertaking the active duties of his Department, His Memorial having been transmitted to me with a recommendation from Lieut. Governor Arthur in his behalf induces me to lay it before your Lordship for favorable consideration, as I do not feel prepared by precedent to decide upon the extent of his claim of retiring consideration, without reference to your Lordship.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

THE MEMORIAL OF GEORGE WILLIAM EVANS,* SURVEYOR-GENERAL OF VAN DIEMEN'S LAND.

To His Excellency Sir Thomas Brisbane, K.C.B., Governor in Chief of His Majesty's Territory of New South Wales and its Dependencies, Major General and Commander of the Forces, etc., etc.

Humbly Sheweth,

That your Memorialist, having served His Majesty under Admirals Christian and Sir Roger Curtis in the Naval Storekeeper's Department at the Cape of Good Hope for upwards of four years, was induced, upon the breaking up of the Establishment in that Colony at the Peace of Amiens in 1802, to accompany Captain Kent of the Royal Navy in His Majesty's Ship Buffalo (in which ship Mr. Oxley the present Surveyor General of New South Wales was then Midshipman) to Sydney; when His

1825.
16 June.

Review in favour of memorial of G. W. Evans.

* Note 188.
1825.
16 June.
Memorial of
G. W. Evans
soliciting
permission
to retire and
a pension.

Excellency Governor King was pleased to appoint your Memorialist an Acting Deputy Commissary, there being no opening for Your Memorialist in the Surveyor General’s Department, until after the departure of Surveyor General Grimes in January, 1804, for Europe, when His Excellency was pleased to appoint your Memorialist to that situation.

That, while your Memorialist filled this post, he was constantly employed in its most arduous duties, independent of constructing all the Government Plans, Drawings and Projections, and having reduced the General Territorial Map to a convenient scale for the purpose of its being transmitted to His Majesty’s Ministers, having thus had the honor to construct the first geographical representation of the Colony for their information.

That, in the year 1811, your Memorialist was employed to survey the Eastern Coast to the Southward of Port Jackson, and was the first person, by whom Jervis’s Bay was examined and surveyed; on which occasion, your Memorialist having volunteered to discover his way back by land through a country which no European had ever before passed, your Memorialist suffered incredible hardships and difficulties in so doing, having been without food for three days together, and nearly exhausted when he reached the inhabited parts of the country; but fortunately succeeded in completely ascertaining the value of the intermediate country, considerable part of which is now in progress of settlement, and is become of material importance.

That, in the year 1813, Mr. Oxley having been so fortunate as to obtain in England the appointment of Surveyor General of this Colony upon the retirement of Mr. Grimes, your Memorialist continued to serve in the Department upon the Government Establishment as Deputy Surveyor.

That your Memorialist was soon after employed in Van Diemen’s Land in the difficult and perplexing duty of settling and arranging the disputes of the Settlers from Norfolk Island, then just abandoned, independent of surveying and charting as much of Van Diemen’s Land as was accessible; on your Memorialist’s return from whence, His Excellency Governor Macquarie was pleased to place your Memorialist on the permanent Establishment in the Island, in which he has ever since continued.

That, in the year 1813, your Memorialist was called upon to conduct an expedition, in order to penetrate the Range called the Blue Mountains, which with great difficulty your Memorialist effected, and succeeded in discovering the extensive and important country, now called Bathurst, Mr. Oxley remaining at Sydney in the execution of the Head Quarters duty of the Department, whereby this laborious and important service devolved upon your Memorialist.
That, in the year 1815, your Memorialist was again sent for from Van Diemen's Land to attend His Excellency Governor Macquarie to Bathurst, when it was His Excellency's pleasure to confide to your Memorialist a farther prosecution of his former discoveries in the interior of New Holland; and it was in consequence of your Memorialist's successful performance of this duty that His Excellency was pleased to set on foot the Expedition, afterwards undertaken by Mr. Surveyor General Oxley and your Memorialist, the particulars of which are sufficiently well known to Your Excellency to render it unnecessary to mention them further, than that, after a long protracted and fatiguing Expedition (the result of which is now before the Public), your Memorialist, having fully completed all the duties confided to him, was ordered to his Station in Van Diemen's Land.

That, in the year 1818, your Memorialist was a third time sent for to Sydney to accompany Mr. Oxley on the second Expedition; when it was your Memorialist's fortune always to be employed in advance, and to have penetrated further into the Interior than any other Individual; the particulars of this Expedition are also no doubt so well known to your Excellency that Memorialist will only remark that he was enabled, by passing the mouth of Port Stephens accompanied by two men only, to reach Newcastle and obtain relief for the Expedition, which, having remained behind, would otherwise in all human probability have been lost.

Your Excellency will thus perceive that Memorialist has served His Majesty altogether more than twenty four years; upwards of twenty one years of which he has been employed in the most active, arduous, fatiguing, and distressing duties in this Territory, having been for weeks together in the interior on foot, exposed to all the vicissitudes of the Weather, subjected to chance for even a Supply of Food, with no covering but a blanket, for days without being perfectly dry, thus undergoing for so long a period fatigues and difficulties, which have had at last the effect of breaking up your Memorialist's Constitution and inflicting on him a permanent chronic rheumatism, from which your Memorialist is seldom free. Finding himself, therefore, unable to continue in the performance of the active duties, which are still required of him, having a large family to support, your Memorialist is desirous of obtaining the permission of His Majesty to retire from his office of Surveyor General, and of becoming a Settler in this Island upon the footing and with the indulgence granted to those arriving from England; trusting that your Excellency will be pleased to consider that Memorialist's long services and the peculiar nature of them do not render him unworthy of your Excellency's conferring upon him the great
obligation of recommending him to His Gracious Sovereign, that he may be permitted to retire from his present Office of Surveyor General of Van Diemen's Land upon such pension or retirement allowance, as your Excellency may be pleased to consider your Memorialist is fairly entitled to, which he humbly submits his long services, and the arduous and exhausting nature of them, give him some reason to hope may be equal to his present pay, particularly, as in the common course of nature, such a mark of His Majesty's Royal bounty cannot be of very long duration.

And your Memorialist as in duty bound will ever pray,

G. W. Evans, Surv'r-Gen'l, V.D.L.

Hobart Town, Van Diemen's Land, 16th November, 1824.

Sir Thomas Brisbane to Under Secretary Horton.*

(Despatch per ship Harriet.)

Government House, New South Wales,

16 June, 1825.

My dear Sir,

Archdeacon Scott, having conferred privately with me and put into my hands your letter to Him of the 10th of last July, Together with "Suggestions relative to the employment, discipline and ultimate reformation of the Convicts in New South Wales," and further suggesting that a Committee of seven Gentlemen, whose names are given, should form that Committee, I beg to acquaint you that I have anticipated that object by a Circular Letter, which I caused to be written, under date 10 July, 1824, addressed to the Chief Engineer, Commandants and Superintendents of the different Government Establishments, a copy of which I have the honor to transmit.

My object in this measure was to receive suggestions from these persons as to the best mode of employing each Convict on such work, as should enable Him best to earn His own maintenance to the Crown; and, in the event of that desirable object not being accomplished in the aggregate employment of all at any particular Station, I had it in contemplation to break up such Establishment; and in practical illustration of this intention, I beg to acquaint you, for Lord Bathurst's information, that I have begun to reduce the Establishment at Bathurst. In the first place, because after two years the Establishment has been unable to raise a quantity of grain sufficient for its support, the cost of sending it becomes very great; and next because I had it in contemplation to recommend to Lord Bathurst to sell all those lands, which are valuable and amount to nearly a million two hundred thousand acres, great part of which is very good and well watered. On my way viewing Bathurst, I determined to keep, for the use of the Crown Flocks and Herds, all the Land on the

* Not addressed in Record Office.
left bank of the Macquarie River, being an excellent natural boundary, thus enabling me completely to separate the Crown property from the Settler. However desirable it might have been, in the earlier days of the Colony, for the Government to have had Flocks and Herds, that period has now arrived when I should recommend their gradual diminution with the sale of the Lands, as it would be keeping up that Establishment at a monstrous expence, to maintain it, in addition to its own expence, when the interest of the money for which these Lands may be sold, becomes added to this.

For the first three years after my arrival, the number of Prisoners of the Crown, found on it, from necessity made it a Subject of deliberate consideration the most beneficial mode of employing them; But during these twelve months, the demand for Men by the Settler is now so great that Government need keep no more than are absolutely requisite for its wants, which I have always strictly attended to. This Circular has furnished me with a body of valuable information, and, as the whole replies are pretty extensive, I shall only trouble you with the perusal of that from the Engineer Department, which embraces the most important and numerous Class of Prisoners. You are aware that those at Port Macquarie, whose numbers exceed Eleven Hundred, are there under sentence of the Law; and therefore it only remains to be considered how they can be most advantageously employed combining with the prospect of the reform the public advantage; and in regard to the latter, I have considered it highly beneficial to consider them as Pioneers to the free Settler, bearing in mind that Port Macquarie will ere long be given up to free Settlers as recommended in my Dispatch, No. 50,* to which I beg further to refer you.

I shall only further trespass on you by acquainting you that the other Subject referred to in that communication from the Archdeacon, relating to the Rations of Prisoners, has undergone a most careful investigation, and I have printed the Regulations thereon for the future guidance of those concerned, as also for the simplification of the Commissariat issues, copy of which I could have wished to have transmitted to you had not the Printer disappointed me; but I shall not fail by the first opportunity to send, as the Regulations have been in operation for nearly Eight Months. I therefore hope in the mean time you will accept a Manuscript copy.

You will be glad to learn that Gore, for whom you and Lord Palmerston interested yourselves, has been pardoned, and that Charles Nye whom you wrote about has got a Ticket of Leave.

I have, &c.,

THOS. BRISBANE.

* Note 189.
1825.
16 June.

Request for report on labour and employment of convicts; and for suggestions for reforms.

SECRETARY GOULBURN TO THE CHIEF ENGINEER, COMMANDANTS AND SUPERINTENDENTS OF THE DIFFERENT GOVERNMENT ESTABLISHMENTS.

Sir,

Sydney, 10th July, 1824.

I have to request that you will favor me, for the information of the Governor, with a report of the number of Convicts you have under your orders, accompanied with a detailed Statement of the Various employments, specifying the hours they go to work, to Breakfast and to Dinner; Also the extent of Land cleared on the Establishment, the quantity of Grain raised on it last crop and of what description, with the portion of provisions they daily receive, and whether they be of good quality.

I have at the same time to request that you will be pleased to accompany this Statement with any suggestions you may have to offer, wherein you consider the labor of these Individuals might be turned to better account for the public service, or be rendered more available in employment of a different description, so as to do away entirely their actual expence to the Crown; or that the subdivision of Labor might be so distributed as to cause no expence for their maintenance, so that each Individual might be made to earn his own livelihood; or to state the obstacles which are opposed to that important principle of Political Economy which is completely accomplished in every other Country, and the Governor can discern no good reason why that same principle should not be made applicable in this Colony, always bearing in mind that the primary object is to keep them at such work as will most likely accomplish this, at the same time coupling it with the prospect of moral amendment.

I have, &c.,

F. GOULBURN, Col'l Secretary.

[Enclosure No. 2.]

MAJOR OVEN'S TO SECRETARY GOULBURN.

Sir,

In reply to the Circular Letter of the 13th September last, I have the honor to forward to you for His Excellency's information a Statement of the number of Convicts at present under my orders, together with an account of their general state of discipline, the work performed by them daily, and other particulars called for in your letter of that date. In order to render the subject as clear as its nature will admit, I beg to offer a few remarks on the principles by which Convict labour has generally been guided, shewing the object, to which it has been directed, has varied according to the advancing State of the Society, and that it has frequently been modified with the operations of the
changing systems of Political Economy that have been adapted to this Country. I shall also examine how far any improvement might result in giving greater effect to the labour of the Prisoners, with the advantages likely from them to arise to the community at large. This Colony was formed with a view prospectively of becoming in the course of years a useful appendage to Great Britain, and in the prospect of serving as a place for exercising that degree of discipline over the larger portion of its population who, forfeiting all claims to the more lenient laws of their own country, had rendered themselves fit subjects for a more coercive system of restraint. In the first case, therefore, it was only reasonable that the Colony should be indebted to the Mother Country for a large outlay of Capital in its principal Institutions; and in the Second that the labours of the Convicts should be rendered available for this purpose. Hence the numerous Works and Establishments, that became necessary in the march of the Colony's progress, were furnished from the industry and labour of that class of its Inhabitants. The time, skill and attention of each Prisoner was a fund that Government has a right to draw upon, and exercise every control over, and to devote it to all public works connected with the dignity of the Government, the support of the Military Establishments, the Courts of Law, Religious and other Institutions, Police Establishments, Care of the Sick, receiving and distributing of provisions, Facilities for the free communication by land and water, such as Roads, bridges, docks, Wharves, etc.; and in no country have such works erected for public utility been conducted with more liberality than in this, and at all times commensurate with the exigencies of its population.

Whenever the labour of the Prisoners could be spared from these purposes, and devoted to objects supernumerary to them, their services were then assigned to those who, in following out the pursuit of their own immediate interests, conferred a benefit on the Colony by encuating its natural productions, or enhancing the Value of its material by their skill and industry.

Labour is said to be the original purchase money of all Capital; and the policy, that ought to be followed in giving the greatest effect to the labour of a Country, must be sought in giving its energies a direction to the most legitimate and productive sources of its natural wealth. In New South Wales, these sources may be of an agricultural and pastoral nature; yet we apprehend that it is only very lately that these have met with the attention that their importance merits. For many years after the Establishment of the Colony, the encouragement held out to Convict labor was absorbed in the aggrandisement of the Town, so much so as to throw into shade the exertions that would otherwise have been
1825.
16 June.
Concentration of convict labour in towns.

Diversion of convict labour to country pursuits.

Proposals for concentration of convict labour in country pursuits; and for contracts for public works.

Objections to proposed contract system.

HISTORICAL RECORDS OF AUSTRALIA.

devoted to the rural objects, thereby giving the Town an undue preference to the Country; both of which on truer grounds of policy should have been so poised and reciprocally cherished as to exert a mutual interchange of advantages. Although this order of things was not the most consonant to the principles of political economy, yet it was by far the most natural at the then existing state of society; and when the extent of the Agricultural resources of the Country came to be better known, clearer and more enlightened views on the subject were entertained, and the labour of the Prisoners applied to such pursuits as were eventually most likely to add to the Wealth, Comfort and Independence of the Community. A practical example of the happy result of such measures may be instanced in the system adopted in clearing the country by means of convict labour, and bringing into cultivation large tracts of Land which otherwise had been dormant and useless to the Colonist; by which system in its operations, not only by withdrawing a large portion of the Convict labour from the towns for the eminent benefit of the Country, but by confirming the occupations and ideas of the Prisoners in Rural pursuits, their moral condition has been improved and their habits have assimilated to those of farming men.

Annexed to this is a List of the Rules and Regulations,* which have been drawn up by me for the guidance of these parties, both as regards their discipline and general conduct.

A commonly received notion is often entertained that, in consequence of the benefit resulting to the Colony from the extension, by the Government, of the services of the Prisoners from the Public Works to Agricultural employments and other useful purposes, that this system should so continue and be persevered in, that all those employed in the former way should be transferred to the latter, and by way of substitute that contracts should be entered into for the making, erection and repair of all Government Works and Buildings of every description. Much may be adduced in support of such an opinion, and it also might be shown that in some instances a saving might occur to the Government by such a step; at the same time we insert the following considerations against it, and which for the present must set the matter quite at rest.

1st. That, was such a measure entered into, all the expense incurred hitherto for the different Establishments in support of the present system must be perfectly nugatory.

2nd. That, was Government to enter into competition for the hire of skill and labour, as an individual would do, and with wants bearing no proportion to other persons, that the market might often be raised against them.

* Note 190.
3rd. That, under the present arrangement, a better and more rigid state of discipline was maintained and a Depot formed for the reception of such as merited the chastisement of their masters; if less work was performed, a diminished and coarser kind of food was given, thereby rendering this service less palatable and creating an incentive to good behaviour, in order to avoid the alternative of returning to the employ of Government.

4th. That either where Prisoner Servants were worthless and profligate, or, owing to the caprice and ignorance of the Masters or their Stewards, their services were rendered little productive or altogether lost to the State, that by turning them in to the public employment their services then could be duly enforced and appreciated. In the progress of the Colony to improvement, it became necessary to ensure the labour of the Prisoners in the employment of Government to the most suitable purposes, classifying them according to their trades, directing their skill to the proper ends, preserving their discipline, perfecting the art of those who had before acquired crafts, or instructing those who were either willing or young enough to learn. With this View was established the Engineer’s Department, which has given a systematic effect to the labour and exertions, as well as to the skill and Mechanical Arts of the Prisoners.

In the Lumber Yard are assembled all the indoor tradesmen who work in the shops, such as, Blacksmiths, Carpenters, Sawyers, Shoemakers, Tailors, etc., etc. The workmen, carrying on their occupations under the immediate eye of the Chief Engineer, are probably kept in a better state of discipline than those, who working more remote, are dependant upon the good behaviour of an Overseer for any work they may perform.

Whatever is produced from the labour of these persons, which is not applied to any public work or for the supply of authorized Requisitions, is placed in a large store and kept to furnish the exigencies of future occasions; the nature of these employments, also, renders it much easier to assign a task to each, for the due performance of which they are held responsible.

In the Timber Yard adjoining is kept assorted all the timber, scaffolding, etc., required for the execution of public buildings; and whatever materials are carried away from hence for these purposes to the different works, the same have to be returned, or the deficiency accounted for. The Storekeeper of this Yard has charge of such timber as is brought from the out Stations, or sawn and cut up in the Yard, such as flooring boards, Scantlings, Beams, etc.; and when these supplies exceed the demand for Government purposes, the excess is sold by public Auction, and the amount of the proceeds credited to Government.
Of the outdoor Gangs, every overseer is answerable for the regularity and good conduct of the men composing his Gang respectively. He likewise takes care that the quantity of work executed by each man shall be commensurate with the time employed, and that none of his men quit their employment or station without his sanction for so doing. It would be desirable to be able to fix a specified task to each man respectively as to a whole gang generally; but so many reasons concur against this being done, that it is more prudent to abstain from any such measure. The quantities of work of the outdoor parties being dependant on the weather, the varying nature of the materials their labour and skill is exercised on, as well as the Implements they work with, render it difficult to assign a Stated task; and, in case that was even fixed, difficulty might often arise as to finding fault with a man who, on finishing his daily task, might think proper to indulge himself in idling about. A middle course, therefore, is probably recommendable for the Officer in visiting each Gang to determine in his own mind what the quantity of work ought to be, and in case this has not been made good, that it shall be competent for him to impose such extra work that the full and required extent of the labour to be performed shall be made up before the end of the week. In detailing the particulars of each trade, I have inserted about the average rate of work that should be done by each mechanic or Labourer daily or weekly. Should this quantity fall short of that which an individual could perform, worked for himself on his own behalf, it must be remembered that the quantity and quality of food given in the one case to that of the other. On the supposition that each Prisoner does not get more than half the food requisite, or rather what is usually consumed by a free man in his circumstances, it would not be reasonable to expect the like amount of work to be done; the difference in the one case to that of the other may fairly be estimated at from half to two thirds of what a free man could perform under ordinary circumstances. The classification of the different trades and occupations are as follows.

**Carpenters' Gang.**

In the Carpenters' Shop, the number of men exclusive of native apprentices amount to fifty generally, the greater part of these are good workmen and are classed something in this manner.

House Carpenters, Out door Do., Cabinet Makers, Turners, Shinglers, etc. In this shop are made roofs, floorings, doors, do. frames, windows, do. frames, in short most of the wood work of the required house; the parts of the work are then taken to pieces, and carried to the building they are intended for, and ultimately fixed. The tools are kept apart and in charge of the..
Overseer, who furnishes the workmen with such as they require for the time. The average price or hire in Sydney of a Cabinet maker being about 7s. 6d., and that of a Common Carpenter being 6s., striking the average and reducing the amount to about two thirds of the quantity of what a freeman would perform, as we alluded to before, we may estimate each man fairly earns about 4s. 6d. a day or £1 2s. 6d. every week. Annexed is added a memorandum of the different sorts of Colonial woods and Timber used in the shop, and generally for all other Government purposes.

Blacksmiths' Gang.

This department consists generally of about 45 men, who are employed as firemen, Hammermen, Tinmen, Coppersmiths, Wiremen and Locksmiths, also as Farriers and in file cutting such as Sawfiles, Handsaws to 8, 9, 10, 12 inch Do.; Likewise as Nailers, in making nails of all sizes and sorts, such as Shingle, double Do., Flooring heads, 3, 4, 5, 6 inch Spike, etc. As the occupations of these people are various and complicated, much care is required on the part of the Overseer in weighing both before the receipt and issue of all the rude material in Iron, Copper or Tin in the one instance, and of the manufactured Article in the other, to prevent fraud and improper waste being made of the materials they work up; the Overseer is responsible for the proper discharge of this part of his Duty to the Storekeeper. The ordinary hire value of labour of a Blacksmith or Mechanic in this Department being about 6s. a day, or what a free man would earn when better fed to support the fatigue of his Employment, as well as the heat of the forge, we cannot reckon the work of each man of this gang at less than 4s. 6d. a day, which forms an item as a sett off against the charge of his daily or weekly maintenance.

Bricklayers' Gang.

The number of Bricklayers seldom exceed 5 or 10 and that including 4 or 5 Labourers and Mortar Men. When the buildings they are employed about are to be built of brick, their occupation must be obvious enough; and in Stone buildings they are employed in turning the arches in brickwork, in making drains, chimneys, etc. With regard to the quantity of work performed weekly by them, we consider that a Bricklayer, with his labourer, will not do less than a square Rod of solid Brickwork of standard thickness, or brick and a half, or laying 4,500 Bricks. The value of this in Town may be . The mortar used by them and the masons ought to be composed of two parts sand to one of Lime; but, as the shell lime is not very pure or good, containing much Sand after being burnt, the two ingredients are generally mixed in equal quantities.
The Sawyers are generally about 25 in number, but at present do not exceed 6. In the Lumber Yard are two Sawpits of above 70 feet in length. There is also one in the Timber Yard, and one in the Dockyard. The quantities of wood sawn weekly by each pair of Sawyers may be 750 feet of planking; in the measurement of this, where the diameter of the Plank exceeds 2 feet, an allowance of a third more is made to them. In the middle of the Lumber Yard are Racks for placing the sawn planks for the purpose of being seasoned. In the original formation of these Racks, they were made horizontal, and experience has shown that the plank suffers much from being kept in that position, instead of standing vertically on their ends, to allow the sap to run down and prevent the rain water lodging on them, by which the colour of the wood is sometimes affected.

Brickmakers' Gang.

There were formerly about 15 men in this Gang, besides as many more boys from Carters' Barracks learning the trade; at present this employment is discontinued until more bricks are required than what is furnished by the present supply. When the wetness of the weather does not interfere with this work, they were able to make weekly a kiln 22 feet long, 18 ft., and 11 feet high, containing 24,000 bricks; the average price of bricks may be from 18s. to 20s.

Plasterers' Gang.

The Lathing, Plaistering and Whitewashing required for the Public Buildings fall to the province of this Gang, generally about 8 in number. Each of the following items is about what may be considered a daily task for each man.

Quarrymen.

Fifty quarrymen are about as many as are employed in the Government Quarries in Sydney. When the stone is of fair average hardness, each man should turn out daily 14 Ashlar Stones, by means of wedges and their picks and independent of gunpowder. The Labourers for loading, carrying and clearing the Quarries are ordinarily more than half as many as the Gang consists of. Three Bullock teams and 4 or 5 Horse trucks are kept efficient and ready for this service. A Quarryman, when working for himself can earn 7s. a day. We cannot estimate the
work made good to Government at a less sum than 4s. 6d. a day. The quarry in Cockle Bay being composed of horizontal layers as that of Sandstone, is well adapted for flagging, Hearthstones, Mantelpieces, etc. The Domain quarry produces very excellent Ashlar, and Stone fit for all purposes except Flagging. The Gaol quarry has much of the same kind of materials, but is more liable to change colour, the stains being impregnations of Iron, first changing to a deep brown, and afterwards to a dark Colour on exposure to the Air. Part of the block of stone on which we are now at work is embedded below the surface 30 or 40 feet; its grain of coarser texture than that of any quarry hitherto opened with an appearance of being stained throughout by water trickling through the Ironstone from the superstratum. This block is of larger dimensions than any yet worked; its depth no where less than 12 feet in front, breadth uncertain, and length upwards of 400 or 500 feet. The Domain Quarry, supplying whatever stone is wanted in Town, leaves this block available for building the new Gaol. As the Sandstone formation prevails through this part of the Colony, it affords so little choice in selecting Quarries except in reference to the size of their blocks, local advantages, texture and grain of the stone and other such considerations. The blocks best adapted to the Quarryman's purpose are covered with incumbent stratum of soft, friable sandstone, which has to be quarried before he arrives at the more profitable part of his pursuit. The Component parts of stone generally appointed for building here consists of Wheelwrights' Gang

Muster about 23 persons, and are classed as Wheel, Body, Spoke makers and other subdivisions of the same Trade, from the commencement to the final completion of the construction of Carts, Drays, Trucks, Wheelbarrows, etc. Five or more Coopers are generally attached to this Gang, and carry on their employment in a place adjoining. A tolerable mechanic of this trade may generally earn about 5s. 6d. to 6s. a day, the workmen employed in this craft should well replace to Government whatever is advanced for their support and maintenance, besides having a balance in favor of Government.

Shoemakers' Gang

Consists of 8 persons. Each man makes one pair of shoes easily. The leather is tanned for this purpose by Government at their Establishment of Cawdor, and is found to answer well; each pair of shoes may be Valued fairly at 5s. a pair which sum would go well to pay the expence of supporting each of this party.

1825.
16 June.

Description of stone quarried.

Wheelwrights' gang.
Numbers employed.

Value of labour.

Shoemakers' gang.
Amount and value of labour.

* Missing in original.
Tailors' Gang.

Every Tailor is tasked with making two Suits of Slop clothing daily; the cloth used for this purpose is manufactured at the Female Factory, Parramatta. All the Watchmen's Great Coats are made in this shop, at the rate of one daily to each person; each of these may be valued at 5s. 6d. each Suit of Slops at 2s. 6d. for making, so that Government ought to gain about £1 5s. 0d. weekly by the labour of every man of this gang. Their Numbers vary from six to eight men.

Dockyard.

There are generally about 70 men as Mechanics and Labourers attached to this Department, besides the Town Gang consisting of about generally, who are made to be useful in loading or discharging Vessels and boats, etc.

The Mechanics are classed as follows, Shipwrights, Blockmakers, Blacksmiths, Nailers, Sailmakers, Rope Do., Painters, COopers, Sawyers and others, besides Labourers and Watchmen, who generally are employed in the repair or outfit of any of His Majesty's Ships and Vessels that may be in the Cove and of all Colonial Crafts whatsoever. A Vessel is generally on the stocks, being built in this yard, which serves to occupy many of the people when no other employment can conveniently at the time be found. In this yard are kept, in store, coals, lime, and timber in bags when first landed, and until they are carried away for use, or adapted to the purpose they may be destined for. The labourers are distributed so as to assist and attend upon the Mechanics.

Stone-Cutters and Setters.

When the stone cutters are not employed on finer work than ordinary, they are able daily to cut, each man, 15 feet of fine Ashlar Stone, or 25 feet of flagging. An allowance is always made when the work requires superior execution, such as for Coping, Ramp Hearth Stones, etc. The Setters should set daily as follows; for each man, 2 perch or 33 feet, fine Ashlar, 1 foot high, 1½ wide, or, when setting rough rough stone, they do about a third more, viz: 3 perch or 50 feet. When the dimensions of the required stone exceed or fall short of these, a reduction has to be made, the number of solid feet the same in the one case as in the other.

Brass founders' Gang.

The general strength of this Gang may be stated at 7, besides 2 or three apprentices from the Carters' Barracks. Their work is so connected with other trades, and of so jobbing a nature, as to preclude any clear account further than this, that all the brass
work of every description, required for public Service is from the models moulded, run and finished off. They have to cast Iron for all wheels and millwork, particularly that of the Treadmills. The average wages of a Brass or Ironfounder in Town is about 7s. per diem, and we may reckon the work of each of these persons at from 4s. to 5s. every day.

There are many other occupations exercised by the Prisoners belonging to the Engineer’s Establishment in Sydney, which it would be only a waste of time to describe, particularly such as the labourers employed in digging foundations or clearing away rubbish; labourers employed in the Commissariat Store Gang for the removal and carriage of grain, provisions, and stores of all descriptions; grass cutters with the Boats, and Boats’ crews that are employed in their conveyance for this Service; Gardeners employed labouring and working in the Government Garden and Domain, besides many other such occupations and employments; the nature of their tasks and result of their exertions may be gained from the detail of the foregoing Trades and Employments.

There are generally about 500 in the Prisoners’ Barracks at Sydney, and about 200 in the Carters’ Barracks. Of the former, a great portion are permitted to sleep out of Barracks, and to get the liberty to work for themselves after 10 o’clock on each Friday. This indulgence is only granted as a reward for the most scrupulous good conduct and regularity, as well as on the assurance that a person receiving such indulgence can earn money Sufficient to pay for his lodging, etc.

The hours, at which the men are sent from the Barracks to their respective works, is at all times regulated by the season, sunrise being the time they ought to be on their way to it. The time for calling them home by sounding the Barrack bell is determined by the time of sunset. The Prisoners are marched to and from the Barracks with the strictest attention, on the part of their Overseers, to their order and regularity. They are called to dinner so as to reach the Barracks at 12 o’clock, at which they are allowed to sit 4 an hour. Before one o’clock the gangs employed at the most distant stations should have resumed their work, and continue at it till the time first mentioned, when the Bell rings for their return.

Each Prisoner is allowed weekly 7 lbs. of Beef or 4 lbs. of pork, 7 lbs. of flour or wheaten meal, 3 lbs. of maize meal and ¼ lb. of Sugar.

A suit of slops, comprising one Jacket or frock, one shirt, one pair Trowsers, and one pair of shoes issued to every man on his completing 6 months in the employ of Government.

A Blanket and Hammock are given for the use of each person as long as he may continue in Barracks.
The annexed Memorandum of clearing Parties will represent the general system by which they are guided, as well as their competency to maintain themselves without burthening the Government for their support.

From a perusal of the foregoing, it will appear that the productive labour of the Prisoners, employed on the part of the Government, is not only sufficient to support the Capital advanced for their Lodging, Food, Religious Instruction, and Medical attendance, but likewise to afford an overplus to the Crown, independent of the result of the previous statement; from what I myself have reason to know, and from the representations of others, the labour, Services and talents of the Convicts are fully adequate to accomplish this desirable end in supporting their own maintenance, and producing frequently an excess in favor of the Government. To insure this, however, at its maximum, an unremitting vigilance is absolutely indispensable to remove temptations as much as possible from the Overseers and their men to do wrong, and to thwart the numerous means they may employ to evade their work. The propriety of this strict surveillance is not only obvious from ensuring the benefit of their services, but in producing a moral effect on their ideas and habits.

I have, &c.,
J. Ovens, Major.

[Sub-enclosure.]

<table>
<thead>
<tr>
<th>Revenue and expenditure of clearing gangs.</th>
</tr>
</thead>
<tbody>
<tr>
<td>To Amount of Rations issued to 1,160 Men the number in 50 Clearing Parties, allowing 23 Men to be in each Gang including the Overseer at the rate of £12 8s. 2d. each man Annually</td>
</tr>
<tr>
<td>To Amount of Indulgencies, say 6 lbs. of Sugar at 4d. Pr. lb. 1¼ Lbs. of Tea at 3s. Pr. lb. and 10½ of Tobacco Amounting for each Gang, annually to £76 10s. 0d.</td>
</tr>
<tr>
<td>To Amount of Gratuity to the Overseers at 3s. 6d. Pr. Acre say good Acres</td>
</tr>
<tr>
<td>To wear and Tear of Implements of the different Clearing Parties</td>
</tr>
<tr>
<td>To Amount of Clothing allowed say Two Suits in the Year to each Man at the rate of £2 Pr. Annum</td>
</tr>
<tr>
<td>To Balance to the Credit of Government on this Account</td>
</tr>
<tr>
<td><strong>£22,950 0 0</strong></td>
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By good Acres cleared in One Year by the different Gangs allowing six Bushels of Wheat to be received for each Acre cleared, each Bushel valued at 8s. 6d. | £22,950 0 0 |


BRISBANE TO HORTON.

[Enclosure No. 3.]

PROCEEDINGS OF A BOARD appointed by His Excellency Major General Sir Thomas Brisbane, Governor in Chief, K.C.B., for the purpose of reporting upon the following subjects, contained in a letter addressed to His Excellency by Deputy Commissary General Wemyss, dated 24th July, 1824.

"The propriety of substituting a Daily for a Weekly Ration.

"The propriety of assimilating the practice of the Issues and equalizing the Ration at all the Stations as far as circumstances will admit of.

"A Return of Individuals Rationed in New South Wales at the Public Expense. Earl Bathurst's directions on that head, and the propriety of commuting the Rations in some cases for a money payment, and to report their opinion as to the Fund from which these payments ought to be made.

"The quality of the Flour to be issued, and a proposition of receiving wheat into the Stores by Weight.

"The propriety of diminishing in a small degree one part of the Ration and increasing the other, which the present exigencies seem to require."

Major Goulburn, President.


The Board, having met, proceeded to take into consideration the several subjects proposed in Depy. Commissy. General Wemyss' letter, on the first point "The propriety of Substituting a Daily for a Weekly ration," the Board are of opinion that it is practicable, and that it will have a tendency to simplify the accounts and to facilitate calculations, as well as issues for broken periods. They are further confirmed in the propriety of the proposed change, as the Colonial Ration will thereby be assimilated to the Army Ration; and they have therefore in the sequel stated the allowances of Provisions by a specification of the daily Rations which they propose should regulate the Issues.

On the second part "the propriety of assimilating the practice of the Issues, and equalizing the Ration at all the Stations," the Board are fully persuaded of the expediency of such equalization wherever it is practicable. They feel, however, that the subject, from the Various interests which it involves, is one of no small difficulty and requires serious consideration.

The practice, which has hitherto prevailed, of granting a remuneration to Superintendants, Overseers, Constables, Watchmen, and others, by issuing them extra allowances of Provisions under the designation of "Extra Half rations" "Double Rations," etc., opposes, unless it can be compensated or discontinued, an almost insuperable obstacle to the equalization in question. This practice in the early Stages of these Colonies was doubtless not only necessary, but in many cases unavoidable, from the difficulty and occasional impossibility of obtaining the means of remuneration, or procuring provisions from any other source than the Public Stores; but they are of opinion that in all the settled Districts, which now offer a facility to Individuals to supply themselves at almost all times by private purchase, not only a great proportion of the extra allowances of Provisions but of the whole of the rations issued to most of such persons might with advantage be commuted for a
1825. money payment. They venture this opinion with the more confidence in consequence of the result of the arrangement adopted in 1822 of commuting the Rations to Constables in Sydney, having demonstrated that the measure has not tended to increase intoxication or dissipated habits amongst these Individuals, nor been productive of any of those evil consequences which by some it was apprehended would result from its adoption.

The Board are so impressed with the advantages, in a public point of view, which would most probably in many cases result from issuing the fair and equitable value of Rations in money instead of the Rations themselves, that they feel disposed to recommend its extension, so as to comprise the commutation of most of the Rations, whether extra or single, now issued in the Settled Districts to Public Functionaries, including Magistrates, Civil Officers, Schoolmasters, and inferior Parish Officers, and other persons of a similar description, as well as their families and servants who now receive Rations from the Public Stores.

This Measure they conceive would not only facilitate the equalizing of the Ration by compensating and doing away with many of the extra allowances of Provisions, but be productive of other advantages equally desirable.

The Commutation proposed, besides being attended with the saving of a proportion of the loss arising from the custody and issuing of Rations in Kind, would relieve the Commissariat of a great variety of Individuals who do not admit of a general classification, and for the Issue of those Rations consequently a comparatively unusually large number of Vouchers is requisite; and be less liable to abuse than the issuing Rations in Kind, as the nominal Pay lists, on which Payments in Commutation would come to be made, could be more easily checked than the present Ration Returns, in which various descriptions of persons are sometimes unavoidably blended indiscriminately in mass; and, by bringing the expenses incurred for victualling such persons into a more palpable shape and into more clear and obvious notice, and thereby facilitating the regular forming an accurate idea of its extent and bearing, would most probably still further contribute to public economy; whilst, at the same time, the parties receiving such commutation, some of whom it is understood sell or barter their Rations, would thus be enabled to purchase such provisions, and at such places, as would best accord with their interests and inclinations.

As they are aware, however, that the adoption of the arrangement, above recommended, must depend on its being made apparent that it is practicable, the Board are induced to point out generally the mode in which they conceive it could be effected. Sometime previous to the commencement of the last two monthly periods of the year, on the 25th October next, a complete nominal list of all persons of the description mentioned, specifying their designation or employment, the quarter in which they reside, the Kind of Ration, whether double, extra half, or single, which they draw, the number of their servants or persons composing their families victualled, and the authority under which they receive Rations, might be made up by the Commissariat from the Victualling Lists, and be
forwarded to the Chief Secretary to the Government, to be compared with the Authorities in his Office; which List, on being approved by His Excellency the Governor and returned to the Commissariat Officer in charge, would form the original authority for the payment of the commutation allowance, whether for double, extra half or single Ration, to such persons and their families.

The payments of the Allowance in lieu of Rations to Magistrates, Civil Officers, and their Servants, might be made quarterly; to all other classes Monthly in arrear; but as some of the latter might be in need of advances during the month, the Commissariat Officer might be authorized to make such advances, when requested, in cases where he should think them necessary and proper at any intermediate period of the month, keeping an account of such temporary payments and including the whole in the general monthly Pay Lists.

At Sydney, the quarterly and monthly Pay Lists might be verified by the signature of the Colonial Secretary, with the exception of those of Constables, which might be signed, as at present, by the Superintendant of Police. At the out stations, the resident Magistrate nearest the station where they are payable might be requested to certify such Lists, on being furnished with an extract from the original List, so far as regards persons in his District.

All Changes in the Original List should be notified by the proper authority to the Commissariat Officer in Charge; and when such changes relate to any of the out stations, also to the Magistrate of the District who certifies the Pay List.

The rate of Commutation, to which each Individual will be entitled, should be the fair estimated cost of the Articles composing the Rations which he was entitled to receive, immediately previous to their being commuted. It would be convenient, in case of broken periods, that this should be a daily rate.

At the beginning of each Quarter, the Colonial Secretary and the officers in charge of the Store and account Departments of the Commissariat might be requested to calculate and fix the average cost of the several Articles composing such Rations, during the preceding Quarter, at the several stations where commutation money is payable. The average cost of the double, extra half and single Ration and of the Women’s and Children’s Rations, thus estimated, on being approved by His Excellency the Governor, might be notified in the Gazette, as the rates of Commutation payable for the succeeding Quarter; by which arrangement, should the rates of one Quarter be lower than the actual cost price, they will be compensated by the higher Rates of the following three months.

The Board would recommend that similar measures should be adopted for issuing a Commutation in lieu of Rations to persons of the same Description, as those designated, at Van Diemen’s Land; and that the Authorities there should be directed to prepare an Original List of such Persons for the Rates of Commutation, and make the payments on account thereof, on as nearly the same principle in every respect as circumstances will permit, as those recommended to be adopted for the same purpose in this Settlement.

With respect to the Fund from which the money commutations for Rations should be paid, the Board, as may in part be inferred from what has been already stated, are of opinion that, with the exception of those for Constables, which are present issued from the Colonial Fund, the payments can most conveniently be made by
1825.
16 June.

Proceedings of board of inquiry into system for issue of rations.

Money payments in lieu of rations.

System for issue of extra rations at penal settlements;

the Commissariat, by whom the Rations to be commuted have been hitherto furnished, and that they should for some time, at least, be issued by that Department.

The Board beg further to remark that many of the Commutation allowances, which they have proposed, might with advantage be consolidated with the salaries of the parties to whom they will become payable; and that it would, therefore, be very desirable to take an opportunity, when the cost of the Ration is at its most usual average of effecting such consolidation, so far as circumstances will admit, in all cases of commutation allowance to persons in the receipt of Salaries; and they would recommend, when any new civil appointment takes place in the settled Districts, either here or at Van Diemen's Land, it should be clearly understood that no Ration of any description should form any part of the emolument thereof.

By the adoption of the arrangements recommended, the number of persons entitled to extra allowances of provisions will be greatly reduced, and in so far the obstacles to equalizing the Ration will be removed; but there will still remain, at the newly formed and penal Settlements, a number of persons who now receive extra Rations, which do not admit of being compensated by a money payment.

In regard to the extra allowances of provisions issued to persons at the Penal Settlements, the Board propose that, from the 25th October next, all extra allowances to such persons should be issued at the discretion of the respective Commandants of each Settlement, and cease entirely from that date to be included in the regular Ration Returns of the Commissariat, which should comprise the fixed general Rations only for these Individuals.

To enable the Commandants at these Settlements to issue such extra allowances of provisions, as each may think proper, to any of the Civil Government Servants under his control, whom he may judge deserving of such recommendation, the Board would beg to suggest that he should be authorized to Indent, from time to time, on the Public Stores for, and cause to be distributed and applied, in remuneration of extra and meritorious services, such quantities of provisions, not exceeding in any one month one tenth part of the amount of the ordinary Rations issued at the Station in the same month; for which his receipt at the end of the month, stating that the same were drawn and applied, in remuneration of extra general services, should be considered a sufficient Voucher in the Commissariat accounts for the Station.

The Commandants might be directed to furnish quarterly confidential statements, in duplicate, of the distribution of such provisions, according to a prescribed form, for the information of His Excellency the Governor, one of which on being signed as approved by His Excellency and returned to the Commandant might be held to form his sufficient discharge for the expenditure.

At the newly formed Settlements at Bathurst, Newcastle and other Stations, where it may not be as yet practicable to extend the system of commutation to the Rations of Superintendents, Over-seers and others who now draw extra allowances of Provisions, the Board recommend that all such extra allowances should, in the same manner as at the Penal Settlements, entirely cease to be included in the regular ration returns of these Stations from the 25th October next; by which arrangement none but the regular
fixed Ration, to which such Persons will be entitled in common with others, will come to be included in such returns throughout all the Settlements.

The extra allowances to be issued from the said date at these Stations ought, the Board think, to be invariably confined to uniform quantities of certain Articles hereafter to be specified; and that such Articles should be included in distinct and separate Monthly vouchers, which should contain a nominal List of the names and designations of such persons; and that all such persons, as now receive double allowances in the said new Settlements, should have the option of applying to have their present Rations commuted to a money payment, or be satisfied with the general rate of extra allowance which may be established.

The designations of the extra allowances of Provisions, by extra half, double Rations etc. which have evidently given rise to ambiguity, will thus be entirely discontinued, and no one will be entitled to draw more than one ration daily.

The Board, having proposed these preliminary arrangements, proceed to state the Articles which they recommend should, from the 25th October next, form the ordinary and fixed daily Rations to all the Civil Classes entitled to receive the same in both Settlements, which they submit should be the following:—

**Daily Ration for Men.**

1 lb. of Wheat meal, or 12 oz. of wheat meal and 4 oz. maize or rye do.

1 lb. of beef or mutton, or 10 oz. of salt pork.

\[ \frac{1}{2} \text{ lb. of Maize or Oatmeal or } \frac{1}{2} \text{ lb. of wheat meal.} \] and 1 oz. sugar

but in lieu thereof to clearing gangs, who earn their allowance of sugar, \( \frac{1}{2} \text{ lb. wheat meal.} \)

Soap may be drawn if actually required, not exceeding one half ounce to each man daily, but ought not to be issued to persons receiving pay or to Settlers.

**Daily Rations to Prisoners in Gaol.**

1½ lb. of Bread. for prisoners in gaol;

**Daily Ration for Female Prisoners on Government Labour.**

13 oz. of wheat meal, or ⅛ lbs. of Bread of Wheat Meal.

8 oz. of beef or mutton, or 5 oz. of salt pork; ½ oz. tea; 2 oz. sugar;

1 oz. soap; ½ oz. salt. for female prisoners;

**Daily Ration for Children on Govt. Labour.**

10 oz. of wheat meal, or ½ lbs. of Bread of wheat meal.

4 oz. of Beef or Mutton, or 2½ oz. of pork.

½ oz. salt. and for children.

For all other Women one half, and for all other Children one fourth of the men's ration.

With regard to the fineness of the wheat and maize meal specified in the above Ration, the Board recommend that at least 90 per cent. meal of Meal should be taken from every Hundred pounds of marketable wheat or maize, allowing in no case, more than 10 per cent. for Bran and waste in grinding; but leaving it to the discretion of the Commissariat Officer to vary this Standard, according to the quality of the grain and the situation of the parties receiving it, from 90 to
1835.
16 June.

Proceedings of board of inquiry into system for issue of rations.

95 per cent. of meal, and 10 to 5 per cent. of Bran and waste; so that the fineness of the meal may be never less than 90 or greater than 95 per cent.

This standard of fineness they consider the most eligible and the best adapted for combining due economy with uniformity and general fitness, particularly as a great part of the Bran, which will thence result, can be profitably employed in feeding Government horses and Cattle.

When it may be necessary to substitute one article for another, the Board propose that the following should be observed:

- 1½ lb. of wheat
- 1½ lb. Maize
- 2 lb. of Maize
- 2 lbs. of Maize Meal
- 1 oz. of Sugar
- ½ oz. of Tea
- 1 lb. of Salt Beef
- 1½ lbs. of Otaiete or S. Sea Pork
- 1 lb. of Sugar

Reduced rations. The Board have not thought it necessary to add to the description of Rations by proposing a diminished Ration for Persons, if any, who may be allowed a certain portion of their working time to earn a part of their subsistence, or as a measure of Punishment to delinquents; as they consider the means of usefully employing the former in the Clearing gangs, and of substituting work in the Tread Mills for the latter, will in most cases be found preferable to placing either on a reduced Ration; but should the fixing of a reduced Ration be considered indispensable, they would propose three fourths or one half of the Established Ration, as those which might be conveniently applicable in most cases where a reduced Ration would be advisable.

The Board propose that the Ration, which they have above submitted, should be considered the general ordinary allowance of Provisions to all Civil Classes of persons in both Settlements victualled by the Crown, with the exception of Patients in Hospital. Lunatics in the Asylum at Castle Hill, persons employed in His Majesty's Colonial Vessels, and objects of charity, to whom the Rates of Provisions heretofore issued may be continued. Clearing Parties, they conceive, should also continue to receive the luxuries which they may earn at the Established rates, viz., 6 lbs. of Sugar, 1½ lbs. of tea, and ½ lbs. of Tobacco for each acre cleared.

In regard to the other Extra allowances of provisions now drawn, but which are not comprised in the arrangement as to the Issue of such allowances in the Penal Settlements, or which do not admit of being compensated by a Money payment, the Board would propose that such extra allowances should, from the 25th October next, be
uniformly confined to one or other of the daily quantities of Articles specified below, issuing from time to time the one or other allowance of such Articles, which the supplies in Store, or the facility of procuring them at the several Stations, may point out as the most eligible, vizt.

Either \( \frac{1}{2} \) oz. Tea and 2 oz. of Sugar, or
5 oz. Oatmeal and 2 oz. Sugar, or
3 oz. Rice and 2 oz. of Sugar, or
\( \frac{1}{2} \) pint of Pease and 1 oz. Salt, or
\( \frac{1}{2} \) oz. Tobacco, \( \frac{1}{2} \) oz. Tea and 1 oz. Sugar, or
\( \frac{1}{2} \) lb. of Wheat Flour.

The Board have already recommended that monthly Vouchers for the issue of the above extra allowance should be taken entirely distinct and separate from the regular Ration returns, which Vouchers should contain a nominal List of the Persons receiving it; The number of those persons, should the arrangements previously recommended be carried into effect, will it is believed be inconsiderable; as they will consist chiefly of the Overseers, Superintendents, and other petty functionaries in the newly settled Districts, whose Rations do not admit of being commuted by a money payment. It has been further recommended, with a view to uniformity, that the above should be the only Rates of the extra allowances of articles in kind which should be issued at any station, with the exception of the Penal Settlements, leaving such persons, as may consider them an inadequate compensation for the extra allowances they have heretofore received, to make application for a pecuniary allowance in lieu thereof.

In concluding these remarks on the proposed equalization of the Ration, and on the Articles of which it should consist, the Board beg to State that they have steadily kept in view the combining every practicable economy with adequacy of allowance. They are aware that no one Ration, that could be fixed upon, would be equally suitable and convenient for all persons and situations; but they submit that trivial inconveniences should give way to the importance of establishing uniformity in an administration which embraces a very considerable portion of Public expenditure, and that His Majesty having thought proper to establish an uniform Ration for the British Army in every part of his Dominions (Jamaica excepted), warrants them in strongly recommending that no unnecessary deviations from the Ration that may be established for these Settlements should be permitted, as such deviations never fail to produce confusion and embarrassment.

The Board beg to remark that in case of publishing the Ration, as they have proposed it should be modified, it might be advisable to declare in the same notice, in which it may be announced, that no alteration is thereby intended to be made in the existing arrangements, by which the allowance of Provisions to be issued by the settler to their assigned servants is now regulated.

The Board proceed to consider a further point brought under their notice, the propriety of “receiving Wheat into the Store by weight.”

They are of opinion that, as the Article is issued and accounted for by weight, it should also be purchased and received according to this standard and that, instead of being bought at so much per bushel, the price stipulated to be given should be regulated by the weight of a specified quantity say 56 lbs., 60, or 100 pounds. This arrangement, whilst it would render the Accounts more precise and accurate, would, by more nearly apportioning price to quality, serve
1825.
16 June.

Proceedings of board of inquiry into system for issue of rations.

Proposed alteration of ration.

Returns of persons victualled.

as an encouragement to the production of the weightiest and best grain; maize and other grain they recommend should be purchased and received on the same principle. With reference to the last point submitted for consideration in D.C. Genl. Wemyss's letter, "the propriety of diminishing in a small degree a part of the Ration, and increasing the other, which the present emergencies seem to require," the Board beg to state that, as they are not in possession of such full and authentic information as to the present stock of Grain, either in New South Wales or Van Diemen's Land, as would warrant them in venturing a decided opinion on the subject, but considering the long continuance of the present drought they would strongly recommend that measures should be taken for ascertaining, as fully and satisfactorily as possible, the present resources of both Settlements in grain, as well as the prospect which the ensuing Harvest holds out, from the result of which enquiry the propriety of diminishing or continuing the ordinary Ration could be best determined.

The Board consider that they have now stated their opinion on all the points submitted for their consideration, with the exception of that which relates to a Return of Persons entitled to be victualled at the public expense. The establishing Returns which should regulate and fix the exact number of persons of the Civil Classes, to whom Rations ought, according to the existing regulations to be issued, and should correctly exhibit the several variations in this number, and the dates of their occurrence, so as to afford the means of ascertaining and checking the issue of Rations from the Public Stores to Individuals not entitled thereto, is, the Board think, one of the most important "desiderata" in the local administration.

The subject, however, is one of so much difficulty and importance as to require long and deliberate consideration, as well as the assistance and co-operation of the several Departments by whom Returns of such persons are kept; and the Board have therefore come to the resolution of here closing their report on the other points referred for their opinion, and of respectfully submitting that the Chief Engineer and Superintendent of Police and Convicts should be added to the Committee to assist in the consideration of the subject of establishing such Return.

F. GOULBURN, Col. Secretary.
J. OXLEY, Surveyor Genl.
F. ALLMAN, Capt., 48th Regiment.
W. LITHGOW, Ass. Commissary General.
W. CORDEAUX, D.A.C.G.
P. ROBERTS, D.A.C.G.
J. TOD GOODSR, D.A.C.G.

Sydney, 14th August, 1824.

Fixation of sterling value of Spanish dollar.

The Board of Officers instituted by the Governor, having re-assembled in consequence of his letter of the 13th Instant directing them to fix a rate upon the Spanish Dollar, at which all Public Officers should be instructed to receive it, and it should be paid to all Public Officers, find that the intrinsic value of the pure Silver contained in the Spanish Dollar is 4s. 3-79d., and they are consequently of opinion that this, allowing a deviation to save the trouble of calculating with a complicated fraction, say 4s. 4d. would be a fair Ratio for converting Sterling into Currency. But when they consider that the greater part of the Crown dues arise out of a
Duty ad valorem, they are led to observe that the trouble even of any conversion may be avoided, in many cases, by causing the Importer of Goods to depose to their value in Spanish Dollars, and not in Sterling. They conclude by remarking that whatever price it may be deemed expedient to fix upon the Spanish Dollar, it will in their opinion be highly advisable nevertheless to enact that the English Halfpenny, the English Shilling and the Colonial Fifteen penny piece and the Colonial Dollar should pass at the respective rates of one, Twenty, Twenty five and Seventy five Hundred parts of that Coin.

F. Goulburn, Col. Secretary.
F. Allman, Capt'n., 48th Regt.
W. Lithgow, Asst. Commissary Genl.
J. T. Goodsir, D.A.C.G.
W. Cordeaux, D.A.C.G.

Sydney, 20th December, 1824.

The Committee assembled pursuant to a letter dated the 15th Instant from the Col. Secretary, to consider upon certain points therein submitted, and being requested by Deputy Commissary General Wemyss to consider of the rate of Commutation for the value of the Rations hitherto issued to certain Magistrates, Civil Officers and other Individuals, as recommended in the Committee's report to His Excellency the Governor, dated 14th August; with respect to that part of the report relative to such commutation, the Committee do, upon the maturest deliberation, recommend that one fixed and uniform value should be fixed on each Ration throughout the Year; and further with reference to the circumstances and salaries of the major part of the Individuals at present drawing Rations, and the Value at which the Ration could be supplied by the Commissariat, and the actual cost to the Individual, supposing him to purchase it, respectfully recommend that such Commutation be fixed permanently at one Spanish Dollar per week for each single Ration, the ration and half at 6s. 8d., women being rated at one half, and children at one fourth of the single Ration; and that the allowance for Clothing and Bedding be Twenty Dollars Spanish per annum for each person entitled to draw clothing.

The Committee do themselves the honor of transmitting to His Excellency the Governor a nominal list of persons, who, since the 25th of October, have ceased to draw Rations upon the recommendation of the Committee, dated the 14th August, verified under the signature of Deputy Commissary General Wemyss.

F. Goulburn, Col. Secretary.
J. Oxley, Surveyor General.
F. Allman, Capt'n., 48th Regt.
Wm. Lithgow, Asst. Commissary Genl.
W. Cordeaux, D.A.C.G.
P. Roberts, D.A.C.G.
J. T. Goodsir, D.A.C.G.

[Enclosure No. 4.]

Sir Thomas Brisbane to Secretary Goulburn.

Sir, Government House, Sydney, September the 7th, 1824.

I do myself the honor to acknowledge the receipt of your Letter of the 26th Ultimo, forwarding the proceedings of the Board assembled for the purpose of considering and stating their 1825. 16 June. Fixation of sterling value of Spanish dollar. Fixation of value of rations for commutation.
1825.
16 June.

Approval of conclusions.

Further points for inquiry.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 40, per ship Midas.)

Sir, Downing Street, 20 June, 1825.

I have had the Honor to receive your Dispatch No. 9 of the 4th October reporting that you had appointed Mr. Reddall, one of the Colonial Chaplains, Director General of the Government Schools at New South Wales with a Salary of £300 a year.

The appointment of the Archdeacon, as “Visitor of all Schools maintained throughout the Colony from His Majesty’s Revenue,” will render the appointment of Reddall totally unnecessary; but, in directing the discontinuance of his Services in that capacity, you will authorize payment to be made to Mr. Reddall of the salary, which you had affixed to his Situation, until the assumption by the Archdeacon of the duties.

I have, &c,

THOS. BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 41, per ship Midas.)

Sir,

Downing Street, 20th June, 1825.

I have received your Dispatch, No. 10 of the 28th October last, respecting the state of ignorance to which the Roman Catholic Population of New South Wales have been reduced from the
EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 42, per ship Midas.)

Sir,

Downing Street, 20th June, 1825.

As there is reason for believing that a person, calling himself William Edwards may have recently arrived at New South Wales from the Cape under a Judicial Sentence of Transportation, I have to desire that you will take measures for releasing such person from any restraint, under which he may be placed, and for facilitating his return to England, unless it should appear, upon enquiry, that William Edwards should be identified as the Convict Alexander Low Kay, who was removed to New South Wales from this Country under sentence of transportation in the year 1818, and who is reported to have made his escape from the Colony.

I have, &c.,

BATHURST.
HISTORICAL RECORDS OF AUSTRALIA.

1825.
20 June.

Speeches by W. Huskisson in House of Commons.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Midas.)

Downing Street, 20th June, 1825.

Mr. Wilmot Horton presents his Compliments to Sir Thomas Brisbane, and begs to enclose to him the substance of two Speeches,* delivered in the House of Commons by the Rt. Honble. Mr. Huskisson, respecting the Colonial Policy and Foreign Commerce of the Country, thinking that Sir Thomas Brisbane would be glad to receive a more correct account of the views of His Majesty's Government upon that subject than is probably to be found in the Public Papers.

[Enclosures.]

[Copies of these two papers are not available.]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 60, per ship Harriet.)

Government House, New South Wales,

My Lord, 20th June, 1825.

In my Dispatch No. 2 of last August, I had the honor to bring the name of Major Ovens before your Lordship under circumstances of the most favorable consideration.

I again take the liberty of addressing your Lordship in his behalf, and to mention that it had been usual with my Predecessors to make Grants of Land or to give Town Allotments to the Officer holding the appointment of Civil Engineer, on his retiring from Office, and who, report states, is shortly to be relieved by an Officer from the Staff Corps. But as I do not intend to assume such responsibility, I, therefore, beg to refer the request, contained in Major Ovens's letter herewith transmitted to your Lordship, with the hope as the favor, he solicits, appears so reasonable, it may meet your Lordship's approbation; and for the purpose of enabling Major Ovens to receive your Lordship's decision therein, I have been induced to grant him a three years lease of the Land in question, at a fair valued annual rent, pending that determination.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

MAJOR OVENS TO SIR THOMAS BRISBANE.

Sir, Sydney, 18 June, 1825.

The establishment at Longbottom, which was considered necessary for the purpose of cutting timber, having been long since removed, the buildings being now occupied by a road party,

* Note 191.
and the land waste, I beg leave to propose to your Excellency to purchase the Government lands in that vicinity, paying for such improvements and fences, as may have been executed by Government, at a valuation.

The lands,* which I now tender to purchase, were originally granted to Lieutenant Lawson and others, being about six hundred acres, and sold to Mr. D'Arcy Wentworth, who, in the year 1814, conveyed them to Government for twelve hundred acres of land in the District of Bringelly; and all the useful timber being now cut down and converted to Government purposes, I venture to state that the land cannot now be beneficially retained in the actual occupation of the Crown; while to me it would afford a spot to retire on, should my health (which Your Excellency knows has not been good for a considerable time past) oblige me to give up the active duties of my profession. But as, the lands in question having been once occupied by Government, your Excellency might have some unwillingness to make an actual transfer of them, until Earl Bathurst's pleasure was received on that point, I respectfully beg leave to solicit (should your Excellency see no reason to receive my proposal to purchase) that you would be pleased to grant me a lease of the same for such a short time, as to enable your Excellency to communicate this my proposition to Earl Bathurst and receive his directions thereon.

I have, &c.,

J. Ovens.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 61, per ship Harriet.)

Government House, New South Wales,

My Lord, 21st June, 1825.

With reference to my dispatch No. 39 of last March, on the subject of the seizure, report and cargo of the Merchant Ship "Almorah," I do myself the honor to transmit to your Lordship the copy of a Dispatch from the Lieut. Governor of Van Diemen's Land, in which he encloses documents, which have a strong tendency to show that the cargo of the Almorah would, in the present deficient state of grain in that Colony, have rendered the cargo of that ship most desirable in supplying their wants there, and have effected a considerable saving here, as I have been obliged to purchase wheat in Sydney at 14s. per bushel in order to send to Hobart Town. I am therefore induced to impress upon your Lordship's mind the propriety of the measure I had adopted in sending to the nearest port for a Cargo of Rice, as the fears I

* Note 192.
entertained of a deficiency of Grain, and which exigency alone led me to that measure, have been fully realized by the high price of that Article, as well as from the total failure of the crop caused by drought in the Sister Colony. I have, &c.,

THOS. BRISBANE.

[Enclosure.]

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

SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch No. 62, per ship Harriet.)
Government House, New South Wales,

My Lord, 22nd June, 1825.

I do myself the honor to acknowledge the receipt by the “Hercules” on the 7th Jnly. of your Lordship’s Dispatch No. 8 of last January, transmitting instructions under the Royal Sign Manual for the temporary Administration of the Government of this Colony, which I shall take especial care to place in the hands of the Lieut. Governor Stewart on my Embarking, with the other necessary documents; but my Dispatch No. 51 of last month will have communicated to your Lordship that such temporary administration will be but of short duration.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch No. 63, per ship Harriet.)
Government House, New South Wales,

My Lord,

An application was lately made by two respectable Merchants of Sydney to me that I would cause a seizure to be made of a Ship and Cargo,* recently arrived from China. The ground was that the Navigation Laws were infringed by the great portion of the Cargo being American Tobacco, and the ship not being navigated according to the Acts of Parliament, she having on Board Lascar Seamen. I referred the question to the Attorney and Solicitor General. The latter Officer was of opinion that no breach of any Law had been committed. The former thought that the Act of the 7th and 8th of King William on the subject might be considered as binding the Trade in Foreign Produce to New South Wales. There being however a difference of sentiment between these Gentlemen, I thought it prudent to do no more than to bring the particular case under your Lordship’s consideration.

* Note 193.
BRISBANE TO BATHURST.

It seems important in regard to the interests of the East India Company, inasmuch as the growing trade of this colony thus receives supplies by the way of China from the United States of America, and indirectly enable the States' traders to go into that great market. The policy of the East India Company, sanctioned by parliament, has recently been much opposed to this. Freedom of trade, upon general principles, will probably be most advantageous for this colony; but, as the complaint has been made to me, I have deemed it expedient to refer the case and the conflicting interests to your Lordship.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 64, per ship Harriet; acknowledged by Earl Bathurst to Governor Darling, 2nd February, 1826.)

Government House, New South Wales,

My Lord,

25th June, 1825.

Conceiving that following the recommendations of the Commissioner of Enquiry would meet your Lordship's sanction, under this impression I have the honor to acquaint your Lordship that I have been induced to add £200 a year to Mr. Crawford's Salary as first Clerk in the Colonial Secretary's Office, as recommended in 3rd Report, page 94, in consequence of the late Act of Council having done away with the fee from which a principal part of his emolument* was derived. I have therefore to solicit your Lordship's confirmation to that increase of salary, as the situation is one of considerable responsibility and labor, which Mr. Crawford is well calculated to discharge faithfully and with advantage to the public Service. I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 65, per ship Harriet; acknowledged by Earl Bathurst to Governor Darling, 20th October, 1826.)

Government House, New South Wales,

My Lord,

25th June, 1825.

Pursuant to the late New South Wales Act, Section 30,† I do myself the honor to transmit to your Lordship two complete Sets of the Laws, I have made with the advice of the Council down to the present date. One Set‡ is interlined and accompanied with such remarks as the nature of the subject seemed to require. The other is sent simply as it is received from the Newspaper Press. The Acts are published in the Newspapers of the Colony, and, for convenience of distribution to Magistrates and others, I have caused 50 copies to be struck off separately in the manner exemplified by the Set.

* Note 194. † Note 113. ‡ Note 196.
I have now the honor of sending your Lordship the confirmatory Acts. No. 11 will shew your Lordship the reason why the legislature of the Colony has hitherto made such slow progress. On this subject I have made further observations in my Notes on the Commissioner's Reports transmitted by the last Ship.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

[This enclosure contained copies of the first twelve statutes, as published in the "Public General Statutes of New South Wales." To each statute there was prefixed the following: "By His Excellency Sir Thomas Brisbane, K.C.B., Governor of the Colony of New South Wales, etc., etc., etc., with the Advice of the Council," with the exception of the first, which was passed "by the advice of the major Part of the Council." Each statute was endorsed, "Passed the Council:—Francis Stephen, Clk. col."]

[Enclosure No. 2.]

ATTORNEY-GENERAL BANNISTER TO SIR THOMAS BRISBANE.

Sir, Sydney, 28th June, 1825.

I have drawn up short Notes of the Acts, which your Excellency has passed; with regard to two, Nos. 8 and 9, I have no accurate knowledge of the purposes for which they were passed, and Nos. 7 and 12 did not appear to require comment. I think it probable that the Chief Justice can supply the proper notice on Nos. 8 and 9.*

I have, &c.,

S. BANNISTER.

[Sub-enclosure.]

NOTES on the Laws passed by His Excellency the Governor of New South Wales with the advice of the Council.

No. 1. This Act was passed in order to supply the defect of the Act of Queen Anne, which gave mercantile negotiability to Bills payable in "money" only, whereas the Bills usually made in New South Wales are payable in Spanish Dollars. A considerable controversy existed in the Colony on this Subject at the time of the promulgation of the New South Wales Act of Parliament.

No. 2. This Act was passed as the least objectionable mode of protecting the Magistracy of the Colony from vexatious actions. It was preferred to any more extended method of giving force to the Old Colonial Orders, many of which were illegal, and some inexpedient.

No. 3. This Act was passed in order to repress Bushranging. It was part of a System, which seems to have had considerable success.

No. 4. This Act was hastily drawn in order to be ready for the usual day of Licensing Public Houses.

* Note 197.
No. 5. Upon the promulgation of the 4 Geo. 4, C. 96, S. 19, rendering it necessary that two Magistrates should be present to condemn any prisoner, great inconvenience was felt in remote parts of the Colony from the difficulty of assembling a Bench. This difficulty was attempted to be removed by an increase in the number of Magistrates, which only lessened the Evil.

In order to enable the gentlemen, who were still disposed to maintain proper discipline, this Act was passed giving them singly certain limited powers.

No. 6. The Alehouse Licensing Act was first drawn without requiring the concurrence of the Minister for the certificates; and this Act relieved them from the Duty.

No. 10. A principle object in framing the Port Regulations has been to relieve the foreign and Colonial Shipping from burthens, which the improved State of the Colonial Harbours in police and the increase of Shipping generally no longer rendered necessary. This Act may be considered expedient.

No. 11. The occasion of this Act was an opinion, which had become general, that unless the five Members of Council Should be in the Colony, so as the Notice of any Meeting might be given to each Member, the words of the 24th Section* of the New South Wales Act were not complied with. No advantage had ever been taken of this Doubt, but it was (as Colonel Stewart was arrived) thought prudent to remove any ground for vexatious resistance to the former Laws.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 66, per ship Harriet; acknowledged by Earl Bathurst to Governor Darling, 19th February, 1826.)

Government House, New South Wales,

My Lord,

26th June, 1825.

Considering it requisite to give your Lordship explanation on certain points of expenditure in the Judicial Department of the Colony, in reference to the items, I do myself the honor to acquaint your Lordship that the expences of the Commissioner of the Courts of Requests, and of the Quarter Sessions Officers, and of certain assistance to the Attorney General, have been incurred under the following circumstances.

Early in the year 1824, I appointed Dr. Douglass Commissioner of the Court of Requests, pursuant to the power vested in me by the Act of Parliament; in his absence, I appointed Mr. Garling, one of the Crown Solicitors, on a Salary of £300. The arrival* of Mr. Stephen appeared to me to supercede both appointments. Afterwards on the institution of the Quarter Sessions, it became necessary that a Chairman, with legal knowledge, and Clerk of the Peace should be provided to assist the Magistrates at least in

* Note 157.
the commencement of these duties. Mr. Stephen was selected to be the Chairman, not only with regard to his qualifications, but inasmuch as his circuits for his Court of Requests could be arranged to be made at the same time at which the Quarter Sessions were held. Mr. Garling was also contented to allow his intended income as Commissioner of the Court of Requests to be considered as part of his emolument as Clerk of the Peace, to which Office I had appointed him. I thus endeavoured to consult economy in these appointments, which I could consider only as experimental ones. It was also of great importance that the Sessions should be held with due means of regularity and efficiency.

With regard to the assistance given to the Attorney General, the cost has been £100, and the Circumstances, under which that has been allowed, will perhaps be best explained by the Official Letters, of which I have the honor to transmit Copies to your Lordship. Circumstances have rendered further expenses requisite in his Department, of which the particulars are also detailed in the annexed Papers.

With the view of future legal arrangements in the Colony, I have required from the Chief Justice and the Crown Officers detailed reports on the Subject, which will be transmitted in due time to your Lordship.

I have, &c,

THOS. BRISBANE.

[Enclosure.]

ATTORNEY-GENERAL BANNISTER TO SIR THOMAS BRISBANE.

Sir,

I have procured two letters which show the extent to which I applied for assistance in the performance of my duties in January last, and, as your Excellency purposed adding them to a Dispatch to Earl Bathurst on the Judicial Department, I take the liberty of enclosing them.

I have reflected frequently in your Excellency's reference to me on the appointment of another judge in the Colony. The difficulties are, I think, considerable on the Subject. I have no doubt that, in the present state of Mr. Forbes' health, it could not be done legally, and beg permission to postpone a further consideration of the case until he shall feel himself to be failing again under the pressure of his duties. In the mean time, Your Excellency will perhaps think it right to state to Earl Bathurst how this important matter is now left.

I have, &c,

S. BANNISTER.

[Sub-enclosure No. 1.]

ATTORNEY-GENERAL BANNISTER TO SIR THOMAS BRISBANE.

Sir,

The criminal business of the Supreme Court will commence in a few days, and it may be necessary that the greater part of
my time may be occupied in the daily business of my Office and in preparing the new Laws of the Colony. I have therefore to request authority from your Excellency to retain the Solicitor General in so many Criminal Cases, as I may be unable to attend to without neglecting other pressing duties. I have, &c,

S. BANNISTER.

[Sub-enclosure No. 2.]

MAJOR OVENS TO SOLICITOR-GENERAL STEPHEN.

Sir,  
Private Secretary’s Office, 18th January, 1825.

The Attorney General having represented to the Governor that his time is so much occupied with the Criminal Sessions, he will be unable to proceed in legalizing the Digests of Government Orders, Proclamations, &c., He has therefore proposed to the Governor that you should be requested to discharge his duties in conducting in Court the prosecution of about 40 cases of Larceny and other Small offences, during the present Sessions, for which additional duty, I am directed to name the Sum of £100, and the Governor will be happy if you will undertake it.

I have, &c.,

J. OVENS, Private Secretary.

SIR THOMAS BRISBANE TO EARL BATHURST.  
(Despatch No. 67, per ship Harriet.)

Government House, New South Wales,  
29 June, 1825.

My dispatch No. 22 of last Jany. will have prepared your Lordship to expect the appointment I am about to have the honor to announce as having taken place.

Archdeacon Scott having delivered to me his proposal* to your Lordship respecting the appointment of Police Magistrates in the different townships of Parramatta, Windsor and Liverpool, accompanied by Mr. Wilmot Horton’s instructions to submit the same to Council, I did so accordingly; and it is most satisfactory to me to announce to Your Lordship that the unanimous opinion of the Council coincided with the view, I had taken of the subject in the dispatch alluded to, viz. that a Police Magistrate should be appointed for Parramatta. I have in consequence named D. D. McLeod, Esq., M.D., Half Pay Surgeon of the Forces, to that Office, from the conviction it could not be better filled; and his having acted in that capacity for the last 16 Months has particularly qualified him to discharge its duties with advantage to the Public. I have only sanctioned £300 a year of salary to be annexed to the appointment for the present, although I take the liberty of recommending that it should be permanently fixed at £400 per Annum.

* Note 198.
I have further to state, for your Lordship's information on this subject, that, as there was no Court house at Parramatta or public building to hold Sessions fit for the reception and sittings of the Court of Requests or benches of Magistrates, and the means of the Government to construct public buildings being limited, I have been fortunate, in hiring for five years at a yearly rent of £80, a house, the lower part of which, with a few alterations and a little furniture, compleatly answer for all the above purposes; the upper part will be occupied by the Police Magistrate, who will in consequence be always ready when required.

I have to hope that these arrangements will be approved by your Lordship.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE to EARL BATHURST.

(Despatch No. 68, per ship Harriet; acknowledged by Earl Bathurst to Governor Darling, 3rd February, 1826.)

Government House, New South Wales,

My Lord,

30th June, 1825.

I do myself the honor to acknowledge the receipt of your Lordship's Dispatch No. 1 of last January, directing a general division of the whole Territory of New South Wales and Van Dieman's Land in Counties, Hundreds and Parishes, which I have published in the Sydney Gazette. I have also named Commissioners for this Colony,* sending a blank Commission for the Lieut. Governor of Van Dieman’s Land to be filled up by him to their Commissioners. I have named £500 a year during the continuance of these Duties, which is to include all Allowances. Mr. Oxley, however, declines receiving any part of this.

I have only further to acquaint your Lordship that the instructions are in due progress, and I shall write more at large by the next ship, when I shall transmit the names of all the Commissioners.

I have, &c.,

THOS. BRISBANE.

EARL BATHURST to SIR THOMAS BRISBANE.

(Despatch No. 43, per ship Catherine Stewart Forbes.)

Sir,

1st July, 1825.

I have received The King’s Commands to signify to you His Pleasure that you do place at General Darling’s disposal all the Dispatches and Documents, which I may have had occasion to address to you during your administration of the Government of New South Wales.

I have, &c.,

BATHURST.
EARL BATHURST TO SIR THOMAS BRISBANE.
(Despatch No. 44, per ship Midas.)

Sir,
Downing Street, 1st July, 1825.

I have received your Dispatch of the 8th February stating that Mr. Bannister the Attorney General had submitted to you a statement of his case, as relating to his pecuniary situation and duties, and you recommend his application for an increase of salary to favorable consideration.

In the Dispatch, which I had the honor of addressing to you on 2nd June last, I acquainted your Excellency that I did not consider Mr. Bannister to have any claim to an additional allowance; to which I now beg to add that the inadequacy of his profits appears to have proceeded rather from his want of professional practice than from the disproportion of his Official Income; and the latter, having been fixed without reference to any other pecuniary advantages unconnected with his public situation, cannot now be augmented, because those professional and pecuniary advantages should happen not to be so considerable as were anticipated.

I have, &c.,
BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.
(Despatch No. 45, per ship Midas.)

Sir,
Downing Street, 2nd July, 1825.

I have received your Dispatch dated the 17th January last, in which you bring under my consideration the present system of paying Overseers by assigning to them the services of a Mechanic or a Convict, who is permitted to work for his own benefit, after paying a certain weekly allowance to his Master; and you submit that, in lieu of this arrangement, the Convict Artificers should be assigned to the Settlers on their paying 3s. 6d. a week to the Government for each Mechanic, besides feeding and clothing him whilst so employed.

The mode of paying Overseers, by assigning to them a Mechanic whom they might let out to hire, is decidedly objectionable. I have, therefore, to signify to you the King’s Commands that the practice should be immediately discontinued, and some other way of remunerating the Overseers be resorted to.

Whether the Government should receive the benefit of the Sum, derived by thus transferring the services of such convicts to private Settlers, is a question upon which I experience greater difficulty in conveying to you Instructions, although it would undoubtedly be highly desirable to save the Public the expense of remunerating the Overseers, by carrying the amount so raised to
the Account of Government. At all events, I should not wish the new system to be universally adopted, until experience has already established the utility and convenience of the measure.

I have, &c.,
Bathurst.

SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch No. 69, per ship Harriet; acknowledged by Earl Bathurst to Governor Darling, 8th January, 1826.)

Government House, New South Wales,
My Lord, 4th July, 1825.

Having only received the accompanying report* yesterday from Mr. Bushby, I cannot at present do more than recommend the same for your Lordship's favorable consideration, and I am at the same time unwilling to lose the opportunity of a Ship to England tomorrow to request your Lordship to give orders for the necessary quantity of Pipe, with the Steam Engine, if the undertaking meets with your Lordship's sanction and approbation.

I have, &c.,
THOS. BRISBANE.

[Enclosure.]

MR. JOHN BUSBY TO SIR THOMAS BRISBANE.

Sir, Sydney, New South Wales, 28th June, 1825.

In conformity with the instructions of your Excellency, on my arrival in this Colony, that I would direct my attention to the improvement of the supply of water for Sydney, I have examined the sources whence the present supply is derived, and also those from which I conceive an additional supply may be obtained, and have now the Honor to lay before your Excellency the following observations and suggestions, as the result of my enquiries, both previous to my visiting Newcastle and since my return from New Zealand.

Sydney is at present dependent for water on the Tanks in the vicinity of the Lumber yard, on Private Wells, and on the Swamps and Lagoons near Town, from which last it is brought in barrels at a great expense.

The Tanks, from their low situation, collect the water which falls upon the surrounding slopes. Even in the wet season, the supply is small, and in the dry season is so inconsiderable as to be altogether unworthy of notice. The water is surface water, and therefore soft and may be employed for washing; but it is so contaminated by impurities from the streets and other sources, as to be unfit for almost every other purpose. Besides, the inhabitants of the remote parts of the Town cannot avail themselves of it without great inconvenience.

* Note 167.
The private wells are numerous, and I have examined many of them minutely and at different times, and made whatever enquiries seemed required to obtain full information respecting the quantity and quality of the water they afford. I ascertained that in some the water is sufficiently abundant and constant for the supply of those to whom they belong; that in many it is scanty; and that not a few are useless during a great part of the year. In all of them the water, from being more or less impregnated with mineral substances, is unfit for many domestic purposes, and is very generally considered prejudicial to health.

Those, who have no wells and do not choose to use the Tank water, are under the necessity of bringing it at a great expense from the neighbouring Swamps, or purchasing from those who make a trade by bringing it.

It is needless here to make any observations of the importance of an abundant supply of so necessary an article of life, or to say how indispensable it is in a hot climate to the health and comfort of the inhabitants that there should be, in every season, a superabundance for every household purpose and every imaginable convenience. That Sydney is not supplied in this way the preceding remarks and the experience of the Inhabitants amply demonstrate; while they at the same time point out the necessity of adopting measures which shall secure a permanent and regular supply of good water, and which shall not only be equal to the present, but bear some proportion to the prospective wants of the Town.

These investigations into the sources of the present supply, I thought it my duty to make with considerable minuteness, although, from the peninsular situation of Sydney and the small extent of surface, I from a very early period felt assured of the necessity of having recourse to external sources; even though the mineral impregnations, with which the water of the wells is more or less imbued, had not rendered it desirable to procure a Supply, which, from flowing in the course of the river, had given off such impurities, or had been originally free from them.

Having directed my attention to the examination of the lagoons nearest Town, I put down several boreholes in each to ascertain the nature of the strata on which they rested. I found a fine and almost impalpable quicksand, from which it would be impossible to separate the water mingled in abundance with it. I was then led to the examination of the large lagoon in the vicinity of the old paper Mill, from which the Waterloo Mills draw part of their supply. This lagoon is lower than the others, and receives water from them by drains made by the Waterloo Company. The water is perfectly transparent and colourless, free from every
taste and smell, and so soft as to be fit for washing and every other domestic purpose. It is also so abundant that, when the population much exceeds its present amount, they will here find an adequate supply. It is likewise fortunate that it may be taken for the use of the Town without interfering with the purposes to which it is at present applied; for by an embankment of comparatively small extent, the lagoon may be formed into a reservoir, which, by collecting the surplus water that falls in the wet season, will yield to the Mills in the dry season a quantity equal to that abstracted.

Calculating on the large allowance of a hogshead or 85 cubic feet daily for each family (or every 5 individuals), the quantity required for Sydney, supposing 15,000 inhabitants, will amount to 9,307,500 cubic feet annually. But it is to be observed that, during at least six months of the year, there is more water than the Town and Mills require. It is, therefore, only for the water taken during the remaining months, when the supply is scanty, that any compensation should be made. The quantity will thus be 9,307,500/2 or 4,653,750 cubic feet. To compensate for this abstraction, there will be a reservoir containing at least 100 acres, which may be laid under water to the depth, on an average, of 3 feet, giving 1,306,800 feet, a quantity much exceeding that abstracted. From the large average quantity of rain, and the great extent of surface above the level of the reservoir, it may be fairly presumed, that a much greater portion than is here stated may be collected, so that the Mills, instead of being deprived of water at any season, will have it in their power to employ, during the dry season, a greater quantity than they could otherwise have commanded.

About 100 Yards of embankment will be required in the lagoon; and before the foundations of it can be properly laid, it will be necessary to cut a drain to carry off the water during the operations. Part of the drain will be in located ground, but it is presumed no objections will be made. I would also beg leave here to observe that, if the Old Paper Mill and the located ground towards the lagoon be procured, the embankment already made may be raised and strengthened so as to afford a fall sufficient to turn a wheel, by which the water may be sent home during the greater part or whole of the year, and the necessity for any other power probably superseded. An additional reservoir would also be thus obtained.

Hyde Park, from its elevated and commanding situation, affords the most proper site for the Reservoir, whence the water is to be distributed over the Town. The exact position of it may be left for future consideration. If it is intended that it should
be ornamental, the centre will be the fittest place, and then it may have to be raised a few feet; otherwise the most eligible situation will be within a few yards of the Toll Bar. That the water may flow freely home to this Reservoir, it must be raised considerably at the lagoon into a cistern or fountain head placed on the adjoining hill. For this purpose a force pump will be required, which may be wrought by a steam-engine, a tread-mill, or a water-wheel as above alluded to; and to this last as the least expensive, the preference is certainly due. A steam-engine of twelve-horse power would cost £1,500, and could not be supplied with fuel but at a very great expense. The treadmill is also expensive if the labour be taken into account, and it is besides doubtful whether there would always be a sufficiency of hands.

The pipe track runs from the N.W. corner of the lagoon, for a short distance in a N.N.W. direction, and then in a straight line N.W. till it reaches the road at the New Gaol. It then follows the road to Hyde Park. In this line, there will be about half a mile of tunnelling and some deep cutting, but the greater part consists of common ground cutting.

The following is an Estimate of the expense of bringing the Water from the lagoon to Hyde Park, calculated on having a six inch pipe from the lagoon to the fountain, and a nine inch pipe from thence to the Reservoir at Hyde Park.

This Estimate includes Cost of Steam-engine, force-pump, pipes, stop-cocks, air-cocks, etc., tunnelling, deep and common cutting, laying and joining pipes, embanking, with two Water-houses and Cisterns.

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>500 Yards 6 inch pipe Wt. 27 tons</td>
<td>£3,240</td>
</tr>
<tr>
<td>2,970 &quot; 9 inch &quot; &quot; 297</td>
<td></td>
</tr>
<tr>
<td>Steam engine, 12 horse power with necessary erections</td>
<td>£1,500</td>
</tr>
<tr>
<td>Force Pump, with brass chambers, boxes, etc.</td>
<td>£60</td>
</tr>
<tr>
<td>Tunnelling 462 fathoms @ £4 4s.</td>
<td>£1,940</td>
</tr>
<tr>
<td>Deep Cutting 2,300 Cub. Yds. @ 3s.</td>
<td>£345</td>
</tr>
<tr>
<td>Common Cutting 2,030 lin. Yds. @ 1s.</td>
<td>£101</td>
</tr>
<tr>
<td>Laying and joining pipes, including lead, etc.</td>
<td>£142</td>
</tr>
<tr>
<td>Embankment in lagoon 100 Yds. with drain etc.</td>
<td>£700</td>
</tr>
<tr>
<td>Two Water-houses with Cisterns</td>
<td>£226</td>
</tr>
<tr>
<td></td>
<td>£8,260</td>
</tr>
</tbody>
</table>

For the distribution of the Water, it is proposed to lay a main or 9 inch pipe from the Reservoir in Hyde Park to the East End of St. James's Church, and along King Street as far as Clarence Street; and from this main 3 inch pipes will run in both directions along the principal Streets of the Town. Many of the Streets are as yet only partially built and will not for some time require pipes. I have, therefore, in the subsequent calculation
confined myself to the undermentioned Streets. Public Wells will also be required in different places; and I would at present suggest the following, viz., the Market-place, Kent Street, the Rocks, the Public Wharf in George Street. I do not however wish to be understood as limiting the number as above; they may be increased as occasion shall require, and it is probable a much greater number may be necessary.

Main Pipe from Reservoir to Saint James' Church, and along King Street to Clarence Street.

Three Inch Pipes in the following Streets.
- Elizabeth Street, from Liverpool Street to Hunter Street.
- Castlereagh Street, from do. to do.
- Pitt Street, from do. to do.
- George Street, from do. to Argyle Street.
- York Street, from the Market Place through Barrack Square and along Charlotte Street and Princes Street.
- Clarence Street, from Druitt Street to King Street.
- Macquarie Place, King Street to Bent Street.
- Philip Street,
- Liverpool Street, Elizabeth Street to George Street
- Bathurst Street,
- Park Street,
- Market Street, Kent Street
- Bent Street,
- Hunter Street.

A branch pipe from the main pipe as it passes the New Gaol.

*Estimate of the Expence of distributing in the above Streets.*

<table>
<thead>
<tr>
<th>Description</th>
<th>Yards</th>
<th>Pipe</th>
<th>Weight</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,400 Yards 9 inch Pipe</td>
<td>1,400</td>
<td>9</td>
<td>140</td>
<td>£3,200</td>
</tr>
<tr>
<td>10,830 Yards 3 inch Pipe</td>
<td>10,830</td>
<td>3</td>
<td>180</td>
<td>£8,260</td>
</tr>
<tr>
<td>Laying pipes, including lead, etc.</td>
<td></td>
<td></td>
<td></td>
<td>£11,582</td>
</tr>
</tbody>
</table>

It will thus appear to Your Excellency that the whole expense of bringing into Sydney of good water will not exceed £12,000; and when the great expense of making wells is considered, and the still greater expense of drawing water in Carts, the advantages which would accrue to the Public will appear in the strongest light. A small tax imposed on those who take the water into their houses, and from the Supply of the Shipping, would yield
a revenue which would pay a large interest on the money expended, and accumulate a Stock for future repairs, while the Public Wells, Market Places, etc., might be supplied without any expense whatever.

I have, &c.,

J O H N  B U S B Y.

S I R  T H O M A S  B R I S B A N E  T O  E A R L  B A T H U R S T.

(Despatch No. 70, per ship Harriet; acknowledged by Earl Bathurst to Governor Darling, 23rd February, 1826.)

Government House, Sydney, N. S. Wales, 5th July, 1825.

I do myself the honor to transmit to Your Lordship the reports of two Medical Boards held on two Lunatics named, who have remained here and have been a burden to the Government for near two years in the hope of their recovery; but that proving now hopeless, I am induced, under the authority of my Commission* which especially invests me with the care and keeping of Individuals under mental derangement, to send them home to England by the present opportunity of the ship Phoenix, for which the sum of £120, one hundred and twenty pounds each, has been paid; and I have to hope that your Lordship will approve of the steps I have adopted, and sanction the amount paid.

I have, &c.,

T H O S. B R I S B A N E.

[Enclosure No. 1.]

PROCEEDINGS of a Medical Board, held at Parramatta by order of His Excellency Major General Sir Thomas Brisbane, K.C.B., to examine and report upon the case of Mr. Daniel MacDonnell, Surgeon.

Parramatta, 15th January, 1825.

President: Thomas Anderson, Surgeon, 3rd Regt.

Members: Thos. B. Allen, Col’l Ass’t Surgeon; Jas. Mitchell, Col’l Ass’t Surgeon.

"The Board, having met and minutely examined into the health of Mr. Dan’l MacDonnell, who was admitted into Parramatta General Hospital in February, 1824, labouring under Mental Derangement, find that he is now in a state of Convalescence. That the only apparent remains of his complaint is some general debility and a degree of mental despondency, not amounting to disease. That they beg to submit to His Excellency the propriety of taking an early opportunity of restoring him to his family. The Board beg to recommend him to be continued under the care of some trustworthy person, until he joins his friends; and this

* Note 200.
recommendation proceeds more from the two several attempts, which he previously made to commit suicide, than from any particular state of Mental Derangement under which he now labours."

Thomas Anderson, Surgeon (Buffs).
T. B. Allen, Col’l Ass’t Surgeon.
Jas. Mitchell, Col’l Ass’t Surgeon.

[Enclosure No. 2.]

Proceedings of a Medical Board, held by order of His Excellency Major General Sir Thomas Brisbane, K.C.B., to examine such cases as might be brought before them, and report to His Excellency The Governor in writing the result of their survey.

Sydney, New South Wales, 4th July, 1825.

President: T. Anderson, Surgeon 3d Regt. or Buffs.

The Board, having met and minutely examined into the state of health of John Duncan, a Purser on the Half Pay of the Royal Navy, find that he has been labouring under Mental Derangement for upwards of Eighteen Months, nearly Eleven Months of which time he has been under Medical treatment in Sydney. That he is now in a complete state of Mental Derangement, approaching to Idiotism, and, from a mature consideration of his case, entertain little or no hope of his ultimate recovery. They would therefore recommend that he be sent to England, under the care of some proper and responsible person by the first favourable opportunity, to be disposed of as His Excellency The Governor may judge necessary.

Mich’l Goodsir, R.N.
J. Mitchell, Col. Ass’t Surgeon.

Earl Bathurst to Sir Thomas Brisbane.

(A circular despatch, per ship Midas.)

Sir,

Downing Street, 6th July, 1825.

Mr. Robert W. Hay having been placed on the Establishment of the Colonial Office as additional Under Secretary* of State, I enclose a Memorandum, stating the manner in which the division of the business between the Under Secretaries has been arranged, in order to facilitate your communications with this Office.

I have, &c.,

Bathurst.

* Note 201.
[Enclosure.]

MEMORANDUM.

Division of duties of under secretaries.

Mr. R. W. Horton.  
West India Islands  
Demerara  
Berbice  
Honduras  
Bahamas  
North American Provinces  
Prince Edward's Island  
Bermudas  
Newfoundland and Cape Breton

Mr. R. W. Hay.  
East Indies  
Ceylon  
Mauritius  
Cape of Good Hope  
Malta  
Ionian Isles  
Barbary States  
Gibraltar  
Sierra Leone  
Gold Coast  
Heligoland  
New South Wales  
Van Diemen's Land.

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EARL BATHURST TO SIR THOMAS BRISBANE.  
(Despatch No. 46, per ship Midas.)

Sir, Downing Street, 22nd July, 1825.  

In your Excellency's Dispatch No. 32 of the 30 January last, you state that you had been under the necessity of withholding from Mr. John Cogill, Master of the Convict Ship "Mangles," the usual certificate of proper conduct from his not having strictly conformed to the Printed Rules annexed to the charter party, and likewise from his having landed Spirits and other commodities in New South Wales without a Regular permit. I have now the honor to acquaint your Excellency that the communication above alluded to, having been referred to the Commissioners of the Navy, they have addressed a Communication to my Under Secretary, a copy of which I herewith enclose for Your Excellency's Information.

I have, &c,

BATHURST.

[Enclosure.]

COMMISSIONERS OF THE NAVY TO UNDER SECRETARY HAY.

Sir,  
Navy Office, 14th July, 1825.

We have received your letter of the 12th instant, transmitting by Earl Bathurst's directions the copy of a despatch from Sir Thomas Brisbane, with the inclosures referred to, stating the circumstances under which he had been induced to withhold, from the Master of the Convict Ship Mangles, the usual certificate of proper conduct, and requesting that we will take such steps as may be proper on the occasion. And in return we request that you will inform his Lordship that the freight of the Mangles

Ser. I. Vol. XI—2 X
1825.
22 July.

Gratuity withheld from J. Cogill.

Certificate issued by Sir T. Brisbane.

Application of T. H. Scott for government reserves.

23 July.

Certificate of Sir Thomas Brisbane.

Earl Bathurst to Sir Thomas Brisbane.

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HISTORICAL RECORDS OF AUSTRALIA.

has been paid by this Dep't, the Governor having granted to the Master a certificate approving of his conduct, a copy of which we inclose; but, as we have not paid to the Master the usual gratuity of fifty Pounds for good conduct, we shall withhold that sum from him in consequence of this complaint.

We are, &c,
H. Legge.
D. Thomson.
R. Dundas.

[Sub-enclosure.]

CERTIFICATE OF SIR THOMAS BRISBANE.

New South Wales.

THESE are to certify the Honble. Commiss'rs for Victualling His Majesty's Navy that Mr. John Cogill, Master of the Convict Ship Mangles, has complied with his Charter Party, and landed here One Hundred and Ninety Male Convicts in a very clean and healthy state; that he has conducted himself entirely to my satisfaction, and left with me a copy of his log book in the usual form.

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 75, per ship Harriet.)

Government House, New South Wales,

My Lord, 22nd July, 1825.

The enquiry now going on in the case of Mr. Marsden and Doctor Douglass has so engaged my time as to prevent my entering into particulars; but, understanding that Mr. Archdeacon Scott has applied to your Lordship for the whole of the Government Reserves in this Country to be considered as forming part of the Church and School Lands, I request your Lordship will suspend your decision, until I can enter more in detail upon the subject, as I have the strongest reasons to oppose such a sacrifice.

I have, &c,
THOS. BRISBANE.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 47, per ship Catherine Stewart Forbes.)

Downing Street, 23rd July, 1825.

In acknowledging the receipt of your Excellency's Dispatch No. 36 of the 9th February, 1825, I have to acquaint you that the measures, which have been recently taken, and which were communicated to your Excellency in my Dispatch of the 5th Ultimo, for introducing into New South Wales, as well as into all other British Colonies, British Silver Money, and the Instructions which have been given in regard to the rates at which Spanish
Dollars and other Foreign Coins should be issued, with reference to that Money, render it unnecessary to make any special communication in reply to that Dispatch. I am, &c.,

BATHURST.

[Sir Thomas Brisbane to Earl Bathurst.
(Despatch No. 72, per ship Harriet.)

Government House, New South Wales,

My Lord,

28th July, 1825.

It is with much pleasure I now have the honour to enclose to Your Lordship the Printed Regulations for the Commissariat in supplying the Civil Department of the Colony; and I have to express a hope that they may be approved of by you.

I shall not trespass upon your Lordship's time in pointing out the extensive benefit arising from the deliberate arrangement and condensing all former regulations connected with this Department, and of giving them a systematic effect throughout the Colony; an advantage alike resulting to the different officers in charge of Commissariat Stations, and to the several individuals who are entitled to receive their Rations from them.

By this definitely fixing the Commissariat issues of provisions, greater facility is afforded in estimating and checking the expenditure of that Department; wherein much difficulty and intricacy, unaided by system, are too obvious to require comment and have hitherto been severely felt.

It remains for me to express to your Lordship the satisfaction I entertain of the ability and constant assiduity of the Officers, who composed the Board in framing these Regulations,* and of my high sense of the zeal and talents of the Commissary of Accounts, Mr. Lithgow, on this as on every other occasion for the furtherance of the Public Service. To him I am indebted for their appearance in their present form. I have, &c.,

THOS. BRISBANE.

[Enclosure.]

[A copy of these regulations will be found in a volume in series II.]

[Sir Thomas Brisbane to Earl Bathurst.
(Despatch No. 71, per ship Harriet.)

Government House, New South Wales,

My Lord,

31st July, 1825.

I do myself the honor to enclose to Your Lordship the Surveyor General's Report in reply to a communication addressed to him by my directions, calling upon him to state the alterations

* Note 202.
1825.
31 July.

Similarity in proposed regulations to conditions already in operation.

that were requisite to make in the existing Regulations for the granting and Sale of Crown Lands, in consequence of Your Lordship's Dispatch* rescinding all former regulations on this head, and placing the whole System on a new and permanent footing.

In submitting this Report to Your Lordship's perusal, it affords me great satisfaction in calling your attention to the very prominent similarity that pervades alike the conditions for the disposal and appropriation of the waste lands in New South Wales prior to Your Lordship's Dispatch, and the Instructions more recently received from Your Lordship in regard to the future orders to be in force on this Subject. Your Lordship will observe that in both the great leading principle has been adhered to of encouraging the maintenance of Convict Servants by the Settler, and the expenditure thus saved to His Majesty's Government being returned at no very distant period to the grantee and purchaser. The minor details in both will, I trust, also appear to Your Lordship to accord with each other.

It gives me pleasure to announce that the conditions of the sale of lands adopted by me, in so far as they were in operation, seem to have given as much satisfaction to the Colonists at large as they have been beneficial to the interests of the Crown; and as such I trust your Lordship will not only approve of them, but that they may be confirmed with Your Lordship's sanction in order that they shall be considered as effectual and binding for the period that they have been acted upon.

THOS. BRISBANE.

[Sir,]
Surveyor-General's Office, 23rd May, 1825.

I have the honor to acknowledge the receipt of your letter of the 21st instant, enclosing a Copy of a Dispatch from Earl Bathurst, dated 1st January, 1825, addressed to His Excellency The Governor, communicating the decision which His Majesty's Government has formed with respect to the Granting and Settlement of Crown Lands in New South Wales, in order that I may report on those existing Rules† which it may be necessary to alter to meet the intention of Government.

In the Dispatch, which has been communicated to me, Earl Bathurst has been pleased to separate the Individuals who intend to Settle in New South Wales into two Distinct Classes, the first obtaining their Lands by purchase, the second by Grant from the Crown under certain limitations.

The repeated applications within the Colony to be permitted to purchase waste Crown Lands induced His Excellency to publish

* Note 203. † Note 204.
the terms on which such purchases could be effected, together
with the Form of the Grant* (marked A) which would hereafter
be given of the Lands thus offered for Sale. The Price was fixed
at five shillings per Acre, on an average; and, on a Deposit of
ten per cent. on the whole purchase money being paid, a credit
of three Years was given for the residue without Interest. On
prompt payment, a discount of 6 Per Cent. was directed to be
allowed.

The assumed value of 5s. Per Acre, thus fixed upon Lands, I
consider very much beyond the average value of those Lands
which might be comprized in the Parishes or Townships situated
at a distance from the seat of Government, and incapable from
the general deficiency of Water communication of being brought
under cultivation with any reasonable or present prospect of
profitable investment of Capital, and which must therefore be
considered, at least for the present purposes, as solely applicable
to Grazing Sheep and Cattle. The real ready-money value of
such Lands is probably not more than 3s. per Acre, and certainly
that price could not, under existing circumstances (originating in
a deficiency of surplus capital, and the facility of grazing without
charge over the immense Tracts of Land which are wholly un-
occupied), be obtained.

The natural desire to obtain a secure legal title to the Land,
together with a Privilege of Selection under certain limitations,
and the Term of Ultimate payment extended to a period of Three
Years, doubtless had considerable influence with intended pur-
chasers; and, as it was not possible to put unsurveyed and un-
described Lands up to Public Sale, it was necessary to resort to
Sales by Private Contract, and to admit some fixed average Value
for the Land, for Cash; and if this value be considered not
 underrated at 3s. Per Acre, the cost to the purchaser of Two
Thousand Acres, allowing a Discount of 10 Per Cent., will be
£270, with a probable further Return of the whole purchase
Money within ten Years, provided a certain number of Convicts
are maintained by the Purchaser. The difference between the
assumed Public Sale Price of 3s. and the Credit Price of 5s.
per Acre in private Contract Sales, supposing the money not to
be paid until the expiration of three Years, will be upwards of
22 Pr. Cent. in favour of the Government, not calculating the
Interest on the 10 Per Cent. paid to Government on possession
being given, or the value of the small reserved Quit Rent of 2s.
Per Hundred Acres.

It may not be unimportant to show how far the measure of
selling the Waste Crown Lands has been in accordance with the

* Note 205.
31 July.

Applications to purchase land.

Reservation of right to make public roads.

Reservation of timber for the crown.

Omission of conditions re quit rents.

1826.

interests and desires of the Colonists (concurrent advantages being derived by Government); and I think this cannot be more effectually done than by stating the simple fact that, since His Excellency's intention to sell part of the Crown Lands was made known within the Colony, Applications to purchase have been accepted to the extent of 230,000 Acres, and within a Week after the Warrants were issued, 10 Per Cent. upon 40,000 Acres was paid; and so far as I am enabled to form a judgment, I have no doubt every acre will be Ultimately paid for on the Terms specified.

The Reservation of a Right to make Public Roads thro' all Lands, whether Sold or Granted, must I think be esteemed an indispensable condition in the holding, as it is impossible, when unsettled countries are first laid out, to determine either the course of population, or the precise spots which may ultimately become Towns or Villages. Experience alone can determine those points; and, if no Reservation of a Right to make Public Roads is made in the Grants, practical experience has shewn that nothing is to be expected from the liberality of the proprietors; and considerable sums must be expended in compensation to Individuals for the Privilege of affording the best means of communication from one settled portion of Country to another. The present practice is to allow a certain extra quantity of Land within the Boundaries of Tracts either Granted or Sold, and this Quantity is usually from 5 Acres to 100 acres in proportion to the extent of the Grant.

On consideration of the reasons above stated with reference to Public Roads, and as the same principle is applicable to the condition which permits The Governor to use particular descriptions of indigenous Timber for certain Public Purposes, as expressed in the Grant, it might be advisable to retain those two Conditions until the pleasure of Earl Bathurst can be received thereon.

On the Lands, directed to be Sold on the Principles laid down in Earl Bathurst's Dispatch, no Quit Rent whatever is reserved; it will therefore be necessary, in all Grants of Land which may hereafter be sold, to omit the Condition reserving Quit Rent; and it may probably be considered, with this exception in favour of the Purchaser, that the present Form of the Grant intended to be given to him will meet the views of His Majesty's Government, as there is no essential or important difference in the principles directed to be followed in the future disposal of Crown Lands, and those Rules by which I was instructed to govern myself, previous to the arrival of Earl Bathurst's Dispatch; the difference is wholly in the minor details of the measure, and not
in the principle; it will be impossible entirely to avoid those differences, until the Colony has been surveyed and valued according to His Lordship's instructions.

As regards the Reservation of certain portions of Land to New Settlers on Condition of Ultimate Purchase and Payment of present rent, it does not appear that Reservations of this description are contemplated by His Majesty's Government. Still as the measure promises to be beneficial both to the Government and Settler, it may ultimately meet with Lord Bathurst's sanction, and in the Interior it is not necessary to continue it; in fact, the Indulgence having reference only to Settlers from England, and as these persons are now made acquainted with the Terms of Settlement, no disappointment can be sustained by suspending the Indulgence, until directions are received on that point. The Principle, however, upon which such Reservations may be made, has been recognised in the reservations made to Mr. Macqueen, Mr. Nowlan, Mr. Lawrence and others, in obedience to directions from Earl Bathurst.

Respecting the second class of Settlers, the present custom is, as directed by Earl Bathurst, to make to each a Grant of Land in proportion to the extent of Capital, which there is reasonable ground to believe is intended to be expended in bringing it under cultivation, and Grants of this description have never exceeded 2,000 Acres; the Conditions under which these Lands are now held, are contained in the present annexed Form of Grant marked B. This Form affords three alternatives to the Settler in the expenditure of the Sum, which it is required should be laid out in improvements. The first is a Condition to clear and Cultivate a certain portion of Land, in proportion to the extent of the Grant, and was copied originally from the Grants made in Canada; this may be called the Primary Condition in all the Grants given in the Colony from its first Settlement to the Year 1822. Experience, however, has proved that the benefits, intended by its introduction, were rendered nugatory by the inapplicability (from situation) of many of the Tracts of Granted Land, to Agricultural Purposes; yet considerable Capital could be profitably employed in Stocking the same Lands with Sheep and Cattle; and the cost of maintaining 30 Convicts on a Grant of Two Thousand Acres in the course of Five Years (being an average of 6 Men Per Annum) was considered as equivalent to the expense of bringing the prescribed proportion of Land under Cultivation; and there can be no doubt that on a Grant of such an extent, a much greater number of Convicts will necessarily be employed by the Bona fide resident Settler; and, failing the Cultivation of any portion of his Grant, on maintaining an equivalent Number of Convicts, it was not requiring too much to condition that at

* Note 205.
least an equal sum should be laid out in some permanent improvements, as Buildings, Fences, etc. In the Dispatch to which my attention has been directed by His Excellency, the latter condition only seems to be required, and that to the extent of one half the average Value of the Land at the time it was granted, which, on the most extended Valuation, will fall very far short of the sum of Money required to be expended, or the cost of the alternative conditions as made Public in the Schedule Marked C. The sum required to be expended on a Grant of Two Thousand Acres will do little more than Fence it in, and Provide temporary Dwellings.

In making the new Grants to Settlers from England, it will therefore be matter of consideration to omit the first and second alternatives, and only retain the third; this is however of little consequence, as the retention of the third Condition will in all respects meet the principles laid down in the dispatch, however it may differ as to the actual amount to be expended, and which cannot be accurately ascertained for a considerable time.

The present Grants contain a reservation of Quit Rent amounting to 15s. Per Hundred Acres, payable at the expiration of five years; this sum was inserted in obedience to Earl Bathurst's directions, and assuming, as before stated, the Cash Value of the Land to be on an average 3s. Per Acre, it is exactly five Per Cent. on that Value; and in the absence of more correct Data on which to form a valuation, I respectfully submit it to His Excellency that it will be no departure from the Principles of Earl Bathurst's Instructions to continue the Quit Rent at its present rate, extending the Period when the first payment is to commence from 5 to 7 Years, according to His Lordship's orders.

The other Reservations, contained in this Form of Grant, are those of Roads and Timber, which have been already observed on; and I submit that they should be retained until Earl Bathurst's Instructions can be obtained in relation to those points.

The two Forms of Grants A and B were drawn up by the Attorney General, and, with such alterations and omissions as may be necessary to embrace the principles directed to be acted upon by Earl Bathurst, may not be considered as unsuitable to the circumstances of the Colony, or at variance with His Lordship's Instructions; and in that view I beg respectfully to suggest to His Excellency the expediency of continuing them at least until further instructions are received.

As no precise Rules have been laid down respecting the Granting of Lands in extension to original Settlers, perhaps the suggestions contained in my letter* to His Excellency, dated 4th Novr., 1824, on this subject, Marked D, may continue to be

* Note 205.
BRISBANE TO BATHURST.

advantageously acted upon; and it may not be improper to state that, since the adoption of those principles, very few applications have been made for extended Grants, as compared with previous applications; and, should His Majesty's Government continue to consider it advisable to hold out the prospect of large reductions in the sum required for the redemption of Quit Rent, and the return of purchase Money in consequence of the employment of a Certain number of Convicts, I take the liberty of suggesting that the Settler should not receive an extension of his original Grant, on the ground of having employed an extra Number of Convicts, if he avails himself of the employment of the same Convicts to obtain the return of his Purchase Money or a diminution of the sum to be paid in the Redemption of his quit Rent, as it must be obvious that either inducement is fully sufficient to cause the maintenance of as many Men as can be usefully and profitably employed. The Quit Rents payable upon Lands given in extension is the same in amount as upon other granted Lands; but the payment commences immediately upon the Grant being made, and not at the expiration of 5 or 7 Years.

I have only further to observe that the Cost of maintaining Convict Labourers is nearly as stated in my Letter of the 4th of November last; but the Profit of the Labour of the Convict is not estimated or deducted; the Land given as a Bonus is also valued at the highest credit rate; but if the estimation of the Cost of the Convict be reduced to £16 Per Annum, and the value of the Land to 3s. per Acre, the result will be nearly the same, and would cause little or no variation in the present scale, by which the propriety of extending Grants is governed.

I am gratified in being able to report to His Excellency that the Principle of the new and extended Surveys, which are intended to be carried into execution, has been adopted with success in the New Settlements on Hunter's River and at Bathurst during the last three Years, and that the Progress of the important alterations contemplated in Earl Bathurst's Dispatch will in consequence be materially promoted. I have, &c.

J. OXLEY, Surveyor-General.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 74, per ship Harriet.)

Government House, New South Wales, 1st August, 1825.

My Lord,

In pursuance of Your Lordship's Commands conveyed in your Dispatch of No. 25 of July, 1824, directing possession to be resumed of Norfolk Island, I have the honor to acquaint your Lordship that I was fortunate in engaging a private ship* to fulfil that duty; which I am happy to state is completed without

* Note 206.
1 Aug. 1825.
Report on condition of Norfolk Island.

Causes of delay in re-occupation.

accident, as the Mermaid Colonial Cutter returned last week bringing the intelligence that the Detachment of Troops, as well as the Convicts and Stores, were all landed in safety on the 6th of June. Captain Turton of the 40th Regiment, the Commandant at Norfolk Island, reports very favorably of its present state, as to live stock which is in great abundance; particularly pigs, which he states to be beyond all calculations; Goats are also very numerous. He reports the former Town of Buildings are in a state of perfect ruin, but from the remaining walls he will be enabled to form a temporary Gaol and Store. The Commandant also reports favorably on the facility of landing on the Island at all times, either at one side or the other; and he concludes by acknowledging in high terms the hearty co-operation of all Military and Civil Officers in promptly and cheerfully carrying into execution his orders.

The delay, which has arisen in carrying your Lordship's Instructions into execution has been occasioned by the scanty state of our Marine, which rendered it impossible for me, with that alone, to fulfil your Lordship's Orders; and I did not feel justified in going to the expense of taking up a Vessel for the sole and express purpose. I, therefore, waited for the opportunity of a Vessel bound to India through Torres Straights when Norfolk Island lay but little out of the Track.

This Vessel had also to call at Port Macquarie for such Prisoners, as it was deemed necessary to send in the first instance to prepare for future numbers; and with that view, I only sent 57 Convicts mostly Mechanics to prepare Buildings and erect a Tread Mill which accompanied it. The Detachment of Troops consisted of but one Captain, 1 Subaltern, 3 Serjeants, 30 privates, 6 women and six children.

I cannot conclude this Despatch without expressing in high terms my opinion of the importance of resuming possession of Norfolk Island, viewed in combination with the opinions I had the honor to convey to your Lordship more at large in my Despatch No. 50 of last May on the penal Settlements generally.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 73, per ship Harriet; acknowledged by Earl Bathurst to Governor Darling, 2nd January, 1826.)

Government House, New South Wales,

My Lord,

4th August, 1825.

I have the honor to enclose a series of documents connected with the Grant of 10,700 Acres of Land, directed by your Lordship to be made to Mr. Macarthur, and to beg leave to
submit a detailed statement of the facts, as they have occurred, to enable your Lordship to take a connected View of the whole case, and to perceive the bearing of the several documents referred to.

In compliance with your Lordship's Dispatch of the 31st of July, 1823, a copy of which is enclosed for the convenience of reference, I caused Mr. McArthur to be put into possession of the whole of the Government Reserves at the Cow Pastures, agreeably to the Coloured Chart which your Lordship enclosed for our guidance; but as I apprehended that your Lordship, in directing the cession of the above Lands to Mr. Macarthur, was not aware at the time that there had been a reservation of 600 acres for the purpose of a Church and School, I thought it proper to apprise your Lordship of that circumstance, and in the meantime to defer the execution of the Grants until your Lordship's pleasure should be known.

Mr. Macarthur was fully apprized by me of the objections which I had to the execution of the Grants, as will appear to your Lordship by the correspondence which took place between that gentleman and the Colonial Secretary, herewith enclosed; and he engaged to abide your Lordship's ultimate decision, as will appear by reference to his letter of the 20th May, 1824. I have since received your Lordship's Dispatch of the 17th August, 1824, a copy of which is also enclosed, and in which your Lordship qualifies the possession, previously ordered to be given to Mr. Macarthur, by the express reservation of 600 acres out of the 10,700, if the Reverend Archdeacon Scott should within six months after his arrival report such reservation to be necessary.

I received your Lordship's last despatch early in April last; and on the 14th of the same month, I caused a letter to be written to Mr. Macarthur, enclosing an extract from your Lordship's Despatch, and communicating my readiness to execute the Grants upon the terms directed by your Lordship. To that letter, I have never received a reply. I also communicated the substance of your Lordship's Dispatch to the Attorney General, as the basis on which the intended grants were to be prepared. I did not require Mr. Macarthur to execute the Bond directed by your Lordship, because he was already in possession of the whole of the Land, and it appeared to me that the execution of that instrument should be deferred until the execution of the Grants, as they were properly simultaneous Acts.

As Mr. Macarthur had been put into possession in pursuance of your Lordship's first mentioned Dispatch, he of course became liable to pay for the Land according to the terms therein laid down; and when the first instalment became due, it was demanded as a necessary consequence of possession, still, however, leaving...
Suggestions made by T. H. Scott.

1825. 4 Aug.

Reserve proposed by T. H. Scott.

Exchange of land proposed by J. Macarthur.

Criticism of decision of T. H. Scott.

HISTORICAL RECORDS OF AUSTRALIA.

the question reserved as to the Church and School lands open to Your Lordship's determination, whenever it might suit your Lordship's convenience to consider and decide upon it.

In this state of the transaction, the Rev. Archdeacon Scott arrived in the Colony, and soon after repaired to the Cow Pastures for the purpose of inspecting the place, and determining, as I supposed, the expediency of retaining the 600 acres. On the 7th June last, I received a letter from the Archdeacon, in which he threw out an opinion that the transaction had been closed before his arrival, and that he could not disturb the possession of Mr. Macarthur without a breach of faith on the part of Government. I afterwards received a second letter, dated the 8th Ult., to the same purport, which led to a correspondence at some length between myself and the Archdeacon, which I have the honor to enclose, and I beg to call your Lordship's particular attention to his letter of the 26th Ult., and my reply of the 30th, in which the points in difference between us are brought to issue, and from which your Lordship will already perceive that the data, upon which the Archdeacon founds his opinion, are altogether erroneous in fact.

On the 2nd Ult., the Archdeacon officially reported his opinion to me that 20 acres of the reserved land would be sufficient, and intimated that the spot called Cawdor, on which Government buildings were standing, would be the fittest for the purposes required; and, as that place had no supply of water, the Archdeacon submitted a proposal from Mr. Macarthur to give up 160 acres of land formerly granted to him at the price of two acres for one in another part of the Cow Pastures.

The Archdeacon's letter enclosing Mr. Macarthur's proposal is herewith enclosed. As I did not like the complexion of this proposition, I refused to sanction it, stating my readiness at the same time to refer it to your Lordship. I was the more anxious to adopt this course, as my own acts had been complicated, and I was desirous that your Lordship should see the spirit in which the proposal came.

From this general view of the Transactions in the order they occurred, your Lordship cannot fail to observe how widely they have travelled from your Lordship's instructions. The Archdeacon was called upon to give his opinion simply upon the eligibility of the 600 acres for the use of a Church and School. The Archdeacon waives the question with reference to the interests of the Church, and decides that the 600 acres cannot now be claimed without compromising the faith of the Govt., and then submits from Mr. Macarthur an entirely new and distinct proposal.
Upon the whole of the Transaction, I beg leave to Submit the following points for your Lordship's consideration.

1st. It does not appear to me that the Archdeacon was called upon to enter into the question, and certainly not to decide whether your Lordship's Dispatch of July, and the subsequent transactions thereupon, had committed the honor of the Crown too far to demand the restitution of the 600 acres.

His Office, as I interpret it, was merely to say whether the land reserved for the Church and School was necessary or not; and if necessary, out of what part of the 10,700 acres, it should be selected. Had the Archdeacon confined himself to this Office, I certainly should not have offered any opinion upon the propriety of the decision to which he might have come; but having thought fit to enlarge the ground taken in his Official Report, and, in his letter of the 8th Ult., to assign as his principal reason for renouncing land in the Colony, that he did not think himself justified in being the instrument by which the dignity and honor of the Crown should suffer, naturally puts me on the defensive, as the Archdeacon appears to have overlooked the very serious charge he was implicitly preferring against the Government under my administration.

2nd. I conceive it would be fairly open to your Lordship to have demanded the restitution of the reserved 600 acres, even supposing Mr. Macarthur had been put into unqualified possession of the whole of the reserved Lands, in pursuance of your Lordship's Dispatch of July, 1823. Your Lordship in that Dispatch had proceeded upon the faith of a Statement made by Mr. John Macarthur, Junr., in London, in which there was no allusion whatever to the reservation which had been before made for public purposes.

As that material fact had not been brought into View, I apprehend that your Lordship was certainly entitled upon its being discovered to demand the restitution of what had been promised under such circumstances; and moreover, I think your Lordship will be satisfied that there was an express understanding between Mr. Macarthur and the Colonial Govt. that the question should be referred to your Lordship's decision, and that nothing had been done since on the part of the Government to interfere with such express understanding. It is true that Mr. Macarthur, in his letter of the 24th September, 1824, in answer to the letter of the Colonial Secretary demanding payment of the first instalment, enclosed a draft for the amount and requested a receipt, specifying that the sum paid was in full discharge of the first instalment for 5,700 acres; but the receipt was not given, because it was considered that the terms, in which such receipt was
1825.
4 Aug.

Criticism of action of J. Macarthur.

Proposals by J. Macarthur for surrender and exchange of lands.

Selection of site at Cawdor by T. H. Scott.

HISTORICAL RECORDS OF AUSTRALIA.

demanded, might be construed into a departure from the Agreement to refer the matter to your Lordship and therefore no reply was made. The money had not been paid, and that transaction has been left in statu quo.

As Mr. Macarthur had enjoyed the possession of the land, so he was bound to pay for it, subject however to its being repaid or deducted, if the land should afterwards be reclaimed. He had expressly agreed to receive the land upon these terms; and, after he had obtained possession, it was not open to him to recede from his engagement; supposing that the Grants had even been delivered to him, it would have been but fair to expect, after the liberality of Government towards him, and his own proposal to abide your Lordship's decision, that he would not take shelter, under any form or ceremony, to evade a compliance with your Lordship's decision or wishes.

3rd. Mr. Macarthur proposed to avail himself of your Lordship's first dispatch so far as to get rid of the valuation of Cawdor and its buildings. With this view, he offered to give up 20 acres of land comprehending that part on which the Government buildings are situated, that is to give up the sum of £10, the rate at which he is charged for twenty acres, and relieve himself from paying for buildings which are useless to him, but which have been appraised at the sum of £644, as will appear by the appraisement made by the Superintendent of Govt. works, herewith enclosed; besides this the location of a Church and School in the centre of his Estate must necessarily create the just expectation of considerable future benefit to himself and his successors; and he further proposes to gain two acres for one by exchanging land contiguous to Cawdor, for a double quantity in another part of the Cow Pastures comprehending a stream of water, which renders a large proportion of the adjacent country of little value to any other proprietor.

4th. The only reasons, stated by the Archdeacon in his Official letter of the 2nd Ult., for selecting Cawdor are the site and the buildings, which he says will answer the temporary purpose of a Church for the present population. I am not aware of any population in that immediate neighbourhood except Mr. Macarthur's own servants; and it might have been reasonably expected that he would allow the use of some place of his own for the purposes of divine worship, as other landed proprietors in the Colony are in the habit of doing, and as I am sure Mr. Macarthur, if called upon, would cheerfully do; and by the time that an independent population may be calculated to settle in that neighbourhood, the temporary buildings at Cawdor will have become useless. The Archdeacon further stated that, although the contemplated Parish at Cawdor will be principally possessed by one
proprietor, it is to be supposed that, at some more advanced period of the Colony, it will be occupied by tenants and other persons, and that the intended Church will be easy of access from all parts of the Parish; but the contrary supposition should be taken into account; and I do not think that ease of access to such places of public resort as a church should be left to depend on the will of a single proprietor, nor can I see the expediency of giving up the 580 acres of adjoining land, which in the contemplated Parish must become no less valuable to the Church than convenient to the public.

In conclusion, I have to observe that the Archdeacon has not yet definitely determined the point referred to him in your Lordship's Dispatch of August last; and therefore I shall call upon him, in the express terms of that Dispatch, to say whether the whole of the 600 acres should be reserved or given up, with reference to the interests of the Church alone, without taking into consideration any other question with which he was not authorized to determine, and I shall be guided entirely by his opinion.

The point immediately reserved for your Lordship's decision now is, whether the new proposal, submitted through the Archdeacon, of exchanging two acres for one, contiguous to Cawdor, should be accepted; and I have gone very much into explanations in this proposal in order that your Lordship might be enabled to see the advantageous bargain which is sought to be made at the expense of the Crown.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

[This was a copy of a despatch from Earl Bathurst to Sir Thomas Brisbane, dated 31st July, 1823; see page 92.]

[Enclosure No. 2.]

[This was a copy of the letter from Mr. John Macarthur, jr., dated 21st July, 1823; see page 93.]

[Enclosure No. 3.]

UNDER SECRETARY HORTON TO MR. JOHN MACARTHUR, JR.

Sir,

I have laid before Lord Bathurst your letter of the 21st July referring to the delay, which had occurred in making the grant of 5,000 Acres of land to your father in New South Wales, and soliciting either that the same might be allotted adjoining to his present Estate, and extending from the district called Brisbane to the River Nepean, as marked green in the Map, which you enclosed, or that his Lordship would permit him to take the
whole of that district, consisting of 10,700 Acres bounded by the River Nepean, Mount Hunter Creek, Brisbane and West Camden, on his either agreeing to pay for the Surplus of 5,700 Acres at the highest price named by the Commissioner, or to yield in return any annual Quit Rent his Lordship might think fit to impose.

I am directed in reply to acquaint you that a copy of your letter has been in consequence forwarded by Lord Bathurst to Sir Thomas Brisbane, with instructions that the proposal made by you may be complied with, either by actual purchase on the terms stated by the Commissioner P. 48 of his 3rd Report, or by the payment of a proportionate reasonable Quit Rent, by which arrangement your father will not only receive immediately the Grant of 5,000 Acres, to which he is already entitled on account of the promise made to him by Lord Camden, but will secure to himself the possession of an additional contiguous District amounting to 5,700 Acres.

I am, &c,

R. WILMOT HORTON.

[Enclosure No. 4.]
[This was a copy of Earl Bathurst's despatch, dated 17th August, 1824; see page 349.]

[Enclosure No. 5.]

CORRESPONDENCE WITH MR. JOHN MACARTHUR.

[A] Secretary Goulburn to Mr. John Macarthur.

Sir, Colonial Secretary's Office, 17th February, 1824.

In compliance with a Dispatch received from Lord Bathurst, I am directed to have the honor to acquaint you that the Governor is ready to make to you a Grant of the whole of the district, supposed to consist of Ten thousand seven hundred (10,700) Acres, bounded on the North by the River Nepean, on the West by Mount Hunter, on the South by Brisbane, and on the East by Camden, reserving however for public purposes a Tract enclosing all the paddocks around Cawdor, and another of Six hundred Acres being the land hitherto set apart for a Church and School, on your agreeing to yield in return the quit rent of a shilling sterling the Acre, to be perpetual, or, at your option, to be redeemable at Twenty years purchase.

I have, &c.,

F. GOULBURN.

[B] Secretary Goulburn to Mr. John Macarthur.

Sir, Colonial Secretary's Office, 9th March, 1824.

I request a reply to the letter I had the honor of addressing to you on the 17th Ultimo.

I have, &c.,

F. GOULBURN.
[C] Mr. John Macarthur to Secretary Goulburn.

Sir,
Parramatta, 10th March, 1824.
Your letter of yesterday's date is this moment delivered to me. The accompanying letter to His Excellency superseded the necessity of any further reply from me.

I have, &c.,

JOHN MACARTHUR.

[D] Mr. John Macarthur to Sir Thomas Brisbane.

Sir,
Parramatta, 10th March, 1824.
I should long ere this have done myself the honor to answer the letter transmitted to me from the Colonial Secretary's Office bearing date the 17th Ultimo, but that the surprise excited by its contents induced me to think it most prudent to wait until I should receive the Official reply of the Earl Bathurst to the application of my son for an extension and further confirmation of His Lordship's orders, relative to the Grant of Land at Cawdor. The expected letter I have had the satisfaction to receive by Mr. Justice Forbes, and, inferring that the Dispatch from Government to your Excellency is couched in the same liberal spirit, little more remains for me than to refer to the prominent part of Mr. Wilmot's letter of the 11th July, 1822, which stated "that the Earl Bathurst had been pleased to order me the land as near as possible to my original grant in Cawdor, that I may be enabled to accomplish the desirable object of having a tract of Country for preserving my stocks in their present state of purity and perfection, without incurring the risk of loss or interruption from the establishment of neighbouring Settlers."

Not regarding this wise and important provision to give permanence and security to an undertaking, which all admit to be of great national importance, both as it relates to the future welfare of this Colony and the interests of the Mother Country, the Colonial Secretary proposes to reserve common land and a Township in the very centre of the intended Grant, an arrangement which would not only expose my flocks to the danger, but to the certainty of intermixture and contamination from the worst and probably the most diseased sheep in the Colony, and the reserved Township might speedily be filled with occupants, who would in a very short period leave me few sheep to improve or to preserve.

I pass over without remark the very objectionable demand of one shilling an acre quit rent, because I cannot but feel I should be making an ungrateful return for the liberal patronage with which I have been honoured, if I were to become a party to any negotiation relative to an affair which His Majesty's Government have taken so much trouble clearly to define.
Permit me, then, respectfully to request that you will be pleased to take into consideration the serious and heavy loss I have sustained by being kept out of possession of a valuable tract of land nearly sixteen months, and once more to solicit that Earl Bathurst's Instructions may be complied with, by putting me into immediate possession of the estate of Cawdor on the terms it has been promised to my son.

I have, &c.,

JOHN MACARTHUR.

[F] Secretary Goulburn to Mr. John Macarthur.

Sir, Colonial Secretary's Office, 17th March, 1824.

Your Letter of the 10th Inst. having been submitted to the Governor, I am directed to have the honor to acquaint you that, to avoid further discussion, His Excellency is prepared to give the largest latitude to the letter of Lord Bathurst's late Dispatch, and to surrender into your possession, so soon as the Cattle can be removed, the whole of the district (with the exception of the Premises of Cawdor) supposed to consist of Ten Thousand Seven Hundred (10,700) acres, bounded by the River Nepean, Mount Hunter Creek, Brisbane and West Camden, on your entering into One Security, with the Crown Solicitor, to make any reparation that His Majesty's Ministers shall award for the sacrifice, which may have been made of the Public weal through misinterpretation of the spirit of His Lordship's instructions.

I have, &c.,

F. GOULBURN.

[F] Mr. John Macarthur to Sir Thomas Brisbane.

Sir, Camden, 20th March, 1824.

I do myself the honor to acknowledge the receipt of a letter from the Colonial Secretary, dated the 17th Instant, on the subject of the estate of Cawdor, and I am constrained to say that notwithstanding I have given it the most attentive consideration, I am unable to comprehend what can be meant by requiring me to give security to make any reparation that His Majesty's Ministers shall award for the sacrifice, which may have been made of the public weal through misinterpretation of the "spirit of his Lordship's instructions." But as I am also told that your Excellency "is prepared to give the largest latitude to the letter of Lord Bathurst's late Dispatch," and as I have reason to be convinced that the Dispatch, alluded to, is expressed in terms as clear and intelligible as the spirit, with which it was dictated, is liberal and enlightened, perhaps the most effectual mode I can adopt to relieve your Excellency from all further
BRISBANE TO BATHURST.

trouble on a subject that I am well aware has been as little pleasing to you as it has been painful to me, will be to decline my readiness to give any reasonable security for the due performance of the conditions under which his Lordship has been pleased to direct the estate of Cawdor should be granted to me. And notwithstanding those conditions are so specified and well defined, should they still be considered ambiguous and doubtful by the Colonial Secretary, I will cheerfully further engage to abide by any future explanation from the Earl Bathurst.

Inferring that it is your Excellency’s wish to retain possession for a short time of the Buildings and Tan yard at Cawdor, permit me to assure you that it does, and always will, afford me sincere pleasure to be allowed an opportunity of conforming to your arrangements.

Having repeatedly taken the liberty to submit to your Consideration the distress of my stock from want of a more extended range of pasturage, and, as it is now upwards of two months since the arrival of the Order of Earl Bathurst to put me into immediate possession of the Cawdor Estate, I trust you will pardon my freedom in once more respectfully entreat you that no further delay may be permitted. I have, &c.

JOHN MACARTHUR.

[2] Secretary Goulburn to Mr. John Macarthur.

Sir,

Colonial Secretary’s Office, 23rd March, 1824.

In reply to your Communication received this afternoon, I am directed to have the honor to acquaint you that arrangements will be made with all practicable expedition for placing you in possession of the land specified in my letter of the 17th Instant; and the nature of the security, you will be required to give, will be detailed to the Crown Solicitor Mr. Moore in a few days. I have, &c,

F. GOULBURN.

[3] Secretary Goulburn to Mr. John Macarthur.

Sir,

Colonial Secretary’s Office, 31st March, 1824.

I have the pleasure to acquaint you that arrangements are in active progress for removing the Government Herds from all the open land of the Cow Pastures. You can accordingly enter with your flocks, I am directed by the Governor to inform you, upon its immediate possession, reserving however to the Crown a space around the present tannery equal to double its area.

I have, &c,

F. GOULBURN.
[I] Mr. John Macarthur to Sir Thomas Brisbane.

Sir, Parramatta, 17th April, 1824.

I have postponed acknowledging the receipt of a letter from the Colonial Secretary, bearing date the 31st Ult., until I should receive information from Camden that my representative at that place had been actually put in possession of the Estate of Cawdor, in conformity to the instructions your Excellency has received from Earl Bathurst.

I have now been apprised that possession has been given of the unenclosed part of Cawdor, but that the enclosures and the Buildings are still retained.

In referring to the Secretary's letter of the 31st Ult., I should have considered it necessary to remark upon the following sentence, "reserving however to the Crown a space around the Tannery equal to double its area," had not your Excellency assured me, at our last interview, that you only proposed retaining the Tannery and the space required around it for a short time, and as an accommodation from me to the Government until arrangements could be made for the removal of the Establishment.

Having entirely considered the subject of the tenure of the surplus of five thousand seven hundred (5,700) Acres, I now beg to say that I prefer making an actual purchase of that portion of the Cawdor Estate to holding it on a Quit Rent; and I shall be ready on receiving the Grant to execute the requisite securities to pay for the same, in the manner pointed out by the Commissioner of Enquiry, that is to say, at the rate of ten shillings (10s.) per acre, ten per cent. in advance and the unpaid balance by instalments, payable every six months.

I feel assured that this arrangement will be agreeable to your Excellency, as it will relieve the Earl Bathurst and you from being further troubled on the subject. I am, &c.,

JOHN MACARTHUR.

[J] Secretary Goulburn to Mr. John Macarthur.

Sir, Colonial Secretary's Office, 28th May, 1824.

Your letter of the 17th Ultimo having been submitted to the Governor, I have been honoured with this instruction, that your terms are accepted of, and that the Public Buildings with the enclosures are to be Valued. I have, &c.,

F. GOULBURN.

[K] Secretary Goulburn to Mr. John Macarthur.

Sir, Colonial Secretary's Office, 18 September, 1824.

I am directed by the Governor to have the honor to call upon you to fulfil the conditions of payment for the Crown Lands, which you lately obtained by purchase. I have, &c.,

F. GOULBURN.
Mr. John Macarthur to Secretary Goulburn.

Parramatta, 24th September, 1824.

Sir,

I received your letter of the 15th Inst. this morning, requiring me to fulfil the conditions of payment for the Crown Land, which I lately obtained by purchase. By the earliest opportunity, I do myself the honor to enclose an Order on the Bank of N. S. Wales for (1,140) Eleven hundred and forty Spanish Dollars.

Allow me to request that you will do me the favor to return a Receipt required, specifying that the sum paid is in full discharge of the first instalment of ten per cent. on the purchase money for the Reserve of five thousand seven hundred acres of the Estate of Cawdor, sold to me by order of His Majesty's Secretary of State for the Colonies. By a reference to my Letter of the 17th of last April, you will perceive that I am not liable to be called upon for any payment on account of the purchase stated above until I receive the Grant or Deed of Conveyance. But being anxious to avoid the renewal of discussions, which perhaps might give trouble, I have considered it most advisable to waive the informality of the demand for payment which has thus been made upon me.

I have, &c.,

John Macarthur.

Correspondence with Archdeacon Scott.

Archdeacon Scott to Sir Thomas Brisbane.

Sir,

Sydney, 7th June, 1825.

1. In consequence of the Surveyor General's representation to me that delaying the decision of Mr. Macarthur's Grant in the County of Camden would stop the progress of a road now forming there, I proceeded on Saturday last, accompanied by him and Mr. Macarthur's sons, and in obedience to Lord Bathurst's Instructions of the 17th of August, 1824, I entered on the subject.

2. I was informed by the Surveyor General that there were originally 1,600 acres reserved in that part of Camden for Church, School and Town Lands; that afterwards the quantity being deemed too large it was reduced to 600 acres, but that the actual boundaries were never marked out. He also informed me that, about five or six weeks ago, he was directed by your Excellency to make out the Grant of the whole 10,700 acres and put Mr. Macarthur in possession upon the usual tenures, and which were acceded to by Mr. Macarthur; and that such directions from your Excellency did not make any allusion to a Reserve of 600 acres.
3. At the same time, Mr. Macarthur, Junr., put into my hands a copy of a correspondence between Your Excellency and his father, dated 17 Ap., 1824, in which he states that he prefers taking the 5,700 acres as a purchase, at 10s. per acre, to holding it at a Quit Rent, and which offer appears to have been accepted by a letter from the Colonial Secretary, dated the 28th May, and acted upon by a subsequent letter dated 18th September last, calling on Mr. McArthur to fulfil the conditions of payment, and with which he complied by his letter of the 24th of the same month.

4. I should feel myself obliged if your Excellency would communicate to me how far such a representation may be correct, inasmuch as it appears to me that it is an agreement between two parties so conclusive and binding, that, however necessary the 600 acres in question may be, I do not feel at liberty to disturb where the good faith and honor of the Crown may become a matter of question.

5. As far as the situation of Cawdor for a parish Church, Glebe House and School House is concerned, I am decidedly of opinion that it is to be preferred, because it is in the most central part of the proposed parish, and therefore will be acceptable to any population which may hereafter settle in the Parish. The Surveyor General is to send me a measured plan of these enclosures, which will point out the relative distance and situation of the water; and, as soon as I have been honored with an answer from Your Excellency and the receipt of this plan, I shall submit my final report as to the quantity necessary to be reserved for that distinct purpose, and which, according to the Charter His Majesty has been pleased to grant, will not occupy more than 20 or 30 acres.

I have, &c,

T. H. Scott.

[Archdeacon Scott to Sir Thomas Brisbane.]

Parramatta, 2nd July, 1825.

The Surveyor General having represented to me that any delay in the decision of Mr. Macarthur’s claim to the Lands in question between the Colonial Government and himself would stop the progress of a road there, I beg to acquaint your Excellency that I proceeded to the County of Camden, accompanied by that Officer, for the purpose of investigating the situation most eligible for a church and residence for a clergyman, and which your Excellency is aware I have been directed to do by a Dispatch from Earl Bathurst bearing date 17th August, 1824.

Under the terms of that Dispatch I must take leave to state to Your Excellency that, as His Majesty has been graciously
pleased to set apart a given portion of each County for the support of the Established Church and Schools now existing or hereafter to be erected, and also that provision for the clergy be made from those resources instead of Glebe Lands, which have been heretofore granted, I am of opinion that a reservation of 20 acres, or thereabouts, will be sufficient, and in the spirit, if not according to the letter of the Charter, of which your Excellency is in possession of a draft.

On examining the place called Cawdor, I found some buildings and fences, which appear to me would be serviceable for the present residence of a Clergyman and a School House, and might also be used as a place for Divine Worship, until one of a better construction can be erected. Those stand on the site, I think, most eligible, both as it suits the present population, and such as may extend in future over the intended Parish; for although it is principally possessed by one proprietor, and occupied by him, yet it is to be supposed that, at some more advanced period of the Colony, tenants or other occupiers might reside on this Estate, and then the intended Church will be of easy access from all parts of the Parish.

The only difficulty I had was the want of Water; and I could not well obtain this and the buildings together in so centrical a situation. By a letter from Mr. Macarthur, a copy of which I have the honor to enclose, that difficulty is obviated, as he proposes an exchange on certain conditions, and which appear to me only reasonable, and which I do not hesitate to recommend to Your Excellency to accept.

I believe that since that Letter was written, some slight alteration as to quantity of land has been proposed by the Surveyor General, and acceded to by Mr. Macarthur, and to which I see no objection.

T. H. Scott, Archdeacon.

[Sub-enclosure.]

Mr. John Macarthur to Archdeacon Scott.

Parramatta, 20th June, 1825.

I beg leave to say that it will afford me great pleasure to exchange for the use of the Church that portion of land contiguous to and including the Buildings at Cawdor, which you this morning pointed out upon the Chart, namely one hundred and sixty (160) acres exclusive of the twenty acres you require for the Church and Glebe, and to accept in return twice that quantity; vizt. Three hundred and sixty (360) acres in the Ranges in a situation to be described hereafter to the Surveyor General, to the southward of the line, lately traced by Messrs.
Proposal of J. Macarthur for exchange of land.

Harpur and Ralph as the south boundary of a tract to be Granted in lieu of Lands purposed to be resigned to the Church by my Sons.

But as it is of the utmost importance for the preservation of the health and purity of my Flocks, that this land (situated in the centre of my Estate) should not be let to promiscuous occupants, I trust there will be no objection on the part of Government to appropriate the aforesaid one hundred and eighty acres as Glebe and school land, to be occupied by the resident Clergyman.

I have, &c.,

JOHN MACARTHUR.


Sir,

Parramatta, 8th July, 1825.

In acknowledging the receipt of your Excellency's Letter of the 6th Inst., in which you have been pleased to say you would transmit any recommendation of mine to Earl Bathurst, on the subject of the reserve of Lands at Cawdor, sold by the Government to Mr. Macarthur, I have to request that, in the event of your Excellency's deeming it expedient to lay the same before his Lordship, you would be pleased to transmit a copy of my letter No. 12/13, and dated the 2nd Inst., with its enclosure of the Colonial Secretary's letters demanding the first Instalment, together with a copy of the present.

On examining the Papers and Correspondence on this subject, placed in my hands by the Attorney General at your Excellency's desire, I found that, by the Colonial Secretary's letters to Mr. Macarthur, he had been called upon to fulfil his agreement, and that one Instalment had been demanded and paid by the latter Gentleman for the land in question; and this it appears had been done under a Dispatch from Earl Bathurst.

Although his Lordship placed the question as to the renunciation of six hundred acres of land by Mr. Macarthur on my decision, provided I saw it was necessary to be kept as a Glebe, and for the erection of a Church and school by a subsequent Dispatch, yet this appears to have been written under the idea that no engagement has been definitely concluded between the Colonial Government and Mr. Macarthur.

If it should be asked why I did not insist on the renunciation of the 600 acres or of the one hundred and sixty acres instead of the proposed exchange, I reply that I did not think myself justified in being the instrument by which the honor and dignity of the Crown should suffer by obliging a person to give up a purchase, at the time he had yielded Voluntarily twenty acres
which His Majesty had been graciously pleased to command to be sufficient, and to be secured in every Parish for the erection of a Church, Glebe House and School.

I recommended to your Excellency to obtain the twenty Acres, because I found on it buildings suitable for an immediate purpose, but which buildings are of so frail a nature, and so ill constructed, that I look upon them fit only for a temporary accommodation. I ventured also to recommend that an additional quantity of the one hundred and sixty acres, or thereabouts, should be obtained for the sake of possessing water, which was at such a distance as to oblige me to request that Quantity, in order that free access should be had to it, and from the Surveyor General’s report to me that the reserved land, called the Ranges, was of inferior Quality and of a proportionate Value of two acres for one. I do not deem this exchange of that essential interest to the use of the Church which the reservation of twenty acres may be considered, but I do consider it to be an advantageous exchange.

Should your Excellency, however, be of a different opinion and on the subject being Submitted to Earl Bathurst, his Lordship should consider that Mr. Macarthur ought to give up the Quantity of land (160 acres), I of course have only to yield respectfully to that decision; but I must be allowed still to retain my own opinion as expressed in this and my former letter.

Since the above was written, I learn from the Surveyor General that the exact quantity to be exchanged is One hundred and fourteen acres for Two hundred and twenty eight.

I have, &c,
T. H. Scott.

[Archdeacon Scott to Sir Thomas Brisbane.]

Sir, Parramatta, 26th July, 1825.

I have the honor to acknowledge the receipt of Your Excellency’s Letter of yesterday, by which it appears, either from some incorrect expression of mine or misapprehension of my letter on the part of Your Excellency, that I have “erred in the important fact, on which I have grounded my opinion that a definite Agreement had been concluded between the Colonial Government and Mr. Macarthur with respect to the Grant of the 10,700 acres of land at the Cow Pastures, without any reservation as to the 600 acres.”

From the instructions conveyed by Lord Bathurst to me, and which are extracted from a Dispatch to Your Excellency, dated the 17th August, 1824, I do not conceive that I have any further
1825.
4 Aug.

Reserve proposed by T. H. Scott.

Reasons for recommending proposed exchange of land:

and for proposals made by T. H. Scott.

to decide and report upon than the simple question "Whether the 600 acres are desirable for the erection of a Church and School House or for Glebe?"

To so plain a question, I beg most distinctly and unequivocally to report to your Excellency the declaration I did myself the honor of submitting, in my letter of the 8th Instant, that, as the King had been pleased to recognise the ecclesiastical Establishment in these Colonies and to command that, instead of Glebes being attached to each Church, provision should be made out of the revenues arising from the reserved lands, and that no more than 20 acres or thereabouts should be reserved around the Church and Glebe House, I see no reason to reserve more than that quantity for those purposes.

If, in my letter to your Excellency of the 8th Inst., I proposed an arrangement by which the land might be augmented to a larger quantity by an exchange, I was induced to do so from the following considerations; first, because I found a house which, tho' but in indifferent repair would have been of great Service, into which the expected Chaplain could have been placed; and secondly, in conjunction with that convenience, an extension in the quantity of land would have given the resident Clergyman a command of good water, and these two desirable objects could not be obtained but under such an arrangement.

This is my decided opinion, and to which I must adhere; but if your Excellency thinks that the twenty acres may be taken where the water is, and abandon the House, I shall not withhold my assent, and then, when I see the necessity, I shall submit to your Excellency that a school house and residence be erected.

With regard to the other part of your Excellency's letter, although I do not think it essential to the Question that I should trouble you at any length upon it, yet I must be allowed to observe, first, that the Surveyor General distinctly stated to me that he had received orders from your Excellency about the beginning of May "to make the grants upon certain tenures, which were acceded to by Mr. Macarthur, and that these tenures have no reference to the six hundred acres." Secondly, that, in consequence of a letter written by your Excellency's command, demanding the first instalment founded on the above tenures, Mr. Macarthur paid that Sum into the hands of the Colonial Govt. I therefore could come to no other conclusion than that an agreement entered into, a demand being made consequent upon that agreement, and that demand having been complied with, the honor and good faith of the Government would be hazarded by disturbing it under almost any circumstances; and thirdly, the very great satisfaction, which your Excellency expressed to me on the final arrangement of this long pending
BRISBANE TO BATHURST.

business particularly attending to the tenures agreed upon, and the fulfilment of which terms His Majesty's Attorney General saw, in conjunction with your Excellency and myself, the propriety of fulfilling.

But, happily, such a hazard does not appear to me to be even probable. I am commanded to report on the necessity of retaining 600 acres, and I am also commanded to take care that twenty acres are retained, both of which I hope I have clearly stated to your Excellency in this letter, though I might have failed in doing so in that of the . . . . . I have, &c.

T. H. SCOTT.


I have the honor to acknowledge your letter dated 26th Instant, which I received on the 28th. I am sorry that I should have given you the trouble of writing so much at length, as my only object was to correct what I considered a misapprehension, and which I am still desirous of briefly, but I hope satisfactorily, clearing up. Your reasons for thinking the faith of Government has been committed to Mr. Macarthur, with respect to the unconditional surrender of the 10,700 Acres of Land at the Cow Pastures, appears to be founded on three considerations.

1st. A verbal statement made by the Surveyor General to you, that he had received my orders, about the beginning of May last, to make the Grants upon certain tenures which were acceded to by Mr. Macarthur, and that those tenures had no reference to the 600 acres.

2nd. That, in consequence of a letter written by my command demanding the first instalment, founded on the above tenures, Mr. Macarthur paid that sum into the hands of the Colonial Government.

Upon your first reason, I have to observe that the Surveyor General has nothing to do with the making of Grants. He is only required to survey the land intended to be Granted, and to point out the boundary to the Grantee, which is commonly called giving possession. The tenures, upon which the Grants are made, are exclusively in the Department of the Colonial Secretary. If nothing is said about the tenures, the Grants are prepared in the Secretary's Office in the usual form. In Mr. Macarthur's case, the terms, upon which he received possession, were the subject of a long and particular correspondence between that Gentleman and the Colonial Secretary. It is unnecessary to go into detail; but the result was that Mr. Macarthur, to use his own words in his letter of the 20th March, 1825, engaged to abide by
825.
4 Aug.

Terms of grant made to J. Macarthur.

Demand for payment made on J. Macarthur.

Fulfilment of terms.

Criticism of irresponsible conversations.

any future explanation from Earl Bathurst. Upon this understanding, Mr. Macarthur was put into possession upwards of twelve months ago. When the first instalment became due, it was demanded as in consequence of the possession so given, but still I considered subject to Earl Bathurst’s future decision as to the Church and School lands. His Lordship was regularly advised of the terms, upon which Mr. Macarthur was put into possession, in pursuance of the Dispatch of the 31st July, 1823, and I consider the subsequent Dispatch of the 14th August, 1824, virtually determined the point reserved. I received his Lordship’s Dispatch on the 4th April last; and, on the 14th of the same month, I enclosed an extract to Mr. Macarthur, as I have already informed you in a Communication from myself, a copy of which I now beg leave to enclose, and from which you will perceive that, in my direct communication with that Gentleman, I guided myself solely by the last Dispatch.

With respect to the second point, the demanding of the first instalment, founded, as you have supposed, on the order given by me to Mr. Oxley about the beginning of May last, that is evidently a mistake, as the first instalment was demanded as far back as the 18th September, 1824, as appears by the Colonial Secretary’s letter of that date.

As to the third point, the satisfaction expressed by me on the final arrangement, alluding to the terms agreed upon, and which terms both the “Attorney General and yourself saw with me the propriety of fulfilling,” I must declare myself a stranger to any other arrangement, or to any other terms than those directed by Lord Bathurst in his second Dispatch.

With a view to carry his Lordship’s final intentions into effect, I not only communicated the Dispatch of the 14th August to the Attorney General, but actually placed it, together with all papers connected therewith, in his hands. The Surveyor General was also made acquainted with it. If His Majesty’s Officers have entered into any arrangements with Mr. Macarthur, in derogation of His Majesty’s interests, or contrary to Lord Bathurst’s instructions, such arrangements have been unauthorized by me, and I must object to loose expressions in conversation, which are liable to be misunderstood, being resorted to, to explain away transactions regularly conducted and recorded in writing.

In your letter, you do me the favor to say that you will choose another site at the Cow Pastures, if I should think it preferable. I beg to decline giving any official opinion upon a matter which has been entirely left to your discretion.

I have, &c.,

Thos. Brisbane.
Brisbane and Others to Bathurst.

[Enclosure No. 7.]

Estimate of the Government Stock Establishment at Cawdor, as per specific Survey, date 26th May last, vizt.

The Dwelling House and Offices, including the Stable, Dairy, Blacksmith's Shop, etc. ........................ £425 12 4
Fences enclosing the different Paddocks and Stockyards 218 15 6

£644 7 10

Wm. Aird, Supt.,
Engineer's Office, Parramatta, 1st August, 1825.

Sir Thomas Brisbane, Chief Justice Forbes and Archdeacon Scott to Earl Bathurst.

(Per ship Phoenix; acknowledged by Earl Bathurst to Governor Darling, 4th August, 1826.)

Sydney, New South Wales,

My Lord,

10th Aug., 1825.

In obedience to your Lordship's Instructions, conveyed to us in your Lordship's Despatch addressed to the Governor of New South Wales, dated the 2nd September, 1824, we have proceeded in the examination of the case of James Ring, and directed our enquiries specially to those points contained in the statements of the Revd. Mr. Marsden and Dr. Douglass, to which your Lordship has deemed it necessary to call our attention; and we have the Honor to lay before Your Lordship the following Report.

James Ring, a Native of Middlesex, and by trade a painter and glazier, was transported to New South Wales for Life, where he arrived in the Year 1816. Some time after his arrival (the exact time does not appear), he was assigned* to the Revd. Robert Cartwright, the resident Clergyman at Windsor, in whose service he remained for a few months only. Mr. Cartwright states as his reason for discharging Ring that he considered him to be a quiet inoffensive man, and, as he had no use for a painter and glazier, he thought it would benefit Ring to discharge him into the Government Service at Windsor where he might work at his trade at after hours. James Ring continued in the Government Service until the month of November, 1821, and during part of that time appears to have been employed in some way or another about the house of Fitzgerald, the Superintendent of Public Works at Windsor; when he was accused by Fitzgerald of privately stealing from his Dwelling house a considerable Sum of Money and some articles of wearing apparel. Upon this charge, James Ring was tried and convicted† before a Bench composed of J. Mileham, J. Brabyn and A. Bell, Esquires, all

* Marginal note.—R. Cartwright. (See page 269.)
† Marginal note.—See Record of conviction in Appendix marked A. (See page 763.)
1825.
10 Aug.

Remission
of sentence.

Recommendation
of J. Ring to
Rev. S. Marsden.

J. Ring under
suspicion of
theft at
Parramatta.

respectable Magistrates at Windsor, and adjudged to receive 100 lashes and to be removed to Port Macquarrie for the remainder of his original sentence. A part of this punishment appears to have been inflicted on Ring*; but, before the remainder was carried into effect, His Excellency Sir Thomas Brisbane, who had recently arrived in the Colony, paid his first visit to Windsor; and, under the amnesty which followed that event, the remainder of Ring's punishment was remitted.

Soon after this, Ring was recommended to The Revd. Samuel Marsden, Senior Chaplain of the Colony, by the Revd. Mr. Cartwright and also by William Cox, Esquire, a Magistrate at Windsor. Whether Mr. Cox informed Mr. Marsden of the Conviction of Ring does not expressly appear. Mr. Cox himself states,‡ as one of his reasons for recommending Ring to Mr. Marsden, that he wished to get him out of the Gaol Gang at Windsor, because he was under an imputation of stealing from his Master, which he did not consider to have been proved; which rather leaves the inference that something must have been said about the suspicion, at least, under which Ring had fallen, as his conviction and punishment were then circumstances of recent occurrence; and this inference would seem to be strengthened by the statement of Mr. Cartwright that he had enquired into the circumstances of Ring's case, and the impression produced upon his mind was favorable, and it was in consequence of such impression that Mr. Cartwright recommended him to Mr. Marsden as a Singer.

While in the Service of Mr. Marsden, it appears; that James Ring fell under the suspicions of the Police at Parramatta under the following circumstances:—a Mrs. Barrows, at whose house Ring was lodging, stated to the Chief Constable, John Thorn, that she had found a Watch Secreted in her garden and that she suspected Ring, as the handkerchief in which the watch was found was covered with paint. This circumstance was reported by the Chief Constable to the Magistrates, who ordered the Watch to be detained; and it afterwards turned out to have been stolen from a Public Inn at Parramatta on a particular day, when James Ring attended the Inn as one of the Waiters. It appears, on the statement of the Chief Constable, that he mentioned something of this circumstance to Mr. Marsden; and it further appears that Mr. Marsden, upon some occasion, desired the Chief Constable to have his eye upon Ring; but whether this desire was expressed in consequence of the disclosure about the watch is not certain. Ring, however, was not apprehended or otherwise proceeded against upon suspicion of stealing the Watch.

* Marginal note.—George Loader. (See page 730.)  
‡ Marginal note.—Mr. Cox. (See p. 728.)  
§ Marginal note.—John Thorn. (See p. 721.)
While Ring continued in the service of Mr. Marsden, a circumstance in its character perfectly accidental occasioned his going before the Bench of Magistrates, composed of Henry Grattan Douglass and Donald Macleod, Esquires, sitting at Parramatta on the 12th day of May, 1823; there had been a dispute between James Ring and Mr. Marsden's Gardener, in which the Gardener was supposed to be in fault; the case was referred by Mrs. Marsden (Mr. Marsden being then absent) to the investigation of the Magistrates, and the Complaint was dismissed.* In the Course of the investigation, James Ring was asked if he were the person who exhibited a Sign over his door as a painter and glazier; to which he replied that he was, and that his Master allowed him to employ himself about the town for his own benefit. The Magistrates, conceiving this to be a Breach of the Government Order prohibiting a Convict from being on his own hands, ordered Ring to be Committed for further investigation, and the Revd. Mr. Marsden to be summoned before the Court on the following Saturday. James Ring was accordingly committed to Gaol, and a letter, in the nature of a Summons, was addressed by the sitting Magistrates to the Revd. Mr. Marsden, requiring his attendance on the following Saturday to answer the charge of allowing his assigned Servant to be on his own hands. In a day or two after these proceedings had been taken, Mr. Marsden returned to Parramatta and met one of the Magistrates, Dr. Macleod, in the Public Street and some conversation took place respecting Ring; the precise nature† of this conversation has not been proved, but Mr. Marsden appears, by what he says in his letter to Mr. Peel, to have considered it in the light of an application to the Magistrate for the release of Ring. Neither does it expressly appear that any similar application was made to the Governor before the first day appointed for hearing the case; but such application, however, might have been made to the Governor, as His Excellency recollects generally that some reference was made to him although His Excellency cannot fix the time.

On Thursday, the 15th May, a Circular Note§ or Summons was addressed by Dr. Macleod to the several Magistrates within the District of Parramatta, requesting their attendance at the Court House on the Saturday following. On Saturday, the 17th, James Ring was brought before the Bench, and the Revd. Mr. Marsden attended to reclaim his Servant and to defend himself against the charge of violating the Government Orders. The sitting Magistrates upon this occasion|| were William Lawson,
Esquire, and Dr. Douglass, who heard the defence of Mr. Marsden and were of opinion that, in permitting his servant to work for his own emolument under the circumstances admitted in Mr. Marsden's defence, he was guilty of a Breach of the Orders of Government, and had incurred the penalty of 2s. 6d. for each day his servant had been permitted to be on his own hands. The Magistrates subsequently came to the resolution to refer the whole matter to His Excellency's Consideration, and to suspend all further Proceedings until His Excellency's pleasure should be known. A Report* was accordingly made to His Excellency the Governor in a letter addressed to the Colonial Secretary, and enclosing a Copy of the Proceedings, to which His Excellency replied† that he saw no cause for his interference in the case. Upon His Excellency's pleasure being communicated to the Magistrates, a letter‡ was addressed by them to the Revd. Samuel Marsden, enclosing a Copy of His Excellency's Communication, and requiring him to pay into Court, on or before the following Saturday, the Sum of £10 as the Sum awarded for the Breach of the Government Orders. On the 31st of May, there was a Second Meeting of the Magistrates, at which Mr. Marsden attended and delivered in a written paper§ dated May 30th, 1825, protesting against the legality of the fine imposed upon him, as well as against the regularity and justice of the Proceedings of the Bench, and intimating an intention of appealing to a higher tribunal. Some observations, not regularly connected with the business before the Court and of a warm character, appear to have passed between Mr. Marsden and Dr. Douglass, but the exact purport or tendency of those observations has not been satisfactorily proved.

The Magistrates, understanding|| from the tenor of Mr. Marsden's protest that their proceedings were to become the subject of investigation in another Court, applied to W. H. Moore, Esquire, then acting as Solicitor for the Crown, to advise them as to the legality of the Conviction and the form in which it should be drawn up. It was the opinion¶ of Mr. Moore that the conviction was lawful and he accordingly drew it up in regular form.** It is to be remarked, however, that the name of John Thorn was introduced as the informer in the conviction,†† which does not appear in the Minutes of the Magistrates' proceedings; this deviation was adopted at the suggestion, and was the act of

* Marginal note.—See Letter in Appendix marked I. (See page 767.)
† Marginal note.—See Letter in Appendix marked K. (See No. 3, page 858.)
‡ Marginal note.—See Letter in Appendix marked L. (See No. 4, page 858.)
§ Marginal note.—See paper in Appendix marked M. (See page 767.)
¶ Marginal note.—Mr. Lawson. (See page 757.)
†† Marginal note.—Mr. Moore. (See page 761.)
** Marginal note.—See Letter in Appendix marked U. (See No. 1, page 858.)
†† Marginal note.—See Conviction in Appendix marked W. (See page 771.)
Mr. Moore, as he considered the name of an informer necessary to a conviction. It is also to be remarked that the conviction purports to be for the sum of £10, penalty, and of 2s. 6d. for one day, and not of 2s. 6d. a day for each and every day James Ring had been employed contrary to the Government Orders. Mr. Moore states, in substance, that he considered the case sufficiently brought, by Mr. Marsden’s admission, within the Government Orders which impose that specific fine. There was no other conviction than that drawn by Mr. Moore.

On the 3rd June, a letter* was addressed by Mr. Marsden to the two convicting Magistrates, requesting that James Ring might be returned to him, and an answer† was written, signed by Mr. Lawson and Dr. Douglass on the 5th June, stating that Ring had been returned into Government employ on the 17th May, the Bench not feeling themselves justified in sending him back to the service of an Individual who had permitted him to be improperly at large.

On this application of Mr. Marsden and Answer of the Magistrates, it may be proper to observe that it appears to have been the practice of the Colony to withdraw the Servant where his Master had allowed him to be at large, and either to return him to Government service or assign him to another Master at the discretion of the Magistrates; in Sydney and Parramatta, the practice in latter years has always been to turn him into the Convict Barracks, from which he might be re-assigned to another Master upon due application being made for him.

It appears that the Crown Solicitor drew up the Warrant of Levy of fine Distress,‡ which was signed on the 7th of June and executed on the 9th, and that the levy was made in the ordinary method without any other circumstances than those which usually happen in such cases. The property levied upon was redeemed immediately for the amount of the Warrant, without being removed from the Revd. Mr. Marsden’s house.

Having given a particular statement of the Proceedings of the Magistrates so far as they are materially connected with the points of Enquiry, it may be proper to observe that they divide themselves under two general heads; 1st. The legality of the conviction of Mr. Marsden; 2nd. The animus in which the Proceedings originated and were conducted.

Under the first head, namely the legality of the Conviction, it will be necessary briefly to review, 1st. The Law, 2nd. The Facts, and then to apply the Law to the Facts.

* Marginal note.—See Letter in Appendix marked S. (See page 770.)
† Marginal note.—See Letter in Appendix marked T. (See No. 5, page 359.)
‡ Marginal note.—See Warrant in Appendix marked X. (See page 772.)
As to the Law.*—In June, 1801, an Order was issued by His Excellency Governor King directing, among other things, that, if any person were detected in letting out a Prisoner to hire or allowing him to be on his own hands, such person would on conviction before a Magistrate be fined a Sum of 2s. 6d. for each day such prisoner had been assigned to him. This Order has been recognized in the subsequent orders of January 23rd and April 17th, 1802, and also in the order of January 6th, 1804. By the last mentioned order, every person, who took a Convict off the Stores, was obliged to enter into an Indenture binding himself to observe all the Government Orders then in force relating thereto. Among the orders alluded to is one of October 2nd, 1800, which may require some explanation. It appears that, by the orders in force in 1800, every person to whom a prisoner was assigned was obliged to maintain and clothe such prisoner and give him a ration equal to that issued from the public Stores, and that the prisoner was bound to perform a full government task as pointed out by preceding Orders; and if (as the Order goes on to state) the Master could give such servant employment for the remainder of the time at the established rate, such servant was to do his Master’s work in preference to that of another person. The latter stipulation, so far as allowing a servant his time after the task work of his Master had been performed, has been expressly repealed by an Order dated 7th December, 1816; and the first mentioned Order of 1st June, 1801, appears to be the only Order in force on the subject. By that order, it will be seen that any person allowing his assigned Servant to be on his hands is subject to a fine of 2s. 6d. for each day such prisoner has been assigned to him.

The facts.—The facts of the case must be regarded as they appeared at the trial before the Magistrates. It was admitted by Mr. Marsden that James Ring was his assigned servant; that he had been in his service for eighteen months; that, not having occasion for the whole of Ring’s services, Ring had with his sanction done jobs as a Painter in the Town of Parramatta for his private emolument.

The application of the Law to the facts.—It is difficult to arrive at a conclusive opinion whether Ring’s case came within the Letter of the Law, and we beg to be allowed to refer your Lordship to the several orders and a minute marked Z annexed to our Report. Considering the object of transportation, and that servitude is a part of the sentence of the law, it would seem that the Policy of the Order of 1801 was, in accordance with the

* Marginal note.—See Copies of Orders in Appendix marked Z. (See page 773.)
† Marginal note.—See Orders and minute marked Z in Appendix. (See page 773.)
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spirit of the Transportation Laws, to prevent an assigned servant under the sentence of the Law from deriving profit from his labor. But on the other hand, from the frequency of the occurrence of prisoners being allowed by their Masters to derive profit to themselves from their own labor, and the paucity of Convictions in such cases, it would rather seem that the practice has not generally been considered as a Breach of the Law. The case of Hanabus, which occurred in the year 1822, differed in circumstances from the case of Ring, but the consequences were precisely the same; the Master was fined £10 2s. 6d., and his assigned servant discharged into the Government Gang; and Mr. Marsden was one of the convicting Magistrates. This case is mentioned to shew that the Order against allowing assigned servants to be on their own hands was considered to be in force, however Magistrates might differ in their opinions as to the circumstances which might bring a case within the operation of such order. It appears the Magistrates who convicted Mr. Marsden considered his case as falling within the order; and in this opinion they were fortified by the advice of the Crown Solicitor, who formed his opinion upon the written admissions of Mr. Marsden. Supposing the Magistrates to have been in error, the caution they used in first submitting the case to the Governor, and afterwards guiding themselves by the advice of the Law Officer of the Crown for the time being, discharged them from the imputation of persevering, at least, in a wilful error.

2ndly. The Animus.—It appears† that Dr. Douglass was sometimes in the habit of attending Mr. Marsden’s family worship, and that Ring was usually present on such occasions; but it seems also that Ring was a Singer in the Church, and attended at Mr. Marsden’s house in Company with other Singers from time to time. Ring was also in the habit of going to and fro from Mr. Marsden’s house to Dr. Douglass’ with the children, and Dr. Douglass spoke to Ring to work for him as a painter and glazier. These circumstances would rather seem to raise a presumption that Dr. Douglass was acquainted with Ring’s being the assigned servant of Mr. Marsden; but they are not conclusive, inasmuch as both Thorn and Rouse‡ the Superintendent, who state themselves to have been well acquainted with Ring, supposed that he held a ticket of leave until a short time previous to his first appearance before the Magistrates. It has, therefore, not been proved that Dr. Douglass knew Ring to be an assigned Servant to Mr. Marsden, until a short time before his first appearance before the Magistrates when, as it is stated by Thorn.§

* Marginal note.—See Record in Appendix marked B. (See page 764.)
† Marginal note.—Priscilla Bishop. (See page 750.)
‡ Marginal note.—John Thorn, Mr. Rouse. (See pages 732 and 745.)
§ Marginal note.—John Thorn. (See page 781.)

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he mentioned to Dr. Douglass who wanted a painter that Ring was Mr. Marsden's servant, and was of that trade, and he did not think it right he should work about the town in the way he did; to which Dr. Douglass replied he could say nothing about it unless it were brought before him at Court.

To support the general charge of personal disrespect made against Dr. Douglass by Mr. Marsden in his letter to Mr. Secretary Peel, both in the investigation of the 17th and 31st May, many Witnesses have been examined on the part of Mr. Marsden; but, as there is some difference in their testimony, it will be necessary to examine the whole minutely in order to come at a correct view of the true state of the facts on this part of the case. It is stated by six of Mr. Marsden's Witnesses* that they considered the conduct of Dr. Douglass, while on the Bench, as disrespectful and in a high degree insulting to Mr. Marsden; but, in detailing more particularly the exact expressions, gestures and circumstances, from which they have deduced their opinions, it does not appear that their impressions were well founded. While, on the other hand, the charge of disrespect is expressly denied by two of Mr. Marsden's Witnesses,† Thorn, the Chief Constable, and Dr. Macleod, the Magistrate, whose station in the Court and acquaintance with its proceedings must have rendered them attentive to what was passing, and have qualified them to form a correct opinion of the proper boundaries of judicial authority. The statements of Thorn and Dr. Macleod are also corroborated by Mr. Lawson,‡ a Witness on the part of Dr. Douglass, who was one of the sitting Magistrates. On reference to the minutes of the Court, there is nothing apparent upon which the charge of disrespect can be founded; but, on the Contrary, the written communications to Mr. Marsden evince every degree of respect and delicacy, which could be considered as due to his station in the Colony. The Revd. Robert Cartwright§ states that he recollects Dr. Douglass expressing regret at being obliged to take the steps he did, and that he would rather pay the £10 out of his own pocket than put an execution in Mr. Marsden's house, and giving him a message to Mr. Marsden intimating a wish that he would pay the money to prevent the execution. It further appears that on the trial of the action, which was brought in the Supreme Court by Mr. Marsden to recover the Sum of £250 for his alleged damage, it was expressly put to the assessors by the Judge, whether the trespass complained

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* Marginal note.—James Elder, Samuel Larkin, James Williamson, James Smith, Patrick Farrell, Thomas Smith. (See pages 727, 730, 741, 747, 748, and 749.)
† Marginal note.—John Thorn, Dr. Macleod. (See pages 731 and 732.)
‡ Marginal note.—Mr. Lawson. (See page 751.)
§ Marginal note.—Mr. Cartwright. (See page 729.)
|| Note 207.
of was committed under an honest mistake of the law, or was a wanton trespass under colour of the law. If the former, they should limit their damages to the sum of £10 2s. 6d. If the latter, they might give such damages as they might consider just; and the assessors expressly negatived the charge of malice, and limited their Verdict to the Sum of £10 2s. 6d., the amount actually levied.

On the 17th May, James Ring was ordered to the Convict Barracks by the Magistrates. On his way, it appears he went to the Gaol,* not by Order of the Magistrates but for some cause, which does not appear and cannot be important, as, after receiving his ration at the Gaol, he was on the same afternoon removed to the Barracks. The Original Order† for Ring to be sent to Barracks on the 17th May, and the order for the Commitment of all the prisoners to Gaol on that day (which latter order does not include Ring) are proved‡ to have been signed on the 17th of May.

It appears§ that Ring, during the time he remained in the Convict Barracks at Parramatta, was worked with but not in the Gaol Gang. The difference between the two is important, and is stated to be this:—Working with the Gaol Gang is in some degree degrading, and carries with it some shade of punishment, but being in the Gaol Gang is to be put on half rations, to work in irons, to be clothed in the Gaol dress, and to sleep in the Gaol at night. In the latter sense, James Ring was certainly not in the Gaol Gang; and his being sent to work with the Gaol Gang was an Act of the Superintendent, in no way proceeding from Dr. Douglass. It further appears* that, while Ring was in Barracks and working with the Gaol Gang, Mr. Marsden went to Beaumont, the Gaoler at Parramatta, and was informed by him “that Ring was not sentenced to the Gaol Gang, but that he was working with the Gaol Gang at the Stores.”

It appears that, whilst Ring was in the convict Barracks at Parramatta, he did not go to Church; and the reason of his not doing so is differently stated by two of Mr. Marsden’s Witnesses,|| Rouse the Superintendent, and Field the assistant; but it will be unnecessary to go further into this point, as Mr. Marsden stated to the Commissioners, during the present enquiry, that he had not charged Dr. Douglass with preventing Ring from going to Church, but had merely stated as a fact that he did not go to Church. It would rather seem to have been in consequence of some arrangement among the prisoners, and that Ring

* Marginal note.—John Beaumont. (See page 747.)
† Marginal note.—See papers in Appendix marked D and F. (See page 765.)
‡ Marginal note.—Richard Rouse. (See page 758.)
§ Marginal note.—Richard Rouse, John Field. (See pages 748 and 762.)
remained at the Barrack to look after the provisions. It is, however, certain that the Order for returning Ring to Barracks contains nothing, which can be construed into a prohibition of his going to Church with the other prisoners agreeably to the standing public Orders.

Previous to Ring’s being forwarded to the Sydney Barracks, it appears* that, upon two or three occasions, he seemed very much depressed in Spirits, and wept for what he expressed to be his blighted prospects of getting his sentence mitigated, and being enabled to marry and settle in life; and that, on one occasion, he intimatet† an intention of quitting the Colony (stowing away); but it does not appear that this was in consequence of any fear of Dr. Douglass, or of future punishment; neither is there any proof of persecution, or of any treatment of Ring, after he was transferred to the Convict Barracks, differing from that of other prisoners of the Crown in the same situation. It may be necessary to observe that the prisoners in the Government service are entirely under the superintendence of the proper officers, and that the Magistrates of the Colony have no power or authority‡ over them, any further than to take cognizance of such causes of complaint as may be regularly exhibited against them.

On the 9th June, 1823, James Ring was transferred from Parramatta to Sydney Convict Barracks, and made his escape about the month of August in that year. His name was published among the runaways. It appears from the evidence of John Cowell§ that James Ring escaped from Sydney in the Brig Calder, and went to New Zealand, and was there whilst Mr. Marsden was in that Island. That, from the notoriety of the fact, it must have been known to Mr. Marsden; and that he (Cowell) could have caused James Ring to be apprehended for a hatchet or a couple of blankets. It is stated that Ring afterwards quitted New Zealand in an American Whaler, called The Peruvian.

The foregoing statement we have the Honor to lay before Your Lordship as our impartial Report|| upon the facts of the case, referred to our consideration; and, in order to enable Your Lordship to judge of its correctness, we beg permission to append a minute of our Proceedings, together with the examinations taken before us, and copies of the several Documents referred to in the Course of our Investigation.

We have, &c,

THOS. BRISBANE.
FRANCIS FORBES.
T. H. SCOTT.

* Marginal note.—James Martin. (See page 755.)
† Marginal note.—Joseph Kenyon. (See page 765.)
‡ Marginal note.—Major Ovens. (See page 756.)
§ Marginal note.—John Cowell. (See page 760.)
|| Note 208.
BRISBANE AND OTHERS TO BATHURST.

[Enclosures Nos. 1 and 2.]

These enclosures were letters from under secretary Hobhouse to under secretary Horton, and from the Revd. Samuel Marsden to the Right Honourable Robert Peel, dated 29th June and 28th January, 1824, respectively. Copies were forwarded by Earl Bathurst with his despatch dated 18th July, 1824; see page 801 et seq.

[Enclosures Nos. 3 to 8.]

These enclosures were copies of the enclosure and five sub-enclosures to Earl Bathurst’s despatch, numbered 34 and dated 2nd September, 1824; see page 833 et seq.

[Enclosure No. 9.]

PROCEEDINGS OF INQUIRY.

Government House, Parramatta, 14th July, 1825.

In the matter of an Investigation into certain Charges preferred by The Revd. Samuel Marsden, Senior Chaplain of the Colony of New South Wales, against

Henry Grattan Douglass, Esquire, M.D., and directed by His Majesty to be enquired into, and reported upon, by

His Excellency the Governor; The Honorable The Chief Justice; and

The Venerable The Archdeacon.

The Revd. Samuel Marsden, Senior Chaplain of New South Wales, and Henry Grattan Douglass, Esquire, M.D., being severally present, submitted themselves to the enquiry now about to be commenced.

Upon which the Proceedings in the Investigation, directed by the Despatches of Earl Bathurst under date of the 2nd day of September, 1824, and the 3rd day of January, 1825, were opened.

The Revd. Samuel Marsden expressed a desire that such Proceedings should be conducted publicly.

The Court was of opinion that, from the nature of the investigation, the proceedings could not be conducted publicly, but that each party should be at liberty to have the attendance of one or two friends to assist him, it being understood that such friends were not to act as professional advisers.

The Despatches of Earl Bathurst, His Majesty’s Principal Secretary of State for the Colonies, were then read and laid upon the table.

The Letter from The Revd. Samuel Marsden to The Right Honourable Robert Peel, dated January 28th, 1824, was then read, and a written Statement made by Dr. Douglass in answer thereto, dated August 21st, 1824, as containing the points for investigation; and it was resolved by the Court that it should confine its present enquiries to the several matters and things set forth in such letter of January 28th, 1824, of The Revd. Samuel Marsden, and such Statement of August 21st, 1824, of Dr. Douglass respectively.

The enquiry being now opened, Mr. Marsden laid before the Court a written Statement enlarging upon the various matters of charge contained in his aforesaid letter, which was allowed by the Court to be read as mere Statement to be confined to the matters at issue.
Monday, the 18th Inst., was then appointed for proceeding in the said matter; and it was directed that the Revd. Samuel Marsden and Dr. Douglass should attend on that day and be prepared with such proof as they might deem necessary to substantiate their respective statements.

Proceedings of inquiry into charges preferred by Rev. S. Marsden against H. G. Douglass in case of J. Ring.

Government House, Parramatta, 18th July, 1825.

In the matter of an Investigation into certain Charges, preferred by The Revd. Samuel Marsden, Senior Chaplain of the Colony of New South Wales, against

Henry Grattan Douglass, Esquire, M.D., and directed by His Majesty to be enquired into and reported upon by

His Excellency the Governor; The Honorable The Chief Justice; and

The Venerable The Archdeacon.

The Revd. Samuel Marsden being present applied to the Court for leave to introduce as his Friends, The Revd. F. Wilkinson and Hannibal MacArthur, Esqre., and Dr. Douglass applied for leave to have Mr. Fulton, Junr., in order to assist him.

The Court granted the permission requested, whereupon Mr. Wilkinson and Mr. Hannibal MacArthur were called on the part of The Revd. S. Marsden, and Mr. Fulton, Junr., on the part of Dr. Douglass.

The Proceeding was then summoned, when Dr. Douglass admitted that James Ring is a Native of Middlesex, by trade a Painter and Glazier; that he was tried at Newgate in April, 1815, and sentenced to be transported to New South Wales for Life, where he arrived in 1816 by the Ship Mariner.

WILLIAM Cox, Esqre., was called in and Examined by The Revd. S. Marsden.—I knew James Ring. He was in the Government Town Gang at Windsor, two or three years before he was assigned to Mr. Marsden. He was employed at Windsor as Painter and Glazier in doing the Government work. During the time he was at work, I observed that he was a remarkably clean well-dressed man and attended the Church regularly, which first brought him to my notice. He was a regular Singer in the Church. I recommended him to Mr. Marsden as a Singer in the Church, as I thought he would be of more service at Parramatta than at Windsor, as our Choir was very bad.

I assigned him to Mr. Marsden as a Singer, for which he had applied, stating at the same time that he was a Painter and Glazier. Mr. Marsden mentioned something, I do not recollect what, of his first singer being dead. He was assigned to Mr. Marsden, as Magistrates had been in the habit of assigning Servants to other persons.

Cross Examined by Dr. Douglass. Did you recommend Ring as a good character? I had a high opinion of him myself. He was under an imputation of stealing from his master, which was not proved however. I wished to get him out of the Town Gang at Windsor, as I thought he would do better at Parramatta. Ring was never flogged to my knowledge whilst in Windsor. He was in the Gaol Gang at Windsor, or else confined by night in the Gaol for the charge of stealing which I have already mentioned. He was never convicted; but the Magistrates did not think he had acted quite
right, some money being found in his box, which money was taken from him, and he was confined as I have mentioned above. I do not recollect whether I was on the Bench at the time or not. I think that Ring was discharged from the Windsor Gaol or Gaol gang, before I assigned him to Mr. Marsden. He was not discharged under the General Amnesty Act upon the arrival of His Excellency Sir Thos. Brisbane; I think he was discharged prior to that.

Note.—A Copy of the Proceedings taken before the Bench at Windsor was ordered; for which see Paper marked A in the Appendix.

Re-Examined by The Revd. S. Marsden. I thought, as did the other Magistrates at Windsor, that Ring was an injured man by the prosecution of Mr. Fitzgerald abovementioned, and that was the reason why I wished him away.

THE REV. ROBERT CARTWRIGHT, Examined by The Revd. Samuel Marsden.—I was ten years Resident Clergyman at Windsor. I knew James Ring, I think, not less than two years. He lived in my service a few months previous to Mrs. Cartwright's leaving the Colony in May, 1818. He was a quiet inoffensive man and, as my Service did not suit him, I thought it would be for his good to release him into the Government employ under Mr. Fitzgerald, where he might work at his trade at after hours. I saw him frequently afterwards. Shortly after he left me, he brought me a letter, written to himself from a particular friend of mine, recommending him to me, in consequence of which I always took particular notice of him afterwards and served him in any way I could. At the latter end of the year 1819, Mr. Cross succeeded me at Windsor, and James Ring I believe remained in Government Service; and some charge being made against him about that time, I was induced to enquire into the circumstances, and the impression produced on my mind was that he had been persecuted. In consequence of this impression I ventured to recommend him to Mr. Marsden, where I afterwards saw him. He was a quiet well-conducted man, and, when I saw him in Mr. Marsden's service, he thanked me for procuring him so good a place. I felt satisfied, from the confidential manner with which Mr. Marsden and his family and in particular Mrs. Marsden treated him, that he had proved himself a faithful Servant.

I believe that he acted as a Singer in Mr. Marsden's Church, as he came always to me to know the Psalms he should sing, when I have officiated for Mr. Marsden.

Cross-Examined by Dr. Douglass. I think but am not certain that Ring came to me almost immediately from the Ship.

I recollect about the period that the Bench of Magistrates at Parramatta fined Mr. Marsden. I recollect calling upon Dr. Douglass since that transaction. Dr. Douglass, in a conversation upon that occasion, expressed regret at being obliged to take the steps he did. He said he would rather pay the £10 out of his own pocket than put an execution in Mr. Marsden's house. I recollect his saying to me that he must do that which he considered his duty. Dr. Douglass did, I believe, give me some Message to Mr. Marsden purporting I believe his (Dr. Douglass's) wish that Mr. Marsden should pay the money to prevent the execution. I think Dr. Douglass did say something about having spoken to some other person to deliver a like message to Mr. Marsden.

This was in the interval being imposing and levying the fine.
1825.
10 Aug.

Proceedings of inquiry into charges preferred by Rev. S. Marsden against H. G. Douglass in case of J. Ring.

I recollect perfectly well Dr. Douglass expressing regret that anything of the kind should have happened between himself and Mr. Marsden.

Re-Examined by Mr. Marsden. I always understood from Mr. Marsden that he considered the fine imposed by the Bench unjustly, and to expose him to degradation and the public odium, and that he never would pay it unless compelled to do so.

By the Court. I considered the communication from Dr. Douglass as made to me for the purpose of promoting a reconciliation between himself and Mr. Marsden.

Mr. George Loader, Gaoler at Windsor, Examined by The Revd. Samuel Marsden. I knew James Ring. I have been ten years Gaoler at Windsor, the 20th of last Month. I came to this Colony a private Soldier, and was discharged as a Serjeant. I have a Family, a Wife and five children. My daughter is married to the Revd. Mr. Youl. James Ring was at Windsor to the best of my recollection 3 or 4 years. I considered him, during that period, to be a sober, industrious, clean young man. I was informed that he paid his addresses to one of my daughters, but at that time without my Sanction. I recollect speaking to Mr. Marsden after Ring was employed in his Service. I said that Ring was attached to one of my daughters, and that, if he obtained his remission, I should not object to his marrying her. Mr. Marsden promised to assist Ring all he could whilst in his Service.

Cross-Examined by Dr. Douglass. I was in Windsor all the time that Ring was there. He was punished during that time. He was charged with a Robbery and found Guilty by the Magistrates. I cannot recollect who they were, nor do I remember his Sentence. He was discharged from the Gaol through the interference of Mr. Cox, I believe. I think he was discharged under the Act of Amnesty of Sir T. Brisbane. He had previously received a part of his Sentence; the remainder was remitted.

I think he was not discharged on the day His Excellency arrived in Windsor. I think it was the day after.

By the Court. He, Ring, was charged with robbing Mr. Fitzgerald, and his Conviction and the punishment he received was for that Offence.

The Revd. R. Cartwright recalled and examined by The Revd. Samuel Marsden. I was doing duty May 11th, 1823, when Mr. Marsden was absent in the interior on duty. On this morning (Sunday), Ring came into the room, where I was, to desire me as usual to point out the Psalms to be sung. His countenance had the appearance of his having been fighting; his face was much bruised. I enquired the cause; and from his statement was led to suppose that it was not correct, but found upon enquiry that what he had stated was true. I advised Mrs. Marsden not to let it pass, as Ring was ill-used; and She promised that Ring should be sent to make a Complaint before the Magistrates the following day.

Mrs. Susan Priscilla Bishop, examined by the Revd. S. Marsden.—I have been House-keeper in the family of Mr. Marsden since July, 1809. I came from England with Mr. Marsden. James Ring came to his employ in January and went away the May twelve-month following. I remember the Sunday morning that Mr. Cartwright was doing duty for Mr. Marsden; there was a riot in the
Kitchen. Ring was a quiet man and a confidential Servant. He received much injury that morning from Mr. Marsden's Gardener. Mrs. Marsden sent him down the Monday morning to make a Complaint before the Bench. He returned home afterwards, and Thorn the Constable came for him about dinner time, and said he came to fetch Ring. He took him away. We never saw Ring afterwards, until he was in the Barrack, from which he came up to see us once or twice. It was more than a fortnight from the time that Ring went away with Thorn until he came back to take his leave. Thorn used no violence.

JOHN THORN, Chief Constable of Parramatta, Examined by The Revd. Samuel Marsden.—I remember Mr. Marsden's Servant, James Ring, coming to the Court House in company with Pritchett and the deaf man (Graham). Pritchett said he came to bring the two, at Mrs. Marsden's request, to see who was wrong, and to complain that the deaf man had struck Ring at breakfast. Graham acknowledged that he had struck Ring, but excused himself by saying that Ring was teasing him because he was deaf. Pritchett was a man generally at Mr. Marsden's. The case was dismissed for want of evidence against the deaf man.

About five o'clock on the same evening, I went to Mr. Marsden's to take Ring into custody. I was sent by Dr. Macleod and Dr. Douglass. I had no warrant. I was ordered to take him and put him in Gaol; and I did so. He stated in the morning that he was Mr. Marsden's Servant, and that his Master allowed him to employ himself about the town for his own benefit. The Magistrates asked if he were the person who exhibited the sign over his door of a Painter and Glazier, and he said he was. I had some days previously mentioned to Dr. Douglass, who wanted a Painter, that Ring, Mr. Marsden's Servant, was of that trade; and I did not know whether it was right that he should work about the town in the way he did. Dr. Douglass said he could say nothing about it, unless it was brought before him at Court. From Ring's own statement before the Court, I was ordered, after the Court was over, to go for him and put him in Gaol. I knew of Ring having lodged at Kenyon's, and at Mrs. Barrow's, and I have heard at Mrs. Armstrong's, whom I heard complain of his not paying the Rent. I recollect Mr. Marsden's speaking to me about Ring, when he was lodging at Mrs. Barrow's. Mr. Marsden requested me to have an eye upon Ring and to tell him if he did anything wrong. I told Mr. Marsden that there was a suspicion of Ring's having stolen a Watch, and I think it was about that time that Mr. Marsden spoke to me to look after him. Ring did jobs for me twice, and for other people. I did not know who he was, until he worked for me, when I asked him; and I knew of his having worked for Mr. Eyre, I believe afterwards. It was on or about the 26th March.

He was taken to Gaol on the 12th May, and remained there until the 17th, when he was brought up before the Magistrates. I had in the meantime given no further Information. Mr. Marsden was cited for that day. I was not ordered by the Magistrates to give any intimation to Mr. Marsden of Ring being in Gaol, and I know of none being given. I remember meeting Mr. Marsden and Dr. Macleod on the Wednesday or Thursday, whilst Ring was in Gaol. I heard Mr. Marsden say to Dr. Macleod that he had been at Government House; but I do not recollect what passed further. As I walked away and left Mr. Marsden and Dr. Macleod. I do not recollect
Proceedings of inquiry into charges preferred by Rev. S. Marsden against H. G. Douglass in case of J. Ring.

Ring's name being mentioned. Upon recollection now, I think I heard Dr. Macleod say that he did not know what Ring was in Gaol for.

Q. Do you recollect, when the matter was before the Bench the second time, that I stated I had applied to Dr. Macleod in George Street in your presence for Ring's release? I do not. I do not recollect Mr. Marsden's repeating the words he used to Dr. Macleod, when he replied, He did not know Ring was in Gaol. There was no Court held between the 12th and the 17th.

The Court then adjourned until the 19th.

Government House, Parramatta, 19th July, 1825.

At a Continuation of an Investigation into Certain Charges preferred by The Revd. Samuel Marsden, Senior Chaplain of the Colony of New South Wales, against Henry Grattan Douglass, Esquire, M.D., and directed by His Majesty to be enquired into and reported upon by His Excellency The Governor; The Honorable The Chief Justice; and The Venerable The Archdeacon.

The Court being assembled and the respective parties being present.

John Thorn, Chief Constable, was Cross-Examined by Dr. Douglass. I was desired by Dr. Douglass and Dr. McLeod to take up James Ring. I was not desired to go to Mr. Marsden's house. I went first to Kenyon's where Ring lodged. It is the usual practice for Convicts to be sent to Gaol first to be brought before the Bench. Prisoners, Convicts, are sent either to the Watch House or Gaol, but generally to the latter. Free Persons are sent to the Watch House. In sending Ring to Gaol the usual practice was followed. I received the same instructions respecting Ring as in other cases of Convicts. I never receive a Written Warrant when I apprehend Convicts. A verbal order from the Bench is all I receive. If I heard that a Convict was improperly at large, I should take him without any Order. I have done so. I did so in the case of Stockbridge, a Convict. I had information that a man of the name of Stockbridge, an assigned Convict to a person named Hanabus, who lived at Toongabbee, was improperly at large working in the Town of Parramatta for his own benefit. I took him up and put him in Gaol, where he remained until brought before the Bench. His Master was summoned and fined. Stockbridge was at large, with a written pass from his Master allowing him to employ himself for a month for his own benefit. He was taken from his Master and placed in the Convict Barrack into Government employ, and his Pass taken from him and destroyed.

The Record of this Case was then produced and read; see Paper marked B in the Appendix.

I did not enquire where Stockbridge lodged or fed. I know that he was sent to the Barracks by the Magistrates.

The Convict Barrack Book being produced, it appears that Stockbridge was received there July 27th, 1822.

I am quite positive that on the Monday, when Pritchard brought Ring and the deaf man before the Court, he said he brought them
by direction of Mrs. Marsden to have the complaint enquired into between the two men. I was present the Saturday following, when Mr. Marsden appeared at the Court House. Dr. Douglass, upon his entering, stood up and offered him a Chair behind the Bench.

In my opinion, Dr. Douglass treated Mr. Marsden with respect. Dr. Douglass told Mr. Marsden that, if he would go any where until the other Magistrates came, he would send for him. I am not certain that Dr. Douglass requested Mr. Marsden to wait until the Monday following, the Magistrates not appearing. Mr. Lawson at last came, and the Complaint was proceeded in on that day. Mr. Marsden acknowledged that he gave Ring permission to work about the town.

The Record of the Case of James Ring was then produced and read. See Paper marked C in the Appendix.

The Magistrates said to Mr. Marsden that they thought they should have to fine him, but they would first submit the whole case to the Governor.

Mr. Marsden stated that he would pay any fine that the Magistrates imposed; but that he wished that Ring might not be punished as he had done no wrong. Ring was sent that afternoon to the Convict Barracks by order of the Magistrates.

(The Order for his being sent to the Barracks was here produced and read. See Paper marked D in the Appendix.)

It is usual to make out the Orders of the Court after the Court is over, and to take them to a Magistrate, who had sat there, for signature. The body of the Order is written by Joseph Bradley. The interlineation appearing thereon was made by Dr. Douglass in his own handwriting the same evening, when taken to him for signature at his own house and in my presence.

In pursuance of that Order, Ring went to Barracks that day. I think he remained there until June before he was discharged.

(The Book of the Convict Barrack being produced, it appears that Ring was received there May 17th and discharged June 9th to Sydney Barracks.)

I never saw Ring at Work in the Gaol gang of Parramatta. After Saturday, the 17th, I never received any Order directly or indirectly from Dr. Douglass or any other Magistrate respecting Ring. When Convicts are ordered to work in the Gaol Gang, the Order always comes from the Magistrates in writing. I never received any such Order from Dr. Douglass or any other Magistrate respecting Ring. I know nothing further of Ring but that he was sent to Sydney. I do not know by whose Order.

I never heard Dr. Douglass make use of any unbecoming language to Mr. Marsden, when he was at the Court.

When I received the Order to levy the fine on Mr. Marsden, Dr. Douglass and Mr. Lawson told me to take the steadiest Constable I could. I did so. I picked out one Brown to whom the Warrant was directed. Dr. Douglass desired me to charge the man to act with the greatest delicacy. I do not recollect being told to direct the man not to go in the house, but to levy upon some property in the yard. I ordered him to behave as delicately as possible.

I remember Ring falling under my suspicion for a robbery at Parramatta. It was whilst he was at Mrs. Barrow's. She sent for me and stated that she had found a Watch in a tin case, rolled in a
handkerchief and secreted in the garden. She said she thought it was Ring who had put it there, as the tin case belonged to her and must have been taken from the house and the handkerchief was all over paint. She said she suspected the handkerchief to be Ring’s on account of the paint. I told the Magistrates the Case, and I was ordered to keep the watch until claimed. It afterwards turned out to have been taken from Walker’s Inn on an occasion when Ring waited there. There were other waiters there beside Ring. I cannot state whether it was before or after this that Mr. Marsden desired me to keep an eye upon Ring. Ring continued to lodge in town after this circumstance and lived afterwards at Kenyon’s. His board continued up at Mrs. Barrow’s I suppose a week after this, and again afterwards at Kenyon’s. Ring was not taken up on this charge, and I do not think there were any proceedings respecting it. I think it was a Servant of Mr. Cox’s to whom the Watch belonged.

Re-Examined by The Revd. Samuel Marsden. I knew Hanabus. He lived four or five miles from Parramatta within my district as Chief Constable. His father and mother had both been Convicts. He was a small Settler and rented a small piece of ground at Seven Hills. It was not a small piece of ground belonging to Government at Toongabbee. I do not know the quantity of land he occupied. I cannot say whether he was capable of maintaining a Convict. I know he was worth nothing himself except renting a small piece of land. It was a very common thing for poor settlers, when they could not maintain their Servants, to let them go upon their own hands. It was at their own risk.

I went to Kenyon’s, the Parish Clerk, to apprehend Ring, because his board was over the house. I saw there an old gypsy woman, and I went to Mr. Marsden’s because she said Ring was just gone there. I found him at Mr. Marsden’s. I took him to Kenyon’s for him to arrange his matters according to his wish, and he took about £8 to Walker’s, and from thence he went to Gaol.

To a Question by the Court. It was certainly six or seven months before his Conviction that Ring’s board was exhibited as a Painter and Glazier. I was Chief Constable during that period.

Re-Examination (by Mr. Marsden) Continued. I recollect Mr. Marsden’s speaking to me about Ring, when he was at Mrs. Barrow’s. I do not remember Mr. Marsden saying that Ring was his servant. I thought he had spoken to me because he desired me to have an eye upon Ring, he being a Singer at the Church.

I was present on the 17th May, when Mr. Marsden and Ring were before the Bench. He was brought there on account of what had transpired on the previous Monday respecting his being at large. It was stated to Mr. Marsden by the Bench that he was called upon to explain the circumstances of Ring’s being at large. Mr. Marsden confessed that he allowed Ring to be at large, and it was taken down in writing. Dr. Douglass said it was their opinion that they should have to fine Mr. Marsden. Mr. Marsden expressed astonishment at such information, and said that he would pay the fine, but hoped they would not punish the Servant as he had done nothing wrong. Mr. Marsden stated that, if he had violated the laws, he would pay the fine. I do not recollect Dr. Douglass saying he would send Ring to Gaol again. Mr. Marsden offered security to any amount rather than Ring should be punished. I do not recollect Dr. Douglass saying that the Gaol was the only security for a Convict, and to
BRISBANE AND OTHERS TO BATHURST.

Goal he should go. I am not aware that Ring went to Gaol on the 17th. He went to Barracks. He might have gone to the Gaol with others, before the Prisoners were arranged according to their Sentences. I am sure I did not go to the Gaol to take Ring out and from thence to take him to Barracks. I took the Order to Dr. Douglass to be signed after the Court was over. It was daylight to the best of my belief. I took the Order respecting Ring to Dr. Douglass in the usual way.

THE REV. HENRY FULTON, Examined by The Revd. S. Marsden.—

I am resident Chaplain at Castlereagh. I have resided there since the year 1814. I have a Convict allowed to lead the Psalmody in the Church. I applied to Governor Macquarie for him. He has attended four or five years. He has always been victualled and Clothed by Government. He employs himself during the week as he pleases. He is not assigned to me as a Government man but to perform certain Services in the Church.

Q. Is it usual, when a Servant is withdrawn by the Magistracy from his Master without fault on his own part, to transfer his services to another Master? A. It is usual to transfer him to another master unless he himself is a bad character. It is considered a punishment for a man, who has behaved well, to be turned in Government employ. It would be considered an additional punishment to put a man behaving well into the Convict Barracks. The Magistrates do not confine a man who behaves well. I have allowed them at my discretion to stay out, but I never permit them to go and choose their abodes for themselves when withdrawn from their Masters.

Cross Examined by Dr. Douglass. There is no Convict Barrack at Penrith, but there is a Gaol there. If it should transpire before the Bench that an Assigned Convict was at work on his own hands by his master's permission, I should confine him. I should summon his master before the Bench and deal with him according to the evidence. If a Convict were assigned to me as a Government man and he should happen to be a singer, I should not consider myself justified in letting him work for his own benefit. In such a case, I think the Government Order states that his Servant should be taken from his Master's employ and be placed in Government employ. I might in particular cases allow the Servant to return to his Master's employ. I knew of an Order of Sir Thomas Brisbane's desiring that all Convicts, turned into Government employ or withdrawn from their Master's Service, should be forwarded to Sydney.

Note.—This Order was directed to be produced, for which see Paper marked E in the Appendix.

It is my custom, when I require the attendance of a Convict either to answer a Charge or as a Witness, to send a Constable for him without a written Order.

Re-Examined by The Revd. S. Marsden. If I were to allow a Convict to do a job for a neighbour and I fed and clothed him, I should consider he was on his own hands in part, that is, if it were for his own benefit.

Re-Cross-Examined by Dr. Douglass. If I saw a sign of any person as a Painter and Glazier, I should consider he was at work for his own benefit.

The Court was then adjourned until the 20th Inst.
1825.
10 Aug.
Proceedings of inquiry into charges preferred by Rev. S. Marsden against H. G. Douglass in case of J. Ring.

Government House, Parramatta, 20 July, 1825.

At a Continuation of the Investigation into Certain Charges preferred by The Revd. Samuel Marsden, Senior Chaplain of the Colony of New South Wales, against Henry Grattan Douglass, Esquire, M.D., and directed by His Majesty to be enquired into and reported upon by His Excellency the Governor; The Honorable the Chief Justice; and The Venerable The Archdeacon.

The Court being assembled and the parties respectively being present The Revd. Samuel Marsden proceeded in the examination of Evidence.

Susan Priscilla Bishop, Examined again by the Revd. Samuel Marsden.—Dr. Douglass attended several times at Mr. Marsden's private family Prayers, on his first coming to Parramatta, on the Sunday Evenings. Ring was always present upon these occasions. Ring was always employed by Mr. or Mrs. Marsden. Ring was at home and at his Meals regularly every day, except when away with a pass on the business of the family. He was Mrs. Marsden's confidential Servant, and he was very trustworthy. Mrs. Marsden frequently entrusted him with Money to pay Bills. It was as great a loss for Mr. Marsden to be deprived of Ring's Services as of any Servant in the family. When the Revd. Mr. Middleton's little boy broke his arm, Ring always took him to the Hospital every day to be attended to, which Dr. Douglass superintended. Ring used frequently to fetch Mr. Marsden's Children home from Dr. Douglass's. Ring came twice to Mr. Marsden's house before he went to Sydney. When he came the Second time to take leave, he expressed sorrow at leaving Mr. Marsden's Family. He said that he did not know what they were going to do with him. He was permitted to come alone. I saw no Constable with him. He remained about 5 or 10 minutes.

Cross-Examined by Dr. Douglass. Mr. Kenyon and one or two of the Singers at the Church have been in the habit of attending at Mr. Marsden's family worship. It is not, that I am aware, a common understood thing that any respectable person may attend at Mr. Marsden's Worship on a Sunday evening.

I know a person named Pritchard. He is a Ticket of Leave Man, and he was one of the Singers. I know a man named Newsome. He was a Singer. I do not recollect whether, at the time that Dr. Douglass attended Mr. Marsden's house, Newsome was his Servant. Pritchard was in the habit of going to Mr. Marsden's house frequently. Mrs. Marsden used to send him of errands. He was trusted as a confidential person. I never recollect Pritchard going or being sent to Dr. Douglass's house upon any occasion.

Mr. Middleton's Son was under Dr. Macleod's care.

William Pritchard, Examined by the Revd. S. Marsden.—I have been in the Colony very nearly ten years. I am a Goldsmith. I was a Constable from about April, 1816, and I left that situation in 1820. I came to this Colony in 1815 for life. I hold a Ticket of Leave at present. I was at Mr. Marsden's house the 11th May, 1823, when Mr. Cartwright did Mr. Marsden's duty. I heard that Mr. Marsden's Gardener had made an Assault upon Ring. On the
12th, I was sent by Mrs. Marsden to Dr. Douglass to make a complaint of Graham, the Gardener, for having the preceding day caused a disturbance in Mr. Marsden's kitchen and committed an assault upon Ring. I stated this Complaint, and then called forward Ring to substantiate it. Dr. Douglass asked Ring who he was. Ring stated that he was a Servant of Mr. Marsden's. To the best of my recollection, Dr. Douglass asked Ring if he were not the person, who had a sign-board up in the town specifying that he was a Painter and Glazier.

Note.—The Revd. S. Marsden having proceeded to examine William Pritchard respecting the investigation of the Complaint on the 12th May, 1823, against Graham for an assault on Ring, the Court ordered that such evidence should be struck out of the proceedings, no charge founded upon such investigation having been preferred by The Revd. S. Marsden against Dr. Douglass in his Letter to Mr. Secretary Peel.

With reference to his letter to Mr. Wilmot Horton, in answer to Mr. Marsden's Statement to Mr. Secretary Peel, Dr. Douglass states, That he finds Ring was not the person complained of, but that he complained of Graham, and refers to the Court Books. Dr. Douglass further states, That he spoke of the matter merely from memory in London where he had not the means of referring to the Books of the Court.

Cross-Examined by Dr. Douglass. When Dr. Douglass asked Ring whether he was the person who exhibited a Board, he said he was. He said he had Mr. Marsden's leave to do jobs for himself. I waited till the Court was over on the 12th, and then walked into the Garden with Dr. Douglass. I asked him if, seeing he was of opinion that Ring was improperly at large, it would be satisfactory if he were confined to Mr. Marsden's premises. To the best of my recollection Dr. Douglass said, "That as a Magistrate he was sworn to do his duty and that he must act by Mr. Marsden as he would by any other person." I was in the habit of frequently being at Mr. Marsden's house. I recollect Newsome's going to Mr. Marsden's on a Sunday evening. There have been several persons in the habit of going there since the period of my first attending there, nine years last Christmas.

Re-Examined by the Revd. S. Marsden. I neither boarded nor lodged at Mr. Marsden's.

Mr. James Elder, Examined by The Revd. S. Marsden.—I came to the Colony as a Missionary going to Otaheite about twenty five years ago. I have resided in Parramatta since 1810. I heard the Proceedings, when Mr. Marsden appeared in Court on the 17th May, 1823, respecting Ring. The Court was very full. When I was so near as to hear what was going on, Mr. Marsden was asking the Magistrates not to degrade a respectable man by sending him to Gaol. He said he would give security to any amount. Mr. Marsden said, Punish me, but do not punish Ring, he is perfectly innocent. Dr. Douglass replied, No Convict is respectable and the Gaol is the proper security. Mr. Marsden stated that Dr. Douglass had employed Ring as a Painter and Glazier. Dr. Douglass at first flatly denied that Ring had been ever employed by him; but he afterwards distinctly admitted that Mrs. Douglass employed him, and it was only to put in a pane or two of glass, and that he, at that time, took
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Proceedings of inquiry into charges preferred by Rev. S. Marsden against H. G. Douglass in case of J. Ring.

Ring to be free or to have a Ticket of Leave. Mr. Marsden said, you must have known him to be my Servant because he was in the constant habit of going to Dr. Douglass's house, taking the children backward and forward from one house to the other. Dr. Douglass charged Mr. Marsden with the violation of Laws, which, as principal Chaplain, he was bound to support. Dr. Douglass said that the husband was liable for the acts of the Wife, and that himself must pay the £10 as well as other people. Mr. Marsden stated that Dr. Douglass, sometime after he came to the Colony, had a Convict Servant, and that he said to Mr. Marsden, I do not want the Services of this man; I want to draw his rations out of the Stores; Do you take him into your employment. Upon this Dr. Douglass became extremely rude and provoking. He said, whilst I sit here on this Bench, I will not allow you, Mr. Marsden, to bring charges against me. It is private spleen; and bowing himself forward he said, It's no such thing; and thereby, as I conceived both by gestures and words, giving Mr. Marsden the lie, because it was a point upon which Mr. Marsden could not be mistaken. There was something then said by Dr. Douglass about contempt of Court, and then I observed that the Revd. Thos. Hassall rose up hastily, as if to restrain Mr. Marsden. The case was then abruptly broken off, and Mr. Marsden went away. I do not recollect Mr. Marsden's saying to Dr. Douglass that he knew Ring as well as he did him, Mr. Marsden. I recollect, when Dr. Douglass charged Mr. Marsden with allowing Ring to be at large, Mr. Marsden said, "You know he is one of my Singers and I allow him to lodge at the Clerk's because he is one also." I do not recollect Mr. Marsden's asking the Bench to let him return to him, because he had not done any wrong. I considered Dr. Douglass's behaviour to Mr. Marsden very rude and insulting. There was not one mark of respect or civility shewn to Mr. Marsden. I am a Shopkeeper in Parramatta. Ring was accustomed to settle the Bills and Accounts of Mrs. Marsden with me, and I have seen him out late in the evening, from which I supposed he was considered a trusty servant. I knew Ring was Mr. Marsden's Servant, as he transacted much business with me.

Cross Examined by Dr. Douglass. I was not in the Court-House when Mr. Marsden entered it, but the conversation had commenced when I arrived.

Re-Examined by The Revd. S. Marsden. I saw no impropriety in Mr. Marsden's behaviour. On the contrary, I was astonished at his coolness.

By the Court. I founded my impression of Dr. Douglass having behaved with rudeness to Mr. Marsden upon three points:—

First, his charging Mr. Marsden with breaking a Colonial Order which, as Principal Chaplain, he was particularly bound to enforce, when I considered that Mr. Marsden had not violated the Colonial Orders.

Second, his saying, with reference to Mr. Marsden's mentioning the case of Buckingham, that it was private spleen.

Third, his saying to Mr. Marsden in reference to that case, there never was any such thing; and I knew of my own knowledge that Buckingham was living with Mr. Marsden.

The Court was then adjourned until the 21st.
Government House, Parramatta, 21st July, 1825.

At a Continuation of the Investigation into certain Charges, preferred by The Revd. Samuel Marsden, Senior Chaplain of the Colony of New South Wales, against Henry Grattan Douglass, Esquire, M.D., and directed by His Majesty to be enquired into and reported upon by His Excellency the Governor; The Honorable The Chief Justice; and The Venerable The Archdeacon.

The Court having assembled and the parties respectively being present, The Revd. S. Marsden proceeded in the examination of Witnesses.

Mr. Samuel Larkin, Examined by The Revd. S. Marsden.—I was under Governor King in his Office about five or six years, during two years of which I was his Principal Clerk. I was Principal Clerk to Governor Bligh during the whole of his administration.

I was in the Court House at Parramatta on the 17th May, when the Case of Ring was investigated. I was in the habit of attending the Court, and on this day Mr. Marsden was called upon by Dr. Douglass to explain how he allowed his Servant Ring to be at large. Mr. Marsden said that he was not aware of having infracted any Colonial Order. Mr. Marsden admitted that he had permitted Ring to work in the Town as a Painter and Glazier, and of his own employ, which he thought for the benefit of Parramatta. Mr. Marsden instanced one or two facts touching Ring's having worked for Dr. Douglass himself. Dr. Douglass denied this at first for some minutes, but admitted at last that Mrs. Douglass had employed him to put in one or two panes of Glass. Mr. Marsden observed that Dr. Douglass must know this man to be his Servant from the circumstance of his taking the children to and fro from one house to the other, and that Dr. Douglass must also have known Ring to be his Servant from seeing him about his house. Mr. Marsden instanced that, if he were to be fined for a breach of Colonial Regulations, Dr. Douglass was himself in the same situation. Dr. Douglass and Mr. Lawson were the only two Magistrates present. Mr. Lawson did not take so active a part in the proceedings as Dr. Douglass. There seemed to be no informant before the Court. I saw no accuser. Mr. Marsden appeared to answer the charge.

Mr. Marsden pressed upon the Court that, if there were an infraction of the Public Orders, he would be responsible and begged that the man might not be punished. He offered to be Security for his appearance. Dr. Douglass decidedly refused Mr. Marsden's application, and made use of some expression that the Gaol was the best security for a Convict. I cannot recollect the precise words Mr. Marsden made use of. I recollect Mr. Marsden remarking that he considered it as a very severe punishment that a respectable man, who had been living in his service, should be sent to Gaol amongst the persons there. I think Dr. Douglass replied, No Convict is respectable and to Gaol he should go. The Court House was nearly full. There was a sort of buzz of disapprobation at one period, which seemed to me indicative of a distaste for what Dr. Douglass had been saying. Ring stood in the usual place for prisoners, who are brought up for examination, fronting the Bench. Mr. Marsden stood a little behind the Bench to the best of my recollection.
I was present when Mr. Marsden again appeared before the Bench, and entered his Protest against the proceedings of the Magistrates on the former day. I recollect Mr. Marsden's objecting to pay the fine imposed upon him. I think Dr. Douglass was the only Magistrate present. The conversation at first seemed desultory. There was a little appearance of bitterness and of warmth on the part of Dr. Douglass. I think there was some recrimination of Mr. Marsden respecting Ring's being employed by Dr. Douglass, who pointedly disavowed the circumstance. I saw no informant, and there were no witnesses examined. Mr. Marsden denied Ring's being at large, for he said he fed and clothed him and found him his lodgings. I do not recollect Dr. Douglass saying that Mr. Marsden had a fair trial. Dr. Douglass said he was surprized, and that Mr. Marsden as Chaplain was bound to support the laws rather than infract them. I considered that Dr. Douglass's behaviour was not decorous, but it was his usual off-hand manner. There was something not according with my feelings upon the occasion. I thought that he might have acted towards Mr. Marsden, who was a Clergyman, with more respect without entering into the merits of the case.

The witness being called upon to explain the circumstance of Dr. Douglass's manner or gesture, on which he founded his opinion that Mr. Marsden was not treated with respect, says:—

There was an appearance of ill blood and party spirit. Dr. Douglass bit his nails, which I considered as an indication of his vexation. He did not make use of any gesture with his hands. There was some language made use of by Dr. Douglass respecting Mr. Marsden's resisting the authority of the local laws. This was in the hearing of all the Court. I thought Dr. Douglass's manner towards Mr. Marsden irritating, and I do not recollect ever to have seen Dr. Douglass so much off his guard. He appeared to give way to his feelings, whatever they were. I did not see anything, which could be interpreted into disrespect on the part of Mr. Marsden, unless it was his charging Dr. Douglass with having employed his Servant. He did not speak with any asperity. It bore the semblance on my mind of recrimination. I cannot recollect the precise observation which excited the murmur of disapprobation. It certainly was apparent for a moment at something proceeding from Dr. Douglass.

Cross Examined by Dr. Douglass. I was present on the first day Ring was brought up before the Bench. I recollect Dr. Douglass saying something to the effect that the Clerk should put down what Mr. Marsden had to say. I do not recollect any reference being made to the Governor. I recollect Dr. Douglass warning Mr. Marsden not to commit himself. I considered he did so, not to insult Mr. Marsden, but for the purpose of cautioning him against making any admission. I was present the second day. Mr. Marsden, upon entering the Court, presented a Paper purporting to be a Protest against the proceedings of the Magistrates on the former day. I do not recollect whether any other Magistrate was upon the Bench with Dr. Douglass. If there had been, I think I should recollect it. With the exception of that part of the Proceedings, in which I have already mentioned Dr. Douglass as having acted with ill blood and unnecessary warmth, I observed nothing more than Dr. Douglass's usual off-handed manner. That appeared when Mr. Marsden charged Dr. Douglass with having broken the Laws. I recollect an occasion...
that I had the honor of Dr. Douglass's judgment, not very satisfactory to my feelings. Dr. Douglass did not upon that occasion treat me with as much courtesy as he did Mr. Marsden. He handed me out of Court, that is, ordered the Constable to turn me out of Court which was done. Dr. Douglass did not fine me.

I wrote a letter of complaint upon this occasion to an honorable Member of Parliament against Dr. Douglass.

**Re-Examined by The Revd. S. Marsden.** When Mr. Marsden mentioned to Dr. Douglass that, if he had done wrong respecting Ring, he, Dr. Douglass, had also done wrong in other cases, he did not admit that either had done wrong.

**JAMES WILLIAMSON, Half Pay Deputy Commissary, Examined by The Revd. Samuel Marsden.** I was in the Court House on the 31st May, when Mr. Marsden entered a Protest against the legality of the Proceedings of the Bench.

I remember Mr. Marsden objecting to pay the fine imposed, and that Dr. Douglass expressed his astonishment at Mr. Marsden doing so. As nearly as I can recollect, Dr. Douglass stood up and read a long lecture to Mr. Marsden, which seemed to throw an odium upon him as Senior Chaplain, for setting such an example, and the expressions he made use of were in my opinion indecorous and unbecoming. I believe the words made use of by Dr. Douglass were that he was surprised that Mr. Marsden as Senior Chaplain should set such an example. I felt very indignant upon the occasion, and went away shortly afterwards because my feelings were hurt. I did not observe any manifestation of public feeling in the Court or on the outside. I came away with Mr. Larkin, and he made the same remark with myself that Mr. Marsden had had a warm lecture which he did not deserve.

**Cross Examined by Dr. Douglass.** Mr. Lawson was on the Bench. I believe. No other person was there that I recollect.

**MR. SAMUEL SMITH, a Builder in Parramatta, Examined by The Revd. S. Marsden.—** I know Ring, Mr. Marsden's assigned Servant. I have employed him as a Painter and Glazier in Parramatta. I have asked him to do jobs for me elsewhere. When I was superintending the building of the Orphan School for Government, I applied to Ring, when he informed me that he was Mr. Marsden's Government Servant, and, being under the necessity of shewing himself once a day at his master's house, he could not do jobs so far from home. I was present when Mr. Marsden presented his Protest against the fine imposed upon him by the Bench. When Mr. Marsden presented his Protest, Dr. Douglass was I believe the only Magistrate Sitting. Upon this, Dr. Douglass expressed himself rather strong towards Mr. Marsden, stating that he as Principal Chaplain ought to have protected the Government Orders, whereas he was himself the Aggressor against one of them. I recollect the expressions were strong and pointed, but I cannot precisely remember any other expression than what I have before stated. I felt fully impressed that there was a vein of unpleasant and vindictive feeling in what passed. I was induced to go to the Court from a spirit of curiosity, as there was a report current of a dispute between Mr. Marsden and Dr. Douglass, and I went to hear what was going on. I considered Dr. Douglass's manner towards Mr. Marsden as extremely rude and insulting. The Court was crowded at the time, and it was my impression that Dr. Douglass intended to convey an unfavourable idea of Mr. Marsden by the lecture which
he gave. I did not observe, whilst I was in Court, anything disrespectful in Mr. Marsden's manner towards Dr. Douglass. When Mr. Marsden was not permitted to reply, he retired.

**Cross Examined by Dr. Douglass.** I did not know Ring was a Government Servant, before I applied to him to work for me at the Orphan School. I considered he was a free man from his working for different people. He had a sign over his door, which I thought strongly corroborated his being free. He lodged at Mr. Kenyon's. I never knew of his having lodged elsewhere. I never saw his board at Mrs. Barrow's. I do not recollect any other Magistrate being there. I was not at the Court House when Mr. Marsden entered. Mr. Marsden was seated behind Dr. Douglass when I came. I considered the expressions Dr. Douglass used were rude and insulting, and I still think so. If the expressions had been used towards me, I should have considered them rude and insulting. Dr. Douglass's manner was firm and hasty, and bordering closely upon gallant and insulting, if not quite so. The manner was not much beyond Dr. Douglass's usual manner. As a clever Magistrate, Dr. Douglass once gave strong lectures; but I considered, towards the Principal Chaplain, it was untimed and unfit. I think the Magistrate ought to vary his manner to the individuals accused before the Court according to their quality.

**By the Court.** I think Dr. Douglass ought to have paid more respect to Mr. Marsden, considering the sacred character which he held in the Colony, than to a common person under a similar charge. Dr. Douglass treated Mr. Marsden upon the present occasion with greater disrespect than he would even a common Convict, which might have been brought before him. My reason is that, while Mr. Marsden stood at the end of a table at the side of which Dr. Douglass sat, he attempted repeatedly to reply and Dr. Douglass would not let him.

**By Dr. Douglass.** Mr. Marsden stood about two or three feet on the right of the Magistrate; the Convicts stand in front. I think Dr. Douglass would have allowed a Convict to speak, but I do not think he would have placed him at his side. Mr. Marsden took his proper Station. There were Chairs placed for respectable persons in the Court House, and Mr. Marsden took one of them.

**Re-Examined by The Revd. S. Marsden.** It is common for Convict Mechanics assigned to their Wives to exhibit Signs over their doors.

**By the Court.** I have in Sydney allowed my own assigned Servants to exhibit signs, and I believe it is usual throughout the Colony. I did so also at Liverpool. I allowed the two in Sydney to work for their own benefit and without any compensation to myself. I neither fed, clothed nor lodged them. This was four, five and six years ago. I have been in the Colony more than ten years; and it has been the practice in the Colony, during that period, for respectable persons to allow their Government Servants to work for their own benefit and emolument. I did so because I considered them deserving characters; and, whilst they had this indulgence, they had all the benefit of Ticket of Leave men. They were both Painters and Glaziers. I have also given passes to my Servants to work for a month in various parts of the Colony.

**Re-Cross-Examined by Dr. Douglass.** I would not do so now, after the example that has been set in the present case.

**Patrick Farrell, a labouring Man, Examined by The Revd. Samuel Marsden.**—I am a free man. I came to this Colony in 1808
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for seven years, and have been free these fourteen years. I was present on the 17th May. I heard Mr. Marsden offer security that Ring might not be sent to Gaol. Dr. Douglass said that Gaol was made for prisoners, and there they should go. Mr. Marsden said he thought it very hard for a person, who had served in his family, to be sent to Gaol; that, if there was any blame, he was in fault and not Ring. Dr. Douglass said he would send Ring to gaol. I thought Dr. Douglass was rude. He spoke sharp, and said he would not be insulted whilst he sat on the Bench. I followed Mr. Marsden after the Court, and spoke to him in Macquarie Street. I expressed my sorrow for the insult he had received. Not only I, but the whole town, felt for Mr. Marsden. I asked Mr. Marsden whether he would not prosecute Dr. Douglass for the insult. I said I had no money, but I would subscribe a bullock or two for the law to go forward in support of such a prosecution. Mr. Marsden did not show the least disrespect towards Dr. Douglass that I could see.

Cross-Examined by Dr. Douglass. Mr. Lawson was on the Bench, I believe. I followed Mr. Marsden out of Court, and said what I have before mentioned in the course of a few minutes.

Q. Why did you think all the Town felt for Mr. Marsden? A. Because I heard them talking about it that Mr. Marsden's Bail would not be taken. The Bail, that Mr. Marsden offered, was that Ring should not go to Gaol. I do not know whether he went to Gaol or not. I saw him in charge. I considered the insult that Mr. Marsden received was because his bail was not taken.

Re-Examined by Mr. Marsden. I am a Roman Catholic.

THOMAS SMITH, Examined by The Revd. Samuel Marsden.—I am a Constable in Parramatta. I have been free six years, and my Sentence was for seven years. I was doing duty almost two years as Constable at Dr. Douglass's house on the hill. I knew Ring to be Mr. Marsden's Servant. He was in the habit of coming to Dr. Douglass's house with Mr. Marsden's Children. I was in Court on the 17th May. I was present when Ring was brought forward. Dr. Douglass charged Ring with being on his own hands. Ring denied it. He said he belonged to Mr. Marsden; that he was his servant; that Mr. Marsden victualled and Clothed him. Shortly afterwards Mr. Marsden came in. Mr. Marsden went to the left of the table. Somebody got up and gave a chair to Mr. Marsden. Mr. Marsden then spoke, and Dr. Douglass and Mr. Lawson produced a Book and said he had broken a Government Order and that they must fine him. Mr. Marsden said he loved the law as well as Dr. Douglass, and would not submit to pay the fine. When Mr. Marsden said he loved the Law, Dr. Douglass looked at him with a kind of laugh. He then took Mr. Lawson out of the Court, and they returned both of a mind and fined Mr. Marsden. Mr. Marsden then said, he would be bail for Ring, that he was a respectable character and had done no wrong. That he would be bail for £100 or £500 that Ring might not go to Gaol. Dr. Douglass made answer that no prisoner was creditable, and that Gaol was the properest Place for him. I have frequently seen Dr. Douglass talking with Ring, when he has brought Mr. Marsden's Children there, and he has stayed at Dr. Douglass's hours together.

By the Court. I did not see any disrespect shewn by Mr. Marsden to Dr. Douglass.

The Court was then pleased to adjourn until the 22nd Instant.
Government House, Parramatta, 22nd July, 1825.

At a Continuation of the Investigation into certain Charges, preferred by The Revd. Samuel Marsden, Senior Chaplain of the Colony of New South Wales, against

Henry Grattan Douglass, Esquire, M.D., and directed by His Majesty to be enquired into and reported upon by His Excellency The Governor; The Honorable The Chief Justice; and The Venerable The Archdeacon.

The Court having assembled and the parties being respectively present, The Revd. Samuel Marsden proceeded in the examination of Witnesses.

John Grounds, a Tailor in Parramatta, Examined by The Revd. Samuel Marsden.—I have been eight years in the Colony. My Sentence was for life. I do not hold a Ticket of Leave. I am a Government man to my wife. I married in this Colony a native. I have resided four years in Parramatta. I was the assigned Servant of John Cheers, when I first came to Parramatta. I have been married between three and four years. I have had a Board exhibited at my lodgings as a Tailor, ever since I came to Parramatta. I have been assigned to my wife between two and three years. I had my Board up when I was the Servant of Cheers before I was married. I have heard that Mr. Marsden was fined and his assigned Servant Ring taken from him. My Board was exhibited at that time. I know there were many others then in Parramatta.

By the Court. I never heard that there was any information against any other person. The Constables must have seen my Board. They never said any thing to me about it.

Cross-Examined by Dr. Douglass. I lived at Mr. MacArthur's in Parramatta. Whilst I was in his service, I slept on his premises. I had no shop and no board up in Parramatta at that time. My wife's name was Mary Cheers. She was one of the Orphan School Girls. I was in Parramatta before I married. I was Cheers' assigned Servant about three months before I married. During these three months, I was living with Mary Cheers as Man and Wife. She had a child by me before Marriage. During these three months previous to my marriage, I had my Board exhibited. I know one Edwards, a Tailor, who was not assigned to his wife, and had his board up; but the other instances I know are persons assigned to their Wives. I was living on my Wife's premises. I was in Mr. McArthur's Service three or four years. I have left his Service about four years.

Re-Examined by The Revd. Samuel Marsden. I was married about six months before I was assigned to my wife.

Richard Edwards, a Tailor at Parramatta, Examined by The Revd. Samuel Marsden.—I arrived in the Colony in 1813, sentenced for fourteen years. I am now free by servitude. I was the assigned Servant of Mr. Rouse, late Superintendent of Public Works at Parramatta. I was assigned to Mr. Rouse in March, 1820, and was with him about two and a half years until I got my Ticket of Leave. I resided during that time in my own house at Parramatta. Mr. Rouse had no accommodation for me. I exhibited a Board as a Tailor during that period and whilst I was in Government employ. I remember the time that Mr. Marsden was fined and his Servant
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Ring taken from him. I have had a Ticket of Leave two years this month. I did jobs for private individuals during that time and for the Constables, as I was employed very generally.

By the Court. The Work, I did for Mr. Rouse, was for his own Government men and his family. Whilst I was in Government Service, I had the indulgence of working for myself after three o’Clock every day and the Saturdays. I had a Sign exhibited at that time, and, when Mr. Rouse took me off the Stores, I kept my board and asked his permission to live on my own premises. I had not Mr. Rouse’s permission to work for other people. I never asked it. I sometimes did jobs for people unknown to Mr. Rouse.

Cross-Examined by Dr. Douglass. When I did jobs for people, the work was brought to me.

Re-Examined by The Revd. S. Marsden. I used to go out and fetch the Materials to the houses of those who employed me.

Charles Walker, of the Red Cross Inn at Parramatta, Examined by The Revd. S. Marsden.—I know Fluere, late petty Constable. He was dismissed on Saturday last by the Bench. He is now on his own hands. He lives in Parramatta. I am sure he is on his own hands, for I see him constantly on horseback, and I am confident that Smith the man, who is reported to be the Master of Fluere, has no horses to break in. I saw him this morning on one of my own horses, not with my permission. He seems to be employed in various avocations about the town.

I remember an Execution being issued against Mr. Marsden’s Goods and Chattels. Mr. Marsden was gone up the Country. He called at my house during the day, when he was going up the Country previous to the levy, and said that he expected an execution would be issued against him, and requested, if I heard of such a thing, I would go to his house and act as I thought proper for him, and that whatever I should do he would be satisfied with it. I had no instructions to pay any money, but merely to act as I judged best.

I was accordingly sent for and went up to Mr. Marsden’s house when the execution was levied. On arriving there, I found the Constable in the hall. I asked his business there, and he said he had given Mrs. Marsden a paper. I went into the adjoining room and perused the paper. Mrs. Marsden and all the family were quite agitated. I returned to the Constable, and asked him if that was the paper he brought. He said, yes. I took him accordingly into an adjoining room and shewed him various articles of furniture; he at last seized a Piano, which I purchased of him and took a receipt. I gave him fifty dollars and a rupee. The Warrant was for £10 2s. 6d.

(Mr. Walker was here examined in reference to Earl Bathurst’s 5th Point, but Mr. Marsden disclaimed any allegation in his letter that the Warrant was executed in an irregular manner; and Mr. Marsden adheres to his original statement respecting this point.)

Charles Walker’s Examination Contin’d.—I knew James Ring. He told me that Dr. Douglass wished him to go to the Cow pastures, and he expressed a fear of Offending Dr. Douglass by not going. He asked my advice what he should do. I advised Ring not to go. Ring said he should get into trouble if he did not go; and I told him, he certainly would get into trouble if he did go; and he accordingly did not go.
1825.
10 Aug.

By the Court. Ring's words were, I believe, that, if he did not go, Dr. Douglass would be his bitterest enemy. Ring did not say that Dr. Douglass used any threats to him, nor on what grounds he had fears. He simply expressed himself as being afraid that Dr. Douglass would be his bitterest enemy, if he did not go; but did not state the reasons of his being afraid. This circumstance took place some months previous to Ring's being brought before the Magistrates.

I remember when Ring was taken from Mr. Marsden and sent to Gaol on the Saturday. I heard, on the Monday morning, that he was in the Convict Barrack. I saw him, on one day in the middle of that week, go and return with the Gaol gang. He had not the Gaol dress on; it is a particular dress. I did not see him with any irons. The Gaol Gang generally have irons on. I saw him marched with the Gaol Gang. I was standing in my Verandah on the Saturday. I considered he was much degraded by being in the Gaol Gang.

Thomas Coker, Painter and Glazier at Parramatta, Examined by The Revd. Samuel Marsden.—I have held a Ticket of Leave six years. I knew James Ring. He applied to me about a job of work. It is about two years ago. Ring stopped me and asked if I would go to Dr. Douglass's Farm and do a job. I said I would, but that I could not go immediately. Ring said he could not go himself, but had told Dr. Douglass that he would recommend a person to him. About four days after, I met Dr. Douglass on the Parramatta bridge. I spoke to him concerning going up to his Farm, but what passed I cannot call to mind. I promised Dr. Douglass I would go, but I did not go. I could not go, because I had a job on hand.

By the Court. I cannot recollect what passed with Dr. Douglass on the bridge. I addressed Dr. Douglass first. I think I said that James Ring had been speaking to me about going up to his Farm.

Cross-Examined by Dr. Douglass. It was about two years ago. It was in the Summer time, I think, that I had the conversation with Dr. Douglass. I was working at Hunt's at the time, but I cannot recollect the time nor can I recollect when James Ring spoke to me, nor what I said when I addressed Dr. Douglass. I have been here waiting to be examined four days. I have had my expences promised to be paid. No sum has been specified, and I am sure I have not mentioned to any person the particular sum I am to get. I have said nothing about receiving 10s. a day, nor do I expect it. I have been employed in Parramatta these 18 months. I have done a great deal of work for Mr. Walker, Mr. Nash, Mr. Hannibal MacArthur and many others. I cannot recollect the time nor can I recollect where I worked for any of these gentlemen. When Ring spoke to me about the job, he did not express any fear of Dr. Douglass for not going. He did not express any fear of Dr. Douglass punishing him, then or afterwards. I was very intimate with Ring. We were both of the same trade. I did not see Ring after he was sent to Gaol. He made no particular request to me to go; he merely said that he could not go himself.
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JAMES SMITH, Publican in Parramatta, Examined by The Revd. S. Marsden.—I have been here fifteen years. I came here for life. I received my emancipation about ten years.

Last Saturday afternoon, Fluere, the Constable, who was I heard dismissed, came and asked me to take him off the Store, and I said I had no objection. He asked me if I would go with him to Mr. Fulton, the Clerk of the Bench. I said, Yes, and went. I applied for Fluere as my Government man. Mr. Fulton said I might have him, and that he would make it regular in the Books. He came to me on Monday morning. He said he had horses of his own, and his affairs would take him a fortnight to settle. He has never done anything for me. He is a Horse-breaker. I have hardly spoken to him since. I told him I had no use for a Government man.

By The Court. I was aware that I had broken the Law, and sent for Fluere ten times to tell him I was liable to be fined.

Cross-Examined by Dr. Douglass. Fluere has my permission to be absent. I gave him leave to go and settle his Affairs.

WILLIAM BEAUMONT, Gaoler at Parramatta, Examined by The Revd. S. Marsden.—I have been 23 years in the Colony, and I have been Gaoler at Parramatta nearly 4½ years. I was fourteen years a Constable before I was a Gaoler.

I knew James Ring. He was in my charge in the month of March, 1822, the first time. He came in the evening and went out in the morning. The second time, he came in the 12th May, 1823, and was taken before the Court on the 17th. He came from the Court to Gaol. I issued one day’s rations for that day after he returned from Court. He did not have his rations before he went to Court. His ration was 1 lb. of Bread. He came from Court with all the Prisoners. He was removed the same day from the Gaol to the Convict Barrack. A Constable came for him with a verbal Order. It was either Mr. Thorn himself or the Order was from him. I remember Mr. Marsden coming to me sometime about a fortnight afterwards. I told Mr. Marsden that Ring was not sentenced to the Gaol Gang, but that he was working with the Gaol Gang at the Stores. I did not see him there, but I heard this from John Eggle-sham, Overseer of the Gaol Gang. Dr. Douglass has been at the Gaol, since his return to Parramatta. He first asked me to let him look at the different Warrants of Committal. After he had looked and copied what he thought proper, he told me there was one Warrant missing. I told him not to my knowledge, for I believed all the sentences I received from the Court were there. Dr. Douglass then said that, provided any Document was missing, my place would hang on hinges or be in jeopardy, or words to that effect. Mr. Thorn was there with Dr. Douglass.

Cross Examined by Dr. Douglass. I recollect when Ring came to Gaol in March, 1822.

The Book of the Gaol was here produced and it appears that, March 29th, 1822, James Ring was received:—"James Ring, Servant to Mr. Marsden, found out at late hours at night."

To the best of my belief, Bateman put Ring into Gaol. I cannot state who took him out of Gaol, nor whether he was carried to Court. He must have been liberated by order of the Chief Constable or a Magistrate.

The Court Book was here produced, and no Record found of Ring’s being liberated.
1825. 10 Aug.

Proceedings of inquiry into charges preferred by Rev. S. Marsden against H. G. Douglass in case of J. Ring.

It has latterly been the practice of sending the prisoners to the Gaol for the selection to be made of those who receive the Barrack Sentence; but it was the general practice to retain those at the Court, who received Sentence to the Barracks and send them direct to the Barracks. The practice is not however invariable. In the case of Ring, he came to the Gaol.

Witness here produced the Order for those who were sentenced to the Gaol on the 17th May, 1823, and Ring’s name is not amongst them.

See paper marked F in the appendix.

Ring never was in the Gaol Gang in my time. I understood from the person who came to the Gaol for Ring that he had been sent there by mistake; that he had been ordered to the Barracks. It was some Constable, and he took him away.

By the Court. Ring was never sentenced to the Gaol Gang. No person could be worked in the Gaol Gang without my knowledge, if he went from the Gaol. A man named Egglesham is the Overseer. I have nothing to do with the work of the Gaol Gang. Ring might have been sent from the Barrack, and worked with the Gaol Gang without my knowledge.

Mr. Marsden’s Letter, dated May 17th, 1823, to His Excellency the Governor was here produced, admitted and read. See paper marked G in the Appendix.

Adjourned until Monday, the 25th July, 1825.

Government House, Parramatta, 25th July, 1825.

At a Continuation of the Investigation into certain charges preferred by The Revd. S. Marsden, Senior Chaplain of the Colony of New South Wales, against

Henry Grattan Douglass, Esq., M.D., and directed by His Majesty to be enquired into and reported upon by His Excellency The Governor; The Honorable The Chief Justice; and The Venerable The Archdeacon.

The Court having assembled and the parties being respectively present, The Revd. Samuel Marsden proceeding in the examination of Witnesses.

RICHARD ROUSE, late Superintendent of Public Works, Parramatta. Examined by the Revd. S. Marsden.—I was nearly twenty years Superintendent of Public Works in Parramatta. Dr. Douglass asked me whether I knew if Ring was a free man or a Government man to Mr. Marsden. It was sometime before Ring was apprehended; it may be a week or ten days. I do not recollect whether Dr. Douglass asked me if Mr. Marsden could be fined. I told Dr. Douglass that I did not think from his appearance that he was a Prisoner. This conversation passed in the Street. A second time Dr. Douglass spoke to me and said that he had information that Ring was Mr. Marsden’s Government man; and he asked me my opinion whether he could fine Mr. Marsden for allowing him to work at large, and said he had a great mind to have him brought up. This passed in the Private Room of the Court House, and about three or four days before Ring was brought before the Court. I told Dr. Douglass that I thought I could find twenty people at large upon their own time in the same way. I told Dr. Douglass it had been such a general practice that I thought he had better
recommend it to the Governor to renew the old Order. I do not recollect that Dr. Douglass made any reply. I had an assigned Servant at the same time in my employ, a tailor named Richard Edwards. This man, after he had done the work required by me, had my permission to work for other people. I do not remember the precise way in which he had permission, but I knew that he worked for other people, and I did not object to it. I saw his board up. When Ring was apprehended, I sent for Edwards to desire him to take his sign down. I do not recollect seeing any other sign boards hanging up of assigned Servants. There might have been more, and I do not know of it.

Ring was not sentenced to the Gaol Gang by the Magistrates. He was sent to the Prisoner’s Barracks by Dr. Douglass. I ordered him to work with other men in company with the Gaol Gang. It was my practice to send men from the Lumber Yard, when I had a few to spare, to work with the Gaol Gang when it was small. It was my habit every Monday morning to select my regular gangs, and make up the deficiency with such spare men as came in by chance on the Saturday before. The Gaol Gang was amongst those under my control. I always picked out the worst characters to work with the Gaol Gang, as I considered it a mark of degradation and a punishment to put men to work with that Gang; and I sometimes selected men from other Gangs and made them work with the Gaol Gang as a punishment without taking them before the Magistrates; and I sometimes put a log upon them.

By the Court. My reason for sending Ring to work with the Gaol Gang was on account of John Field, the Principal Overseer, keeping him without working him in the Gangs; and, as I perceived Field for some cause or another seemed inclined to shelter Ring, I accordingly set him to work with the Gaol Gang as I thought I might be found fault with. He was not in the Gaol Gang, but with the Gaol Gang.

By the Revd. S. Marsden. I was apprehensive that Dr. Douglass would find fault with me. The Gaol Gang was employed at that time in digging and wheeling earth at the new Stores.

By the Court. The difference between working with the Gaol Gang and in the Gaol Gang is that in the Gaol Gang a man is generally upon half rations, wears irons, and sleeps in the Gaol. With the Gaol gang, he is upon full rations, without irons, and sleeps in the Convict Barracks, but in other respects is employed in exactly the same work as a man in the Gaol Gang.

Cross-Examined by Dr. Douglass. The Clothing is also different. The Gaol Gang is obliged to wear Colonial Flannel of two colours. Ring did not wear that dress. The men in the Convict Barracks should have been entirely under my own direction; but Dr. Douglass often interfered, and my principal Overseer, John Field, frequently complained to me of his so doing.

Question by Dr. Douglass. Except the usual Commitment which came from the Court House with Ring, did you receive any further Order from me? Answer. After Ring was in the Barracks I met Dr. Douglass in the Streets, and asked him if he had any particular Orders respecting Ring, and he answered None Whatever.

I considered Ring to be a free man from his personal appearance and dress, and I have seen him at work about the town painting and glazing for many people. I have seen Ring’s board over his door. From seeing Ring’s sign, and seeing him working about, and from his appearance, I considered Ring was a free man.
I always knew it was a breach of the Government Orders to exhibit a Sign and work about; but I knew it was done in general practice throughout the Colony. John Field applied to me to allow Ring to remain in his Service in the Barracks; and I refused, saying his name was in dispute. By dispute, I meant that Mr. Marsden and Dr. Douglass were disputing about the fine. Ring was not to my knowledge prohibited from going to Church on the Sabbath day. He never made any complaint of that kind to me. I never heard from Field or any other person that Orders had been received to detain Ring from Church. I do not think any such orders could have been acted upon without my becoming acquainted with it. I sent Ring to Sydney of my own accord without any directions from any one. When I had any Surplus of men, I sent them to Sydney once a month or once in three weeks, just as it might happen. Ring was sent as one of the surplus men. When I had the first conversation with Dr. Douglass, he said that Thorn had told him that Ring was an assigned Servant of Mr. Marsden, and asked me whether it was the fact or not. I believe I said I would enquire.

Re-Examined by The Revd. S. Marsden. When Convicts are received into the Barrack, they are entered regularly. The date and from whom they come.

(The Convict Barrack Book of Increase and Decrease being here produced, it appears that the day, in which James Ring was received, was entered, but there is no entry from whence received; witness was asked how he explained this.)

I cannot explain this, but I suspect no regular Order came from the Court with Ring. There is also an entry on that day of one Thomas Debittot, being received in Barracks, but the day is not entered.

(The Order for Ring’s Admittance being produced to Witness, he says it is in the usual form but that he never saw it.)

If I had seen the Order by which Ring was sent to the Barracks, I should not have forwarded him to the Sydney Barracks; and if I had seen it, I should not have detained Ring from Church. My reason for sending Ring to Sydney was because I saw there was a dispute about him between Mr. Marsden and Dr. Douglass.

By the Court. It made no difference in the condition of the prisoner whether he remained in the Barrack at Parramatta or was sent to Sydney. Sometimes they wished to go and sometimes applied to remain. I do not recollect having exchanged one word with Ring.

Re-Cross-Examined by Dr. Douglass. Field always appeared prejudiced against Dr. Douglass. I found this impression from his speaking disrespectfully of Dr. Douglass several times. Field complained of Dr. Douglass coming to the Barracks, and said he came there to annoy him; and wanted to know if I could not support him and prevent Dr. Douglass coming. Dr. Douglass frequently went to the Barracks in consequence of complaints being made of Mr. Field on account of the rations, and Dr. Douglass frequently visited the Barracks at night to muster the prisoners, of which also Mr. Field complained, and said that he was in liquor; and from these circumstances I found my opinion that Field was prejudiced against Dr. Douglass.

D’Arcy Wentworth, Esquire, Examined by the Revd. Samuel Marsden.—I was Police Magistrate of Sydney about 14 years. I do not recollect ever to have fined any person for allowing his
Servant to do jobs for other people, such Servant being victualled and clothed by his Master. I know of many persons, who have allowed their Servants to work for their own benefit after the Government hours. I think there was an order against it in the latter part of Governor Macquarie's administration or the beginning of Sir Thos. Brisbane's. I do not know which; but there is an order against it I know. I do not recollect that this Order was ever acted upon by me. I have no doubt that the Magistrates in Sydney were guided in their decisions by the Almanacks of 1814 as to what laws were in force.

Cross-Examined by Dr. Douglass. As far as my recollection goes, the Magistrates were guided by the Almanacks of 1814. I am certain that I never fined any person 2s. 6d. a day, but it was usual to fine a sum of £10 or some particular amount. Whenever I fined the Master for allowing his Servant to be at large contrary to what I considered the Law, I fined £10 or a round sum, but not the 2s. 6d. a day. The Magistrates frequently observed that they had the power of imposing the 2s. 6d. a day also, but they did not judge it requisite.

The Book of Records for Sydney was here produced and proved by the Witness, 24 Sept., 1823; from which it appears in the Case of The King vs. Tawell the defendant was fined 2s. 6d. a day for 28 days; and it also appears that Mr. Wentworth dissented from this Judgment. See Paper marked H in the Appendix.

I have known of some cases in Sydney where Masters have been fined for allowing their Government Servants to be at large. There were also some cases at Prospect, but these were Women Servants and it happened 10 or 12 years ago.

Re-Examined by The Revd. S. Marsden. Cases have come before me, as Police Magistrate at Sydney, and it having been proved that the Government Servants, charged with being at large, were clothed and fed by their Masters and did the work required of them, I have never fined the Masters.

Re-Cross-Examined by Dr. Douglass. If a case came before me as Magistrate, where the Servant was fed and clothed by his Master and did his work but did not lodge in his house, I should not have fined him.

The Court was then adjourned to the 26th Inst.

Government House, Parramatta, 26th July, 1825.

At a Continuation of the Investigation into Certain Charges preferred by The Revd. Samuel Marsden, Senior Chaplain of the Colony of New South Wales, against Henry Grattan Douglass, Esquire, M.D., and directed by His Majesty to be enquired into and reported upon by His Excellency the Governor; The Honorable the Chief Justice; and The Venerable The Archdeacon.

The Court having Assembled and the parties respectively being present, The Revd. Samuel Marsden proceeded in the examination of Witnesses.

Dr. Macleod, Examined by the Revd. S. Marsden.—I was present on the 12th May at the Police Office, when James Ring preferred a complaint against Mr. Marsden's Gardener, Graham. I cannot recollect what time the Order was given to send Ring to Gaol,
1825.
10 Aug.

Proceedings of inquiry into charges preferred by Rev. S. Marsden against H. G. Douglass in case of J. Ring.

whether before or after he left the Court. I think I remember meeting Mr. Marsden at the crossing of the Street some days afterwards. There was some conversation passed between us and about Ring. What it was I cannot at this distance of time recall to my remembrance. I recollect using this expression, "I do not know that Ring will be long in Gaol." This was in the course of conversation in answer to Mr. Marsden. I do not remember Mr. Marsden requesting me to ask Dr. Douglass to release Ring. I was not present at the Court House on the 17th May, at the time Mr. Marsden appeared respecting Ring. The proceedings in the case were submitted to me the same day soon afterwards, when I took my seat on the Bench, after Mr. Marsden had quitted the Court. The proceedings expressed that there had been a breach of the public Orders in the case of Ring. I heard nothing of Mr. Marsden's defence except so far as it was taken down. I was not present at Mr. Marsden's conviction, if it took place on the 17th. I did not sign the proceedings against Mr. Marsden on that day. I never signed any of the proceedings. I signed a letter to the Colonial Secretary enclosing a Copy of the Proceedings of the 17th.

A Copy of the Letter was here produced and read, and the Proceedings enclosed therein, for which see Paper marked I in the Appendix.

The whole of the Proceedings now read to me were submitted to me, when I signed the Letter. The penalty was for 2s. 6d. a day, as there stated; but my impression was and is now that the whole was transmitted for His Excellency's decision, and no decision was come to by the Magistrates. Dr. Douglass stated to me that Thorn had given him information respecting Ring. It was given as stated to me previous to Ring's being brought before the Court. We generally proceeded upon the Almanacks, but there was none belonging to the Court; and we were obliged to borrow them where they could most easily be had. Sometimes we had the Almanack of 1813, sometimes of 1814, and sometimes of both.

Cross Examined by Dr. Douglass. When we retired to deliberate respecting Ring on the 12th, I believe I said I did not see the necessity of sending him to Gaol; upon which Dr. Douglass said it would become the subject of remark, if we did not treat Mr. Marsden's Servant like any other person's. A letter was sent in my name to the Magistrates of the Parramatta Bench desiring their attendance on the following Saturday to hear that case and others. I never was otherwise than on friendly terms with Mr. Marsden and his family. I was present on the Bench on the 31st May, when Mr. Marsden gave in his protest against the proceedings of the 17th. On that occasion, Mr. Marsden and Dr. Douglass both spoke with warmth; but there were no words used by either party which struck me as unbecoming or improper. I certainly do not recollect Dr. Douglass preventing Mr. Marsden speaking. Each of the gentlemen spoke for some time. There were not two Convictions that I know of. I saw the proceedings of the 17th. My motive for signing the letter was that the matter might be submitted to His Excellency and be decided by him, so that nothing further unpleasant might occur in the transaction; and I believe this was also the wish of the other Magistrates who signed the letter. I thought Mr. Marsden had broken the law; but I wished to submit the Case to the Governor, in order that the fine might be remitted. It was my wish that Ring should have been sent back to Mr. Marsden, if that gentleman had not opposed the fine.
Re-Examined by The Revd. S. Marsden. I stated my opinion that it would be better that the matter should be put an end to; but I thought there was a breach of the Government Orders and, after the dispute was raised and the question became public, I was of opinion that there was no other course left but to proceed.

I saw the letter from the Colonial Secretary to the Bench dated 21st May.

This Letter was here produced and read. See Paper marked K in the appendix.

A Letter, dated 28th May, 1823, and signed by Dr. Douglass and Mr. Lawson and sent to Mr. Marsden was here produced and read. See Paper Marked L in the Appendix.

I was no party to this letter. I was not in Court when it was signed. The object I had in view in writing the letter to the Colonial Secretary having failed, as I perceived by his answer, I took no further part in the Proceedings.

I was present on the 31st when Mr. Marsden presented his Protest.

The Protest, dated May 30th, 1823, was here produced and read. See Paper marked M in the Appendix.

I recollect Dr. Douglass stating that he was surprised at Mr. Marsden's resisting the Orders of the Court, but I cannot remember the expressions used. I have a general impression of what passed, but I cannot call to mind the particulars. I do not recollect any thing being said of the fine of £10.

Re-Cross Examined by Dr. Douglass. In consequence of Mr. Marsden's Protest the case was referred to the Crown Solicitor. By the Court. Upon the 31st, when Dr. Douglass had given his decision respecting Mr. Marsden's Protest, I took no notice of any noise expressive of public feeling more than common.

JOHN HARRIS, Esquire, Examined by the Revd. Samuel Marsden.—I have been a Magistrate upwards of thirty years.

Query. Have you in your capacity as a Magistrate ever fined any person for allowing a Government Servant to do jobs for his own benefit, that Servant being maintained and employed by his Master?

Answer. Not to my recollection. I believe that there is a Government Order prohibiting Servants from being employed in doing jobs, but it does not extend to cases where the Servants are fed and clothed by their Master and do the work which he requires. I have allowed my Servants to do jobs for others. I do not know whether it has been a common custom. I received no benefit from their labour and am not aware that they received any remuneration for their work. My blacksmith has done jobs for Mr. Marsden. When Governor Macquarie assigned him to me, he said he did so that it might be a public benefit to the neighbourhood. My smith lived at his own residence. I lent my assigned Servant, who was a Painter and Glazier, to Mr. Lawson, and also another who was a Plasterer. I have acted as a Magistrate in Sydney as well as in Parramatta for years. I have seen Boards exhibited by persons in various trades, but not assigned Servants to my knowledge. I do not recollect any person being brought before me on a charge of this kind. I never heard of any occurrence happening before me. Sitting as a Magistrate, of a person being brought up for allowing his assigned Servants to do jobs for others, and having a board over his house, such servant being victualled and clothed by his Master.
By the Court. The cause of the Government Order, that I mentioned, was on account of the Settlers of the Hawkesbury being distressed in getting in their harvest. This was in the Year 1802 or 3. I was director of the Public Works at Sydney, and the Governor ordered me to break off as many Gangs as could be spared and send them up to the Hawkesbury. The Settlers, after they had got their harvest in, allowed these men to go on their own hands. To prevent this the Order was published, imposing the penalty of £10, and 2s. 6d. a day upon those who employed them.

These men went away anywhere they pleased and without any control over them. They did not go to work and return to their Master, nor were they fed nor clothed by him. After reaping was finished, they worked with any person who would employ them. I have never known a gentleman refuse to lend a Mechanic to another when he had no use for him. If such a thing were to occur I should think it very hard.

By Mr. Marsden. I considered the Order general for the whole Colony. By the Court. I never thought that the Order applied to Cases where the Servant was lent by way of accommodation.

Cross-Examined by Dr. Douglass. Query. Suppose you, having a house in Parramatta, receive a Convict Servant under Assignment by trade a Painter and Glazier, would you feel yourself justified under the Government Orders in allowing him to lodge where he pleased in the Town, expose a Board over his door setting forth his trade and occupation, and permitting him to work for his own benefit and emolument for any person who required his Services, you at the same time victualling and clothing him? Answer. Most certainly not. When I have lent a Servant, it has always been to a particular person, not to any one who would employ him.

I am not aware that the Order of January, 1802, is repealed. It may be so, but I do not know of it. I should act under that Order.

The Almanacks of 1813 and 1814 were both used at Parramatta. I should have thought that of 1814 best as being the latest; but I should not have considered the omission of an Order in the Almanack of 1814, which had been included in that of 1813, as conclusive evidence of its having been repealed by the Governor.

The Letters of the 17th, the 22nd, and the 24th May from The Revd. S. Marsden to His Excellency The Governor were here produced and read. See Papers marked G, N, O in the Appendix.

His Excellency The Governor States:

Mr. Marsden certainly called upon me respecting James Ring, and from his Statement, the Case seemed to me to be very hard as respects Ring. On the same day I believe it was that Dr. Douglass called upon me, and, having made his Statement that the case was before a legal tribunal, I felt delicate about interfering in the matter. Mr. Marsden applied afterwards for a full Bench of Magistrates to take the case into consideration, and I was very willing that such should be the arrangement. I parted with Mr. Marsden under the full impression that a full Bench of Magistrates should be assembled. Dr. Douglass, I understand, did not accede to this; and I left the decision of the case to the ordinary legal Tribunals.
To a Question by Dr. Douglass. I ordered the expenses of the Action,* brought by Mr. Marsden against Dr. Douglass and Mr. Lawson, to be paid out of the Public Funds.

Mr. Marsden waited upon me with a Letter to Mr. Peel which he read; and it was for the purpose of saving the life of Ring. Should he find his way to England. There was some particular circumstance which required dispatch in sending the Letter. I believe a Ship was about to sail at the time for England, and I was induced to sanction the letter so far as it had for its object to save the life of James Ring. I did not consider myself as confirming any charges made in the letter.

To a Question by Dr. Douglass. If I had been fully aware that there were any charges against Dr. Douglass in the letter, I should not certainly have sanctioned it without calling upon Dr. Douglass to defend himself.

James Martin, Examined by The Revd. S. Marsden.—I have been between 28 and 29 years in the Colony. I came as a Soldier in the 102nd. I was three years Body Guard of Governor King.

I knew James Ring and I also knew James Loader. Mrs. Loader puts up at my house, when she comes to Parramatta. Mrs. Loader stated to me that Ring was her intended Son-in-law, and she wished to see him, and I went for him.

I remember when Ring was taken from Mr. Marsden. Whilst in the Barracks he was twice at my house.

The first time that he came, he sat down upon the sofa and burst into tears. He said he was in despair, that it was all over with him now. That he should never get any mitigation of his time, and that he should not be able to marry Miss Loader. He said that he had burnt the Bills that he had to the Amount of £17 for fear that they would be brought against Mr. Marsden for allowing him to work for himself. At this time he never said a word to me about leaving the Colony. I do not think he harboured a thought then of quitting the Country. His whole dependence was upon Mr. Marsden doing something for him, and his intention was to get a house in Parramatta.

The Bills were for work done for various persons.

On the Monday morning when he was going away, the Constable, who had him in charge, came with him to my house. He wished us Good Bye, and said, Now it was all done with him. I bid him keep up his Spirits and not throw himself away; that Mr. Marsden would never forsake him; but he persisted that it was all over with him; that he never should get any mitigation of his Sentence.

Joseph Kenton, Parish Clerk at Parramatta, Examined by The Revd. Samuel Marsden.—Ring called upon me twice, within a fortnight or three weeks before he went to Sydney. The first time he seemed to be very much distressed. He cried severely, and he said he thought that his last hopes were for ever blighted. I remonstrated and asked him what he meant. He said he thought he should be the object of revenge, as a great coolness had taken place between Mr. Marsden and Dr. Douglass. I remonstrated strongly with him, but what I could say had no effect. He continued to sob and cry very bitterly.

I saw him again about a day or two before he went down to Sydney. He still seemed distressed and cried very much. He said, he should never be able to get his liberty and that he was a very unfortunate man; that the more he Strove, the worse he was behind.

* Note 207.
He said that now I must be convinced he never could go again to Windsor to see the Girl Loader. When he wished me Good-Night, he said he thought he should not see me again, and told me to take care of his Furniture and Property that I had in my house. He had purchased several Articles, Bed, Crockery, etc., in Order to be ready for his marriage.

Afterwards he came up from Sydney. He said he was an uncomfortable wretch, and cried very much as usual.

I believe he once said something respecting his leaving the Colony after he was in Barrack at Parramatta. He spoke slightly upon the subject that he had no more hopes left in the Colony. I think he said that he might stow away.

I did not see Ring in Church but he might have been there.

Cross-Examined by Dr. Douglass. Ring never told me that Dr. Douglass had made use of any threatening language towards him.

I believe Ring mentioned his intention of stowing away both before and after he went to Sydney.

I do not know how he quitted the Colony. Ring paid me for his lodgings himself. He agreed with me himself, and paid me. Mrs. Marsden was the first who spoke to me about receiving Ring. I think he paid for his lodgings out of the money which he earned. Ring never complained of his being kept from Church.

Close of Evidence in support of Complaint.

It is stated by Mr. Marsden that he does not mean to say that James Ring was prevented from coming to Church by Dr. Douglass, or his Order, but that in fact he did not come; and as he has understood, it was because he was appointed a Delegate to look after the provisions and the Cooking at the Barrack, to see that all was fair.

Dr. Douglass said he knew nothing of this, but would take it as it was stated.

Hereupon, The Revd. Samuel Marsden closed the evidence, he meant to adduce, on its being intimated by the Court that if it should appear to the Court that any point was left doubtful or unsustained, which, in the Opinion of the Court, might be cleared up or supported by other evidence, they would fairly state it, and leave Mr. Marsden at liberty to call other evidence accordingly.

Dr. Douglass then intimated that he should be prepared to enter upon his Defence the following Day, whereupon the Court was pleased to adjourn until the 27th instant.
Immediate Superintendence. The Magistrates have no Authority or Control over the Convicts in Government employ or in Barracks, unless brought before them. I did not know particularly the Convict, James Ring. I never heard whilst he was in Sydney that he was either punished or persecuted. I do not know how Ring was employed in Sydney. I think I was absent from Sydney during part of the time, about a month, that Ring was there. If Ring had been punished whilst in Sydney, I think I should have known it. I recollect seeing Ring's name advertised in the papers as a Runaway.

By the Court. I never gave any Orders that Ring should be detained from Church. I never heard any complaint against Dr. Douglass for interfering with Ring whilst in Barracks, either at Sydney or Parramatta.

Robert Armstrong, late a Serjeant in the 48th Regiment, now an Householder in Parramatta, Examined by Dr. Douglass.—I have seen James Ring. He rented a house of me in George Street, Parramatta. He lived in it about 7 or 8 weeks. In payment for the house, he gave me an Order on Mr. Wall, a tanner in Parramatta. I believe he had worked for Mr. Wall. He left me to go to Mrs. Barrow's.

Cross-Examined by the Rev'd. S. Marsden. Whilst in my house Ring's conduct was I believe good. I never heard anything against him.

William Lawson, Esquire, examined by Dr. Douglass.—I am a Magistrate of the Territory. I have been in the Commission about Seven Years. I received a letter from Dr. Macleod to attend the Bench of Magistrates on the 17th May. Ring and Mr. Marsden were in Court when I arrived. I recollect Mr. Marsden confessing that he allowed Ring, at such times as he did not want him, to employ himself in the town for his own benefit. Upon that confession, Dr. Douglass requested me to retire into the Private Room to consult upon the Case. Dr. Douglass said to me, "Mr. Lawson, you are an old Magistrate, and I request you to give me candidly your opinion whether there is a breach of the Government Orders." I gave my opinion accordingly that it was a breach of the Government Orders to allow a Government man to work for his own benefit. Dr. Douglass observed that we had better send the proceedings to the Governor, and they were accordingly sent and I hoped the matter would then terminate. It was our intention that Ring should be returned, and Mr. Marsden should not be fined if he had not opposed the Government Orders. Mr. Marsden signed his confession, which was afterwards sent to the Governor. I recollect Dr. Douglass replying to Mr. Marsden that there was no other place to send Ring to but to Gaol. I did not know what was coming on that day; if I had, I probably should not have gone to Court at all. The note desiring my attendance at the Court did not specify the particular case of Ring.

(A Copy of the letter was here produced and read. See Paper marked P in the Appendix.)

I did not hear Dr. Douglass say upon the 17th that Ring should go back to Gaol. Dr. Douglass asked me what should be done with Ring, and I said under all circumstances he had better be sent to Barracks for the present. Immediately after the Court broke up, a letter enclosing the proceedings was sent to the Governor respecting the Case.
I did not observe that Dr. Douglass treated Mr. Marsden with any
disrespect. I heard no improper language made use of by Dr.
Douglass. I do not think there was any thing irritating in his
manner. I think I heard something said by Mr. Marsden about
Ring; to which Dr. Douglass replied, he would not allow charges to
be brought against him while he sat on the Bench. I did not
observe any murmur of disapprobation of the proceedings of the
Court on the 17th. If there had been such, I must have remarked
it. It was a simple matter in which I gave my opinion conscientiously,
without meaning to offend any body. Under our view of the
case of J. Ring. It was a simple matter in which I gave my opinion conscientiously,
without meaning to offend any body. Under our view of the

A Circular Letter was here produced and read, dated April
20th, 1820, from J. T. Campbell, Esqr., the Secretary at that
time. See Paper marked Q in the Appendix.

I received a copy of the letter just read.

(A Copy of a Letter, dated 28th May, 1823, from Dr. Douglass
and Mr. Lawson to Mr. Marsden enclosing a Letter from Major
Goulburn to the Bench, dated 21st May, was then read. See
Paper marked L in the Appendix.)

Upon the receipt of Major Goulburn's Letter, we consulted to­
gether and agreed to fine Mr. Marsden £10 and 2s. 6d. for one day,
and not 2s. 6d. for every day Ring had been in Mr. Marsden's
Service.

(An Almanack of 1813 was here produced, whereupon the
Witness says that the Order printed therein, dated 12th Janu­
ary, 1802, was that upon which Mr. Marsden was fined. See
Paper marked R in the Appendix.)

Dr. Douglass stated to me, after Mr. Marsden had protested
against the fine, that he had requested two persons, The Revd. Mr.
Williams and the Revd. Mr. Cartwright, to call upon Mr. Marsden
for the purpose of promoting an accommodation of the matter. I
was anxious myself that the business should be settled. I expressed
my regret to Dr. Douglass that there was no alternative left, and
that we must proceed and let the law have its course. He stated
to me that Mr. Marsden wished the matter to be brought before a
full Bench of Magistrates, to which I would not consent, for I
thought that two Magistrates were fully competent to decide upon
such a case. We determined to refer the whole matter to the Crown
Solicitor, and act according to his opinion. I recollect observing to
Dr. Douglass that Mr. Marsden would have fined me, were I circum­
circumstanced as he was. I have heard of many cases of persons fined
under the same Order. Mr. Marsden and myself have always been
on friendly terms. I never had any reason to be otherwise.

Cross-Examined by the Revd. S. Marsden. When I came into
Court, Mr. Marsden was sitting on a Chair at the Rear of Dr.
Douglass and the Bench, the usual place for gentlemen coming into
Court.

I think the case of Ring was called on when I entered. Mr.
Marsden got up when he addressed the Bench and stood in an
oblique direction from the Bench, not in the usual place where
witnesses stand in giving evidence. Ring stood in front of the
Bench, the usual place for prisoners. Mr. Marsden was charged
with permitting Ring to work upon his own hands. We fined Mr. Marsden upon his own confession. I do not recollect Mr. Marsden requesting the Bench to shew him the informer against him. I do not think that there was any evidence brought against Mr. Marsden. I believe Mr. Marsden was called upon to explain why he allowed Ring to work at large. He made an explanation. I do not remember Dr. Douglass cautioning Mr. Marsden not to commit himself. I think I might have said to Mr. Marsden, when he persisted in saying he had broken no Law, "I say you have Mr. Marsden." I thought so then, and I think so now.

I employed a man once, who was an assigned Servant of and had a monthly pass from Dr. Harris. He was victualled and lodged by me and paid for his labour. I thought Dr. Harris was wrong in allowing his men this liberty. My men complained of my giving them no encouragement, and applied for such passes as Dr. Harris gave his men. I refused doing so, for I knew it was contrary to the Orders. These things were not general; if they had been, they would have produced a great deal of confusion. I consider that a Master's allowing his Servant to work for his own benefit amounts to a Ticket of Leave, and that no person but the Governor has a right to grant this indulgence. I think that a Servant, allowed to work out and for whom he liked, was to put him out of his Master's control. If Mr. Marsden could do this, any body else might do it; and then what would become of the Country.

I cannot recollect any Case coming within my personal knowledge of a person fined under similar circumstances to Mr. Marsden. Mr. Marsden was convicted in a penalty of £10 and 2s. 6d. for one day, agreeable to the Government Order. There was no particular day mentioned or proved that I recollect. Mr. Marsden admitted that he had allowed Ring to work for his own benefit, when he had no occasion for his Services; it was upon this confession that we fined Mr. Marsden.

I do not remember that £10 was mentioned in Court to Mr. Marsden.

We considered it optional with ourselves to fine Mr. Marsden 2s. 6d. for every day he had been improperly at work on his own hands whilst in Mr. Marsden's Service, or the sum of £10. I think that if Mr. Marsden allowed his assigned Servant to work off his own property, but received the earnings of his work himself, still he would be liable to be fined. I think the Government Orders would be violated if Mr. Marsden allowed his Servant to receive the profit of his labours himself.

Re-Examined by Dr. Douglass. Mr. Marsden did not stand by the side of his Convict Ring.

By the Court, Dr. Douglass stated to me, that he had rather pay the fine out of his own pocket than put an execution into Mr. Marsden's house. From what I saw or heard from the demeanour and behaviour of Dr. Douglass, I did not observe nor had any reason for thinking that there was any bad feeling of Dr. Douglass towards Mr. Marsden. There were, between the 17th and the day of levying the execution, some conversations between myself and Dr. Douglass, and be seemed equally anxious with myself that the matter should be accommodated. It appeared to me that Dr. Douglass was sincere. I think he was.

I think we came to the decision of imposing the fine of £10 upon the receipt of the Colonial Secretary's Letter. I considered under the Order that we had the power of mitigating the penalty of
1825.
10 Aug.

Proceedings of inquiry into charges preferred by Rev. S. Marsden against H. G. Douglass in case of J. Ring.

2s. 6d. a day. I have heard of a fine being imposed as low as £2, and I have heard of £30. I remember the case of Mrs. Driver in Sydney, whom I heard had had a fine imposed of 2s. 6d. a day which amounted to a large sum. I think £30. Whether it was paid or not, I cannot tell. I sat with Mr. H. MacArthur when we fined a person named Sutter of Baulkham Hills the sum of £5 for allowing his female servant to work at large.

Re-Cross Examined by Revd. S. Marsden. I think I signed the execution with Dr. Douglass against Mr. Marsden. I remember Mr. Marsden applied to the Bench for his servant Ring to be returned to him. I think this was by letter after the Court, not in open Court.

(A Letter from Mr. Marsden to the Bench, dated 3rd June, 1823, and another in reply, dated June 5th, were then produced and read. See Papers marked S and T in the Appendix.)

His Excellency The Governor was called upon by Dr. Douglass and says:

When Mr. Marsden shewed me a letter which he had written to Mr. Secretary Peel to save Ring's life, he did not say that he had seen him in New Zealand.

John Cowell, rope-maker of Sydney, Examined by Dr. Douglass.—It is nearly five years since I came to the Colony. I came in the Service of the Church Missionary Society. I recollect a convict of the name of James Ring landing in New Zealand from the Brig Calder. It was reported currently that he was a Government assigned servant of Mr. Marsden in New South Wales. It was currently known by the natives at Rangahor in the Bay of Islands. Mr. Marsden arrived a few days after in the Brampton. He was there at the same time with Ring. I saw Ring land. I never heard that Ring had been driven to make his escape by ill-treatment from Dr. Douglass or from any other person. I never heard it was persecution or the fear of punishment, but merely to escape from being a prisoner of the Crown. Wyckett knew all about Ring. Mr. Marsden has influence over the natives of New Zealand. I think he might have had Ring apprehended. I think I could myself by means of a Couple of axes or blankets. I never heard that any of the natives had been sent after Ring. One or two days before the sailing of the Brampton, some of the natives came on board and, addressing themselves to Mr. Marsden, Mr. Kendall, and Captain Moore, said they could not find some one whose name I do not recollect. Captain Moore said, if he had known it sooner, he could have taken him. I never had any conversation with Fairburn respecting Ring. I left the Bay of Islands, November, 1823. Some short time before, Ring left the Bay of Islands in an American Whaler, called, I think, the Peruvian, bound to America.

Cross Examined by Mr. Marsden. I do not recollect that Mr. Marsden sent two Chiefs to apprehend Ring and all the men who had escaped. I have frequently seen Ring. I saw him on the top of a high hill, where he remained whilst the others with him would come down to me for food.

Adjourned until the 28th July.
Government House, Parramatta, 28th July, 1825.

At a Continuation of the Investigation into certain Charges preferred by the Revd. Samuel Marsden, Senior Chaplain of the Colony of New South Wales against Henry Grattan Douglass, Esquire, M.D., and directed by His Majesty to be enquired into and reported upon by His Excellency the Governor; The Honorable the Chief Justice; and The Venerable The Archdeacon.

The Court having assembled and the parties being respectively present, Dr. Douglass proceeded in the examination of Witnesses on his defence.

WILLIAM HENRY MOORE, Esqr., Crown Solicitor, Examined by Dr. Douglass.—I was applied to by the Magistrates at Parramatta, about the end of May, 1823, for my legal advice and opinion touching a matter between the Revd. Mr. Marsden and Dr. Douglass. I was applied to by Dr. Douglass on behalf of himself and Mr. Lawson. I considered the application official.

The case was that the Bench had convicted Mr. Marsden in a fine for allowing his Servant to work at large, and my opinion was required respecting the mode of levying the fine.

I had several conferences with Dr. Douglass, and I never supposed, at the time from what passed between us, that Dr. Douglass was actuated by any bad feeling towards Mr. Marsden. I had given a written opinion upon the subject, and it was my conclusion, from the written protest of Mr. Marsden and the conversations I had with Dr. Douglass, that Mr. Marsden was rather defying the Magistrates. Dr. Douglass seemed to consider that Mr. Marsden was defying the decision of the Magistrates, and for that reason he was desirous of carrying that decision into effect. Dr. Douglass stated that, if the decision was right and proper, he would go on; if not, he would stop. I recommended Dr. Douglass to get some friend to intercede with Mr. Marsden to induce him to pay the fine, and he stated that he had. Dr. Douglass said that he had rather pay the fine himself than issue an execution against Mr. Marsden. I had no reason to doubt that Dr. Douglass was sincere.

(A Letter was here proved and read, dated 3rd June, 1823, from the Witness to Dr. Douglass. See Paper marked U in Appendix.)

After this I drew up the Conviction, and the Warrant of Distress, and the whole matter was placed in my hands. I recollect Dr. Douglass observing to me, when the conviction was presented for his Signature, that the Conviction was not upon Thorn's written Information, but Mr. Marsden's confession; and that no deposition had been taken from Thorn, and Dr. Douglass made some objection to signing it as Thorn's name was mentioned. I stated that this was a point of no consequence. The Warrant to levy the Fine was drawn up under the Order, dated the 21st November, 1818. I never understood from Dr. Douglass and indeed I never conceived that there were two Convictions. I did not conceive that there had been any Conviction in the proceedings of the Court. I merely considered them as Minutes from which the Conviction was to be made out.

Cross-Examined by Mr. Marsden. The Papers, that were sent to me, were the Confession of Mr. Marsden, the Almanack which contained the Order under which the fine was imposed, the letter to
Mr. Marsden demanding payment of the fine, and other letters. From these Documents, I came to the Opinion which I wrote, and from them I drew up the Warrant of Distress, as I understood that the thing had gone so far, and that there were no other means left of procuring payment of the fine.

If it had appeared before the Magistrates that Ring had been victualled and clothed by Mr. Marsden, and had been every day at his house under his control, I should not have given so decided an opinion as I did.

I grounded the Conviction upon Mr. Marsden's Confession. That Confession appears upon the Conviction.

By the Court. In the trial before the Supreme Court, the plea was justification as Magistrates; there were no objections taken to the formality of the Records and Conviction. I considered the decision was founded upon the applicability of the Order to Mr. Marsden's Case.

The Conviction and the Warrant of Distress were here proved and read. See Papers marked W, X in Appendix.

Dr. Douglass then intimated to the Court that he should not call any further Evidence in support of his Case.

The Court adjourned until the 29th.

Government House, Sydney, 3rd August, 1825.

Upon this day, the following Examinations of William Henry Moore, Esquire, and John Field were taken by consent before the Court, and directed to form part of the Proceedings respecting the charge preferred by the Revd. Samuel Marsden against H. G. Douglass, Esqre.

WM. HENRY MOORE, Esqre.

The damages were laid at £250 in the Supreme Court by Mr. Marsden in his declaration.

The Judge recommended the Members of the Court to give the damages of the fine levied, on the ground that the Government Order on which Mr. Marsden had been fined was not then in force, and he told the Court there was no Malice proved.

By the Constitution of the Court, if the Judge had differed with the Members, he might have made a Minute or protest against their decision, which he did not do; and this protest would have enabled the parties to have appealed, even tho' the amount was under £300.

JOHN FIELD.

I was born in Parramatta and I was Serjeant in the 73rd Regiment of Foot. I was appointed Superintendent of Convict Barracks at Parramatta in 1822.

Examined by Mr. Marsden.—I was Superintendent there nearly two years. I knew James Ring and I recollect when he was in the Barrack. I also recollect Mr. Marsden asking me why Ring was not allowed to come to Church. In consequence of a written Order, which was sent with Ring to the Barracks signed by the Magistrate, Dr. Douglass, which expressed that Ring was not to be assigned to any person or suffered to leave the Barracks during his Excellency's pleasure, I communicated with Mr. Rouse, the Principal Superintendent, who told me from the Spirit of the Order Ring was to be confined in the Barracks.

By the Court. Q. Did Mr. Rouse tell you that in consequence of this Order Ring ought not to be allowed to attend Church? A. I wanted to send him to Church, but Mr. Rouse said he was to be kept a prisoner on Sundays and every day of the week.
Q. Was Ring employed in the Barracks on Sunday?  A. I employed him as a Delegate to look after the Serving out of the Men's provisions.

By Mr. Marsden. Q. Was Ring working in or with the Gaol Gang till he was sent to the Sydney Barracks? A. He was working at the same work with the Gaol Gang, but he was not ironed, nor on a reduced ration.

APPENDIX.

(A) Trial of James Ring for stealing.

Court House, Windsor, 24th November, 1821.

Before J. Mileham; J. Brabyn; A. Bell; Esquires, J.P.

The King

v.

James Ring

Charged by Mr. Fitzgerald with privately stealing,

1 Five Pound note, 1 Silver Watch, several Shirts,
1 horse Whip, and sundry pairs of black Cloth Gaiters.

Thomas Walsh, Town Constable of Windsor, deposes that a Prisoner of the name of Butler, who has been recently sent to Newcastle, informed this Deponent, when taking him to Parramatta, that there was a bundle planted in a brush in Rickerby's Paddock. That, on Deponent's return, he went to the spot the 17th Instant, and, according to the information he received, he found a bundle, which on opening proved to contain 6½ pairs of black cloth Gaiters; that he accordingly reported the circum. to Mr. Howe, the Chief Constable. That Deponent shewed the same to Mrs. Fitzgerald, who immediately brought another pair, which corresponded with those found by Deponent.

Mrs. Fitzgerald also informed Deponent that she had also lost some shirts and shewed him the kind she had lost, and that she suspected the Prisoner to have taken them, as he had recourse to the room where they were deposited. Deponent then, accompanied by Charles Smith, another Town Constable, went and searched the place where the Prisoner resided. The Prisoner, on Deponent's entering, seemed anxious to get on the left, but was prevented by Deponent. That Deponent, with a light, searched the prisoner's box, wherein he found one shirt, which was recognised by Mrs. Fitzgerald as her property. Deponent also found two other shirts in the possession of John Smith, who stated that they had been left by the Prisoner for his Wife to alter; these deponent also shewed to Mrs. Ford, who identified them. That in the Till of the Prisoner's box was also 40 or 50 dollars, many of which were whole.

Ann Smith (free), residing at Windsor, deposes, that, about last Wednesday Week, the Prisoner brought one shirt to her to be altered which she did and sent it home to him. That, about 8 or 9 days ago, he brought two other shirts to be altered and were the same taken away by Walsh, the Constable.

Mr. Fitzgerald deposes, that the Whip produced he found over the Prisoner's box in the premises where he resided, which Whip is his property, and was deposited in the room where the Shirts were deposited and stolen from.

Sentenced, 100 Lashes and to Port Macquarie for the remainder of his original Sentence.

Wm. Cox, J.P.

Y.B. James Ring, Ship Mariner, arrived at Windsor, 22nd October, 1816; remained there until the 11th January, 1822, when he was transferred to Mr. Marsden.
1825.
10 Aug.

Exhibits at inquiry.
Minutes of prosecution of E. Hanabus and J. Chelvers.

1825.
22nd July, 1822.—p. 110-111.


Edward Hanabus, Free Born, appears under a Summons to answer an Information for allowing George Stockbridge, his Government Servant, to go at large contrary to General Orders, and James Chelvers, Carpenter of Parramatta, for employing the said George Stockbridge.

It appears to the Bench that Edward Hanabus has given the said George Stockbridge a pass for one Month, Twenty one days of which are expired.

Edward Hanabus is ordered to pay a Penalty of Two Shillings and Sixpence per day for Twenty one days, amounting to the Sum of Two Pounds, twelve Shillings and Sixpence.

James Chelvers Convicted in the Penalty of Ten Pounds for harbouring and employing the said Stockbridge.

(Enters into Recognizances to pay the above Penalties in one month from the date hereof.)

Minutes of Revd. Marsden.

Extracts from the Records of the Parramatta Bench (Book 4) 17th May, 1828 (Saturday).—p. 315-318.


James Ring, An Assigned Servant to the Revd. Samuel Marsden, Parramatta, brought forward for employing himself as a Painter and Glazier for his own profit and Emolument.

The Revd. Samuel Marsden States that James Ring is his Assigned Servant, by Trade, a Painter and Glazier. That he had not occasion for the whole of his Services the whole of the day, but that during the time he has been in his service, he has not wanted for Victuals, Lodging or Cloathing. That he has with his Sanction done Jobs as a Painter in the Town of Parramatta, for his own private Emolument and for the accommodation of the Public, at any time his Services could be spared; nor did he ever consider that he was violating the general Orders of the Colony, but on the contrary for the general Improvement of the Town; and that he has been employed by the Resident Magistrate and the Principal Inhabitants in the Town of Parramatta and others.

That Ring has been in his Service for Eighteen Months, and has always conducted himself with propriety, and he believes to the general satisfaction of the Inhabitants. States that the Government Hands are allowed to Work on the Saturdays for their own benefit and Emolument.

The Bench are of opinion, that in allowing James Ring, assigned Servant to the Revd. Samuel Marsden, to go and work on his own hands for his own profit and Emolument is a breach of the Government Orders, and are of Opinion that the said Samuel Marsden should be fined in the Penalty of Two Shillings and Sixpence per day, for each and every day he has been so improperly employed agreeable to the said Government Orders.

(Ring sent to the Prisoners' Barracks.)

The Resident Magistrate denies his ever having employed the said James Ring as knowing him to be the Assigned Servant of Mr. Marsden; he believed James Ring, from the fact of his having publicly exhibited his Board, to have been a Ticket of Leave Man.

Henry G. Douglass, J.P.
(D) Order committing James Ring to Barrack.

Court of Magistracy, Parramatta, 17th May, 1823.

Sitting Magistrates:—Henry Grattan Douglass and William Lawson, Esquires.

James Ring, Assigned Servant to the Reverend Samuel Marsden, ordered to be sent to the Prisoners' Barrack, and not allowed to be sent to any Service or Gang without the Sanction of the Magistrates, until His Excellency's Pleasure shall be made known,* having been allowed improperly to employ himself for his own benefit and emolument.

William Watson, a Government Grass Cutter, ordered to sleep in the Barracks for three Months for Drunken Conduct at late hours at Night.

By the Bench.

Henry G. Douglass, J.P.

To Mr. Rouse, Sup't of Prisoners' Barracks, Parramatta, or to his Assistant.

I do hereby certify that the above is a true Copy of the Original Order, together with the interlineation therein appearing.

Francis Stephen.

(E) Government and General Orders.

Colonial Secretary's Office, 23rd July, 1822.

Civil Department.

Convicts, not Mechanics, assigned to Settlers, are to be turned over when no longer required to the charge of the Principal Superintendent at Sydney, taking his Receipt and transmitting it to the Colonial Secretary's Office. Persons residing at a Distance may turn these assigned Servants in to the nearest Bench of Magistrates, who are requested to grant the necessary Receipt, and forward the men immediately to Sydney under Charge of a Constable.

By Command of His Excellency,

F. Goulburn, Colonial Secretary.

True Copy:—F. Goulburn, Col'l Secret'y.

(F) Sentences passed by Bench of Magistrates.

Court of Magistracy, Parramatta, 17th May, 1823.

Sitting Magistrates:—Henry Grattan Douglass and William Lawson, Esquires.

Charles Thorpe, Servant to Mr. G. Blaxland, Sentenced to receive One hundred and fifty Lashes and be returned to his Employ for gross neglect of his duty as a Shepherd and being incorrigible, the said Punishment having been twice Suspended over his Head for former Misconduct.

William Cooghan, attached to the One Tree Hill Party, sentenced to receive Fifty Lashes and be sent back to his Gang for coming into Town without Leave and telling a Falsity against his Overseer.

James Callaghan, Free, fully committed to take his Trial before the Criminal Court for having part of Stolen Iron Axle Tree in his possession, the property of George Aowell.

Thomas Blakely—remanded.

John Hopkins—remanded.

By the Bench.

Henry G. Douglass, J.P.

To Mr. John Thorn, Chief Constable, Parramatta, and all Concerned.

* The words in italics were interlinear.
(G) The Revd. Samuel Marsden to Sir Thomas Brisbane.

Sir, Parsonage, 17th May, 1823.

The investigation, relative to my Servant, James Ring, being allowed by me to glaze and paint for his own emolument at such times of the day that I could spare him for the general accommodation of the Inhabitants of Parramatta, took place before the Bench this morning, when James Ring was ordered into Gaol again until Your Excellency’s pleasure was known, tho’ the Bench admitted he had committed no Crime.

I offered any Security to the Bench for his appearance when called upon, rather than he should be confined again, which was refused.

I sanctioned every thing that he did, and therefore I ought to be punished if the Public Orders of the Colony have been broke and not him. Ring has behaved well ever since he has been my Servant, and I regret that he should be imprisoned, without committing any Crime, with the refuse of the Colony. I do not know that he has wrought a single day for any Individual in Parramatta, or has ever been a single day out of actual Service with me, since he has lived in my house.

He has been victualled and clothed by me, and has lodged for a time with the Parish Clerk, as I have not accommodation for all my Servants in my House, having three Women Servants and ten Men Servants.

When the proceedings of the Bench are laid before Your Excellency, I am persuaded you will take into Your favourable consideration Ring’s case.

I enclose a list of Persons he has done jobs for, many of whom will bear testimony to his good conduct ever since he has resided in Parramatta. If I had conceived that I was setting any bad example by the Indulgence, I granted to Ring for his good Conduct, or violating the Spirit or Intention of any General Order, I would not have allowed Ring a single hour. I considered I was rewarding Industry, and contributing to the general neatness and improvement of the Town, and doing no more than what had always been sanctioned and allowed to be done by the different Governors and Magistrates, who have ruled the Colony since the day I landed in it to the present time.

I have, &c.

SAMUEL MARSDEN.

(H) Extract from the Records of the Sydney Bench, Wednesday, 24th September, 1823—p. 57.


THE KING v. MR. JOHN TAWELL

On a Summons to answer for allowing his Government Servant, Gamaliel Farrell, to be at large on his own hands contrary to the Gорт. and Genl. Orders.

In this Case, the Deposition of Kello, the Constable, was taken to the fact of his knowing the Prisoner Farrell to be on his own Hands, making and selling Muffins and Crumpets for two Months past. Also on Mr. Lucas’s Deposition to Farrell’s having been assigned to Mr. John Tawell on the 2d June last.

The 3 Magistrates, Messrs. Wollstonecraft, Oxley and MacVitie, found Mr. Tawell guilty; but, in consideration of the very candid manner he had confessed the Fact, adjudged that he be fined for
BRISBANE AND OTHERS TO BATHURST.

56 days in 2s. 6d. each day; but, under the peculiar circumstances of this case, took on themselves to mitigate the Penalty to 28 days at 2s. 6d. per day, being £3 10s. 6d. or 14 dollars with Costs. Mr. Wentworth did not concur in this adjudication.

(I) Bench of Magistrates to Secretary Goulburn.

Sir, Court of Magistracy, Parramatta, 17th May, 1823.

'Ve have the honor to state to you, for the Consideration of His Excellency the Governor, that a letter was written from the Bench requesting the Reverend Sam'l Marsden to attend to answer for allowing his Government Assigned Servant, James Ring, to go on his own hands and employ himself for his own profit and emolument. It appeared to the Bench, and was in fact acknowledged by the Revd. Gentleman, that James Ring had the permission of his Master to work in the Town of Parramatta for any person, who would employ him; and that he moreover publicly exhibited a Board outside of the House occupied by Mrs. Barrow, where he for some time lodged, but had not dieted, and also upon the House of Joseph Kenyon, where he has lately lodged, stating his name and his occupation. Prisoner states he received money for his work as a Painter and Glazier from many individuals in the Town. Under all the circumstances of the Case, we are of opinion that there has been, on the part of the Revd. Gentleman, a flagrant breach of the Government Orders, and that the penalty awarded for such breach should be inflicted; but, prior to ordering the fine to be paid into Court, we wish to submit our opinion and the Revd. Gentleman's to His Excellency the Governor. We have thought it proper to take the Man from Mr. Marsden's Service and to turn him into Government employ. We have, &c.

W. LAWSON, J.P.
DON. MACLEOD, J.P.
HENRY G. DOUGLASS, J.P.

[M] Reverend Samuel Marsden to Dr. Douglass and Mr. Wm. Lawson.

Gentlemen,

Parsonage, 30th May, 1823.

From a Conviction I have ever felt of the utility of the Government Orders, issued from time to time in this Colony, and from my public Situation, I trust I may say that I have been and am amongst the first to maintain and support them. I arrived in this Colony in the beginning of the year 1794, previous to Admiral Hunter's taking the Command, and officiated as a Magistrate until he retired from the Government in 1800, and continued to do so during the whole of the Administration of the late Captain King and of Admiral Bligh, until I obtained leave of absence for a short time.

After my return from Europe, I officiated as Magistrate a great part of the Administration of the Government by General Macquarie, until I retired from that Office at my own desire. I have also officiated in the same capacity for a few months under the present Government of His Excellency Sir Thomas Brisbane. From having acted so long as a Magistrate under the Government Orders, if I have violated any, I cannot plead ignorance as an apology for doing so. I am yet, however, to be convinced that I have been guilty of the breach of any order; it is not, therefore, without the most mature consideration and enquiry that I feel...
myself called upon to protest against the payment of a fine of £10, which appears by your letter of the 28th instant to be awarded by you to be paid by me for a breach of Government and General Orders, of which I have been adjudged Guilty.

The Grounds, on which I do so and to which I beg to call your consideration, are, First, that the decision was made (in my judgment) without any charge which I ever heard to be made against me, and consequently without giving me the common privilege of making a defence; and in the second place, should you have acted upon the explanation I offered at your request respecting the conduct of my Servant, James Ring, on an enquiry that took place before you on the 17th Instant, that any admission of mine, I might then have made, was certainly not (as far as I am aware) calculated to expose me to the slightest imputation of having violated or infringed any Government Order; and lastly, should it be considered otherwise, I have yet to learn that such admissions under any circumstances do more than give rise to a subsequent enquiry into my conduct, and certainly could not with Justice be the foundation of any immediate decision.

As I am determined to resist the Payment of the Fine you have adjudged, and at the same time unwilling to take advantage of any misconstruction on Your part of the Orders, on which you have acted, I thought it desirable to bring the case again to your consideration, and trust that, after doing so, I shall not have occasion to appeal to a Higher Court and demand an enquiry into the legality of your proceedings and the Justice and Equity of your decision.

I have, &c,

SAMUEL MARSDEN.
I am bound by every principle of honor and public duty to defend the dignity of my sacred office, and not to suffer that to be held up to public Scorn in my person. I therefore most respectfully solicit Your Excellency, as Supreme Magistrate and Governor of this Colony, to do me common justice. On the Saturday, I am placed in a degraded situation in the midst of my congregation before the Bench, and the following day I have to appear in the Pulpit as the Minister of religion.

Your Excellency will judge what my feelings must be under such circumstances.

I beg also to observe that my Assigned Servant, James Ring, has been withdrawn from my Service, and put in Prison, and is still detained from me though he has committed no offence. This Act of the Magistrates tends to impress the public mind with the Opinion that I have been guilty of a breach of the public Orders, and reflects very great disgrace upon me as a Master and as an Officer, and especially as the principal Chaplain serving under Your Excellency.

I trust your Excellency will take the above into your consideration, as it is impossible that I can ever sit down at rest under such public reflections, as are cast upon me by the proceedings of the Magistrates, until I have sought by every means in my power that Justice which I feel I am entitled to.

I have, &c.,

SAMUEL MARSDEN.

(S.)

Revd. Samuel Marsden to Sir Thomas Brisbane.

Sir,

Parsonage, 24th May, 1823.

I have laid the proceedings of the Bench of Magistrates, taken on the 17th Instant at Parramatta against me and my Assigned Servant, James Ring, before my Solicitor, Mr. Norton, for his advice, and have also taken the advice of other high legal authority; and it is the Opinion of the Gentlemen, I have consulted, that there is ground of Action against the Magistrates before the Supreme Court, notice of which will immediately be given to Dr. Douglass, one of the Magistrates. Mr. Norton is also of opinion that the Case is of the utmost importance to the Colony at large, as the greatest part, if not the whole of the Magistrates, as well as the Conduct of other persons of the first respectability, are involved in the question.

My Solicitor is further of Opinion that it would be more wise and prudent to submit the Case to the consideration of a full Bench of Magistrates, than to bring it before a Court of Law. I am very willing to leave my Conduct and Character in the first instance in the hands of the Magistrates. The old Magistrates, who understand the letter and Spirit of the Colonial Regulations and Orders from long practice and their application to the wants of the Colony, will be the proper Judges, and I have every Confidence in their judgment. I have no wish to press the matter further than to wipe away the public Odium and disgrace, that have been Cast upon my Character by the decision of the Magistrates at Parramatta, who have convicted me of a breach of the Government Order without the slightest complaint or even the Shadow of Evidence against me, and sent my Servant to Gaol without having committed any Offence.

If Your Excellency should be of opinion, with my Solicitor, Mr. Norton, that it would be most prudent to bring the Case under the consideration of a full Bench of Magistrates, I have not the smallest
Objection to this measure. All I want is for the public to know I have done no wrong. Should Your Excellency be of a different opinion to that of my Solicitor, the Case must then be decided by a Court of Law.

I have, &c.

SAMUEL MARSDEN.

(P) Dr. Macleod to Mr. William Lawson.

From the Letter Book.

Sir, Court of Magistracy, Parramatta, 15th May, 1823.

Some very urgent Business is to be brought before the Court on Saturday next, the 17th Instant, and John Hopkins, the Bush-ranger, who is now in Custody at Sydney, is expected to be brought forward on that day. I have the honor to request Your attendance at the Court House on Saturday next to form one of the Bench.

I have, &c.,

DON MACLEOD, J.P.

(R) Extract from the Abridgment of Established General Orders and Colonial Regulations.

Published by Authority the 1st January, 1813, in the New South Wales Pocket Almanack.

"Convicts, taken off the Stores, to be employed on their Masters' ground only, and in no Case be permitted on their own hands or let to hire; penalty, to Orphans, the Master to pay £10 and 2s. 6d. for each day the Servant has been absent from public labour."

Jan. 12, 1802.

(S) Revd. Samuel Marsden to Dr. Douglass and Mr. William Lawson.

Gentlemen, Parramatta, 3rd June, 1823.

I have to request that James Ring, my Assigned Servant, which was withdrawn from my Service on the 12th ultimo and put into Prison, may be returned to me. He was confined for an offence which it has been alleged I had committed. On Saturday, 17th Ultimo, he was brought before your Bench again; and, after I was examined, he was remanded to Prison, tho' the Bench admitted he had done no wrong, as I took upon myself all responsibility for the Offence for which he stood Charged. As you have attempted to disgrace and punish me for that alleged Offence, I see no justice in punishing my unoffending Servant also for the same thing.

I offered to the Bench any security for the appearance of my Servant, when called upon, rather than he should be put in Gaol again.

The Bench replied, the Gaol was the only Security for a Convict and refused my offer.

I observed, I considered it a great punishment for a man, who had lived in my service and had behaved well, to be confined in Gaol; to this the Bench answered, it was no punishment for a Convict to be put in Gaol.

As my Servant has done nothing but by my Orders or sanction, I feel it my duty as his Master to use every means in my power to free him from punishment and disgrace, under which he is now suffering.

I consider it also a personal injury to me to be deprived of his Service. If I cannot protect one of my Domestic Servants, who behaves well, what authority can I hope to maintain over my other Servants, or what respect will they pay me as their Master.
I trust the Bench will take my present application into considera-
tion, and allow my Servant to return to his duty, and not punish
him any longer for my act and deed. I have, &c.,

Samuel Marsden.

[The letters marked T and V will be found on pages 359 and 358,
numbered 5 and 4.]

(W) Record of the Conviction of the Revd. Samuel Marsden.

Be it remembered that, on the Seventeenth day of May in the Year of our Lord one 
Thousand, eight hundred and twenty
three, at Parramatta, in the County of Cumberland, in the Territory of New South Wales, John Thorne, of Parramatta aforesaid, Chief Constable, who prosecutes as well for His Excellency the Governor of the said Territory as for himself, in this behalf in his own proper person cometh before us, Henry Grattan Douglass, Esquire, and William Lawson, Esquire, being two of the Justices of our Sovereign Lord the King assigned to keep the Peace of our Sovereign Lord the King, in and for the Territory of New South Wales, and also to hear and determine divers felonies, trespasses, and other Misdemeanors in the said Territory committed, and, as well for his said Excellency the Governor of the said Territory as for himself, giveth us the said Justices to under­stand and be informed that, within three Months now last past, that is to say on the twenty sixth day of March in the Year of our Lord, One thousand eight hundred and twenty three, at Parramatta aforesaid, one, James Ring, being a Convict taken off his Majesty's Stores by the Revd. Samuel Marsden of Parramatta aforesaid, Clerk, and assigned by His said Majesty's Government for the Territory aforesaid to the said Samuel Marsden as his Servant, was not employed on the Grounds or Premises only of his Master, the said Samuel Marsden; and that he, the said Samuel Marsden, did then and there permit and suffer the said James Ring to employ himself and be on his own hands against the form, tenor and effect of the Government and General Orders of His Majesty's Government for the Territory aforesaid, in such case made and provided; whereby the said Samuel Marsden hath forfeited for his said Offence the Sum of Ten Pounds and two Shillings and Sixpence for each day the said James Ring has been absent from Government Work or Labour. And thereupon the said John Thorne humbly prays the Judgment of us, the said Justices, in the premises according to the form, tenor and effect of the said Government and General Orders in such case made and provided; and that the said Samuel Marsden may be summoned to answer the said premises and to make his defence thereto before us, the said Justices. Whereupon the said Samuel Marsden having been duly summoned in this behalf to answer and make his defence to the said Information and the said Offence thereby charged upon him before us, the said Justices, afterwards, that is to say on the seventeenth day of May in the Year aforesaid, at Parramatta aforesaid, appeareth and is present before us, the said Justices, in order to answer and make good his defence to the said Information and to the said Offence, thereby charged upon him as aforesaid; and he, the said Samuel Marsden, having heard the same, is asked by us the said Justices if he can say anything for himself why he, the said Samuel Marsden, should not be convicted of the Premises above charged upon him in manner and form aforesaid; and thereupon the said
Samuel Marsden freely and voluntarily confessed the said Information and the said offence, and all and singular the matters and things thereby charged upon him to be true, and doth not shew any Cause before us, the said Justices, why he should not be convicted of the Said Offence so charged against him. It is therefore adjudged by us, the said Justices, upon the free and voluntary Confession of the said Samuel Marsden, that all and singular the said matters and things charged against him are true; and thereupon we, the said Justices, on the Seventeenth day of May in the Year aforesaid, at Parramatta aforesaid, in the Territory aforesaid, do convict the said Samuel Marsden of the Offence aforesaid in the said Information so charged against him. And he, the said Samuel Marsden, is hereby convicted thereof by us, the said Justices, upon his own free and voluntary Confession according to the form of the said Government and General Orders in such Case made and provided.

And we, the said Justices, do adjudge that the said Samuel Marsden, for his Offence aforesaid, hath forfeited the Sum of Ten Pounds of lawful Money of Great Britain, and also Two Shillings and Sixpence for one day, being the said Twenty sixth day of March aforesaid, that the said James Ring had been and was absent from Government Work or Labour as aforesaid, to be divided, distributed and paid according to the form of the said Government and General Orders.

In Witness whereof, We, the said Justices, to this Record of Conviction have put our hands and Seals at Parramatta aforesaid, the said seventeenth day of May in the Year of our Lord One thousand eight hundred and twenty three.

William Lawson, J.P.

Henry G. Douglass, J.P.

Warrant for Distress on the Revd. Samuel Marsden.

Whereas, by a certain Conviction under our Hands and Seals, bearing date the Seventeenth day of May in the Year of our Lord, One thousand eight hundred and twenty three, The Reverend Samuel Marsden, of Parramatta in the County of Cumberland in the Territory of New South Wales, Clerk, was and is duly convicted before us, Henry Grattan Douglass, Esquire, and William Lawson, Esquire, two of the Justices of our Lord the King assigned to keep the peace of our said Lord the King in and for the Territory aforesaid, and also to hear and determine divers felonies, trespasses, and other Misdemeanors in the Territory aforesaid, committed on his own Confession. For that one, James Ring, within three Calendar Months last past, that is to say on the twenty sixth day of March in the Year of our Lord, One thousand eight hundred and twenty three, at Parramatta aforesaid, being a Convict taken off the Stores by the said Samuel Marsden, and assigned by his Majesty's said Government for the Territory aforesaid to the said Samuel Marsden as his Servant, was not employed on the grounds and premises only of his Master, the said Samuel Marsden; and that he, the said Samuel Marsden, did then and there permit and suffer the said James Ring to employ himself and be on his own hands against the form, tenor and effect of the Government and General Orders of His Majesty's Government for the Territory aforesaid, in such Cases made and provided. Whereby the said Samuel Marsden hath forfeited for his said Offence the sum of Ten Pounds of lawful Money of Great Britain, and also two shillings and six pence for one day being the said...
BRISBANE AND OTHERS TO BATHURST.

Twenty sixth day of March aforesaid, that the said James Ring had been and was absent from Government Work or Labour. These are, therefore, to command you to distrain the Goods and Chattels of the said Samuel Marsden, wheresoever they shall or may be found within our Jurisdiction, and, on the said Goods and Chattels of the said Samuel Marsden so distrained, to levy the said several Sums of Ten Pounds and Two Shillings and six pence. And if, within the space of five days next after such distress so by you made, the said several sums of Ten Pounds and Two Shillings and Sixpence shall not be paid, that then you do sell the said Goods and Chattels, so by you distrained as aforesaid, and out of the moneys arising by such sale, that you do pay One moiety of the said Penalties, fines or forfeitures of Ten Pounds and Two shillings and Six pence to John Thorne, Chief Constable of Parramatta aforesaid, who informed us of the said Offence, and the other moiety of the said penalties, fines and forfeitures to the Governor of His Majesty's Territory of New South Wales, returning to him, the said Samuel Marsden, the Overplus on demand. And you are hereby commanded to certify to us, the said Justices, on the Eighteenth day of this present month of June, what you shall have done by Virtue of this our Warrant.

Given under our Hands and Seals at Parramatta aforesaid, the Seventh day of June in the Year of our Lord, One thousand eight hundred and twenty three.

WILLIAM LAWSON, J.P.
HENRY G. DOUGLASS, J.P.

Complaint of James Ring.

JAMES RING, Government Servant to Mr. Marsden, states that Yesterday morning he was at his Breakfast in his Master's Kitchen, and put some Milk out of a Tin belonging to Michael Graham (who holds a Ticket of Leave), when Graham came behind him and Struck him on the head and face which gave him a Black eye, and held a Knife in his left hand. The Blow stunned him and his Nose burst out bleeding; a fellow Servant interfered, by the name of John McClarence, who prevented him striking him any more.

This Complaint is dismissed, as it appears he gave the first Offence.

Minute by Archdeacon Scott.

The Archdeacon submits that the practice of letting out Assigned Convict Servants was so general in the Colony that, as the Witnesses called differ in their opinions, yet a wider range should be taken; and therefore that other persons, herein named, should be summoned or written to requiring their answer to the following Questions.

1. With reference to the Government Orders of 1 June, 1801, and Section 4 of the 12 January, 1802, and April 17, 1802, and October 2nd, 1800, referred to in an Order of January 6, 1804, Containing the Indenture under which Convicts were assigned to Masters, do you understand that an assigned Convict, being fed and clothed but
HISTORICAL RECORDS OF AUSTRALIA.

1825.
10 Aug.
Exhibits at inquiry.
Inquiries proposed by T. H. Scott.

Objection of F. Forbes to making inquiries.

Action, in supreme court, Marsden v. Lawson and Douglass.

Opinion of the Chief Justice.

The Chief Justice was of opinion that, whatever doubts might exist as to the true Construction of the Order, the Court could not of itself move an enquiry into the practice, but must leave that entirely to the discretion of the parties; and perhaps it was the less necessary to go into the point of practice, as enough was in evidence to prove that different magistrates had put different constructions upon the same Order; and then the point of enquiry would be not whether the Construction, which had been put by the Magistrates in their decision of the 17th of May, were true or false, but whether it was so repugnant to the plain sense of the Order, or to the invariable course of practice, as to raise the presumption of a willful perversion of the Law.


In the Supreme Court, Between
Marsden, Clk., Plaintiff, and
Lawson and Douglass, Esqrs., Defend'its.

Declaration.—That defendants on 9th June, 1823, broke and entered Plaintiff's dwelling house at Parramatta, made an affray therein, and continued such affray two hours, against the will of the Plaintiff, and thereby disturbed the Plaintiff in his possession, and seized and took a Piano forte of Plt., value £100, and converted same to their own use, and other wrongs, etc., to Plt.'s damage of £250.

Plea firstly General issue. Not guilty.

2ndly. as to the breaking and entering, etc., and disturbing Plt., etc., and seizing and taking his goods, Defendants say Actio non, because at the time, etc., Defendants were justices, etc., and before the time, when, etc., vizt. on 17th May, 1823, it was adjudged and determined by a certain bench of Magistrates at Parramatta that, on 26th March, one James Ring, an assigned Convict Servant to Plaintiff, was not employed on Plaintiff's premises, and Plt. permitted him to employ himself and be on his own hands contrary to the Government and General Orders; and Plaintiff was convicted thereof, and adjudged to forfeit and pay £10 and also 2s. 6d. for one day that said James Ring was absent. That afterwards, on 7th June, Defendants issued their precept or warrant under Seal, directed to John Brown Constable to levy same. That, under such warrant, Brown entered the house and took the Goods, etc., until
penalties were paid, and necessarily made a little noise, continued a short time, etc., as little as possible as the circumstances admitted, etc.; That such entry and seizing of the Constable are the same breaking, entry, affray and seizing, complained of by Plaintiff and supposed to have been done by Defendants.

3rdly. As to the Breaking, entry, affray and seizing, etc., Action, because at said time, when, etc., Defts. were justices, and that before, vizt. on 17th May, 1823, at a certain bench of magistrates, helden at Parramatta before said Defendants, being justices, etc.,

one John Thorne of Parramatta, Chief Constable, gave the bench to understand and be informed that, on 26th March last, one James Ring, Government assigned Servant to pit., was not employed on Plt.'s (his Master's) premises, and Pit. permitted him to employ himself and be on his own hands Contra mandata. That Pit. was thereupon summoned, etc., appeared and confessed, and was thereupon convicted by said Defendants, sitting in their judicial capacities as justices, composing such bench of Magistrates, on such voluntary confession, etc.; and said Defendants, in such their judicial capacities, thereupon did convict him accordingly and adjudged him to pay such penalties, etc. That afterwards Defendants on 7th June issued such their precept or warrant to levy penalties as in last plea.

Replication Joins issue on first plea.

2ndly the same.

Denies that on 26th March permitted on his own hands contra Mandata, but employed with lawful indulgences.

(BB) Judgment of Supreme Court.

Third Term, 1823.

Marsden, Clerk, v. Lawson and Douglass.

Judgment:—Field, J.

This is an Action of Trespass brought against two Magistrates of Parramatta for seizing a Piano forte on the 9th of July last, which the Plaintiff redeemed for £10 2s. 6d.; and the Defendants Plead (first) that they were Justices of the Peace, and that, on the 17th of May previously, it was adjudged by the Bench of Magistrates at Parramatta that, on the 26th of March, one James Ring, an assigned Servant to the Plaintiff, was not employed on the Plaintiff's Premises, and the Plaintiff permitted him to employ himself and be on his hands contrary to the Government and General Orders, and the Plaintiff was convicted thereof and adjudged to forfeit and pay £10, and also 2s. 6d. for one day that the said James Ring was absent; and that afterwards, on the 7th June, the Defendants issued their Warrant, and the Goods were taken by the Constable, until the Penalties were paid; and (Secondly) that one John Thorn, Chief Constable of Parramatta, informed the Bench of the Offence, And that the Plaintiff was thereupon summoned, appeared and confessed, and was thereupon convicted on such voluntary Confession. To these Pleas, the Plaintiff only replies by denying that, on the 26th of March, he permitted James Ring to be on his own hands against the Government and General Orders, but employed him himself with only lawful indulgences, &c., without negativing the information of Thorn or the being summoned or convicted thereupon; the only issue that we have to try therefore is whether the working abroad in question is a breach of the Government and General Orders or not; And if we should find any discrepancies between the Proceedings before the Magistrates And the Pleas of Justification, we can