HISTORICAL RECORDS
OF
AUSTRALIA.
COMMONWEALTH OF AUSTRALIA

HISTORICAL RECORDS

OF

AUSTRALIA.

SERIES III.

DESPATCHES AND PAPERS RELATING TO THE SETTLEMENT OF THE STATES.

VOLUME V.

Tasmania, December, 1825—March, 1827.
Northern territory, 1823—1827.
Western port, Victoria, 1826—1827.

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1922.
EDITORIAL NOTE.

At the beginning of the period to which the Tasmanian papers in this volume relate, the government of Tasmania was made independent of the government of New South Wales. With the erection of an independent administration, the official papers were increased in number and detail. In this and the subsequent volumes in this series, the despatches only with their enclosures to and from the lieut.-governors of Tasmania are printed. All other official Tasmanian papers will be found in the Tasmanian sections of series II, IV, V, VI and VII.

FREDK. WATSON.
GENERAL SYNOPSIS.

The papers in this volume are classified as follows:—

TASMANIA, December, 1825—March, 1827.
Commission and instructions to and despatches from Governor Darling and despatches to and from lieut.-governor Arthur (pages 1 to 734).

NORTHERN TERRITORY, 1823—1827.
Despatches and miscellaneous papers relative to the settlements at Melville island and Raffles bay (pages 737 to 824).

THE ABORTIVE SETTLEMENT AT WESTERN PORT, VICTORIA, 1826—1827.
Instructions, despatches and miscellaneous papers (pages 827 to 860).
INTRODUCTION.

THE SETTLEMENT OF NORTH AUSTRALIA.

The first settlement of the country, which now forms the northern territory of the Commonwealth of Australia, was due to the desire of merchants in England to extend their trade in eastern waters.

During the Napoleonic wars, Netherlands India was considered as part of the French empire. In the year 1810, a naval expedition attacked and captured Amboyna, Banda, Ternate and other islands in the Moluccas. In the following year, a naval and military expedition attacked and occupied the island of Java, and Thomas Stamford Raffles was appointed lieut.-governor. During his brief administration, he proved the richness of the island, and the extension of British trade and influence was considerable in Java and the eastern archipelago.

In the year 1816, under the terms of the treaty of Vienna, the islands captured by the British were restored to the Dutch government. To maintain British prestige and influence in eastern waters, Thomas Stamford Raffles, in the year 1819, secured the cession of the island of Singapore from the sultan and tumeng-gong of Johor to the East India company. In the meantime, the Dutch colonial government adopted a policy for the exclusion of British trade from the eastern archipelago, and friction developed between the British and Dutch governments over their respective spheres of influence. The Dutch policy had a powerful adverse influence on the interests of British merchants, who had formed the East India trade committee for self-protection.

In the year 1823, W. Barns, an adventurer who had experience of the eastern trade, formulated a proposal* to establish a British settlement in north Australia to open trade with the Malays, who annually visited the coast in Macassar proas to engage in trepang fishing. At the beginning of the same year, P. P. King had returned to England after exploring and surveying the north

*See page 737 et seq.
INTRODUCTION.

coast of Australia. He reported his examination of the coast about the Coburg peninsula and Van Diemen's gulf and his discovery of Port Essington in the months of April and May, 1818.

The East India trade committee warmly supported the proposal of Barns, and, after reading the reports of King, which were made accessible by the lords of the admiralty, suggested Port Essington as a site for the settlement. In December, 1823, the committee, in the name of its chairman, submitted to Earl Bathurst a memorial* advocating the immediate formation of a settlement. They stated that such a settlement was of great importance, "1st, as it regards the commerce of the United Kingdom and its Indian Dependencies; 2nd, as a Military Station involving the Security of our important Possessions and valuable Trade in that part of the World." Commercial advantages were expected by the interception of the Malays on their annual return from the trepang fisheries, and by the barter of British goods for the trepang on which large profits would be realised on shipment to China. This trade was at the time monopolised by Dutch merchants in Java. Direct trade was also proposed with the islands in the eastern archipelago. Strategical advantages were expected from the settlement as a port of refuge for merchant shipping in the event of war, and as a naval station for the protection of the trade route to China. The site at Port Essington, at the same time, was considered superior to that of the new settlement formed at Singapore. It was also thought possible that the Dutch government might endeavour to form a settlement when P. P. King's discoveries were made public, and it was desirable to forestall such an attempt.

The proposal received the immediate approval of Earl Bathurst and the authorities at the admiralty. James John Gordon Bremer was selected to lead, and H.M. ship Tamar to carry the expedition to found a settlement, and, on the 17th of February, 1824, a despatch† was written by Earl Bathurst to Sir Thomas Brisbane, and orders‡ were given to Bremer, containing the instructions for the formation of the settlement.

By these instructions, Bremer in command of H.M.S. Tamar was ordered to proceed to Sydney, where Brisbane was ordered

* See page 742 et seq.† See page 227 et seq., volume XI, series I.
‡ See pages 760 and 761.
to provide a detachment of troops and such stores as were necessary to equip the settlement. Bremer was then to sail for north Australia and to found the settlement preferably in Apsley strait or at Port Essington, remaining in the neighbourhood until the commandant at the new settlement was well established.

Bremer arrived at Sydney on the 28th of July, 1824, and Brisbane promptly organised the expedition for the proposed settlement. Within a fortnight, the ship Countess of Harcourt was chartered to carry the troops and provisions, and the brig Lady Nelson was detailed to accompany the expedition and remain for service at the settlement. The military detailed were captain Barlow, lieutenant Everard and twenty-three privates of the 3rd regiment. Charles Turner of the royal artillery was attached as assistant surgeon, George Miller as commissariat clerk, and George Tollemache and Wilson as storekeepers. Three free mechanics and forty-four convicts completed the establishment for the new settlement. As the site proposed for the settlement was outside the territorial limits of New South Wales, and as all the convicts under Sir Thomas Brisbane were transported by orders-in-council to the territory of New South Wales, the convicts in the expedition were all volunteers for the service,* with a promise of a ticket of leave after being one year in the settlement with good conduct.

The expedition sailed from Sydney on the 24th of August, twenty-seven days after Bremer had arrived with the instructions to Sir Thomas Brisbane to organise it. The vessels followed the Queensland coast inside the Great Barrier reef, and, on the 15th of September, Thursday island was passed. The brig Lady Nelson caused delay by her inferior sailing qualities. On the 17th, the islands at the north-western extremity of the gulf of Carpentaria were sighted; on the 19th, the fleet was off Croker island, and, on the 20th, anchored in Port Essington. Formal possession was immediately taken of the north coast as far west as the one hundred and twenty-ninth meridian of east longitude, thereby extending British jurisdiction six degrees further west.† Three days were devoted to the examination of Port Essington without finding a fresh water supply. On the 23rd, the fleet sailed, and, on the 26th, anchored in Apsley strait, when formal possession was

* See note 167.  † See pages 770 and 780.
taken of Melville and Bathurst islands.* An immediate search was made for water; but it was not until the 30th that a running stream was discovered in a cove on Melville island, some miles within the entrance to the strait.

This cove was selected as the site for the settlement and was named King cove in honour of P. P. King, who had discovered and passed through Apsley strait on the 18th, 19th and 20th of April, 1818. The strait north of the settlement was named Port Cockburn in honour of vice-admiral Sir George Cockburn.

The first works undertaken were clearing the land and the construction of a fort, because aggressions by the Malays were feared. A store-house for the commissariat and a pier were commenced soon after. C. C. Williamson, a lieutenant of marines, was appointed engineer,† and he, with twenty-six men of the marines, was detailed to strengthen the military force at the settlement.

The design of the fort was elaborate. It was rectangular in shape, the sides measuring seventy-five yards by fifty. It was constructed of heavy timber in layers five feet thick at the base; the height of the rampart was six feet on the inside, and the whole structure was surrounded by a ditch ten feet deep and fifteen feet wide. Two nine-pounder guns and four eighteen-pounder caronades from H.M.S. *Tamar were mounted. Progress in construction was rapid, and, in three weeks, the sea face and one bastion were completed, and, on the 21st of October, his Majesty's colours were hoisted under a royal salute and the fort named Dundas in honour of the second viscount Melville, at that time first lord of the admiralty.

The pier was a solid structure of massive timber and stones, sixty-four feet long and eighteen feet wide, and was constructed in twelve days. The commandant's and officers' houses were erected within the fort, and cottages for the soldiers and convicts close to it.

Soon after the settlement was formed, the natives demonstrated their thieving and treacherous propensities, which were destined to have great influence on the future.

* See page 781. †See page 767.
INTRODUCTION.

Bremer devoted six weeks to superintending the formation of the settlement and to an examination of Melville and Bathurst islands. As a result, he formed a most favourable impression of the future prospects of the settlement. He reported* that the soil was excellent; the supply of timber abundant and suitable for naval purposes; the climate one of the very best to be found in the tropics; the health of labourers was not affected by local climatic conditions; and the port had great capabilities. On the 10th of November, Bremer transferred the command to M. Barlow, captain commanding the military detachment, and H.M. ship Tamar dropped into the stream under a salute of fifteen guns, which she returned. Two days later, the Tamar and the Countess of Harcourt sailed from Port Cockburn. George Bunn, master of the latter vessel, had, in the meantime, rendered signal service in founding the settlement.

The establishment, then left under the command of M. Barlow, consisted of lieutenant Everard and twenty-three men of the 3rd regiment, lieutenant Williamson and twenty-six men of the marines, C. Turner (assistant surgeon), G. Miller and two storekeepers of the commissariat, forty-four convicts and three free mechanics. The brig Lady Nelson was attached to the settlement, partly as a guardship and partly for the purpose of procuring supplies from the neighbouring islands.

Soon after the departure of the Tamar, the Lady Nelson was sent to Koepang in Timor to procure live stock, but returned on the 2nd of January, 1825, after a tedious and unsuccessful voyage. Seven days after her return, she was sent to some islands lying to the north, but, after five weeks' absence, returned again with only thirty small pigs. During the last absence of the Lady Nelson, the disease of scurvy made its appearance in the settlement, and it was necessary to procure at once a supply of fresh provisions. The Lady Nelson therefore sailed on a third voyage to the islands on the 19th of February. Four days later, the private brig Stedcomb sailed under charter to procure a cargo of buffalo and to return in five weeks. The brig Stedcomb had been sent to the settlement for trade purposes by the East India trade committee under the command of W. Barns. These vessels never returned, as they were captured by pirates, the Lady Nelson off the island of Baba and the Stedcomb off Timor Laut.

* See page 777 et seq.
INTRODUCTION.

These disasters had a serious effect on the settlement, as, on the 31st of March, the supply of preserved provisions was almost exhausted. When Sir Thomas Brisbane heard of the distress, the private ship Phillip Dundas was chartered and sailed from Sydney in November, 1825, with stores and a detachment of convicts for the settlement.

In December, 1825, Governor Darling assumed the government at Sydney. His jurisdiction was extended to the one hundred and twenty-ninth meridian of east longitude, and thus Melville island was officially included within the territory of New South Wales.

In the meantime, the favourable reports by Bremer were received with gratification in England, and the formation of a company was suggested for the encouragement of settlers. But, before any action was taken, gloomy reports were received by the treasury in England from G. Miller, the commissariat clerk, and by the East India trade committee from Hugh Stewart, master of the merchant ship Lallah Rook, who visited the settlement in August, 1825. Miller reported the outbreak of scurvy, the scarcity of provisions, and his inability to procure live stock from the islands. Stewart reported the want of naval protection, the capture of the brig Stedcomb by pirates, and the necessity for fresh provisions; and he commented* on the disadvantages of the site of the settlement owing to its distance from the open sea and from the Malay fishing grounds, and its consequent unsuitability for trade.

These reports were transmitted to Earl Bathurst, and, in April, 1826, he decided to form a new settlement† on the coast to the east of Melville island, and considered the removal of the establishment at Fort Dundas to the new site. James Stirling in H.M. ship Success was selected to command the new expedition. In a despatch‡ dated 30th May, 1826, Earl Bathurst informed Governor Darling that the Success would call at Sydney, and Darling was ordered to provide a subaltern's detachment of twenty-five men (exclusive of officers) and the necessary stores and provisions for the new settlement, and to detail a small schooner for maintaining communication between Melville island and the new settlement. H.M. ship Success arrived in Port Jackson in November, 1826, with these instructions.

* See page 226, volume XII, series I. † See pages 796 and 797. ‡ See page 339, volume XII, series I.
INTRODUCTION.

During the year 1826, several changes were made at Melville island. The cutter Mermaid was attached to the service of the settlement. In the month of August, the schooner Isabella sailed from Sydney with supplies for the settlement. In the Isabella, the relief for the garrison was sent. John Campbell, bt.-major of the 57th regiment, relieved M. Barlow the first commandant; John Gold relieved C. Turner the first assistant surgeon; and one subaltern, one serjeant, two drummers and thirty-five rank and file of the 57th regiment relieved the first garrison. The commissariat officers were also relieved. Darling assigned a salary of £300 to the commandant; but, owing to the isolation of the settlement, he was unable to procure a surgeon at less than one guinea per diem.

The conditions at the settlement improved. Campbell succeeded in opening communications with Timor, by which he hoped to insure a supply of fresh provisions for the future; and, with the supplies received from Sydney, apprehensions of a scarcity of provisions were removed.

The improvement, however, was brief. At the end of the year, a change for the worse occurred; sickness became prevalent, and, in January, 1827, five soldiers and one convict died, five of these deaths being attributed to fever caused by climatic conditions during the north-west monsoon, and one to eating castor-oil berries. The fever attacked the patients suddenly, and nearly every person in the settlement was in the hospital at one time or another. Dysentery and hemeralopia* or night-blindness were the most prevalent diseases.

In a despatch† dated 8th April, 1827, Campbell reported adversely on the climate, the soil, the pasturage, the effect on cultivation of the north-west monsoon, the navigation of Apsley strait, and the distance of the settlement from the sea. He explored both Bathurst and Melville islands, and, as the result of his observations, condemned the islands for settlement. The settlement was partially relieved from anxiety in regard to supplies. In January, 1827, the cutter Mermaid brought a cargo of flour and rice from Sourabaya, and, in March, the schooner Isabella arrived with supplies from Sydney. But the contractor at Koepang was unable

* See note 179. † See page 799 et seq.
to fulfil his agreement to supply buffalo. After the month of March, building operations were suspended owing to the possibility of a removal of the settlement.

In the meantime, Governor Darling, after consultation with J. Stirling, decided to take no action for the removal of the settlement at Melville island, and to defer the departure of the expedition for the new settlement until the season was favourable.

The expedition accordingly did not sail from Sydney until May, 1827. It consisted of H.M. ship *Success*, the private ship *Lansdown* chartered to convey stores, the brig *Amity*, and the colonial vessel *Mary Elizabeth* which was detailed for the service of the settlement. The military detachment included H. Smyth, captain, and thirty rank and file of the 39th regiment, and the establishment was completed by Wood as assistant surgeon, a storekeeper, twenty-two convicts, a Malay interpreter and his son, two women and five children.

On the voyage, the colonial vessel *Mary Elizabeth* became detached from the squadron on the second night after leaving Sydney, and did not reach her destination until a month after the other ships.

On the 15th of June, the expedition anchored off Croker island. After a brief examination, Stirling decided not to form a settlement on the island. On the following day, an examination was made of Raffles bay, and, the report being favourable, the vessels were removed to the bay on the 17th of June. On the next day, a site was selected, the construction of a fort was commenced, formal possession was taken, and the fort named Fort Wellington. The selection of Raffles bay for settlement was due to the reports by P. P. King and the local evidence of its use as a resort by the Malay trepang fishers. On the 19th of June, the live stock were landed and Stirling surrendered the command to H. Smyth.

On the 21st, the brig *Amity* sailed for Melville island, and, on the 23rd, the ship *Lansdown* for Batavia, but H.M. ship *Success* remained to assist in forming the settlement until the 23rd of July, when she sailed for Melville island, leaving a detachment of fourteen marines to assist the garrison. But, before the *Success* sailed, the settlement was fully established; its general formation was well described by James Stirling in his report.*

*See page 815.
The *Success* had sailed only a few days before a series of unfortunate events rapidly followed one another, and reduced the settlement to a condition of extreme distress. On the 28th of July, a man was speared through the lungs by natives, and this was only the first of a number of acts of aggression. On the 6th of August, scurvy made its appearance, and soon there were numerous patients suffering from scurvy or fever. On the 25th of September, the assistant surgeon Wood became seriously ill of fever, and, in this extremity, Smyth sent the colonial vessel *Mary Elizabeth* to Melville island on the 1st of October, appealing for help from the assistant surgeon John Gold. On the 15th, Wood died. On the 27th, J. Campbell, the commandant, and Radford, the commissariat officer who had relieved G. Miller at Melville island, arrived in the cutter *Mermaid* in response to the appeal for assistance. As an indication of the distress in the settlement, it may be noted that, at the end of October, out of a total population of seventy-six persons, forty-nine were on the sick list, and in addition half the garrison were suffering from night-blindness probably due to the want of fresh diet. To relieve the distress, Campbell agreed to take fourteen of the worst cases of scurvy to Melville island.

Before Campbell returned to his command, the settlement at Melville island was also reduced to a state of distress by the loss of the assistant surgeon. On the 2nd of November, John Gold and Green, a commissariat official, were murdered by natives whilst taking an evening walk. About the same time, fresh provisions were scarce and symptoms of scurvy became evident in this settlement also. Campbell thereupon sent the cutter *Mermaid* to Sydney with the worst cases of sickness, and arranged to send the colonial vessel *Mary Elizabeth* to Koepang to procure the services of a doctor, if possible, and a cargo of vegetables, grain and live stock.

When Governor Darling received the reports of the distress at the two settlements, immediate action was taken to send relief.

The story of this relief and the subsequent history of the two settlements at Melville island and Raffles bay will be found in the succeeding volumes in this series.
INTRODUCTION.

The attempt to form a settlement at Western Port, Victoria.

Western port was discovered by George Bass on the 5th of January, 1798, during his voyage of discovery in a whale-boat from Sydney. He remained in the harbour for twelve days, and examined and made a sketch of it. On the 21st of March, 1801, it was visited by James Grant and Francis Barallier in the brig *Lady Nelson*. Acting under the orders of Governor King, they examined and surveyed the port and neighbourhood. This duty was completed on the 22nd of April, but, owing to adverse weather, they were unable to leave the port until a week later. In March, 1802, it was visited and surveyed by Emile Hamelin in command of the French corvette *Le Naturaliste*.

In the year 1804, Governor King received Lord Hobart's instructions to form a settlement at Port Dalrymple in Tasmania. In May of the same year, he proposed to form a settlement at Western port. Accordingly he sent Charles Robbins and John Oxley in the cutter *Integrity* to examine the port as a site for settlement on their return voyage from Port Dalrymple. They reported adversely on its possibilities after their examination from the 16th of December, 1804, to the 3rd of January, 1805.

No further official proposal for a settlement was made until the year 1826. At the beginning of this year, a French expedition of discovery sailed for Australian waters, and the British government feared that the French government might have some intention of forming a settlement at Western port. About the same time, the report of the expedition of H. Hume and W. H. Hovell was received in England. These explorers reported that good land was available near the termination of their journey, which they located erroneously at Western port.* To forestall any attempts by the French, Earl Bathurst wrote two despatches† to Governor Darling, dated 1st March, 1826, instructing him to despatch an expedition to found the settlement.

When these instructions were received at Sydney, Governor Darling promptly organised an expedition under Samuel Wright.

* See note 191. † See page 193 et seq., volume XII, series I.
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a captain of the 3rd regiment, in conjunction with F. A. Wetherall, captain of H.M. sloop Fly. Wright had previous experience of out-settlements at Macquarie harbour in Tasmania, where he held the command, and Wetherall volunteered his ship and services for the expedition. The brig Dragon was detailed to carry the members of the expedition. The founders of the settlement included one subaltern, one serjeant and eighteen rank and file of the 3rd regiment and nineteen convicts. W. H. Hovell accompanied the first settlers to undertake an examination of the surrounding country, and live stock and provisions for six months formed part of the equipment. Horses were also taken for use in exploration by Hovell.

On the 4th of November, 1826, Wright received his general instructions* from A. Macleay, the colonial secretary, and secret instructions† from Governor Darling. The latter enunciated the policy to be adopted in the event of an encounter with French settlers.

On the 9th of November, 1826, H.M. sloop Fly and the brig Dragon sailed from Sydney, but, owing to tempestuous weather, did not reach Western port until the 24th of the same month, six days after the departure of Dumont D’Urville in the French corvette L’Astrolabe.

On arrival, a party of sealers was found living on Phillip island, where they had settled from Tasmania about two months previously. They had commenced cultivation and had two acres of wheat and some maize growing.

The vessels anchored off Phillip island, which was examined. The island was found unsuitable for settlement, but a site was chosen on it for a battery to command the anchorage. At this site, captain Wetherall erected a flagstaff and constructed a fort, landing two six-pounders from H.M. sloop Fly. On the 3rd of December, possession was taken by hoisting the colours and firing a royal salute, and the fort was named Dumaresq.

In the meantime, the brig Dragon was removed on the 28th of November to a bay on the eastern side of French island. Thirteen

* See page 827 et seq. † See page 701, volume XII, series I.
days were devoted by Wright and Wetherall to exploration with the object of selecting a site for the settlement. The principles controlling such a selection were enunciated* fully by Wetherall. On the 11th of December, the decision was made, and on the following day formal possession was taken of a site two miles to the east of Red point and close to the site of the modern town of Corinella. Both Wright and Wetherall submitted most adverse reports on the country in the neighbourhood of the port, and Wright described the site selected as the only spot possessing the necessary natural advantages.

The landing of the stores at the settlement from the brig *Dragon* was completed on the 26th of December, and the brig was sent to Sydney carrying the first reports.

Having established the settlement, Wright transferred the command to Basil Herne Burchell, the lieutenant who accompanied him, and embarked with Wetherall on H.M. sloop *Fly* to return to Sydney, where they arrived on the 20th of January, 1827.

Governor Darling reported the foundation of the settlement to Earl Bathurst in a despatch,† dated 4th February, 1827, and requested instructions as to the maintenance or withdrawal of the establishment. In a despatch,‡ dated 6th April, 1827, Darling transmitted Hovell's report,§ and stated that "Western port does not possess the necessary requisites for a settlement."

In a despatch,∥ dated 19th July, 1827, Viscount Goderich authorised Darling to abandon the settlement if he thought it advisable. Darling acted promptly after receiving this despatch; and, in January, 1828, he sent the schooner *Isabella* to remove the whole establishment. In the meantime, little progress had been made at the settlement except the erection of a few brick buildings, the cultivation of a few garden plots, and the construction of a dam across the creek which formed the water supply. It is an interesting fact that, whilst Darling was arranging for the removal,
the right hon. W. Huskisson wrote a despatch,* dated 20th January, 1828, in which he countermanded Goderich's instructions and ordered the maintenance of the settlement.

Thus ended the second attempt to colonize the modern state of Victoria.

February, 1922.

FREDK. WATSON.

NOTE.—Between December, 1825, and March, 1827, the administration in Tasmania was passing through the beginning of a period of reorganisation due to the formation of an independent government. A summary of the details of this change will be found in the introduction to volume VI, which also contains the continuation of the papers relative to the reorganisations effected.

* See page 734, volume XIII, series I.
DESPATCHES.
HISTORICAL RECORDS
OF AUSTRALIA.

SERIES III.

Commission* of Lieutenant-General Ralph Darling, Governor of Van Dieman's Land.

George the fourth, by the Grace of God of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, To our Trusty and Wellbeloved Ralph Darling, Esquire, Lieutenant General of our Forces, Greeting. Know You that we reposing especial trust and confidence in the prudence, courage and loyalty of you, the said Ralph Darling, of our especial grace, certain knowledge and meer motion, Have thought fit to constitute and appoint, and, by these presents, Do constitute and appoint you the said Ralph Darling to be our Captain General and Governor in Chief in and over our Island of Van Dieman's Land, and all Islands and Territories lying to the Southward of Wilson Promontory in thirty nine degrees and twelve minutes of South latitude, and to the northward of the forty fifth degree of south latitude, and between the hundred and fortieth and hundred and fiftieth degree of longitude East from Greenwich, and also Macquarie Island† lying to the Southward of the said Island of Van Dieman's Land, and of all Towns, Garrisons, Castles, Forts and all other Fortifications or other Military Works, which are or may be hereafter erected upon any of the said Islands and Territories. And we do hereby require and command you to do and execute all things in due manner that shall belong to your said Command and the trust, we have reposed in you, according to the several powers and directions granted or appointed you by this present Commission, and the Instructions and Authorities herewith given to you, or according to such further powers, instructions and authorities as shall at any time hereafter be granted or appointed you under.

* Note 1. † Note 2.
1825.
16 July.
Commission of
R. Darling as
governor.

Oaths of office
to be taken.

our Signet and Sign Manual, or by our order in our Priy
Council, or by us through one of our principal Secretaries of
State, and according to such laws and Ordinances as are now
in force, or as hereafter shall be made under and by virtue of a
certain Act of Parliament, made in the fourth year of our
Reign, intituled, "An Act to provide until the first day of July,
One thousand, eight hundred and twenty seven, and until the
end of the next Session of Parliament, for the better adminis-
tration of justice in New South Wales and Van Dieman's Land,
and for the more effectual Government thereof, and other pur-
poses relating thereto." And our will and pleasure is that you
the said Ralph Darling, as soon as may be after the publication
of these our Letters Patent, do in the first place take the oaths,
appointed to be taken by an Act passed in the first year of the
Reign of King George the first, intituled, "An Act for the
better securing of his Majesty's person and Government and the
Succession of the Crown in the Heirs of the late Princess
Sophia being Protestants, and for extinguishing the hopes of
the pretended Prince of Wales and his open and secret abettors,"
as altered and explained by an Act, passed in the sixth year of
the reign of our late Royal father, intituled, "An Act for alter-
ing the Oath of Abjuration and the Assurance, and for amending
so much of an Act of the seventh year of her late Majesty
Queen Anne, intituled, 'An Act for the improvement of the
Union of the two Kingdoms,'" as after the time therein limited
required the delivery of certain Lists and Copies therein men-
tioned to persons indicted of High Treason or Mispriisons
of Treason, as also that you make and subscribe the declaration
mentioned in an Act of Parliament, made in the twenty fifth year
of the Reign of King Charles the second, intituled, "An Act
for preventing dangers, which may happen from Popish Re-
cusants." And likewise that you take the usual oath for the
due execution of the office and Trust of our Captain General
and Governor in Chief for, in and over our said Island and the
dependencies, and for the due and impartial administration of
justice. And further that you take the oath, required to be taken by
Governors in the Plantations to do their utmost That the several
Laws relating to trade and the plantations be duly observed;
which said Oaths and Declarations our Chief Justice of our said
Court of Van Dieman's Land is hereby authorized and required
to tender and administer unto you; and, in your absence, to our
Lieutenant Governor, if there be any upon the place; which being
duly performed, you shall duly administer to our Lieutenant
Governor, if there be any upon the place, and to our Chief Justice, the oaths mentioned in the first recited Act of Parliament altered as above, as also cause them to make and subscribe the aforementioned Declaration. And we do hereby authorise and empower you to keep and use the Public Seal for sealing all things whatsoever that shall pass the Great Seal of our said Islands and its Dependencies. Our further will and pleasure is that there shall henceforward be an executive Council of Government within our said Island and its Dependencies, to consist of the persons nominated and appointed in our Instructions under the Royal Sign Manual and Signet, herewith given to you, or who shall hereafter be nominated and appointed by us, any two of whom shall be Quorum; and you are, as soon as conveniently may be, to call together the members of our said Council and to administer to them respectively the Oaths mentioned in the before mentioned Act, passed in the first year of King George the first, as altered and explained by the before mentioned Act, passed in the sixth year of the reign of our late Royal Father, and also to make and subscribe the aforementioned Declaration, and administer to them the usual oath for the due execution of their places and trusts respectively. All which oaths shall also be administered by the Governor, or person administering the Government of our said Island and its dependencies for the time being, to all such persons as shall hereafter be appointed to be members of our said Executive Council; and he shall also cause them to make and subscribe the aforementioned declaration before they respectively enter upon the execution of the duties of such their Office. And we do hereby give and grant unto you full power and authority to suspend any of the Members of the said Council from sitting, voting or assisting therein, if you shall find cause for so doing. And if it shall at any time happen that, by the death, resignation or departure from our said Island and its dependencies, of any of the said Councillors, there shall be a vacancy in our said Council, you are hereby authorized and required, by a Warrant or Commission under the seal of our said Island and its dependencies, to appoint to be members of our said Council so many fit and proper persons as shall make up the number present to be two and no more. It being nevertheless our will and pleasure that you do signify to us by the first opportunity every such vacancy with the occasion thereof, as also the names and qualifications of the persons appointed by you, To the intent that such appointments may be either disallowed or confirmed by us; and, until such disallowance or confirmation by us shall be

* Note 3.
signified and made known to you, the persons so appointed by you shall be to all intents and purposes Executive Councillors within our said Island and its dependencies; and, if, in consequence of the suspension of any of the members of our said council or their inability to attend from any temporary cause, there should not be a sufficient number of Councillors on the spot to form a quorum, you are hereby authorized, provided the nature of the case shall in your judgment render it necessary by temporary appointment under the seal of our said Island and its dependencies as aforesaid, to make up the number present to be two and no more. And the persons so nominated by you shall be deemed Executive Councillors until the members originally appointed are enabled to resume their seats, or until others are appointed in their stead. We do further give and grant unto you the said Ralph Darling full power and authority from time to time and at any time hereafter, by yourself or by any other to be appointed by you in that behalf, to administer and give the oaths, mentioned in the said Act of Parliament of the first year of the reign of King George the first, altered as above, To all and every such person or persons as you shall think fit, who shall at any time or times pass into our said Island and its dependencies, or shall be resident or abiding therein. And We do hereby authorise and empower you to constitute and appoint Justices of the Peace, Coroners, Constables, and other necessary Officers and Ministers in our said Island and its dependencies, for the performance and execution of their Offices and Places. And we do hereby give and grant unto you full power and authority, where you shall see cause, or judge any Offender or Offenders in any Criminal matters, or for any fines or forfeitures due unto us, fit objects of our mercy, to pardon all such Offenders and to remit all such Offences, fines and forfeitures (Treason and Wilful Murders only excepted): In which cases, you shall likewise have power upon extraordinary occasions to grant reprieves to the Offenders, until and to the intent our Royal pleasure may be known therein. And We do hereby give and grant unto you, the said Ralph Darling, by yourself or by your Captains or Commanders by you to be authorized, full power and authority to levy, arm, muster, command and employ all persons whatsoever, residing within our said Island and its dependencies under your Government, and, as occasion shall serve, to march them from one place to another, or to embark them for the resisting or withstanding all enemies, pirates and rebels, if there shall be occasion, to pursue and prosecute in or out of the limits of our said Island and its
dependencies; and if it shall so please God them to vanquish, apprehend and take, and being taken according to law to put to death, or keep and preserve alive at your discretion; and to execute Martial Law in time of Invasion, or at other times when by law it may be executed; and to do and execute all and every other thing and things, which to our Captain General and Governor in Chief doth or ought in right to belong. And we do hereby give and grant unto you, the said Ralph Darling, full power and authority, with the advice and consent of our said Executive Council, to issue a Proclamation dividing our said Island of Van Dieman’s Land and its Dependencies into Districts, Counties, Hundreds, Towns, Townships and Parishes, and appointing the limits thereof respectively. And we do hereby give and grant unto you full power and authority, with the advice and consent of our said Executive Council, to erect, raise and build in our said Island and its Dependencies such and so many Forts, Platforms, Castles, Cities, Boroughs, Towns and Fortifications, as you shall judge necessary, and the same or any of them to fortify and furnish with Ordnance and Ammunition, and all sorts of arms, fit and necessary for the security and defence of the same, and the same again or any of them to demolish or dismantle, as may be most convenient; and forasmuch as divers Mutinies and Disorders may happen by persons shipped and employed at sea during the time of war, And to the end that such persons as shall be shipped and employed at Sea during the time of war may be better governed and ordered, We do hereby give and grant unto you, the said Ralph Darling, full power and authority to constitute and appoint Captains, Lieutenants, Masters of Ships and other Commanders and Officers, Commissions to execute the Law Martial during the time of war according to the directions of an Act, passed in the twenty second year of the reign of his late Majesty King George the second, intituled, “An Act for amending, explaining and reducing into one Act of Parliament the Laws relating to the Government of His Majesty’s Ships, Vessels and Forces by Sea,” as the same is altered by an Act, passed in the nineteenth year of the Reign of our late Royal Father, intituled, “An Act to explain and amend an Act, made in the twenty second year of his late Majesty King George the second, intituled, ‘An Act for amending, explaining and reducing into one Act of Parliament the laws relating to the Government of His Majesty’s Ships Vessels and Forces by Sea,’” and to use such proceedings, authorities, punishments, corrections, and executions upon any Offender or Offenders, who
1825.
16 July.
Commission of R. Darling as governor.
Limitations imposed.

The trial of officers and seamen of the navy.

shall be mutinous, seditious, disorderly or any way unruly either at sea or during the time of their abode or residence in any of the Ports, Harbours or Bays of our said Island and its Dependencies, as the case shall be found to require according to Martial Law and the said directions during the time of war as aforesaid, provided that nothing herein contained shall be construed to the enabling you, or any by your authority, to hold plea or have any Jurisdiction of any offence, cause, matter, or thing committed or done upon the High Seas, or within any of the Havens, Rivers or Creeks of our said Island and its dependencies under your Government, by any Captain, Commander, Lieutenant, Master, Officer, Seaman, Soldier, or other person whatsoever, who shall be in the actual service and pay in or on board any of our Ships of War, or other vessels, acting by immediate Commission or Warrant from our Commissioners for executing the Office of our Lord High Admiral of Great Britain and Ireland, or from our High Admiral of our said United Kingdom of Great Britain and Ireland for the time being, under the Seal of our Admiralty; but that such Captain, Commander, Lieutenant, Master, Officer, Seaman, Soldier, or other person so offending, shall be left to be proceeded against and tried, as the merits of their offences shall require, either by our Supreme Court of Van Dieman's Land, in pursuance of the provisions in that behalf contained in the before mentioned Act of Parliament, made and passed in the fourth year of our Reign, or by Commission under our Great Seal of this Kingdom, as the statute of the twenty eighth of King Henry the eighth directs, or by Commission from our Commissioners for executing the office of our High Admiral of our United Kingdom of Great Britain and Ireland, or from our High Admiral of our United Kingdom of Great Britain and Ireland for the time being according to the aforesaid Act, intituled, "AN ACT for amending, explaining and reducing into one Act of Parliament the laws relating to His Majesty's Ships, Vessels and Forces by Sea," as the same is altered by the aforesaid Act, passed in the nineteenth year of the Reign of our late Royal Father, intituled, "AN ACT to explain and amend an Act, passed in the twenty second year of the reign of his late Majesty King George the second, intituled, 'AN ACT for explaining, amending and reducing into one Act of Parliament the laws relating to the government of His Majesty's Ships, Vessels, and forces by Sea.'" Provided nevertheless that all disorders and misdemeanours committed on shore by any Captain, Commander, Lieutenant, Master, Officer, Seaman, Soldier, or any other persons whomsoever
belonging to any of our Ships of War or other Vessels, acting by immediate Commission or Warrant from our Commissioners for executing the office of our High Admiral of our United Kingdom of Great Britain and Ireland, or from our High Admiral of our United Kingdom of Great Britain and Ireland for the time being, under the Seal of our Admiralty, may be tried and punished according to the laws of the place, where any such disorders, offences and misdemeanours shall be committed on shore, notwithstanding such offender be in our actual service and borne in our pay on board any such our Ships of War or other vessels, acting by immediate commission or warrant from our Commissioners for executing the office of our High Admiral of our United Kingdom of Great Britain and Ireland, or from our High Admiral of our United Kingdom of Great Britain and Ireland for the time being, so as he shall not receive any protection for the avoiding of justice for such offences committed on shore, from any pretence of his being employed in our service at sea. Our Will and Pleasure is that all public monies, which shall be raised, be issued out by warrant from you and disposed of by you for the support of the Government, or for such other purposes as shall be particularly directed and not otherwise. And we do hereby give and grant unto you full power and authority, with the advice of our said Executive Council of our said Island and its dependencies, to agree for such Lands, Tenements and Hereditaments, as shall be in our power to dispose of, and them to grant to any person or persons upon such terms, and on such moderate quit rents, services and acknowledgements, to be thereupon reserved unto us, according to such instructions as shall be given to you under our Sign Manual, which said Grants are to pass and be sealed with the seal of our said Island and its dependencies, and being entered upon record by such officer or officers, as shall be appointed thereunto, shall be good and effectual in law against us our Heirs and Successors. And we do hereby give you, the said Ralph Darling, full power to appoint Fairs, Marts and Markets, and also such and so many Ports, Harbours, Bays, Havens, and other places for the convenience and security of shipping and for the better loading and unloading of goods and merchandizes within our said Island and its dependencies, as by you, with the advice of our Executive Council, shall be thought fit and necessary. And we do hereby require and command all Officers and Ministers, Civil and Military, and all other inhabitants of our said Island and its dependencies, to be obedient, aiding and assisting to you, the said Ralph Darling,
1825.
16 July.
Commission of R. Darling as governor.
Provision for vacancy in office.

Judges excluded from administration of government.

in the execution of this our Commission, and of the powers and authorities herein contained. And, in case of your death or absence out of our said Island and its Dependencies, or in case from any especial circumstances we shall judge it expedient by warrant under the Royal Sign Manual, or otherwise, to provide for the Civil Administration of the Government, notwithstanding your actual presence in our said Island and its Dependencies, to be obedient, aiding and assisting unto such person as shall be appointed by us to be our Lieutenant Governor or Commander in Chief, or to administer the Government of our said Island and its dependencies; to whom we do therefore, by these presents in either of such cases, give and grant all and singular the powers and authorities, herein granted, to be by him executed and enjoyed during our pleasure. And if, upon your death or absence out of our said Island and its dependencies, there be no person upon the place commissioned or appointed by us to be our Lieutenant Governor of our said Island and its dependencies specially appointed by us to administer the Government, Our will and pleasure is that the Executive Councilor, whose name is first placed in our said Instructions to you, and who shall be, at the time of your death or absence, residing within our said Island and its dependencies, shall take upon him the Administration of the Government, and execute this our Commission and Instructions, and the several powers and authorities, therein contained, in the same manner and to all intents and purposes as other our Lieutenant Governor and Commander in Chief should or ought to do in case of your absence, until your return or in all cases until our further pleasure be known therein. PROVIDED NEVERTHELESS, and it is our will and pleasure that neither our Chief Justice of our Supreme Court of Van Dieman’s Land, nor any other Judge of the said Court, who may at any time hereafter be appointed in the manner provided by the said Act of Parliament, passed in the fourth year of our Reign, nor the Archdeacon of New South Wales, shall in any case take upon them the administration of the Government of the said Island and its dependencies. And we do hereby declare ordain and appoint that you, the said Ralph Darling, shall and may hold, execute and enjoy the office and place of our Captain General and Governor in Chief in and over our said Island and its dependencies, together with all and singular the powers and authorities hereby granted unto you for and during our Will and Pleasure.

In Witness etc. Witness on the sixteenth day of July.

By Writ of Privy Seal.
DARLING TO BATHURST.

INSTRUCTIONS* TO GOVERNOR DARLING.

George R.

Instructions for Our Trusty and Well beloved Ralph Darling, Esquire, Lieutenant General of Our Forces, Our Captain General and Governor in Chief in and over Our Island of Van Diemen's Land and its Dependencies, or to the Lieutenant Governor or Commander in Chief of the said Island for the time being. Given at Our Court at Carlton House, the 17th day of July, in the Sixth year of Our Reign.

[Here follow the instructions almost word for word the same as those issued to R. Darling as governor of New South Wales, omitting the clause re the archdeacon and the government of the clergy; see page 107 et seq., volume XII, series I.]

EARL BATHURST TO LIEUT.-GOVERNOR ARTHUR.

(Despatch No. 24; acknowledged by lieut.-governor Arthur, 22nd May, 1826.)

Sir, Downing Street, 4th Dec., 1825.

In my dispatch of the 2nd of June last, I acquainted you with the circumstances, which had induced me to sanction the appointment of a Colonial Secretary for the service of Van Diemen's Land. At that time Mr. Percival had accepted the situation, but, that Gentleman's destination having been subsequently changed, I now do myself the honor to acquaint you that I have conferred the appointment on Mr. Charles Ellis, who will proceed to the Colony to enter upon the duties of his Office, as soon as the necessary arrangements for his embarkation can be completed. Having, in my former dispatch, acquainted you with the amount of the Emoluments to be attached to the Office of Colonial Secretary, it is only necessary for me to refer you to those Instructions as your guide on the present occasion. In the event however of there being no unoccupied public buildings at Hobart Town, which could be conveniently converted into a Residence for the Colonial Secretary, I should prefer assigning to him an allowance not exceeding £200 a year for House Rent, to hiring a Building for his accommodation, as I had authorized you to do in the case of Mr. Percival.

I have, &c.,

Bathurst.

GOVERNOR DARLING TO EARL BATHURST.‡

(Despatch acknowledged by Earl Bathurst, 26th June, 1826.)

My Lord, Government House, 5th December, 1825.

I have the honor to acquaint your Lordship that I arrived here on the 24th of last month, and intend to re-embark this afternoon for New South Wales.

* Note 1.  † Note 4.  ‡ Note 5.
1825. I beg to enclose a Copy of the Proclamation, which I issued on being Sworn in,* and to report to Your Lordship that His Majesty's Order in Council,† erecting this Island into a separate Government, independent of New South Wales, has been duly proclaimed, and the Executive and Legislative Councils established, agreeably to the Instructions to that effect. I further beg to acquaint Your Lordship that I judged it advisable to delay being sworn in, until the eve of my departure, in order to prevent the necessity of my interfering in any manner in the Conduct of the Government, the Administration of which has consequently continued in the hands of the Lieutenant Governor.

I have endeavoured to obtain every information respecting the Colony, which the shortness of my stay here could permit of my acquiring; and I have great pleasure in assuring your Lordship that the result has been very satisfactory. The Colonists, however, have been kept in a state of alarm for some time past by the outrages committed by the Bush-Rangers, who escaped from Macquarie Harbour, immediately after Colonel Sorell's departure. Some of them have been taken and Executed; and one of the Leaders, McCabe, is now in Custody; but a few of the most desperate under Brady, their Chief, still continue at large.

The activity and vigilance of the Lieutenant Governor afford, however, every ground to expect that these will shortly be secured, though the inadequacy of his means, which has necessarily exposed the few Troops at his disposal to incessant fatigue, has prevented his Scouring the Country more effectually, and taking such other steps as would probably have led to their apprehension at an earlier period. The Lieutenant Governor will have the honor to report to your Lordship on this and all other matters, upon which it may be necessary for Your Lordship to receive detailed information. But I should not do justice to Him, or to the sense I entertain of his Conduct in the Government, were I to omit expressing my approbation of the just and judicious tenor of his Administration.

It only remains for me further to assure Your Lordship that the Lieutt. Governor has most readily afforded me the fullest information on all points relating to the Government; and I am happy to think that the good understanding, which has been established between us, will insure a cordial co-operation and prove mutually advantageous to this and the sister Colony.

I have, &c.,

RA. DARLING.

* Note 6.  † Note 7.
By His Excellency Lieutenant General Ralph Darling, Commanding His Majesty's Forces; Captain General and Governor in Chief of the Island of Van Diemen's Land, and its Dependencies, etc., etc., THE King having thought it fit to constitute and erect the Island of Van Diemen's Land into a separate Colony, independent of the Government of New South Wales; and His Majesty having further been pleased to appoint Lieutenant General Ralph Darling to be the first Governor thereof; His Excellency takes the earliest opportunity of notifying the same.

The Governor, in offering his congratulations to the Inhabitants on the event which he has now the pleasure to announce, begs to assure them that he warmly participates in their feelings on the satisfactory evidence, which it affords of the growing importance of this interesting and valuable Settlement. Though circumstances do not permit of his continuing to administer the Government, His Excellency has the satisfaction to think that, in the discharge of his duties in the sister Colony as Governor in Chief, he shall have frequent opportunities of co-operating with the Local Administration (the Conduct of which affords the most gratifying testimony of the zeal and ability of His Honor the Lieut. Governor) in seconding His Majesty's paternal exertions for the prosperity of this infant Colony; and the Inhabitants may depend on His Excellency's earnest desire to contribute to this important object, and to promote their welfare by every means in his power.

His Majesty, in consequence of the separation of this Colony from the Government of New South Wales, has been pleased to issue a Warrant, bearing date the Seventeenth day of July last, constituting a Legislative Council* for this Government; and His Excellency is pleased further to notify that His Majesty has also appointed an Executive Council, the Members of which, respectively, are as follows, vizt.:

**Legislative Council.**

John Lewes Pedder, Esqr., Chief Justice of the Supreme Court.
Dudley Montagu Perceval, Esqr., Colonial Secretary.
Edward Abbott, Esqr.
Adolarius W. H. Humphrey, Esqr.
William Henry Hamilton, Esqr.
Edward Curr, Esqr.

**Executive Council.**

The Lieutenant Governor. A. W. H. Humphrey, Esqr.
The Colonial Secretary.

Dated at Government House, Hobart Town, this third day of December, One thousand eight hundred and twenty-five, in the Sixth year of His Majesty's Reign.

RA. DARLING.

By His Excellency's Command,

JOHN MONTAGU, Secretary.

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GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch acknowledged by under secretary Hay, 25th June, 1826.)

My dear Sir,

Colonel Arthur, having pointed out to me the expediency of the removal of Mr. Evans from the situation of Deputy Surveyor, and the impossibility of his providing effectually from G. W. Evans from office as surveyor-general.

* Note 8.
the means at his disposal for the faithful discharge of the duties of that Department, I have been induced, in order to enable him to carry into effect the Instructions* he has received for the Survey of the Island, which it is desirable should be immediately commenced, to permit Mr. Dumaresq, who accompanied me from England, to remain here in charge of the Surveyor General’s Department. I am satisfied my Lord Bathurst will not suppose I would have permitted of Mr. Dumaresq’s appointment, to so important a situation, merely as a means of providing for him, if he were not competent to the duties of it. It may, however, be satisfactory to His Lordship to be informed that Mr. Dumaresq, previously to joining me, had been employed for five years in the Surveying Department in the East Indies, was constantly detached to the Frontier, and was charged with collecting the information necessary to preparing a Statistical Account of the Country, and Assessing the Revenue to be drawn from it. I am therefore, induced to hope, as the Lieutenant Governor has represented that the employment of a competent person at the head of the Surveying Department, whose integrity can be depended on, is of the first importance to this Colony, that Mr. Dumaresq may be confirmed in the situation.

I remain, &c.,

RA. DARLING.

EARL BATHURST TO LIEUT.-GOVERNOR ARTHUR.

(Despatch No. 25.)

Sir,

Downing Street, 10 December, 1825.

I do myself the honor to transmit for your information and guidance the enclosed Copy of an Order of His Majesty in Council, dated the 11th of November last, which has been issued in pursuance of an Act passed in the sixth year of His present Majesty, entitled “An Act for punishing offences committed by Transports kept to labor in the Colonies, and better regulating the powers of Justices of the Peace in New South Wales,” whereby it is ordered “That the Governors, Lieutenant Governors, or other Persons for the time being administering the Government of any of His Majesty’s Foreign Possessions, Colonies or Plantations, shall, from time to time by Proclamations to be by them respectively for that purpose issued, appoint the place or places within His Majesty’s Dominions, to which any offender convicted in any such Foreign Possessions, Colonies, or Plantations, and being under Sentence or Order of Transportation shall be sent or Transported.” I have, &c.,

BATHURST.

[Enclosure.]

[A copy of this order-in-council will be found on page 89, volume XII, series I.]

* Note 2.
ARTHUR TO BATHURST.

UNDER SECRETARY HAY TO LIEUT.-GOVERNOR ARTHUR.

Sir,
Downing Street, 12 Decr., 1825.

I have to acknowledge the receipt of your letter of the 7th February last, addressed to Mr. Wilmot Horton submitting to the consideration of Earl Bathurst, the circumstances under which the Revd. Mr. Conolly was sent to Van Diemen's Land, and the footing upon which he was considered to stand prior to the arrival of the Revd. Mr. Coote, who, having been furnished with a letter of recommendation from his Lordship, has chosen to regard it as an Official Appointment, superseding that of the other Catholic Clergyman.

Mr. Coote's object in proceeding to Van Diemen's Land, as stated by Dr. Poynter, when he applied to Lord Bathurst to ascertain whether there would be any objection to his going there, was, for the purpose of "assisting the Revd. Mr. Conolly in administering the comforts of Religion to the poor Catholics in that Colony." Lord Bathurst could not but feel considerable surprise at the pretensions which you state Mr. Coote has now advanced; And his Lordship further directs me to acquaint you that the manner, in which Mr. Conolly appears to have discharged his duties, has deservedly received your countenance and support.

I have, &c,

R. W. HAY.

LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.

(Despatch No. 21; acknowledged by Earl Bathurst, 17th June, 1826.)

Government House, Hobart Town, Van Diemen's Land,

My Lord,

12th Decr., 1825.

I had the honor to receive by the Catherine Stewart Forbes on the 24th Ulto. Your Lordship's Despatch, No. 17, dated 28th July 1825, transmitting for my information and guidance Copy of an Order of His Majesty in Council, dated 14th June last, whereby the Island of Van Diemen's Land and other adjacent Places is concluded into a separate Colony, independent of the Government of New South Wales.

By the same Vessel, Lt. General Darling arrived, and notified to me that His Majesty had been pleased to appoint him The Governor in Chief and Captain General of the Territory of Van Diemen's Land; and, of course, on His Excellency devolved the very gratifying Office of announcing to the Community this most gracious Act of their Sovereign; and Governor Darling will have communicated to Your Lordship the Establishment of The Executive and Legislative Councils in obedience to the King's Instructions.
The Governor, deferring to be sworn in until two days previous to his departure for New South Wales, continued in my hands the Administration of the Government; but he has applied himself with unremitting attention in the attainment of the most minute information of all the principles by which I direct it, either in its relation as a Free Colony, or penal Settlement; and, as His Excellency has expressed his cordial concurrence in my views, I sincerely hope that we may mutually promote those measures, which may prove alike beneficial to the Colonies and satisfactory to His Majesty's Government.

The Dispatches, which I shall have the honor to address to Your Lordship by the present opportunity for England, will disclose that I have much opposition to encounter in carrying my measures into effect; nothing, therefore, could have occurred to me more gratifying than the arrival at such a moment of General Darling, to whom I was almost a total stranger.

I have the honor to enclose Copy of the Proclamation, which with the advice of the Executive Council, I have issued on the departure of the Governor.

I have, &c,

Geo. Arthur.

[Enclosure.]

A Proclamation.

By His Excellency Colonel George Arthur, Lieutenant Governor of the Island of Van Diemen's Land and its Dependencies.

WHEREAS, His Majesty having erected this His Majesty's Island of Van Diemen's Land and its Dependencies, hereinafter mentioned, into a separate Colony, Independent of the Government of New South Wales, has been most graciously pleased, by His Royal Letters Patent under the Great Seal of Great Britain and Ireland, bearing Date at Westminster, the Sixteenth Day of July, in the Sixth Year of His Majesty's Reign, to appoint His Excellency Lieutenant General Ralph Darling to be Captain-General and Governor in Chief in and over the said Island, and all Islands and Territories lying to the Southward of Wilson's Promontory in Thirty-nine Degrees and Twelve Minutes of South Latitude, and to the Northward of the Forty-fifth Degree of South Latitude, and between the One-hundred-and-fortieth and One-hundred-and-fiftieth Degrees of Longitude East from Greenwich, and also Macquarie Island, lying to the Southward of the said Island of Van Diemen's Land, with, under and subject to the several Powers and Provisoes therein contained: And whereas, by the same Letters Patent, His Majesty has declared it to be His Royal Will and Pleasure that there should be an Executive Council of Government within this Island and its Dependencies, to consist of the Persons nominated and appointed in His Majesty's Instructions, under the Royal Sign Manual and Signet, and that any Two of them should be a Quorum. And whereas, by His Majesty's Royal Instructions, under the Royal Sign
Manual, bearing Date at Carlton House, the Seventeenth Day of July aforesaid, His Majesty hath been pleased to nominate the Lieutenant Governor, for the Time-being, of Van Diemen's Land; the Chief Justice, for the Time-being, of the Supreme Court of Van Diemen's Land; the Colonial Secretary of Van Diemen's Land, for the Time being; Adolarius William Henry Humphrey, Esquire, Superintendent of Police; and Jocelyn Thomas, Esquire, Colonial Treasurer, to be of the said Executive Council. AND WHEREAS it is, in and by His Majesty's said Royal Letters Patent, declared that, in the Event of the Absence of His Excellency the said Lieutenant General Ralph Darling from this Island and its Dependencies, then, and in that case, all and singular the Powers and Authorities, in and by the said Royal Letters Patent given and granted to His Excellency the said Lieutenant General Ralph Darling, are thereupon, by the said Letters Patent, given and granted to the Lieutenant Governor of this Island and its Dependencies, to be executed and enjoyed by the said Lieutenant Governor during His Majesty's Royal Pleasure. AND WHEREAS His Excellency the said Lieutenant General Ralph Darling arrived in this Colony on the Twenty-fourth Day of November last: AND WHEREAS, in Pursuance of the Directions in His Majesty's said Royal Instructions contained, His Majesty's said Royal Letters Patent were, on the Third Day of December Instant, read and published in the Presence of the said Executive Council of Government, and His Excellency the said Lieutenant General Ralph Darling then and there took the several Oaths, and made and subscribed the Declaration mentioned and directed in and by the said Royal Letters Patent to be by him respectively taken, made, and subscribed. AND WHEREAS the said Lieutenant General Ralph Darling departed from and out of this Island and its Dependencies on the Sixth Day of December Instant, and hath ever since been and still is Absent therefrom. AND WHEREAS at an Executive Council of Government, held at the Government House, at Hobart Town, on the Tenth Day of December Instant, His Excellency the said Colonel George Arthur took the several before-mentioned Oaths, and made and subscribed the before-mentioned Declaration. NOW THEREFORE it is hereby proclaimed, that, immediately upon the Departure and Absence of His Excellency the said Lieutenant General Ralph Darling from and out of this Island and its Dependencies, all and singular the Powers and Authorities to him, in and by His Majesty's said Royal Letters Patent given, became and were, and have since continued to be, and now remain vested in His Excellency the said Colonel George Arthur as Lieutenant Governor of this Island and its Dependencies, to be by him executed and enjoyed during His Majesty's Royal Pleasure. And all Officers and Ministers, Civil and Military, and all other Inhabitants of this Island and its Dependencies, are hereby required and commanded to be Obedient, aiding and assisting unto His Excellency the said Colonel George Arthur, as such Lieutenant Governor, in the Execution thereof.

GIVEN under my Hand and Seal, at Government House, Hobart Town, this Twelfth Day of December, in the Year of our Lord One thousand, eight hundred and twenty five.

GEORGE ARTHUR. (L.S.)

By His Excellency's Command,

JOHN MONTAGU, Secretary.
Government House, Hobart Town,

My Lord,

Van Diemen's Land, 16th December, 1825.

In the Month of July, 1824, Mr. Evans memoried the Governor of New South Wales praying for permission to retire from the Office of Deputy Surveyor General, and he requested that I would favorably recommend his application.

Rumors prejudicial to Mr. Evans were so general that I could not feel myself justified in seconding his application, and I have up to the present period been in much difficulty in disposing of his Memorial. I am, however, now compelled to come to a decision, because it is imperative upon me to carry into effect His Majesty's Instructions* for the general Survey and valuation of the waste Lands throughout the Island by Commissioners, of whom the Surveyor General is to be the first, and Mr. Evans is from a severe rheumatic affection incapable of conducting it.

It is impossible I can wholly acquit Mr. Evans of much impropriety in having allowed himself to accept of presents in his office; but I have recently ascertained that the practice in the Surveyor's Department was not entirely unsanctioned by Colonel Sorell, who seems to have been of opinion that there were extra official Services, for which it was understood Surveying Officers might expect to be reimbursed.

I have, moreover, no positive proof that Mr. Evans has acted from corrupt motives, and whilst his Services have been of a very important and responsible nature, and often, in exploring, arduous and severe, his Salary has been very inadequate. Under these considerations I have, with the approval of Sir Thomas Brisbane, acceded to the retirement of Mr. Evans on the Salary of £200 per annum subject entirely to Your Lordship's confirmation; a responsibility I certainly would not take upon myself, if the King's Instructions did not require that the Survey should be commenced, and the Surveyor General included in the Commission. Having given the most anxious attention to this case, and finally promised Mr. Evans that I would recommend his retirement to Your Lordship, I beg to be permitted to present it to Your Lordship's favorable consideration.

Mr. Scott, who is the Senior Assistant in the Surveyor's Department, has presented his Memorial praying that he may be appointed to succeed Mr. Evans, and I have accordingly the honor to enclose it; but I have very frankly told Mr. Scott that I could not recommend it. Mr. Scott's Surveys have been very extended. I have every reason to be satisfied with his zeal and capability as a Surveying Officer; and I would submit that his

* Note 10.
Salary of £150 per annum is inadequate to the responsibility of his Appointment, and I would beg to recommend it should be augmented; but, I cannot venture to propose to Your Lordship that he should succeed Mr. Evans.

Mr. Edward Dumaresq,* who was accompanying Governor Darling to New South Wales, has been employed in the Surveying Department in the East Indies for five Years on the very Service upon which we are now about to enter; it has been my proposition therefore to the Governor that Mr. Dumaresq should be employed in conducting the Survey of this Island; the Service would no doubt in some degree have benefited by the Superintendance of an Officer of greater local experience, but I consider it of immense importance, and a very ample compensation, that the Surveyor General should commence the arduous undertaking without any previous associations or connexions. I have therefore this day appointed Mr. Dumaresq to act as Surveyor General, and the general Survey will forthwith commence under all the Regulations directed by His Majesty's Instructions, and I trust it will be carried through in a manner that will prove beneficial to the future interest of the Colony.

Hitherto, from the dependence of Van Diemen's Land upon New South Wales, the Fees of this Department have been divided between Mr. Oxley and Mr. Evans; but they will now of course exclusively belong to the Officer in charge here. I should propose, however, acting upon the principle directed in the other Departments by Your Lordship, allowing a stated Salary to the Surveyor General, and requiring all fees to be paid into the Police Fund; but Your Lordship is aware that the sum of £200 per annum only is granted in the Parliamentary Estimate for the Surveyor General, a Sum totally inadequate to the responsibility of an Office so highly important.

As the duties of the Surveyor General will, at least for some Years to come, be deeply connected with the immediate Services of the Crown, I submit to Your Lordship's consideration whether a more liberal Salary should not be provided in the Estimate of 1827.

Sir Thomas Brisbane proposed my allowing the junior Commissioners £500 per annum, whilst employed on the Survey, which I conclude will occupy at least two Years. I have not yet finally determined upon that allowance, but I shall by the next opportunity for England do myself the honor to transmit to Your Lordship Copy of the Commission and Instructions to the Commissioners for apportioning the Island, to whom, I am aware, it will be prudent to make a liberal allowance though probably not quite to the extent suggested by the Governor.

I have, &c.,

GEO. ARTHUR.

Note 11.

1825.
16 Dec.

Appointment of E. Dumaresq as surveyor-general.

Fixed salary proposed for surveyor-general.

Salaries for lands commissioners.

Salaries of £500 per annum, whilst employed on the Survey.
1825. 16 Dec.

Memorial of T. Scott.

HISTORICAL RECORDS OF AUSTRALIA.

[Enclosure No. 1.]

[A copy of the memorial of G. W. Evans, surveyor-general, will be found on page 645 et seq., volume XI, series I.]

[Enclosure No. 2.]

The Memorial of Thomas Scott, First Assistant to Surveyor General of Van Dieman's Land.

To the Right Honorable The Earl Bathurst K.G. His Majesty's principal Secretary of State for the Colonies, etc., etc., etc.

Respectfully Sheweth,

That Your Memorialist, having been regularly Educated as a Surveyor, and having arrived in the year 1820 at this Island in order to follow up the practice of his profession, was appointed by His Majesty's Colonial Government to the situation of first Assistant in the Surveyor General's department, which appointment Your Lordship has been pleased to confirm, in which he has since served to the present time to the perfect satisfaction of the Colonial Government and of the Surveyor General George William Evans, Esquire.

That Your Memorialist has understood that it is the intention of Surveyor General Evans to retire from his present Situation, and, as Your Memorialist is the Senior in Succession in this Colony, he humbly submits to your Lordship his Earnest application that your Lordship will be pleased to appoint him to succeed to the Situation, should the same become vacant by the retirement of the Surveyor General Evans.

And Your Memorialist As in duty bound will ever pray.

Thomas Scott.

1825.

Compensation to be given to G. Meredith.

Earl Bathurst to Lieut.-Governor Arthur.

(Despatch No. 26; acknowledged by lieut.-governor Arthur, 1st September, 1826.)

Sir,

Downing Street, 18th Decr., 1825.

With reference to my dispatch of the 4th June, 1824, I beg leave to acquaint you that I have received strong representations from Mr. Meredith, respecting the loss and inconvenience to which he has been subjected in consequence of the length of time which elapsed, until his claim* to the Land disputed by Mr. Talbot was settled, and, as I am disposed to think that Mr. Meredith, under all the circumstances of the case, has acquired a claim to favorable consideration, I cannot but express the opinion that he is entitled to the same remuneration on account of his Losses as appears to have been granted to Mr. Talbot, to whom you have given an additional Grant of 1,000 acres; and I am further desired to direct that Mr. Meredith may

* Note 12.
be released from the operation of that part of the Regulations, prescribed by His Majesty's Instructions, which prohibit the alienation of any Grant, excepting upon certain conditions, in order that by the disposal of a part of his property, he may obtain the means, of which, by the late destruction by fire of the Warehouse in which his goods were deposited, he has been unfortunately deprived, of cultivating the remainder. Should you however be of opinion that the mode, I have above suggested for disposing of this case, is liable to objection, I have to desire that you will take the first opportunity, which may offer, for availing yourself of Mr. Meredith's Services in any situation of moderate emolument for which he may be qualified. I have, &c.,

BATHURST.

LIEUT.-GOVERNOR ARTHUR TO UNDER SECRETARY HAY.

Government House, Hobart Town,

Sir, 20th December, 1825.

I have the Honour to acknowledge the receipt of your Letter of 29th July last, transmitting the assignment of One Hundred and Seventy two Male Convicts by the Medway; and I have now to acquaint you that one Hundred and Sixty nine were landed from that Ship on the 15th Instant (Three having died during the Voyage), in a clean and healthy condition; and one Hundred and Twenty five of them were immediately assigned, as Servants, to Settlers.

The Surgeon and Superintendent, Mr. Gilbert King, and the Master, Mr. Borthwick Wight, are entitled to much commendation for the zeal and ability with which they appear to have fulfilled their respective Duties.

I have, &c.,

GEO. ARTHUR.

UNDER SECRETARY HAY TO LIEUT.-GOVERNOR ARTHUR.

(Despatch marked "Private"; acknowledged by lieut.-governor Arthur, 4th September, 1826.)

My dear Sir,

Downing Street, 22 December, 1825.

With reference to the Report,* which you addressed to Lord Bathurst upon the general state of the Colony of Van Diemen's Land, his Lordship has thought proper to call upon Colonel Sorell for some explanation upon one or two points to which you have alluded.

Lord Bathurst having disposed of the question relating to the separation of the Offices of Naval Officer and Treasurer, by the appointments reported in his dispatch of the 4 July last, I shall pass on to that part of your letter, where you state that Mr. C. Robertson represented to the late Lieut. Governor a

* Note 13.
20 HISTORICAL RECORDS OF AUSTRALIA.

1825.
22 Dec.

Inaccuracies alleged in treasurer's accounts.

Report required re Macquarie harbour;

and transportation of convicts from N.S.W.

deficiency of Public Money, but upon which you did not find that any steps were taken, owing as you supposed to the Lieut. Governor not placing any confidence in the representation from the good opinion he expressed to you of Dr. Browley, as a Public Officer. Colonel Sorell, in explanation of the circumstance, states that, upon receiving notice of an apparent discrepancy in the accounts for 1823, for Sales of Timber, as compared with the returns of Sales within the same period given in by the Engineer Department, he lost no time in investigating the subject, the result being an immediate solution of the case, which he has described as follows:—The Treasurer credits in his accounts for the year all sums received, the Engineer returned all Sales of Timber during the year 1823, but, Timber being sold upon a short credit, payment for the sales made in November and December not being received in time to be included in the accounts to December, 1823, they necessarily went to the following year, so that Colonel Sorell in fact asserts that, upon a reference to the Treasurer or the Superintendent of the Timber Sales, it would appear that no inaccuracy existed.

I take this opportunity of calling your attention to the subject of the Penal Settlement established at Macquarie Harbour, which Colonel Sorell has stated as being peculiarly adapted, from its situation and productive Soil, to the objects for which that Establishment was originally formed, and I should be obliged to you to favor me with your opinion, as to how far it has answered the expectations of the Colonial Government in establishing it.

Soon after Colonel Sorell had returned to this Country, he submitted to Lord Bathurst's consideration the inconvenience which could not fail to result, if the Sydney Government continued to send Convicts from thence to Macquarie Harbour, in consequence of its incapacity to maintain an unlimited number. The importance of this measure being apparent to His Majesty's Government, Sir Thomas Brisbane was directed* to discontinue the practice, and the same opportunity was taken to impress upon him the importance of Van Diemen's Land participating in the benefits of any larger Penal Settlement, which it might be in contemplation to establish in New South Wales, to which Criminals, sentenced to Colonial Punishments for very heavy offences and long periods, might be sent, thus rendering Macquarie Harbour, as a Local Penal Settlement of limited extent, adequate for the punishment of Offences committed in Van Diemen's Land. Upon this Point likewise I have to invite your observations.

R. W. Hay.

* Note 14.
EARL BATHURST TO LIEUT.-GOVERNOR ARTHUR.

(Despatch No. 27.)

Downing Street, 28 Dec., 1825.

Sir,

I have received a dispatch* from Sir Thomas Brisbane, dated the 31st December, 1824, transmitting a Copy of the Proceedings before the Supreme Court at Van Diemen’s Land in two cases of Murder, and submitting the names of the Prisoners, as mentioned in the Margin,† as fit objects for the Royal Mercy, on the grounds stated in Chief Justice Pedder’s letter; and I do myself the honor of transmitting to you the accompanying Free Pardons, which His Majesty has been graciously pleased to grant to the Prisoners in question; and I am to desire that you will take the necessary measures for extending to them the benefit thereof.

I have, &c.,

BATHURST.

[Enclosures.]

[These three pardons were in the usual form.]

LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.

(Despatch No. 23; acknowledged by Earl Bathurst, 19th June, 1826.)

Government House, Hobart Town,

My Lord,

Van Diemen’s Land, 30th Dec., 1825.

I have the honor to enclose a Letter, which has been addressed to me by many respectable Inhabitants of Hobart Town, covering a Memorial addressed to Your Lordship soliciting that you will take into your consideration the case of the Revd. Mr. McArthur, the Minister of the Presbyterian Church of Scotland, who has for the last three years dispensed at Hobart Town the ordinances of Religion according to the Institutions of that Church, receiving from the Police Fund, by order of the Governor of New South Wales, the Salary of £100 per annum.

As the Revd. Mr. McArthur has conducted the duties of his situation with unremitting zeal and with great satisfaction to the Members of the Scot’s Church, and as his Salary is certainly inadequate to enable him to maintain a Rank of respectability in the Community, I beg leave to recommend the prayer of the Memorialists to Your Lordship’s most favorable consideration, and would submit the increase of Mr. McArthur’s Salary to the Sum of £200 per annum from the commencement of the present year.

Your Lordship has, I understand from the Revd. Doctor Lang, the Minister of the Scot’s Church at Sydney, who is thus far on

* Note 15.  † Marginal note.—Owen Reardon, William Tiday, John Clayton.
his way to New South Wales, been pleased to augment his Salary in that Colony to the Sum of £300 per annum.

I have, &c.,

GEO. ARTHUR.

[Enclosure No. 1.]

MEMBERS OF PRESBYTERIAN CHURCH TO LIEUT.-GOVERNOR ARTHUR.

Sir,

Hobart Town, 30th December, 1825.

We, whose Names are undersigned, most respectfully re­quest Your Excellency will be pleased to transmit the Accom­panying Memorial to The Right Honorable Earl Bathurst, and, should its object meet with Your Excellency's Approval; to recommend it to His Lordship in such terms as Your Excellency may conceive proper.

And, as the interval that will elapse between the date of this Letter and the return of an Answer from His Lordship must necessarily be considerable, we also beg most respectfully that, if Your Excellency should think proper to Write His Lordship on the subject, you will be pleased to suggest that, in the event of the Memorial being favourably received by His Lordship, the additional Salary may take effect from the date of this Letter.

We beg to add that we remain, &c.,

A. Moodie, J.P.
J. Scott, J.P.
J. Hone.
John Ogle Gage, J.P.
Jocelyn Thomas, J.P.
S. Hood.
C. Robertson.
Robert Stodart.
Anthony Fenn Kemp.
James Reid.
James Thomson.
Hy. MacMichael.
James Grant.
John Grant.
GEO. ARTHUR.

[Transmission of memorial.]

[Request for retrospective payment.]
To the Right Honorable Earl Bathurst, His Majesty's Principal Secretary of State for the Colonies, etc., etc., etc.

May it please your Lordship, we, whose names are undersigned, beg leave most respectfully to represent to your Lordship that, during the last six years and upwards, in which the Emigration of free settlers to Van Diemen's Land has been very extensive, a great number of Emigrants from Scotland have arrived in this Colony and settled in different parts of the Territory.

Strongly attached to the institutions of the Church of Scotland and earnestly desirous of having the ordinances of Religion dispensed to them in this distant land according to the Presbyterian Standards, these Emigrants however, who now form no inconsiderable portion of the Colonial Community, were for several years destitute of the means of religious instruction agreeably to the hallowed customs of their forefathers.

At length the Revd. Archibald Macarthur, a Minister of the Presbyterian Church, was induced at the suggestion of several distinguished and zealous Clergymen of the Church of Scotland to emigrate to Van Dieman's Land, in consequence of the representations that had previously been sent home by the Scottish settlers throughout the Island. Arriving in this Colony in the year 1822, The Revd. Mr. Macarthur was requested to settle as a Presbyterian Minister in Hobart Town, where the number of Scotch Settlers was the greatest, and where he has continued for the last three years to dispense the ordinances of Religion according to the institutions of the Church of Scotland.

Since his arrival among them, the Scots Presbyterians have erected a Scots Church at Considerable expense and contributed to the utmost of their ability to his Support. In consequence, however, of the utter inadequacy of their means to the attainment of an object so desirable as the permanent settlement of a Presbyterian Minister in the Capital of this rising Colony, His Excellency Sir Thomas Brisbane was pleased, at the request of the Scottish Settlers at Hobart Town, to allow their Minister £100 a Year from the Colonial Fund, until a regular Memorial praying for the appointment of a fixed Salary should be forwarded by them to his Majesty's Government.

We therefore, whose names are undersigned, beg most respectfully to solicit Your Lordship's favorable attention to the Religious state of the Scottish Settlers in this vicinity, and to
request that, in the exercise of that enlightened liberality which has always distinguished His Majesty's Government, in reference to the Spiritual welfare of Scotsmen in the British Colonies, Your Lordship will be graciously pleased to appoint for the Minister of the Scots Church in Hobart Town such a Salary as your Lordship may deem sufficient for enabling him to maintain that respectable rank in the Community, which the Ministers of the Church of Scotland have so long and with so much benefit to their country maintained in their Native Land.

We have, &c.,

JOHN OGLE GAGE, J.P.
J. T. GELLIBRAND.
PATRICK WORELL, J.P.
J. GARDNER.
CHARLES McLACHLAN.
WALTER A. BETHUNE.
WILLM. BUNSTER.
CHAS. ROSS NAIRNE.
H. ROSS.
JAMES ATKIN.
ROBERT PITCAHN.
HENRY SCHULTZE.
ROBERT MATHER.
JOHN C. UNDERWOOD.
A. MOODIE, J.P.
J. SCOTT, J.P.
J. HONE.
JOHN MARTIN.
JAMES JEFFREY.
FREDK. SCHULTZE.
DAVID KER, R.N.
W. FLETCHER.
ANTHONY GEISS.

Hobart Town, 30th Decr., 1825.

LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.

Government House, Hobart Town,

My Lord,

Van Diemen's Land, 30th Decr., 1825.

I have the honor to acknowledge the receipt of Your Lordship's Circular of the 6th of July last, notifying the arrangement which had taken place in Your Lordship's Department on the accession of the Services of Mr. Hay.

I have, &c.,

GEO. ARTHUR.
ASSIGNMENTS OF CONVICTS.

During the year 1826, letters, which enclosed the assignments of convicts per the ships named, were sent to lieut.-governor Arthur by under secretary Hay bearing dates as under:

<table>
<thead>
<tr>
<th>Date of Letter</th>
<th>Ship</th>
<th>No. of Convicts</th>
</tr>
</thead>
<tbody>
<tr>
<td>14th April</td>
<td>Chapman</td>
<td>100 Male</td>
</tr>
<tr>
<td>22nd April</td>
<td>Earl St. Vincent</td>
<td>160 Male</td>
</tr>
<tr>
<td>3rd August</td>
<td>Woodford</td>
<td>100 Male</td>
</tr>
<tr>
<td>1st September</td>
<td>Sir Charles Forbes</td>
<td>73 Female</td>
</tr>
<tr>
<td>12th October</td>
<td>Andromeda</td>
<td>146 Male</td>
</tr>
</tbody>
</table>

Earl Bathurst to Lieut.-Governor Arthur.

1st January, 1826.

[A copy of this circular despatch will be found on page 136, volume XII, series I.]

Lieut.-Governor Arthur to Earl Bathurst.

(Despatch No. 1; acknowledged by Earl Bathurst, 7th January, 1827.)

Government House, Hobart Town, Van Diemen's Land,

My Lord,

I had the honor to receive on the 24th Ultimo, by the Ship John Dunn, Your Lordship's Despatch of the 2nd of June, respecting the Establishment of the Van Diemen's Land Company, and communicating to me the favorable disposition with which His Majesty's Government have entertained the proposals of the Company.

Your Lordship is also pleased to inform me that I shall be honored with a more detailed communication when the Copy of the Charter is transmitted; but, in the mean time, Your Lordship directs that the North West District of the Island, bounded on the North by Basse's Streights, on the West by the Ocean, on the East and South, by Lines drawn from either Shore, shall be reserved.

The necessary orders have in consequence been conveyed to the Surveyor General's Department, and I shall hold myself prepared to give every assistance in my power, both to the Gentlemen authorized to carry the Survey and Valuation of the Grant in question into effect, as well as to those who may permanently be required to conduct the affairs of the Company.

When Mr. Curr arrives, and I am in possession of further information, I shall very humbly submit to Your Lordship such observations as I derive from local knowledge upon this undertaking; at present, as far as the Government is concerned, only
one difficulty presents itself, which is, the situation of the Company's Grant in relation to the penal Settlement of Macquarie Harbour!

The Delinquents sent to that Station have always attempted their escape from it at the utmost certain peril of their lives; those who have absconded having generally reached Cape Grim so exhausted, that, destitute of supplies, they have in nine instances out of ten perished in persisting to penetrate the uninhabited Country that lies between Cape Grim and Port Dalrymple; but when the Company shall be established in the North West District, means of plunder will be open to them whereby they will be enabled to recruit their Supplies, and which, perhaps, no measures of precaution will effectually remove.

I have marked this in the enclosed very rough and hasty sketch of the Island for your Lordship immediate reference, and, having given the point more deliberate attention, I shall at a future period take the liberty of renewing the subject.

I have. &c.,

GEO. ARTHUR.

3 Jan.

Appointment of D. M. Percival as colonial secretary.

Lieut.-Governor Arthur to Earl Bathurst.

Government House, Hobart Town, Van Diemen's Land,

My Lord,

I have the honor to acknowledge the receipt of Your Lordship's Despatch No. 6, of the 2nd of June last, notifying the Appointment of Mr. Dudley Montagu Percival as Colonial Secretary, to which Office Your Lordship has been pleased to assign the Salary of One Thousand Pounds per annum, Two Hundred Pounds of which Sum is to be made up from the Colonial Funds!

Mr. Percival has not yet reached Van Diemen's Land, but I shall be happy on his arrival to carry all your Lordship's Instructions respecting him into effect.

I have, &c.,

GEO. ARTHUR.

Lieut.-Governor Arthur to Under Secretary Hay.

Government House, Hobart Town,

Sir,

I have the Honour to acquaint you that the Transport Ship Midas arrived at the Derwent on the 23rd November last, having on board One Hundred and Ten Female Prisoners; but that no despatches were brought by her addressed to myself, by which I could learn the pleasure of Government respecting them.
In the absence, however, of any regular communication to me upon the subject, it appearing by a P.S. Memorandum, attached to the instructions which were transmitted by the Honble. The Commissioners of the Navy to the Surgeon and Superintendent, Mr. Cameron, dated 22nd July last, that it was intended to cause Fifty of the Women to be landed in this Colony, and all the others at Port Jackson, I beg leave to inform you, that this number was accordingly disembarked here from the Midas, in a clean, healthy and orderly condition on the 28th November; the whole of them being immediately assigned as Servants to Settlers; and that a few days subsequently the Midas proceeded with the remainder to Sydney.

Permit me to observe, that it would have a great tendency towards avoiding confusion, if it could be conveniently arranged at Home for Vessels with Prisoners to land the whole of them, either here or at New South Wales, instead of a part at each, as is now sometimes the Case: The whole of these Women might have been received here with immediate means of assigning them to the Settlers.

It is gratifying to me to express that the Surgeon and Superintendent, Mr. Cameron, and the Master, Mr. Baigrie, both appeared to have paid every attention to the regulations, required to be enforced in the Transport of Females, and that the report made by the Women of their behaviour towards them during the Voyage shews it to have been in every way proper.

I have, &c.,
GEO. ARTHUR.

27

EARL BATHURST TO LIEUT.-GOVERNOR ARTHUR.
(Despatch No. 1.)

Sir,
Downing Street, 4 January, 1826.

I have the honour to acknowledge the Receipt of your Dispatch of the 6th of May, accompanied by a statement shewing the number of Officers attached to the Medical Department at Van Diemen’s Land, and submitting the importance of its undergoing immediate revision with a view to the improvement of the system under which that department is at present conducted.

On comparing the state of the Medical Establishment at Van Diemen’s Land with that appropriated for the Service of New South Wales, the proportion, as to numbers, is already in favour of the former Colony, and I cannot, therefore, hold out to you any encouragement to expect that the additional Medical Officers, whom you are desirous should be sent out, can be appointed.
The grounds, on which you have recommended the separation of the Medical Department at Van Diemen's Land from the corresponding Department at New South Wales, appears to render that measure extremely desirable, and you will therefore adopt such measures as you may deem necessary for placing that Department on a better footing, as regards its general arrangements and efficiency, than that on which I am concerned to find by your Communication it has hitherto been conducted.

I have, &c.,

Bathurst.

LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.

(Despatch No. 3.)

Government House, Van Diemen's Land,

My Lord,

9th January, 1826.

In my Despatch No. 18 of the 14th of September last, I had the honor to represent to Your Lordship how greatly the Troops were harrassed in the pursuit of the Bushrangers; since that period one of their leaders, McCabe, has been taken, tried, and executed; A most desperate body of these Ruffians, however under a Leader named "Brady," fourteen in number, are still committing every species of enormity upon the defenceless Settlers, and, flying to their fastnesses in the Hills, have hitherto escaped the unwearied exertions of the Troops.

During the visit of General Darling this lawless Banditti were in full activity, and the Governor will no doubt have informed Your Lordship how very inadequate the Force at my disposal is to the increased Duties of the Colony.

The Captain General will, I am persuaded, spare me any Troops that are disposable in New South Wales; but his means are very limited. It was in his contemplation to send down, if possible, the Head Quarters of the 40th Regt.; but I fear he will be prevented as Colonel Thornton is my Senior in the Service, and perhaps the union of the Military and Civil Authority is almost as necessary, whilst our operations are combined to aid the Civil Power, as the reinforcement itself. It is necessary to execute our plans as soon as they are conceived.

In the Requisition, which I had the honor to transmit to Your Lordship in my Despatch of 9th June, 1824, part of which only has been supplied, I particularly requested 400 Stand of Arms, which, unfortunately, have not been forwarded; and I am now so destitute as not to possess the means of arming a small Band of Thirty Men, which I have approved of being added to the Police Establishment.
Your Lordship's Despatch of the 28th of July last, intimating that an additional Military Force has been directed to be appropriated to the Service of this Colony, is very satisfactory; and I hope, with this aid to put an effectual termination to Bush-ranging, which is a sad interruption to the prosperity of the Settlers. Occasional Runaways may be expected, but Bush-ranging, as a system, must be put down, or colonization cannot proceed.

I have, &c.,

Geo. Arthur.

LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.
(Despatch No. 4; acknowledged by Earl Bathurst, 23rd June, 1826.)

Government House, Van Diemen's Land,

My Lord,

I have the honor to acknowledge the receipt of Your Lordship's Despatch of the 27th of June last, notifying under the circumstances of the supercession of Mr. Abbott as Deputy Judge Advocate that His Majesty had been graciously pleased to direct that a Pension should be issued to him out of the Colonial Revenue at the rate of £400 per annum, and further to appoint Mr. Abbott Civil Commandant of Port Dalrymple at a Salary of £180 per annum, which Appointment is to supersede that of Military Commandant.

In obedience to Your Lordship's Instructions, I have notified to Mr. Abbott that the necessary orders have been issued to the Colonial Treasurer for the payment of his Salary, and that he is to proceed to Launceston to take upon himself the Appointment of Civil Commandant.*

Copy of the Correspondence which has passed, I have the honor to enclose, by which Your Lordship will perceive that as civil there are three serious difficulties in the way of Mr. Abbott's Appointment to the Civil Commandantship: 1st Mr. Abbott's Duties as a Member of the Legislative Council; 2nd the almost positive necessity of the Office of Military Commandant, under the existing circumstances of the Colony, and, 3rd the extreme hardship of the case upon Lt. Colonel Balfour!

Mr. Abbott arrived just at the same time with the Governor, and I have had therefore the benefit of General Darling's opinion upon the subject, who was decided in the propriety of my endeavouring to provide for Mr. Abbott by other means, until the case could be brought under Your Lordship's reconsideration; and I lament exceedingly that I had nothing in my power to offer that is satisfactory to Mr. Abbott.

Your Lordship is perhaps aware that Mr. Abbott is in the decline of life, above Sixty Years of Age, and by no means equal
HISTORICAL RECORDS OF AUSTRALIA.

1826. to any very active employment at Launceston, much less is he capable of riding across the Country, a distance of 120 Miles, to attend the Legislative Council, an undertaking, I may venture to say, he can never perform in a Carriage in less than three days.

My Despatch of this date, No. 3 upon the state of the Colony with regard to the Bushrangers, with the report Your Lordship will have receiv'd, upon the same subject from General Darling, will be convincing that it is a serious time to take the immediate Command of the North Side of the Island out of the hands of a Military Officer: to meet the rapid movements of the Bushrangers, the Military are kept incessantly upon the alert at every point, for we are obliged to supply the want of numbers by the activity of the few we have. Port Dalrymple, though more accessible of communication than other Stations, is one of the most remote, and a Military Commander at that Post, on whose zeal I can rely, and on whose judgement I can depend, is of great importance.

On my arrival in the Colony, a Field Officer held the Commandantship, whose domestic circumstances were of so objectionable a nature that I consider'd the less he was called forward the better; but, upon my setting this fully, and strongly before the Governor, he consented to a change, and Lt. Colonel Balfour of the 40th Regt., an Officer of great reputation, was selected, and put into the Commission of the Peace for the express purpose of uniting the Civil with the Military Authority. Colonel Balfour was, at the time of his Appointment, the Senior Officer in New South Wales, and, being the first for any Command, had he not been selected for Port Dalrymple, he would now have held some other Appointment.

I do not exactly understand Your Lordship's intentions as to the Office of a Civil Commandant; there is already a Police Magistrate at Launceston, confirmed by Your Lordship who superintends all matters of that nature.

The impression, therefore, on my mind, is that Your Lordship made this Appointment with a view of removing the very objectionable one that existed at the time of Mr. Abbott's departure from Van Diemen's Land: that Your Lordship was not at the moment fully in possession of the detail of the Commandant's duty, and that it was not at all in Your Lordship's contemplation to have superceded Colonel Balfour by direct orders from Home, and that I have endeavou'rd to convey the same to that Officer; but although I am fully under this impression, I cannot take upon myself to keep Mr. Abbott altogether out of Office; and, as it is impossible to retain two Commandants, it is my present
intention to recall Colonel Balfour, as soon as Mr. Abbott arrives at Port Dalrymple, until Your Lordship's further pleasure is known.

It has happened untowardly that, in one or two other points, I have been obliged to decide in a manner unsatisfactory to Mr. Abbott's wishes, which weighs with me in this particular, and I feel confident that Colonel Balfour's good sense will on reflection lead him to be satisfied that his character is in no way impeached, but that his supercession is entirely the result of the great changes which these Colonies have undergone, and which, at so great a distance, it has been difficult to adjust without some temporary inconveniences.

It will not be possible long to continue the Offices of the Commissioner of Court of Requests, and Chairman of the Sessions, for the whole Island in the hands of any one Individual. Will Your Lordship, therefore, allow me with great submission to suggest whether these Offices on the North Side of the Island may not be given to Mr. Abbott, and the Commandantship restored to Colonel Balfour, who has a family of eight Children.

I have, &c.,

GEO. ARTHUR.

[Enclosure No. 1.]

MEMORANDUM BY MR. E. ABBOTT.

3d December, 1825.

I beg leave respectfully to suggest that I will accept the office of Commissioner of the Court of Requests in the room of the Commandantship of Port Dalrymple, provided I shall receive a Salary of £500 per Annum which was what I refused in England, a House or allowance for one, not to visit Launceston on the Circuit of the Court, but only the environs of Hobart Town, my expenses being paid for the same, and to place me next in rank to the Chief Justice; but, should the Salary of Commandant be augmented hereafter, or should another person be appointed Commissioner so as to oblige me to vacate that office. I should then be at liberty to accept the Commandantship of Port Dalrymple.

Memo.—The above memo. was personally delivered by Mr. Abbott to Genl. Darling.—G.A.

[Enclosure No. 2.]

LIEUT.-GOVERNOR ARTHUR TO MR. E. ABBOTT.

Government House, Hobart Town,

Sir,

7th Jan., 1826.

I have the honor to inform you that Earl Bathurst, in the Despatch which was committed to your care, notified to me
that His Majesty had been graciously pleased to direct that a Pension should be issued to you out of the Colonial Fund at the rate of £400 per annum, in addition to the appointment of Civil Commandant of Port Dalrymple, with a salary of £180 per annum.

Colonel Balfour of the 40th Regt. having been especially selected and sent down from New South Wales in the Commission of the Peace for the express purpose of combining any duty of a Civil nature with that of the Military Command, as Commandant of Port Dalrymple, a circumstance of which I think Lord Bathurst must have been uninformed, rendered your appointment one of peculiar delicacy towards that officer; and I therefore availed myself of the presence of General Darling to consult with him on the subject.

It was the Governor in Chief’s opinion, which he personally expressed to you, both in reference to the present alarming state of the Country, and to the circumstance of your being a member of the Legislative Council, that you could not possibly enter upon the appointment of Civil Commandant without great prejudice to the Public Service of the Colony.

I have, therefore, given the utmost consideration to the subject, with the desire to make some arrangements until His Majesty’s pleasure should be known, in an appointment for you which might be less free from difficulty, and at the same time equally, if not more beneficial to yourself. I need not recapitulate the obstructions in my way to attain this end as they have been the subject of frequent personal Conversations; but, the result being that there is no appointment at my disposal which will be satisfactory to you, I have determined to carry Lord Bathurst’s Instructions into effect without further delay; and you will be pleased at your earliest convenience, to proceed to Port Dalrymple as Civil Commandant; holding yourself prepared to give your attendance to the Legislative Council, when called upon.

On my arrival in this Colony, being desirous to ascertain the exact duties of the Commandant at Port Dalrymple, I called upon the Officer in Command, Lieutt. Colonel Cameron, to send me a Copy of his instructions; I found none had been issued* to him, but that the duties, he performed, were of a united nature, partly civil, but chiefly confined to the charge of the Military Generally in the County of Cornwall, affording such aid as might be required by the Civil power; No Controul over the receipts or expenditure of the Public Money, nor authority to erect or cause the repair of the public Buildings, was vested by my Predecessor in the Commandant, without his previous

* Note 17.
sanction; nor have I allowed any such authority. The several Departments make their reports direct to Head Quarters upon all official detail, just as is done in Hobart Town, and the actual business of the Crown is carried on upon the same principle; no charge of expenditure, either in Money or rations, being admitted by the Board of Audit, without the express sanction of the Lieutt. Governor being produced by the accountant. The functions of Police have been so ably and zealously conducted by Mr. Mulgrave that I have, on every occasion of reference, suggested to the Commandant the propriety of leaving all matters of Police in his hands, simply rendering assistance, whenever military aid was required, or pressing circumstances called for an interference of higher authority.

In this state of things, I find it difficult to define the duties of a Civil Commandant; nor do I quite apprehend the intention of Lord Bathurst respecting it; but, although I think you are mistaken in supposing that the term Civil Commandant conveys any authority over the Military, or that it is in my power to delegate to you any of the powers of the Lieutt. Governor, to be exercised when I am not actually resident at Launceston (which indeed is no more necessary at Launceston than in any other Township in the Territory), I shall be happy to employ your services in such manner as may appear most advantageous to the Government; and I am sure you will in that way be disposed to afford them.

I have, &c.,

GEORGE ARTHUR.

[Enclosure No. 3.]

MR. E. ABBOTT TO LIEUT.-GOVERNOR ARTHUR.

Sir,

New Town, 9 January, 1826.

I have the Honour to acknowledge the receipt of your Excellency’s Letter of the 7 Instant notifying to me that His Majesty had been graciously pleased to grant me a Pension in addition to the appointment of Civil Commandant at Port Dalrymple. You were likewise pleased to signify your desire that I should proceed thither at my earliest convenience. I shall lose no time in complying with Your Excellency’s Commands, and would not now take up your attention by replying to other parts of your Letter, if my silence upon the subjects, I shall have the honour to refer to, would not appear to bear a different construction than it does in effect.

It seems therefore to me, when your Excellency says that there was no appointment at your disposal satisfactory to myself, I had refused the appointment of Commissioner of the Court of Requests (the only one you offered me), whereas you...
must be aware that under the circumstances stated by His Excellency General Darling and yourself, I consented to take that appointment, and the terms were finally acceded to, as contained in my Memorandum, with a variation that was settled in the way you desired, although I told you all along I was apprehensive a Commissioner would be appointed in England.

With respect to your Excellency's observation that I was mistaken in supposing my appointment at Port Dalrymple would give me military authority over the Troops, I beg leave to disclaim this; all the power this Office gives me, I considered is that, in cases of emergency, the Officer commanding at that Station is bound to comply with any demand or requisition I might make for Troops in aid of the Civil Power.

I presume to hope the same indulgencies will be extended to me, as have been enjoyed by former Commandants, such as the Government House, for myself and family to reside in, Garden, etc., as they form a material part of the advantages of that Office.

Permit me to add that I shall be always ready to comply with any instructions you may be pleased to honour me with, and to give my attendance as a Member of the Legislative Council, whenever called upon.

I have, &c.,

EDW. ABBOTT.

[Enclosure No. 4.]

LIEUT.-GOVERNOR ARTHUR TO MR. E. ABBOTT.

Government House, Hobart Town, 9th January, 1826.

Sir,

The contents of your Letter, which I have this Moment received, induces me to think that my communication to you of the 7th Instant has been misunderstood. When I observed that there was no situation which would be satisfactory to you, I did not in the most remote degree intend to imply that there had been the least unwillingness on your part to fall into any arrangement, which might remove the difficulties which have stood in the way of your appointment, as Civil Commandant at Port Dalrymple; the very reverse is the fact, because I not only know that you have been disposed to remove any difficulty, but I feel very much obliged to you for having done so. When I state, therefore, that there is no situation which would be satisfactory to yourself, I literally intend to express that I have nothing to offer, which could be satisfactory; the only arrangement, which has occurred to me, was that which I suggested respecting the Commissionership of the Court of Requests; but that I finally abandoned for three reasons: the one, because you so strenuously urged that it must entirely appear to be an Act of mine, with which you had no concern, in order to avoid all
appearance of inconsistency on your part. Secondly because it
appears that the Sessions must still go on in the interim, which
would take the Chairman the same Circuit as he now performs,
with the united offices; and lastly, as there are very strong
grounds to suppose from your Information that the Commission-
ship of the Court of Requests is already filled up from Home.

With regard to your observation respecting the Military, I
think you will be in recollection of my observation that, as Civil
Commandant, you would have no kind of control over the Mili-
tary, that as any other Magistrate you might require Military
aid, but that your Authority could go no further. You however
replied that there was certainly something Military in the Term
"Commandant." It was to remove any misapprehension of this
kind that I again touched upon it in my Letter, because I am
very desirous that nothing should arise to create any dissention
between the Civil and Military Authorities in the Colony, and
I am sure such a precaution is most essentially requisite under
the circumstances of Colonel Balfour's supercession.

Upon the other points to which you allude, I can only say
that, having made up my mind in the face of the difficulties
which present themselves to your proceeding to Port Dalrymple
as Civil Commandant, I shall be happy to contribute to the
comfort of your family, and to invest your Office with all neces-
sary Authority.

GEO. ARTHUR.

LIEUT.-GOVERNOR ARTHUR TO UNDER SECRETARY HORTON.

(Despatch acknowledged by under secretary Hay, 27th June, 1826.)

Government House, Hobart Town, Van Diemen's Land,

Sir,

January, 1826.

I have the honor to acknowledge the receipt of your letter
of the 8th of July last enclosing Copy of a letter addressed by
Messrs. Scott Fairlie and Co. to Earl Bathurst requesting a
Grant of Land for Lieut. Blair, R.N., in Van Diemen's Land,
and communicating His Lordship's desire that I will give Mr.
Blair a Grant in proportion to his means of cultivating the same.

Mr. Blair arrived in Van Diemen's Land many Months since,
and, at the request of Captain Wood, a Settler of great respecta-
bility, a Grant of Land, in proportion to his means, was ordered
to be reserved for him, but I regret to say Mr. Blair has not
proved himself worthy of indulgence, being exceedingly addicted
to drinking.

I have, &c,

GEO. ARTHUR.
HISTORICAL RECORDS OF AUSTRALIA.

LIEUT.-GOVERNOR ARTHUR TO UNDER SECRETARY HAY.

Government House, Hobart Town, Van Diemen's Land,

Sir,

I have the honor to acknowledge the receipt of your letter of the 9th July last conveying to me Lord Bathurst's approval of Mr. Crisp becoming a Settler in Van Diemen's Land, if he prefers it to New South Wales.

I have, &c.,

GEO. ARTHUR.

LIEUT.-GOVERNOR ARTHUR TO UNDER SECRETARY HAY.

(Despatch acknowledged by under secretary Hay, 1st July, 1826.)

Government House, Hobart Town, Van Diemen's Land,

Sir,

I have the honor to acknowledge the receipt of Mr. Horton's letter of the 15th of March last, communicating to me that Lord Bathurst had approved, on the representation of Doctor James Hall, of that Gentleman's being confirmed in the 2,000 Acres of Land provisionally ordered to him in the District of Strangford.

On reference to the Surveyor's Department, I found that, in the Month of April, 1823, 2,000 Acres of Land were ordered for Doctor Hall on the express condition of his returning to settle the following year; but, so far from complying with this stipulation, Doctor Hall came out in the Year 1824 as Surgeon Superintendent of a Convict Vessel, but proceeded to make his voyage without fulfilling his engagement. The Land consequently remained on my arrival in the Colony in its unimproved state, with several others located under similar circumstances to the prejudice of Settlers subsequently arriving, who could have at once entered on possession, and commenced their improvements; many of these Location Orders have in consequence been deemed void, and other Settlers placed in possession. Doctor Hall's has not yet been given away; but, as Sir Thomas Brisbane has very lately transmitted to me several documents tending to show that Doctor Hall has made some glaring misrepresentations Home respecting the local Government,* I have considered Lord Bathurst would approve of my deferring to act upon the Instructions respecting this Land until Sir Thomas Brisbane's counter-representations have been fully considered.

Of course, if it is Lord Bathurst's final pleasure that Doctor Hall should have the land without complying with the conditions of residence and improvement, which have been as far as possible enforced for the last eighteen or twenty Months, not a moment's hesitation will remain with me in carrying it into

* Note 15.
effect; but probably it may be well for me to intimate to you that it will most certainly lead to many other similar applications to His Lordship.

In insisting upon residence and improvement, I consider I am acting upon the spirit of Lord Bathurst's Instructions, and which leads to many favorable results, the introduction of Capital, the increase of a respectable Population, and the better employment of the Crown Prisoners.

By granting Lands to non Residents, the demoralizing system of taking Sheep and Cattle upon the Thirds is encouraged, and the Individual derives a Revenue without conferring any corresponding advantage either to the Crown or to the Community.

I speak of this, however, as a General Rule, subject of course to such exceptions as Lord Bathurst may think proper to direct.

I have, &c.

GEO. ARTHUR.

LIEUT.-GOVERNOR ARTHUR TO UNDER SECRETARY HORTON.

My dear Sir,

Van Diemen's Land, 12th January, 1826.

I have had the honor to receive your Letter of the 29th of June, communicating that, in addition to Lord Bathurst's public Dispatch on the subject of Mr. O'Farrel's Appointment to succeed Doctor Bromley as Naval Officer, His Lordship was desirous to convey to Mr. Hamilton his assurance that, had it not been for the very strong claims of Mr. O'Farrel upon his Lordship's patronage, he should have felt gratified in continuing Mr. Hamilton's Services, and that it would afford Lord Bathurst pleasure to confer an Office upon him on some future occasion.

Mr. O'Farrel has not yet arrived, and, as probably he is the Bearer of the Official Dispatch alluded to in your Letter, it accounts for my not having been honored with any communication upon the subject, since I reported upon Doctor Bromley's defalcation. I have, however, enclosed copy of your Letter to Mr. Hamilton, and, notwithstanding the natural feeling of disappointment at the intimation it contains of his not being confirmed, he feels highly gratified at Lord Bathurst's very flattering and condescending expressions towards him.

Mr. Hamilton's conduct has been highly meritorious as a Public Officer, and I do him but justice in assuring Lord Bathurst that he has acted with great firmness in the Department in the face of all the stir and bustle of the Merchants, who are always, and everywhere, anxious to prevent any interference with their Craft. There has been an evident systematic attempt to run down Mr. Hamilton and every other Public Officer, who
13 Jan.

Sir,

I am directed by Earl Bathurst to transmit to you the Copy of a letter, which I have received from Lieut. Thos. Dutton of the Royal Navy, soliciting a Grant of Land in Van Diemen's Land, whither he is about to proceed in a vessel of his own, freighted with a large quantity of Stock and other necessaries. By that Letter and the reply which has been given to him, you will perceive the particular objects with which Mr. Dutton is proceeding to the Colony, and how far Lord Bathurst is willing to promote them; and his Lordship has only further to request that you will direct a Grant and Reservation of Land to be made to Mr. Dutton in conformity with the promise held out in my letter, of which a Copy is enclosed.

I have, &c.,

R. W. HAY.

[Enclosure.]

My Lord,

134 Fenchurch Street, 12th Jan., 1826.

I have the honor of applying to your Lordship for a Grant of land in Van Diemen's Land. I have engaged a competent bailiff, wheelwrights, Carpenters, Smith, Bricklayer, and farm servants; with their wives and families, and invested considerable capital in the purchase of valuable live stock, and a new vessel, to carry these and continue conveying more people, stock, and various machinery for the several purposes I have in contemplation. I possess the means and inclination of building on, and cultivating a larger grant than is usually given, of employing many convicts, and materially benefitting the Colony; and that my energies may not be cramped, I am induced to solicit your Lordship for ten thousand acres, or such a proportion of that number as your Lordship may deem proper, with the remainder in an adjoining reserve; as I am nearly ready to sail and most respectfully anxious to obtain your Lordship's reply, I enclose the letters of my friends General Thomas and J. Harrison, Esqr., and have the honor, &c.,

THOMAS DUTTON.
[Sub-enclosure No. 1.]

GENERAL THOMAS TO EARL BATHURST.
United Service Club, Regent Street,

My Lord,
26th December, 1825.

I have the honor to bring under your Lordship's notice Testimony in Lieut. Thomas Dutton, R.N., who wishes to emigrate to our Southern Settlements.

He will employ a Capital of about Fifteen Thousand Pounds, and, from my knowledge of him, his plans, and capability, I do not hesitate to add my belief of the Services he will render the Colonies.

I have, &c,

WILLM. THOMAS.

[Sub-enclosure No. 2.]

MR. J. HARRISON TO EARL BATHURST.
Walbrook Buildings, Walbrook,

My Lord,
27th Decr., 1825.

Lieutt. Thomas Dutton of the Royal Navy intending to proceed to Van Dieman's Land for the purpose of settling at that place, I have the Honor to inform your Lordship that I have known Lieutt. Dutton a considerable time, and can assure your Lordship that he is a Person of strict Honor and Integrity.

I understand he will proceed to Van Dieman's Land, with a Capital of about £15,000, and I have no Doubt he will prove a valuable Acquisition to this part of His Majesty's Colonies.

I have, &c,

JNO. HARRISON.

LIEUT.-GOVERNOR ARTHUR TO UNDER SECRETARY HAY.
Government House, Hobart Town,

Sir,
14th January, 1826.

I have the Honour to transmit to you, the applications of several Convicts for their families being sent from England to Van Dieman's Land; and as the Certificates of their respective Employers state the ability of the applicants to maintain their Families, I beg to recommend them to the favourable consideration of the Earl Bathurst.

I have, &c,

GEO. ARTHUR.

LIEUT.-GOVERNOR ARTHUR TO UNDER SECRETARY HAY.
Government House, Hobart Town,

Sir,
14th January, 1826.

I have the Honour to transmit the application of Robert Grant, for his Wife and Family being sent from England to Van Dieman's Land.
This Man has become free by servitude; but, as it has been stated to me that the forwarding of his application during the Term of his Sentence was not intentionally omitted, and that he is a very industrious and well behaved person, desirous of establishing himself with his Family in this Island, I beg to recommend his request to the favourable consideration of the Earl Bathurst.

I have, &c.,

GEO. ARTHUR.

LIEUT.-GOVERNOR ARTHUR TO UNDER SECRETARY HAY.

(Despatch acknowledged by Earl Bathurst, 25th June, 1826.)

Government House, Hobart Town, Van Diemen's Land,

Sir,

16th January, 1826.

I have the honor to acknowledge the receipt of Mr. Edward Abbott's letter of the 27th of June informing me that Mr. Abbott had stated to Earl Bathurst that a Grant of Land had been provisionally made to him by the late Lieut. Governor consisting of 3,210 acres, and communicating thereupon Lord Bathurst's Instructions "that the location, which shall appear to have been given to him, may be confirmed on the same conditions under which Lands are at present granted to Individuals receiving Grants."

Mr. Horton has been so obliging as to forward to me, in a private letter dated the 27th of June last, a List of all Grants provisionally made by Colonel Sorell, previous to his departure, and which, I conclude, was presented by him to Mr. Horton, in which I find no mention is made of this Grant to Mr. Abbott. I do not mean that it is to be inferred from hence that no such location has been under consideration, but it's not being included in the List is remarkable in connexion with the following circumstance.

Amongst the earliest letters which I received from the Governor of New South Wales were two, dated 10th of May, 1824, of which I enclose Copies, notifying that two locations of land were specially ordered to be reserved to the Crown! These locations, I found, from a pencil note of Colonel Sorell's, had been applied for by Mr. Abbott, but the answer seems, as plainly as language can shew it, to convey a negative to the application, and so Colonel Sorell must have understood at the time, as he subsequently wrote a note to me expressing himself to that effect, and of which, the circumstance of these locations being omitted in the list presented to Mr. Horton, is a strong confirmation.

The land solicited consists of two separate parcels: the one, containing 3,000 Acres situated on the South Esk River about 45...
Miles from Launceston, the other of 210 Acres, adjoining the Township of Launceston. This seems not to have been exactly explained, for Lord Bathurst, by Mr. Horton’s letter, evidently understands the land applied for to be one continued Grant of 3,210 Acres.

Upon the 3,000 Acre location I have only to observe that, except to Colonel Sorell himself, I do not find a single Grant to that extent has been made to any Settler, save in the case of Mr. Lawrence, which is under Lord Bathurst’s special consideration.* 2,000 Acres have been always considered the Maximum Grant in Van Diemen’s Land; and, on progressive improvements and satisfactory outlay of Capital, an additional 2,000 Acres have been granted in some instances. With respect to Mr. Abbott, I find that his original Grant* was made in New South Wales consisting of 2,000 Acres, which he sold; a second Grant of 2,000 Acres, most advantageously situated, being only ten Miles from Hobart Town, was made to him in Van Diemen’s Land, which has never been improved by the Grantee, but let at an annual rent of £110.

The additional 3,000 Acres must therefore be considered an extraordinary exception in favor of Mr. Abbott, but every difficulty has been removed respecting it, and possession is now ordered under Lord Bathurst’s authority.

The other location of 210 Acres in the vicinity of Launceston is very objectionable; scarcely any Land, certainly none of good quality, has been reserved for the Crown in the neighbourhood of the Township of Launceston, (which is likely to be only inferior to Hobart Town in extent), and the consequence will be that, for any objects of future improvement or Public utility, the Crown must purchase at a most extravagant price, and probably within a very limited period, the land, of which it now dispose. Even Mr. Abbott himself states to me that he thinks this land ought never to have been given away, but his Argument is that, if he had not applied for it, some other Individual would.

On my arrival here, there were other persons circumspected precisely as Mr. Abbott now is; Colonel Sorell had ordered Land for them provisionally (i.e. subject to the confirmation of the Governor in Chief) around the Township of Launceston. A Memorial was forwarded by the Inhabitants to Sir Thomas Brisbane, copy of which I enclose, praying that these locations might not be confirmed to their common inconvenience and prejudice; A communication was in consequence made to me by the Governor, but the Gentlemen concerned did not even wait for the result of any official report, but, seeing their locations were

* Note 19.
Opposed to the Public Interest, they immediately abandoned all claim founded upon Colonel Sorell's provisional location, and which, in point of fact, in the case of Mr. Abbott is no claim at all: for it was never confirmed.

I would further submit that this extra location of 210 Acres breaks in upon a principle by which I have been undeviatingly guided; never to separate a Grant! If a maximum Grant is made to any Individual it is the plain policy of the Government to induce such a Settler by all means to occupy and improve the Land, for then he not only becomes the personal Superintendent of his Crown Servants, but promotes what is so very desirable, residence in the Interior. Now, if in addition to a maximum Grant, a smaller location is made in the vicinity of the Township, the Interest of the Settler is divided; he seeks to promote his personal comfort and security, and leaves his Flocks and Herds and Convict Servants to the management of a careless Overseer.

If it is Lord Bathurst's pleasure to give this land to Mr. Abbott, I shall of course after this explanation unhesitatingly carry His Lordship's Instructions into effect; but, for the sake of that consistency which is so particularly desirable in granting Lands, I have felt it my duty to submit these observations, which may possibly throw further light upon the subject than was possessed at the moment Mr. Abbott's application was presented in Downing Street; and I would further submit, and take the liberty of recommending, in place of locating to Mr. Abbott the 210 Acres which it is so desirable to the Crown to retain, that it would be an act of Grace to charge the quit rent upon the additional 3,000 Acres of Land now granted to him at the rate of one and a half per Cent., upon the estimated value of the land (which may be at least averaged at 10s. per Acre) instead of five per Cent. at which rate Lands are now chargeable.

I have, &c.,
Geo. Arthur.

[Enclosure No. 1.]

Colonial Secretary Goulburn to Lieut.-Governor Sorell.

Sir,

Colonial Secretary's Office, 10th May, 1824.

I am directed by the Governor to have the honour to request that Two Hundred and Ten Acres in the District of Launceston, Van Diemen's Land, bounded on the South Side by a West line of twelve Chains fifty links, commencing at the South West angle of the Burial ground; on the West Side by a North line to the North Esk River; on the North and North
East sides by that River; and on the East side by a Grant to William East, and the Burial Ground; may be reserved for the use of the Crown.

I have, &c.,

F. Goulburn.

[Enclosure No. 2.]

The Memorial of the Inhabitants of the Town in Launceston and its vicinity in V. D. Land,

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

Most respectfully Sheweth,

That Your Memorialists are moved to address Your Excellency in consequence of its having come to their Knowledge that Applications have been made by a few Individuals to Your Excellency for the whole of the valuable Lands and Water in the vicinity of Launceston, and, if such are given, it must ultimately be purchased by the Inhabitants at an exorbitant price.

That the Town of Launceston is situated on the Banks of the North Esk River near its confluence with the South Esk or Cataract and Tamar Rivers. That the Water of the North Esk, from whence Your Memorialists draw their principal Supply, is for Six months in summer Brackish and not fit for domestic use, and at all times of the Year is very nauseous from the quantity of saline mud mixed therewith caused by the Ebbing and flowing of the Tides.

That Your Memorialists frequently carry Water from out of the same River at the distance of one Mile and a half to the Eastward of the Town; but the place, from whence it is procured, is the property of Thomas Cookson Simpson, Esquire, J.P., who has recently demanded and been paid the Sum of Six pence per Load.

That the South Esk or Cataract River is bounded on each side by high rocks and precipices; that there are several Falls of Water of Cataracts near its mouth, the nearest of which does not exceed the distance of Five Hundred Yards.

That it has been and now is in contemplation among Your Memorialists, if the sanction and Assistance of his Majesty's Colonial Government can be obtained, to build and erect an aqueduct by Subscription to convey the Water from the first Cataract along the Banks of the River into the Town, as also to erect a Flour Mill, Your Memorialists being frequently compelled to grind their Wheat with Steel Mills, or send either to Sydney or Hobart Town for a Supply of Flour. Your Memorialists beg to inform Your Excellency that, on the Banks of
1839.
16 Jan.
Memorial
protesting
against
alienation of
land and
requesting
grant for public
purposes at
Launceston.

the North Esk, there is a tract of Land immediately fronting the
Town, forming a peninsula the Isthmus of which divides the
Tamar from the North Esk River and is not a Mile in Breadth.

That at the Confluence of the North and South Esk rivers
with the Tamar is a Bar of sand or mud, which prevents Vessels
of greater burden than One Hundred and fifty Tons from get-
ing within Four Hundred Yards of the Government Wharf;
by cutting a Canal across the peninsula above mentioned Vessels
of upwards of Three Hundred Tons could lay within one foot of
the Government Wharf, the present landing place.

That the Land of the Peninsula and across the Isthmus is a
dead level of the richest Soil in the Territory, entirely free from
Timber, Rock or Stones, across which a Canal might be cut at
a comparative small expense; That the Land does not lie lower
than a great part of the Town of Launceston already Built upon,
and is admirably adapted for Houses and Gardens but particu-
larly for the building of Breweries, Distilleries, Wharfs, and
ultimately Commercial Docks, and lies directly opposite the
Centre of the Town, where numbers of Houses and Stores are
erected and now building.

That, should the above Peninsula be reserved for the Town,
a Subscription would be raised to defray the expense of building
a Bridge across the said North Esk river, which would cost in
erecting from Three Hundred Pounds to Five Hundred Pounds,
and would materially facilitate the Communication with George
Town, the Heads and numerous Farms on the Banks of the
Tamar. The tide of Population must inevitably flow in that
direction from the Advantage of Water Carriage, as also from
the Circumstance of the Government road to George Town and
the populous District of Tamar passing thro' its centre.

Your Memorialists beg to represent to Your Excellency that
in the event of Locations larger than Town Allotments being
granted, it will totally obstruct the increase and employment of
Launceston, which is in a thriving state and of rapid increase.

That Your Memorialists pray Your Excellency will be pleased
to give orders that no Land within two Miles of the Town be
located to any Individual larger than the quantity usually allowed
for Building upon, and most humbly beg that Your Excellency
will grant to Your Memorialists in trust for the benefit of the
Town One Hundred Yards in breadth from the South Banks
of the South Esk River, Cataract River, extending from the
Basin immediately above the first Cataract to its mouth a dis-
tance of about five hundred yards for the purpose of building an
aqueduct by Subscription amongst Your Memorialists to convey
the Water therefrom into the Town for domestic purposes, as also to drive a Flour Mill of which this Settlement is so particularly destitute.

And Your Memorialists in duty bound, etc., etc.

Signed by 67 Inhabitants of Launceston and Neighbourhood.

[Enclosure No. 3.]

LIEUT.-GOVERNOR ARTHUR TO MR. E. ABBOTT.

Sir,

Government House, 12th January, 1826.

I beg to inform you that Mr. Horton has communicated to me that you had stated to Earl Bathurst that a Grant of Land had been provisionally made to you consisting of 3,210 Acres, and Lord Bathurst has therefore desired that the Location, which shall appear to have been given to you, may be confirmed upon the same Conditions under which Lands are at present granted to Individuals receiving grants.

On referring to the Documents in the Secretary's Office, I perceive that The Lieutenant Governor recommended two reserves for you, one on the South Esk for 3,000 Acres of Land, the other in the District of Launceston for 210 Acres; neither of these were originally confirmed to you, as was the case with other reserves by Sir Thomas Brisbane, but both were ordered to be reserved to the Crown. With regard to the 3,000 Acres under Lord Bathurst's Authority, no difficulty exists, but, it does not appear to me that the 210 Acres, which are expressly ordered to be reserved to the Crown by Sir Thomas Brisbane, and in my Opinion most prudently, should be located to any Individual until the case is more fully before Lord Bathurst as it is clear to me, upon the face of Mr. Horton's Letter, that the Circumstances and Situation of the Land were not at all in His Lordship's Contemplation.

In deferring to act upon Mr. Horton's Letter, the Land will remain altogether unappropriated, even to any Government purposes, so that you will have full opportunity of making the appeal you propose.

I have, &c.,

GEO. ARTHUR.

[Enclosure No. 4.]

MR. E. ABBOTT TO LIEUT.-GOVERNOR ARTHUR.

Sir,

New Town, 14 January, 1826.

I have just had the Honour to receive Your Excellency's Letter of the 12th Instant; but I am not prepared to say how the misapprehension has actually arisen in the communication my friends had with Earl Bathurst or Mr. Wilmot Horton respecting the Lands, which I considered were located to me previous to my departure for England in June, 1824; but I
understood they were verbal, as well as one I had the honour of holding with Mr. Horton on the subject, when I stated to him, that there were two Locations in question; but, in the hurry of business, I suppose he has forgotten it, and has sent out the order for the total quantity without reference to any particular spot.

With regard to that part of your Excellency's Letter, wherein you state that the late Lieutenant Governor recommended two reserves for me, one of 3,000 Acres at the South Esk, and another of 210 Acres near Launceston, and that neither of them were originally confirmed, I am much surprized at, as Colonel Sorell, in a Letter to me previous to my departure for England, informed me Sir Thomas Brisbane had approved of them, and a copy of that Letter I had the Honour to send to your Excellency.

I am not desirous of giving your Excellency or the Colonial Office any unnecessary trouble in the Location you wish to withhold from me, which is the most valuable of the two; more particularly after you stated you would recommend to Government that I should have the 3,000 Acres on the same terms that Land Compensation was granted in May, 1824; therefore, I am willing to accept any compensation you may please to offer in lieu of the Land near Launceston.

I have, &c.,

EDW. ABBOTT.

LIEUT.-GOVERNOR ARTHUR TO UNDER SECRETARY HORTON.

(Despatch marked “Private.”)

Governt. House, Van Dieman's Land,

My dear Sir,

16th January, 1826.

I have the pleasure to acknowledge the receipt of your Letter* of the 20th of June last, marked Private, informing me that it has been intimated to Lord Bathurst through a private Channel that I had transmitted to the Governor in Chief a charge against the Deputy Surveyor General that he had been in the habit of receiving Bribes from Persons having business to transact with his Department, and that, no allusion having been made to the circumstances in my late Dispatches, Lord Bathurst had called upon Colonel Sorell to report whether, during any period of his administration of the Government, any charge of this nature either directly or indirectly had been alleged against Mr. Evans, or whether from the Character borne by that Officer there were any grounds for such an imputation, and transmitting to me an Extract from Colonel Sorell's reply to yourself, you intimate to me Lord Bathurst's request that I will investigate the business thoroughly, and report to you the result for His Lordship's information.

* Note 20.
ARThUR TO HORTON.

The intimation, which Lord Bathurst has received of my having transmitted a charge against Mr. Evans for receiving Bribes, is not strictly correct. But it is very true that almost immediately after my arrival in this Colony I communicated to the Governor that so many intimations were made to me of the undue sale, barter, and transfer of Land, and of the personal feeling which the Deputy Surveyor General was represented to possess in many of these transactions, that I could not but recommend to Sir Thomas Brisbane it would be prudent that no Grants for Land in this Colony should be issued in N. S. Wales, but that they should be transmitted to me for the purpose of being fully investigated before they were delivered to the Parties for whom they were intended. Mr. Evans proceeded to Sydney about that period, and I did not withhold from him, before his departure, either the Reports, which had reached me or my communication to Sir Thomas Brisbane upon the subject, an extract from which I beg to enclose. This subject was again partially renewed in a Letter, which I addressed to Sir Thomas Brisbane respecting several Locations, which had been made at Launceston, one of which regarded Mr. Lawrence's Grant, and which, having been since the subject of an Official Communication to Lord Bathurst in my Dispatch, No. 12, dated 11th of August last, I need not now enlarge upon.

With regard to Colonel Sorell's Extract, it is with the greatest reluctance that I make any observations upon it: that Mr. Evans was in the habit of expecting and receiving Presents, and that no one could get any thing done by him officially without a douceur was a matter of so much notoriety, whether true or false, that I had not landed in Hobart Town 48 hours without hearing it from various quarters.

These rumours I stated to Colonel Sorell, and had two or three conversations with him upon them, when he very fully admitted that he had received intimations of a similar nature, but had never been able to obtain any positive proof; it appeared, however, to me that, as Mr. Evans stood so very high in the opinion of Colonel Sorell, it was very improbable any Individual would come forward with accusations at a moment, when Lands were locating with such magnificent liberality. It is extraordinary in the communications I had with Colonel Sorell that he should never have dropped the smallest hint of the extra-official services for Individuals to which he alludes in his letter to you, and for which he observes, it was understood, that Surveying Officers were reimbursed. I can only say it is the first intimation I have received of the Officers of that Department enjoying any such
privilege, and I should consider such a practice of the most dan­
gerous tendency, and would not suffer it to exist one single day; it is the best excuse however I have heard offered for Mr. Evans, and I am quite disposed to allow him the full benefit of it. He has suffered for some time from a severe rheumatic affection, and has served a great many years, and if Colonel Sorell did in any way suffer him to receive Presents, it is difficult to determine where the line was to be drawn: with this explanation, I have suffered him to retire, pro tempore, subject to Lord Bathurst's confirmation, as he is quite incapable of entering upon the Grand Survey which must be put in motion. The fact is I am most particularly circumstanced just now, for, in probing Doctor Bromley's Department, I brought upon myself a host of Enemies, and you will perceive by my Dispatches respecting the Attorney General that I have to make head against an association of no ordinary strength. It will seem strange, I fear, to my Lord Bathurst that my Predecessor conducted matters apparently so smoothly, whilst there has been so much commotion during my administration, excited, indeed, by a few Individuals. But I will venture to say no Man can do his Duty to the Crown in this Colony, and be popular!

It has been most truly gratifying to me that General Darling, who is quite a man of business, and of a most investigating mind, has visited this Island, and informed himself of every part of my administration; and I look forward with no small satisfaction to the early arrival of Archdeacon Scott, who knows well the component parts of these Colonies, and I shall very earnestly request him to make the most minute investigation and fully to communicate to you thereon. I am not at all ignorant that the Attorney General, with some of the Merchants, under their grand Leader, Mr. Lathrope Murray,* are sending Home representations of various Kinds, and it is but just and reasonable they should be heard; all I solicit is, a continuance of Lord Bathurst's confidence until I shall have answered every statement. I foresaw that any system of reform would be opposed with all the violence of the factious Spirits that dwell here, and I hope I am prepared to meet it. I do not under-rate the difficulties of my situation, but I hope by a due mixture of firmness and prudence to extricate the Government, and have but little doubt, if you will only give me some more Troops to put down the Bushranging, that I shall be able progressively to place the Colony on a much better footing.

Mr. Beainont, who is the Son in Law of Mr. Evans, and the Agent of Colonel Sorell, has called upon me with your Letter notifying that Lord Bathurst intends to appoint him Clerk of

* Note 21.
the Council. His Lordship’s Dispatch has not reached me, and, therefore, I reserve writing upon this subject, upon which I think it will be necessary for me to make a communication, and I am happy to understand there will be another Vessel for England in the course of three or four Weeks. You have done well in striking us out of your Schedule of Colonies,* but, as I am quite unknown to Mr. Hay, and, indeed, only to you as a very troublesome Character, I hope you will still occasionally allow me to address you.

I have, &c.,
Geo. Arthur.

LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.

(Despatch No. 5.)

Government House, Van Diemen’s Land,
My Lord, 17th January, 1826.

The very painful subject, upon which I have the honor to address Your Lordship, is the conduct of His Majesty’s Attorney General of this Island. The facts of the case itself are sufficiently extraordinary, and upon which I shall be obliged to detail at some inconvenient length, but it will be necessary for me previously to touch upon a few circumstances, with which, as Your Lordship will perceive in the sequel, the subject is immediately connected; and, in taking this course, I am incidentally led to bring under Your Lordship’s review, some few leading features of my Administration, to which Your Lordship’s attention will in all probability be drawn by others, who may possibly not be disposed to represent them very correctly.

One of the first subjects forced upon me after my arrival, and whilst Colonel Sorell was yet in the Colony, was the Government Gazette,† at that time printed by a person of the name of Andrew Bent. This Man, formerly a Convict, and whose Brother is still in that condition in the Colony, had obtained the great indulgence of Emancipation, with most liberal assistance, in the situation of Printer, at the hands of Government. The profits he received from the Paper, it being the only one in the Colony, raised him to comparative wealth, and he was at length permitted by my Predecessor to become Proprietor of the Press and Types. But Bent himself being an illiterate Man, the appointment of Editor was understood by Colonel Sorell to be distinctly reserved.

The Gentleman, however, nominated‡ by Colonel Sorell did not meet with the approbation of Bent. That Individual, it would appear, had long been forming new connexions, and was anxious

SIR III. VOL. V—D "Note 22. ‡ Note 23.
to possess the power of disseminating the principles of his
Friends, and as a first step he dismissed the Editor appointed
by Colonel Sorell, and claimed the privilege of naming his own.

My resistance to his claim was followed by an appeal to the
Governor in Chief, to whom I forwarded the Draft of an Act,
which I requested His Excellency to pass in Council, prohibiting
the Publication of any Paper without a Licence, considering
the entire exemption of the Publishers from all restraint highly
dangerous in such a Colony; but the Governor took another view
of the subject, and Bent's Messenger returned from Sydney in

Of all the various sources of unpopularity, any attempt to
interfere with the liberty of the Press is, perhaps, the most
obvious and the most permanent. This circumstance therefore,
coupled with the knowledge of my entertaining sentiments
opposed to the exercise of that liberty within this Island, has
not been without effect upon the Individuals hostile to my
Administration. I nevertheless continue to feel that this abso­
lute unrestrained freedom in a small Community, composed
of such inflammable Materials, is incompatible with the well being
of society and the safety of the Colony. Even in England some
restraints on this liberty have been imposed by various Acts of
Parliament. But the subject is of most importance as it is con­

Your Lordship is already aware that very shortly after my
succession, an Investigation was from necessity ordered into the
affairs of Doctor Bromley's Department and the deficiencies in
the Public Chest. I have been unfortunate in not having
hitherto been honored with Your Lordship's decision upon my
measures on that occasion; but, although it has made a great stir
in this Community, and therefore Your Lordship's Judgement
upon it would have been highly gratifying, yet I remain satisfied
with a consciousness of having done my duty, from which I trust
I shall never be deterred by any expression of clamour or dis­
satisfaction. Doctor Bromley had always been in the full enjoy­
ment of popularity, the relaxed state of his Office and the manner
of collecting the Public Revenue was of course in every way
convenient and advantageous to the Merchants, and he possessed
many warm personal friends. The alarming defalcation, how­
ever, of the Public Money, kept by him as Treasurer, the
repeated omissions of large Sums to the Public Credit, received
by him as Naval Officer, with the painful circumstances attend­
ing both, as reported upon by the Board of Enquiry,* compelled me,
according to my idea of what is required by His Majesty at the
hands of an Individual to whom a distant Government is con­
fided, to suspend him from his Office, and the same feeling
induced me to direct his Successors to introduce more regularity
and exaction of order into their Offices, and, especially, in the
collection of the Public Revenue. A necessary but unaccus­
tomed degree of strictness (the extent of which has been laid
before Your Lordship in a former Dispatch) has been obnoxious
to certain of the Merchants in Hobart Town, and been construed
by them into a perverse wish to occasion inconvenience, and the
praiseworthy manner, in which Mr. Hamilton and Mr. Thomas
have carried my Instructions into effect, have exposed them to
an equal degree of odium, to which a few Merchants and others
have given unceasing vent through the medium of the Public
Press, and in which also I have had my share of abuse for sup­
porting them. A large subscription was raised as a testimony of
the Public regard for Doctor Bromley, a grand Public Dinner
given in honor of my Predecessor’s Administration at which
Doctor Bromley’s health was drank with 3 times 3, as well as
Mr. Lathrop Murray’s, the Editor of the Independent Journal,
and the liberty of the Press became more popular than ever!

The undue Sale, Barter, and Transfer of Lands granted under
special conditions was an evil which I found existing in the
Colony to a great extent. As long since as the Month of August,
1824, I communicated very fully upon this subject to the Gov­
ernor of New South Wales. It was not necessary for me to lay
before His Excellency any particular instances, because land­
jobbing in all its various ramifications was notorious in both
Colonies; Having determined to put down this traffic, I made it
known on every occasion that, as far as depended upon myself,
I never would confirm to any Individual the possession of Lands,
which were bartered away in violation of the express conditions
under which they were granted, and, in answer to the various
appeals which have been made to me, my reply has been con­
sistent and uniform to this effect. At the same time, I submitted
to the Governor of New South Wales that it would be a prudent
precaution not to issue any Grants for Lands in this Colony
in New South Wales, but to send them to me in order that a
strict investigation might be made by a Land Board, before they

* Note 24.
were issued to the several Grantees. The Governor, as I under-
stood, fully closed with my proposition; he informed me that he
was quite aware of the shameful practice that existed, and, down
to a very short period antecedent to his departure, I entertained
no doubt but that an entire similarity of sentiment existed be-
tween us on this subject. Suddenly, however, the Governor's
mind appears to have undergone a total change, and almost one
of the last acts of his Government, as regarded this Island, was
to send down an Officer of the Surveying Department, with
above 1,000 Grants of Land for distribution, and, under such
Instructions, as almost entirely precluded me from interfering
with effect; and thus, after having gone on for nearly Eighteen
Months holding out that, in all instances wherein the condi-
tions should appear to have been grossly violated, no Grant
would be confirmed, my measures have been entirely counter-
acted, and, without having derived any advantage to the Crown.
I have subjected myself to all the odium of a most unpopular
measure.

In the assignment of the Prisoners of the Crown, I have been
governed by the system which was introduced by my Prede-
cessor, having only been, probably, rather more strict in investi-
gating the manner of life of those who have applied for Crown
Servants, considering, upon the principle so strongly inforced by
the Parliamentary Commissioner, that all possible care should
be taken to avoid placing them in circumstances of great tempta-
tion, or in open immorality.

These measures of my Government have not perhaps been
more obnoxious to any Individual than to Mr. Lathrop Murray,*
who, first as an anonymous writer, and afterwards as Editor of
Bent's Paper, has been incessant in calumniating the Govern-
ment. From the notoriety of Murray's early life, his character
will not perhaps be entirely unknown to Your Lordship. His
real name is, I believe, Robert Felton Lathrop, but he has as-
sumed that of Murray in these Colonies. His literary talents
are of the first order, but his moral character and principles of
the very worst. On my arrival, I found him living in a state
of open concubinage, and held in universal contempt. He was
originally transported to Sydney for Bigamy, and before the
expiration of his sentence came to this Colony emancipated.
This person had been a barterer in Lands to considerable extent,
and my interference upon that subject consequently gave rise to
his most violent animosity; That the Merchants should be angry,
and such a Man as Murray violent, excited in my mind no sur-
prise; but, I learnt with most distressing feelings that Mr. Gelli-
brand, the Attorney General of the Colony, was much associated

* Note 21.
with the persons opposed to the Government, and was living especially in constant intercourse and connected in habits of friendship with Mr. Murray. It had unquestionably occurred to me on some occasions as extraordinary that Mr. Gellibrand did not associate with persons more suitable to his own rank in the Colony, but I could scarcely credit the possibility of his connexion with such a person as Murray; a circumstance, however, occurred about twelve Months since that created the most distressing suspicion that Mr. Gellibrand had lent the influence of his high office to gratify the malignant feelings of Murray.

Mr. Bedford, the Chaplain of Hobart Town (to whom Mr. Murray, being professedly a Deist, has long been violently opposed), was applied to on the Sunday Morning after he was actually in the Vestry to publish the Banns of two persons; Mr. Bedford told them that some previous enquiries were necessary (quite essential indeed to prevent unlawful Marriages amongst the Prisoners) which would unavoidably prevent a publication on that day; both Parties, as Mr. Bedford positively stated, left him without complaint, and apparently convinced of the propriety on his part of the delay. How or when they fell in with Murray does not appear, but, without intimation to Mr. Bedford, an application was made by this person in their behalf to the Attorney General, who accordingly, without further enquiry, filed an information against the Chaplain for not publishing these persons' Banns; Mr. Bedford had not even a suspicion of intended proceedings against him, until he received a notice in Mr. Murray's handwriting of a criminal information having thus been filed; the information upon being inspected turned out to be in Mr. Murray's hand-writing also. I considered this circumstance at the time as conveying strong suspicion of the alarming nature of Mr. Murray's influence, and of the understanding which must have existed, for Mr. Murray is not an Attorney or Professional Man, and, consequently, it never could have been his duty or his business to be concerned in such a matter, nor could Mr. Gellibrand have been ignorant of that which was notorious in the Island, Mr. Murray's personal hostility to the Chaplain! It afterwards appeared in this matter that Mr. Bedford had not only acted very prudently, but quite legally, and I was unavoidably led to express to Mr. Gellibrand my great regret that he should so incautiously have publicly exposed the principal Chaplain of the Colony. Subsequent circumstances further forced me to the belief of the growing intimacy between Mr. Murray and the Attorney General, to whom, therefore, I took an early opportunity of speaking upon the subject. I called his attention to the Public Journal, which became more and more
scurrilous, numerous paragraphs and letters constantly appearing reflecting in a gross manner on all the measures of the Government, upon myself individually, and upon almost every Officer under my Administration.* The Revd. Mr. Bedford was the fertile theme for insult, and accusations of the most offensive kind, several of them were to the last degree libellous, but no prosecutions were instituted against the Perpetrators. Mr. Gellibrand on this occasion acknowledged that he had been intimate with the Individual in question, but he positively assured me that he had declined such intimacy ever since he had become acquainted with the fact that Mr. Murray was the writer of a series of letters signed "a Colonist." I did not, however, refrain from expressing to Mr. Gellibrand my astonishment that (mere political controversies out of the question) any Man, who was a Husband, and the Father of a Family, but, above all, His Majesty's Attorney General of the Colony, should permit himself familiarly to associate with a person of Mr. Murray's notoriously immoral character and life, of which he could not but have been aware.

Your Lordship will understand how great must have been my perplexities under such an accumulation of untoward circumstances: The Official Gazette of the Island converted into a powerful engine against the Government; Libels in every shape of personal attack and wilful misrepresentation, weekly circulated against every person adventurous enough to support the Government; the most rancorous and systematic opposition by the faction who possessed the command of that paper, and the only law officer of the Crown, (the powers of whose Office confer upon him an extensive influence throughout the Colony) a person, in whom it was impossible to repose that full and unlimited confidence, the existence of which between the Government and its law adviser is so absolutely essential. I assure Your Lordship that I had to the best of my recollection never been deficient towards Mr. Gellibrand in any one instance, in shewing him every requisite mark of respect due to his office; he had, apparently, on all occasions approved of the measures of my Government, nor do I know that any circumstance can have occurred between us to create a just dissatisfaction in his mind. Prior to my remonstrating with him on his connexion with Murray, I remember once, indeed, to have spoken to him respecting certain instances of landjobbing, with which I had understood he had been connected, and I have also steadily declined to comply with his repeated applications for a Grant of Land, which, in the

* Marginal note.—It should be observed that, before Murray was connected with the Paper, the Attorney General promptly offered to prosecute the printer for a libel, but was on that occasion restrained.
case of Public Officers, had, until Your Lordship's late Instructions* to General Darling, been objected to by His Majesty's Government, and more particularly to the Officers of the Supreme Court.

Thus circumstanced, I availed myself of the timely arrival of Mr. Stephen,† a Barrister (Son of the Solicitor General of New South Wales), who was about to practice in one of the Colonies, and suggested the advantage of his remaining in Van Diemen's Land, undertaking to name him to Sir Thomas Brisbane for the honorary office of Solicitor General. Under this arrangement, as the Attorney General required some assistance, matters went on without the slightest misunderstanding until early in the Month of August, when Mr. Stephen, who had been confirmed in the Appointment of Solicitor General by Sir Thomas Brisbane and was also acting as Crown Solicitor, notified his determination to resign his Offices from the impossibility, as he asserted, of acting safely as a Government Officer in union with a person possessing such Political Feeling and acting with such Professional bad Faith as the Attorney General; and stated that he felt it his duty, in consequence of the extraordinary communications just made to him by Mr. Dawes (an Attorney of considerable practice in Hobart Town) Officially and Professionally connected as he was with the Government, to bring the whole conduct of Mr. Gellibrand under my observation. This communication appeared to me to be of such vital importance, both to the Government and to the Public, that I deemed it my Duty at once to warn the Solicitor General against advancing any thing to the prejudice of the Attorney General, which he was not willing to have enquired into, and prepared fully to substantiate. Mr. Stephen repeated that many of the Facts he had recently acquired from Mr. Dawes, who declared himself prepared to prove them, and that, as to others advanced upon his own knowledge, he would not shrink from any consequences flowing from the conscientious discharge of his Duty in disclosing them. Mr. Dawes, of whom I before only heard as the friend of the Attorney General and Mr. Murray, subsequently waited upon me, and entered at greater lengths into various particulars. It required but little penetration to discover that there had been a serious misunderstanding amongst the Parties, and that Mr. Dawes was a great deal more influenced by personal feelings than any sincere desire to protect the Government; and I therefore thought it prudent to apprise this Gentleman that I could not notice his statements, unless they were reduced to writing. Mr. Dawes must certainly have possessed, from personal intimacy with both parties, a thorough knowledge of all

* Note 25. † Note 26.
that had been passing; he assured me that the Attorney General continued to associate on the most intimate and friendly terms with Lathrop Murray; that he had conversed with him about his political writings against the Government, especially as to their liability for Prosecution for Libel; that he had expressed in his presence the highest opinion of them, and had himself on several occasions given utterance to similar sentiments. He also enlarged upon the Attorney General’s Professional bad Faith, many instances of which Mr. Dawes stated as coming within his personal knowledge. This representation* was made to me in presence of the Solicitor General, and Mr. Dawes produced several Documents to substantiate his Statements, and assured me that, if I would have the subject investigated, he would be prepared to confirm every word he had advanced; but, as I have already observed, it was evident there had been a violent rupture, and, by requesting the statements to be in writing,† this person was afforded time for reflection. A few days afterwards Mr. Dawes transmitted to me a very sparing account of his personal narrative, being only so much as related to instances of alleged Professional misconduct, accompanied by a Private Letter‡ informing me that he reserved other disclosures to be developed at any enquiry that might be instituted. The Solicitor General, at the same time, by letter dated some days previously, formerly tendered me his resignation. As much of all this as related to Professional Points, it appeared to me the most prudent course was to refer the subject to the Chief Justice, and at the same time I addressed§ the Attorney General acquainting him with the circumstances, and informing him that I had so done. The Judge, however, after seeing the parties at his rooms, declined|| to take further notice of the case, except upon motion regularly made in Court, but, to this course, on the ground chiefly that the proceeding was of a criminal and highly penal nature, the Solicitor General did not assent; the Attorney General also, as appears by the Judge’s letter,¶ on other grounds, objected to it, and each at that time concurred in considering some method of enquiry more desirable for both Parties.

It was evidently quite impossible to leave the case where it was, without Investigation. I therefore determined to refer** the whole subject without delay to a Board of three Gentlemen.

* Marginal note.—See Letter No. 2, Page 29, Enclosure No. 3.
† Marginal note.—See Letter No. 2, Page 27 as above.
‡ Marginal note.—See Letter No. 1, Page No. 7 marked as above.
§ Marginal note.—See Letter No. 5, Page 41 marked as above.
¶ Marginal note.—See Letter No. 10, Page 53.
‖ Marginal note.—See Letter No. 11, Page 65 as above.
** Marginal note.—See Enclosure No. 1.
to enquire and report to me thereon, and accordingly I appointed, as Commissioners for this purpose, the Chief Justice, Mr. Humphrey, the Superintendent of Police, and Mr. Thomas, the Colonial Treasurer; and, the strictest impartiality being most desirable, I need not say with what satisfaction I have ascertained that, at the very time of the nomination of these Gentlemen, Your Lordship had recommended them to His Majesty as Members of the Executive Council. Continuing the same anxiety to allow the Attorney General means to do himself the most ample justice, I adopted, as the plan of proceeding for the Commissioners, one, which, considering the honorable circumstances under which the Solicitor General came forward, was, I am afraid, little calculated to relieve him from the embarrassments and dangers of such an impeachment as that which he had undertaken: I called upon him regularly to frame written Charges, and I expressly directed the Commissioners to require the Solicitor General to make them good, and, if he failed in establishing any one Charge, they were further desired to ascertain that he had not advanced them in wantonness, or even upon slight or superficial proof.

The effect of this was that the whole weight of the case, with all its difficulties, was thrown entirely upon the Solicitor General, and the Commissioners were excluded by the nature of their Instructions from relieving him. Some correspondence* had taken place between the Chief Justice and the Solicitor General, at the termination of which the Judge again stated it to be Mr. Stephen's bounden duty to bring on the Professional parts of the Case before him in Court. The Attorney General also concurred in this, and in such a manner that the Solicitor General could not avoid complying, and the whole of the legal question was then gone into. This was not, however, until after my line of proceeding was determined upon; nor do I know, had it been prior, that I should have excluded that part of the case from enquiry. The mere legal point I do not profess to comprehend: The Charges against the Attorney General of Professional impropriety are, in effect, that he was in the habit of taking fees on both sides. In a case of Lawrie against Griffiths,† the circumstances of which are of particular moment to the Crown, it appears that he advised Lawrie to bring the action for which he charged five guineas, receiving also five guineas more for a retaining fee, and that he settled and signed Lawrie's declaration. That he next drew a most important plea for Griffiths for which he charged him five guineas, and that he then permitted

* Marginal note.—See Letters No. 13, 16, Pages 83, 103, Enclosure No. 3.
† Marginal note.—See Case of Lawrie vrs. Griffiths, Enclosure No. 7.
Lawrie’s Attorney to consult him as to Demurring to it. Whether this acting on both sides be or be not warranted by strict Law leaves the Question as to character undecided. It appeared to me much more important to the Government (from the circumstances that were brought to light in this very case) to ascertain if such a Practice was honorable or reputable in the Attorney General of the Colony: In the result, however, the Court dismissed the motion on the ground of the case not amounting to a positive wrong punishable by Law; but the Chief Justice expressed the greatest disapprobation of the practice, regretted that it was not punishable, and stigmatized it from the Bench in the strongest terms. In the Report of the Commissioners, Your Lordship will find this Case* fully treated; Lawrie, who was formerly a Prisoner, it appears, had stolen a Boat in N. S. Wales, and carried off from thence two Convicts with another Individual free by servitude, having in his possession a large quantity of forged notes. Lawrie was afterwards taken in a Vessel by Captain Griffiths, and being brought into Launceston immediately applied to his friend Murray, whom he had known in Sydney, and by whom he was referred to the Attorney General. But, before the Attorney General had advised Lawrie, the Police Magistrate had given him a full account of his examination of the case, and shown him the depositions taken in it. The Attorney General notwithstanding afforded Lawrie assistance, and took his fee. Lawrie then again applied to his friend Murray, who though not a legal Practitioner drew his declaration, and the Attorney General signed it; he did more, he afterwards signed another Copy for Lawrie to file, and this too after being furnished by Captain Griffiths with further documents proving that he had actually delivered over the Convicts identified as such to the Sydney Authorities.

This matter involved me in the greatest perplexity, for, entirely owing to the Attorney General’s shuffling conduct in this business, heavy damages were given against Captain Griffiths to the amount of several Hundred Pounds, for which he now seeks Indemnification from the Crown; But this Case, being one of the main Charges preferred by the Solicitor General, is very fully developed in all its parts in the report of the Commissioners, and the efforts of the Attorney General to cover such a transaction are too monstrous to require any comment.

Another Case,† forming the eighth of the Solicitor General’s Charges, possesses features in no degree less alarming in a penal

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* Marginal note.—For Lawrie’s Case see Report of the Commissioners, Enclosure No. 2, from Page 19 to 45 inclusive.
† Marginal note.—See Enclosure No. 8, See Rogan’s case in the Report of the Commissioners from Page 45 to 57 inclusive.
Colony; it relates to a Convict named "Rogan," who had been sentenced to receive a Corporal Punishment by order of a Bench of Magistrates; this matter is also very fully treated by the Commissioners, and the Attorney General by their shewing is left without the shadow of an excuse for having advised this Prisoner to bring an action for Damages against the Magistrates in a case where not the slightest suspicion existed of corruption or malice or any improper feeling whatever! It is apparent that a repetition of such conduct would soon have the effect of depriving the Colony of its Magistracy.

The Report* of the Commissioners, which I have the honor to enclose, is, in a manner, an imperfect Document, because the Attorney General, on the very day on which the Solicitor General closed his Charges, pretended to take Offence at an observation made by the Chief Justice, and abruptly left the Apartment, declaring that he would never again attend; but, certainly, enough has been recorded by the Commissioners to prove the Attorney General most unworthy of his Office. The difficulties in the way of the Solicitor General have been quite incredible. He became throughout the whole proceeding the immediate and continued unwearied object of Mr. Lathrop Murray's Newspaper personalities; his witnesses were by name ridiculed; some threatened with exposure, others with prosecution; so that at length no one would come forward, and, lastly, the Commissioners became the objects of insult! Mr. Dawes was either thoroughly intimidated, or, what is more probable, was brought over by other means through the instrumentality of "Murray," and, after having been the first and chief mover in the business, deserted Mr. Stephen, and refused to give the smallest information to the Commissioners. This Man is again restored to the confidence and friendship of the Attorney General and Murray!! In the progress of the Enquiry, the Attorney General furnished Mr. Murray with a Copy of the first Charge for the purpose of enabling him to found an action immediately against Mr. Stephen for defamation, and Mr. Gellibrand himself has also commenced another action in his own name and of the same nature. The damages in each being laid at Two Thousand Pounds! By these harrassing difficulties opposed to him, Mr. Stephen has been compelled during the whole progress of the inquiry, which has occupied nearly five Months, to abandon all Professional practice, and has consequently been a severe sufferer in Purse as well as in mind and feeling. It is only extraordinary, under all the means of intimidation which have been resorted to by the Attorney General and Murray, that any one

1826.
17 Jan.

Action of J. T. Gellibrand in case of Rogan.

Imperfections of Commissioners report.

Difficulties of Mr. Stephen in making charges.

* Marginal note.—See Enclosure No. 2.
Charge has been established, and it is therefore evident how bad his conduct must have been when so many have been proved.

Various causes* have retarded the Commission, and the report was not sent into me until the 29th Ulto. I submit, My Lord, a more clear, distinct, and impartial Paper was never drawn up; it speaks for itself in every point, and with the documents which accompany it (and I have omitted none that can throw light upon the case), Your Lordship will be enabled to make up your mind upon any difficulty arising from a counter representation, which, I have no doubt, will be prepared by Murray, and authenticated by the Attorney General.

I have since taken the Report into consideration before the Executive Council, and, in consulting with the Commissioners as Members of that Council, I have found that they had restricted themselves, in reporting to those points only which had been most distinctly proved in evidence before them; but that there were various others, of which, as Members of the Community, they had the fullest moral conviction. The Executive Council, as Your Lordship will perceive by the accompanying Minute,† after four days' most deliberate consideration, have unanimously recommended for the safety of the interests of the Government that the Attorney General should be suspended. Their advice also, is, and it is the only point in which a difficulty‡ will arise, that the Solicitor General should be vested with powers, pro tempore, to act instead of the Attorney General. I have great difficulty in making up my mind in what manner the Office of the Attorney General can be most advantageously conducted, but at all events I shall not feel justified in retaining Mr. Gellibrand in Office after the return of the Court from Launceston, where it is at this time sitting, and my present impression is to request Mr. Hone the Master of the Court to undertake the Duties until Your Lordship's pleasure is known; But I beg very humbly to recommend to Your Lordship, if, after the perusal of the Report of the Commissioners, Your Lordship shall be pleased to confirm the suspension of Mr. Gellibrand, that some Gentleman of Established Professional reputation may be immediately sent out from England upon a much higher Salary, and altogether restricted from Private Practice. The N. S. Wales Bill has thrown immense power into the hands of the Attorney General in his character of Grand Jury,§ and it is of the last importance to the Government and to the Colony that

* Marginal note.—Vide Schedule in Appendix of this Dispatch.
† Marginal note.—Enclosure No. 4.
‡ Marginal note.—The Solicitor General declined in any way to derive the smallest advantage in Office on the occasion.
§ Note 27.
the Office should be confided to the hands of an Individual, whose principles and integrity are tried and well known to His Majesty's Government, and one who has firmness to meet the difficulties of the present times.

In what manner the Attorney General means to extenuate his conduct, I am at a loss to imagine. After having heard the whole of the evidence, and being present and taken notes of all the Examinations (of which Mr. Murray has given notice of publication), he should be quite prepared with such observations as he wishes to offer in vindication of his conduct; but he contents himself with requiring the Report of the Commissioners, a Document, I consider, altogether prepared for the information of the Government, and to which he has no pretensions.

As respects the conduct of the Solicitor General, Mr. Stephen, in this painful investigation, it has been in every way so firm, so consistent, and so truly honorable, that it is my duty in the strongest manner to recommend him to the approbation of His Majesty's Government. He possesses considerable Talents, and I am persuaded after a little more experience he will be found a very valuable Public Officer. I have in a former Dispatch reported to Your Lordship that Mr. Stephen's Appointment as Solicitor General was merely Honorary, and that, as Crown Solicitor, I had limited his Salary to £300 per annum subject to Your Lordship's confirmation. I now take the liberty of stating that he has done himself the most material personal injury in the cause of the Crown, and I feel it an act of justice to recommend him to Your Lordship's protection; and I do this the more earnestly, because five or six Individuals, (in whom, in point of fact, all the opposition is centered) appear resolved to crush him.

I cannot conclude this Dispatch without expressing to Your Lordship the sense I entertain of the most honorable and the most judicious conduct of the Commissioners; by their unwearied attention they have made a very difficult subject plain and intelligible; and, amidst a great deal of insult, their patient investigation has been remarkable; of His Honor the Chief Justice more especially, I cannot speak too highly, because, I have long observed, it has been one of the great aims of Murray and his party, by the grossest flattery, to draw a line of separation between the Government and the Court.

It has been stated to me, I know not how truly, that a Memorial or address is secretly preparing to be forwarded to Your Lordship, and that amongst other statements it is asserted that my measures had been strongly reprobated by Sir Thomas Brisbane; I therefore take the liberty of adding Copy of the

* Marginal note.—Enclosure No. 5.
Governor's last Dispatch* to me, which Your Lordship will observe contains a very different account. It is true I differed in opinion with Sir Thomas Brisbane upon the subject of the Press, and certainly latterly upon the Grants of Land, but the utmost harmony existed between us throughout my Correspondence with him.

Geo. Arthur.

SCHEDULE OF DOCUMENTS ACCOMPANYING THIS DISPATCH.†

No. 1. Letter addressed to the Commissioners with the Eight Charges of the Solicitor General annexed.


3. Various Correspondence originally referred for the information and consideration of the Commissioners.


5. Dispatch addressed by Sir Thomas Brisbane to Lieut. Governor Arthur.

6. Correspondence between the Lieut. Governor and Attorney General subsequent to the delivery of the Commissioners' Report.

7. Minutes of Evidence taken before the Commissioners.

8. Case of Lawrie and Griffiths.

9. Case of Charles Rogan.

10. Various Correspondence which transpired during the sitting of the Commissioners.


Note.—The very tedious and voluminous Documents transmitted with the Original could not be prepared to be forwarded in Duplicate, but the Report of the Commissioners with the three most important Papers are again transmitted.

Geo. Arthur.

[Enclosure No. 1.]


Gentlemen,

15th Septembr., 1825.

The Solicitor General in a letter addressed to me on the 10th Ulto. tendered the resignation of his Public Offices on the grounds of the impossibility from circumstances, which had come to his knowledge, of continuing to act with the Attorney General, whose political relations and private practice he considered inconsistent with the honor and dignity of his Office.

This letter, with other documents, I referred to His Honor the Chief Justice on the 20th Ulto., who pointed out a line of proceeding, which he deemed proper to be pursued on such an occasion; but the Solicitor General insists that, in the way pointed out by the Chief Justice, the whole matter cannot

* Marginal note.—Enclosure No. 5. † Note 28.
possibly be gone into or disposed of. It is however quite impos-
sible the Government can suffer the affair to rest in its present
most unpleasant state, and I have therefore recourse to the only
means in my power calculated to develope all the circumstances
by appointing you Commissioners for the purpose of fully in-
vestigating the same.

As the statements contained in the several letters and docu-
ments, which have been placed before me are vague and unde-
finite, I called upon the Solicitor General to imbody them in
plain and direct terms, and the charges, which he has conse-
quently prepared, I beg to enclose as a basis for your Investiga-
tion. I enclose also all the letters, which have passed according
to the accompanying Schedule, that every circumstance may
be fully before you.

The subject of Investigation you will understand to be two-
fold. On the one hand the Solicitor General is to be required to
establish the statement he has made of the grounds on which
he considers he cannot continue in Office with the Attorney
General, and you will not fail to ascertain if he does not sub-
stantially make good the serious accusations he has preferred,
that he has not advanced them to the prejudice and injury of
the Attorney General in wantonness, or even upon slight or
superficial proof; on the other hand, you will call upon the
Attorney General to answer the various allegations contained in
the Charges set forth by the Solicitor General, and require him
to explain them in the fullest and most conclusive manner.

The purity of Mr. Gellibrand’s character seriously involves
the highest interests of the Community; and the Government
and the Public are alike concerned in his honor and reputation,
whether it is impugned in his conduct as an Advocate, or in
measures directly affecting his Office as the adviser of the
Crown.

Amongst the cases which are stated as relating to the Attorney
General’s Professional practice, there is one I observe in which
the Crown is immediately and directly concerned, and which
has occasioned the Government much perplexity to unravel. I
allude to the case of Lawrie vs. Griffiths, in which the latter has
sustained very heavy damages, augmented, as it would appear
by the Solicitor General’s statement, by the Attorney General’s
having charged him with Fees to the amount of £60. It appeared
remarkable to me, even before the statement of the Solicitor
General came into my hands, that no support was given to
Captain Griffiths, (who at least thought he was doing service
to the Government in preventing the escape of Prisoners) after
the first investigation of the circumstances connected with the
seizure of the Fame by the Police Magistrate at Launceston; Much more remarkable did it appear that, after returning from New South Wales with the Certificates of the Police Magistrate, which were put into the hands of the Attorney General, Captain Griffiths' interest was still unprotected; still more extraordinary does it now appear that before positive Instructions were given by the Government to the Attorney General to defend Griffiths that he was already employed on both sides; but it is absolutely incredible that, after he was positively instructed by the Government to defend the action, that he should have charged the heavy Fees stated by the Solicitor General, the amount of which must of course be defrayed by the Crown, if Captain Griffiths under the peculiar circumstances of his case is eventually relieved by the Government.

I am not at all disposed to think that this transaction does not admit of explanation or that all that is alleged respecting it is correct, but it is certainly one, which calls for the most serious investigation from its origin through all its Stages; and I enclose the several Documents and Letters which are connected with it as far as the Government is concerned.

From the consideration of the importance of this subject, I have to request that no time may be lost in proceeding with the matter of enquiry before you.

Captain Montagu will deliver the whole of the Papers and Correspondence to the Board.

I have, &c.,

GEO. ARTHUR.

[Enclosure No. 2.]

CHIEF JUSTICE PEDDER, AND MESSRS. HUMPHREY AND THOMAS TO LIEUT.-GOVERNOR ARTHUR.

Sir,

In obedience to your Excellency's letter to us, which we had the honor to receive on the 15th day of September last, by which you have been pleased to appoint us Commissioners for the purpose of fully investigating the circumstances referred to in the Solicitor General's letter to your Excellency of the 10th of August last, as the grounds on which he declined to continue to act with the Attorney General, and reporting thereon for the information of the Government, we proceeded to investigate the same with as little delay as the nature of the case and the official engagements of ourselves and of the parties concerned would admit; and having received the evidence which we have the honor to transmit herewith, and having considered the same and the several papers and correspondence, which accompanied
Your Excellency's letter, and the several papers and correspondence referred to us by Your Excellency during the progress of our Investigation, we have agreed to the following report.

But, before we lay before your Excellency the result of our Investigation, we beg to offer a few words in explanation of the course we have pursued in making it.

Your Excellency was pleased to inform us that you had enclosed to us, as a basis for our Investigation, the charges which had been prepared by the Solicitor General, and which accompanied Your Excellency's letter, and, had we received no further instructions, it would have appeared to have been our duty to call before us such persons as we might think proper, and, by our examination of them and of the Attorney and Solicitor General, to ascertain what facts were in existence, relative to the points contained in the Solicitor General's charges, making use of those charges as furnishing us with particular heads or points to be generally enquired into, but by no means confining our attention to the letter, nor strictly even to the substance, of the allegations therein contained.

But Your Excellency having proceeded to instruct us that The Solicitor General was to be required to establish the statement he had made, and that we were not to fail to ascertain, if he did not substantially make good the serious accusations he had preferred, that he had not advanced them to the prejudice and injury of the Attorney General in wantonness or even upon slight or superficial proof: and that on the other hand, we should call upon the Attorney General to answer the various allegations contained in the charges set forth by the Solicitor General, and require him to explain them in the fullest and most conclusive manner, We conceived it was incumbent upon the Solicitor General to produce proper evidence to us in support of his charges, and that we were not to subject the Attorney General to any examination tending to criminate himself, and that he was only to be called upon to explain his conduct, upon such parts of the charges as should be substantially proved against him. For these reasons, our proceedings have assumed more the appearance of a Trial than usually belongs to those of mere commissioners of Inquiry.

Your Excellency will perceive, by the memorandum of the 16th of November, that the Attorney General took offence at some expressions made use of by one of us and withdrew. Considering that this was a hasty determination on his part, we directed our Clerk, Mr. Spode, to inform him by letter that we should meet again on the 17th. On that day we received his letter (marked O), in which he declined to attend us any more. As we deny the
assertions the Attorney General has there made, that unfounded personal attacks of such nature, as he speaks of, have been made upon him (which he alleges as his reason for refusing to attend us), we thought we should be doing him no injustice, if we proceeded with the case in his absence, since we had given him the opportunity of being present, and it was his own choice to withdraw, without, as we conceive, any sufficient reason; And, being informed by the Solicitor General that he had no further evidence to produce to us we agreed to consider the case, as it then stood, and to report to Your Excellency thereon.

Libel contained in Hobart Town Gazette.

With respect to the 1st Charge, we have had laid before us several letters* which have appeared in the Hobart Town Gazettes of the 25th February, 11th of March, 25th of March, 22nd of April, 6th of May, 20th of May, 3rd of June, under the signature of "a Colonist" containing expressions and sentiments strongly hostile to the Government of this Island and its measures; And we find that part of the first has been pronounced to be a libel against the Government by the Verdict of a Jury. And we find that at a Public Dinner at Stodart's Hotel, on the 7th of April, which was attended by a very considerable number of the Inhabitants of this Town and others, Mr. Murray avowed himself to be the author of those letters in terms too plain to be misunderstood. We find that this person was formerly a Convict, and that he was once acting as Clerk and afterwards as Assistant to the Superintendent of Police at Sydney; but it has not been proved to us that he was ever brought before the Police Office there upon any charge, the only evidence adduced for this purpose being two anonymous paragraphs in a Sydney paper, upon which no reliance can be placed. We find that Mr. Murray was living in this place in a state of concubinage with a female of the name of Brown, whom he brought hither from Sydney three years ago, and with whom he so lived until December or January last, when she left this Colony; and we find that Mr. Murray was in the habit of walking arm in arm with her, and riding on horseback with her in the Street and elsewhere: but we do not find that he has lived in such a state since Mrs. Brown's departure. We find that the Attorney General has been for a long time, and, until a late period, if he is not now, on intimate terms with Mr. Murray. By the evidence of Mr. Lawrie and John Cross, formerly a servant of Mr. Murray's, we find that, from the 16th of September, 1824, the Attorney General frequently visited at Mr. Murray's house in a friendly intimate and familiar manner; that these visits were generally made in the evening, and as often as three or four times a week: that he frequently drank tea there, and that he used to be on such

* Note 29.
occasions in the company as well of Mrs. Brown as of Mr. Murray. Cross left Mr. Murray's on the 11th of November, 1824.

And we find by the evidence of J. W. Elliott, who came to this country on the 24th of January last, that, in the month of February, the Attorney General dined three or four times with Mr. Murray and a Mr. Raine, whose Agent Mr. Murray then was, and with whom he then lived, and that on one of these occasions (the 28th of last Month) the Attorney General slept in Mr. Murray's apartment, it being a wet night. The mere fact of these frequent visits of the Attorney General to Mr. Murray sufficiently proves a great degree of intimacy, without the existence of which we cannot suppose them to have been made even for the purposes of business.

We have no evidence that the Attorney General has visited Mr. Murray at his house, since the end of February last; for Elliott, who speaks to this period, quitted the service of Mr. Raine, with whom Mr. Murray then resided, on the 5th of March. But, though we have no further evidence of this kind, we have no reason for supposing that the intimacy between the Attorney General and Mr. Murray has ceased. On the contrary all the persons who have been examined to this point, with the single exception of Mr. Spode, concur in describing the manner of the Attorney General and Mr. Murray towards each other in Court, and elsewhere, as indicative of intimacy and familiarity; the opportunities, which these witnesses have had, of observing their conduct towards each other, have occurred principally in Court; And, although some of the witnesses cannot be understood to speak as to any precise time, and others do not appear to have had these opportunities for some time past, yet, from the evidence of Dr. Ross and Mr. Hone, it appears to have subsisted down to the end of July, if not later. We find that an account was published in the Hobart Town Gazette of the 15th of April of the dinner, at which Mr. Murray avowed himself the author of libellous letters the "Colonist's" letters, and of Mr. Murray's speech to the company in which he made that avowal; and we find that that paper was furnished to the Attorney General; and, although he might not be bound to take for truth the report there given of Mr. Murray's avowal, yet we conceive it was quite enough to put such an Officer upon enquiry; and as the fact is true, we presume him to have been cognizant of it. Indeed had such a report never been published, we can hardly conceive that, in so small a community as this, any person residing on the spot could be ignorant of an avowal of this kind long after it was made; And we find that a considerable time ago the Attorney General spoke to a Gentleman of Mr. Murray being the Author of these letters.
From all these circumstances therefore, we are fully convinced that the Attorney General has continued to be on familiar and intimate terms with Mr. Murray down to a late period, not only with a perfect knowledge of his being in fact the Author, but of his being notoriously the Author of these letters. But we have no evidence whatever of his having conversed with Mr. Murray upon the subject of them; nor of his having ever declared his high opinion of them, nor that he has himself expressed similar sentiments.

With respect to the latter part of this charge, viz., that the Attorney General allows Mr. Murray to sit next him in Court, and give him suggestions, and hold conversations with him there, respecting matters in which the Attorney General is engaged, the terms of it are so loose, that it seems to admit of two interpretations, according to which it may be taken, first, as a branch of the general charge of intimacy with Mr. Murray, and, secondly, as a distinct head of charge, importing that the Attorney General has so continually suffered Mr. Murray to give him suggestions, while conducting cases in Court in which he is officially engaged, as to create an appearance of his being dependant upon Mr. Murray for assistance, an appearance which would doubtless be extremely derogatory to the dignity of his office. Had this part of the charge immediately followed that which alleges that the Attorney General is intimate with Mr. Murray, and visits at his house, we should have taken it in the first only of these meanings. But following as it does after intervening matter, which, if true, is in its nature a proper subject of a distinct charge against such an officer, we have considered it and received evidence upon it under both interpretations. Considered under the latter, evidence of suggestions made in cases in which the Attorney General was engaged in his private practice would, we apprehend, be inapplicable; and evidence of mere occasional suggestions, made to him in cases in which he was officially engaged, would not sustain the charges, and looking upon the Attorney General as only officially engaged, when conducting public prosecutions (for the Crown has been but seldom interested either directly or indirectly in any civil suits in the Court), we find the evidence so indistinct as to the frequency with which these suggestions have been made in criminal cases, that we doubt much whether it amounts to proof of this part of the charge, so understood. Considered, however, as a branch of the general charge of intimacy, and taking together the evidence applicable to civil and criminal cases, we find that the Attorney General has been in the habit of suffering Mr. Murray to make such frequent communications to him by notes, whispers, and
ARTHUR TO BATHURST. 69
gestures, while actually engaged with cases under trial, and
while witnesses were under examination, that we are fully satis-
1| fied that, whatever might have been the subject matter of some of
them, these communications generally related to the cases under
trial. In coming to this conclusion, we have thrown out of con-
sideration so much of the evidence on this head as relates to
communications made by Mr. Murray in the case of Lord v.
Rowcroft, at which he appears to have been present as the friend
of Mr. Lord. All the witnesses, who have spoken to this subject,
with the single exception of Mr. Spode, concur in describing
these communications as frequent; and Mr. Hone says that
they were so frequent that, although at first they made a deep
impression on his mind, he became used to them at last; and
he appears to have been clearly impressed with the idea that they
were made for the purpose of suggesting some fact or point of
evidence. One Witness only, Mr. Spode, recollects the Attorney
General rebuking Mr. Murray on such an occasion for inter­
rupting him. That a barrister should adopt a useful suggestion
casually or occasionally made to him by any person whomsoever,
whether a Barrister or not, would neither strike us as being
improper, nor would it, in our opinions, indicate in him any
intimacy with the person making it. But recollecting that Mr.
Murray is neither a Barrister nor an Attorney of the Court,
and recollecting the station which the Attorney General holds
there, we are unable to account for the very remarkable fre­
quency with which these communications were permitted, upon
any other supposition than that of a considerable degree of inti­
macy subsisting between them. The witnesses upon the subject
of these communications are the same persons, who have spoken
of the general behaviour of the Attorney General and Mr. Murray
towards each other, and the observations, we have made, on that
part of their evidence are equally applicable to this. It would be
difficult to trace facts of this sort regularly down to any par­
ticular period; but, having had such general evidence of the
behaviour of the Attorney General and Mr. Murray towards each
other, and of the communications passing between them, as
leave no doubt of their intimacy at the time to which the evi­
dence applies; and finding, from the evidence of Dr. Ross and
Mr. Hone, the existence of the same description of behaviour, and
the same sort of communications, at as late a period as the trial
of Mr. Hodgson, which was on the 25th of July, we cannot but
infer, in the absence of all contrary evidence, that this intimacy
had continued to that time and was then subsisting; a period
which fully justifies the language of this charge in point of
time, since we find that the Solicitor General's letter to Your
Excellency, announcing his intention of resigning, was written on the 10th day of August, and that he had in fact made this charge some days previously. It is impossible to suppose that the Attorney General was ignorant of the tendency of the "Colonist's" letters, for he had made passages in two of them, published in February and March last, the subject of an Information for libel against the Printer and Publisher of the paper in which they appeared; and that Information was tried within a week after Mr. Hodgson's trial. The most serious part of this charge is certainly not proved: but, if it be as it is, most peculiarly the duty of the Attorney General to watch the productions of the public press, and, without waiting for any particular instructions, to prosecute and bring to punishment all writings, which in his opinion amount to a libel on the Government, (and for this purpose he is furnished with the great and extraordinary power of putting offenders in this way upon their trial at his sole discretion), we can have but one opinion of his conduct in between * continuing and publicly exhibiting his intimacy with Mr. J. T. Gellibrand and R. L. Murray. Adverse effects of intimacy between J. T. Gellibrand and R. L. Murray.

With respect to the second charge, the material points of it appear to be, 1st that the Attorney General, having advised Mr. Lawrie to bring an action against Mr. Jonathan Griffiths, and having received a retainer to the cause, assisted the Defendant by drawing a special plea for him without the Knowledge of the Plaintiff, and subsequently advised a demurrer to the plea. 2ndly that, being directed by Government to defend the action, he charged the Defendant fees for a retainer, and for his brief on the trial, the first affecting him in his capacity as Counsel, and the latter in his office.

As to the 1st, we find that Lawrie consulted the Attorney General on his case in August, 1824, but whether by the advice of Mr. Murray does not appear, that the Attorney General heard all the circumstances which were laid before him by the Plaintiff
and two persons of the name of Oldfield and Child, and that, in a written opinion, he advised the Plaintiff to bring the action: that the Plaintiff paid him five guineas, which were charged by the Attorney General, by being marked in his own hand upon the back of the opinion; and that the Plaintiff also paid him five guineas as a retaining fee; that the declaration was drawn by Mr. Murray, who is not a professional man, and finally settled by the Attorney General in November in the same year. We find that, on the 21st of March, 1825, a judgment by default was recorded, and erased the same day by consent of Mr. Stephen, then the junior Counsel and Attorney for the Plaintiff; the Attorney General having advised him to withdraw the judgment, conceiving it, as he states, to be unprofessional. We find that, on the 31st March, a long special plea was put in, but by whom, or by whom signed, does not appear. We find that the plea was drawn and signed by the Attorney General without the Plaintiff's consent or Knowledge, and that, in an account sent by the Attorney General to Messrs. Patterson and Dawes, then the Defendants' Attorneys, of fees due to him from them, a fee of five guineas is mentioned as due for this plea, and we find that the Attorney General has demanded a settlement of that account, including this fee. We find that in a conference between the Plaintiff's Attorney, and the Attorney General, a demurrer was decided upon by them for the Plaintiff, who relied upon the Attorney General to argue it. But we do not find that the Attorney General recommended the Plaintiff to employ Mr. Murray, or that any discussions took place at Mr. Murray's house, or elsewhere, on the action generally or respecting the Declaration. It appears that Mr. Dawes acted at first as the Attorney of Lawrie, and Lawrie has stated to us that, upon some neglect of Mr. Dawes, the Attorney General advised him to take his papers to Mr. Murray. But, as it appears by an affidavit made by the Attorney General on a late occasion, a copy of which has been laid before us in evidence against him, that he therein expressly denies that he ever recommended Lawrie to employ Mr. Murray, or that he ever had any conversation with the Plaintiff at Mr. Murray's on the subject of the Declaration, or of the action generally, we have not thought fit to balance the weight of these two species of evidence.

We think it right to observe also, that in this affidavit, although the Attorney General admits the fact of having drawn the plea for the defendants in this action, he states that he declined to do so, when first applied to by Mr. Dawes (who had then become Griffiths' Attorney) and that he consented to it under the circumstances of Mr. Dawes pressing him and stating
his own inability to put the facts of his plea into technical language: and the Attorney General expressly declares that he prepared the plea from papers laid before him by Mr. Dawes, and not from any recollection of the case laid before him by the Plaintiff in August, 1824. And, in a subsequent part of the same affidavit, he states that his only motive for drawing this and another pleading there mentioned, was to render assistance to the junior member of the profession. It is, however, very plain from the account sent by the Attorney General to Mr. Dawes and his partner that, however otherwise it might appear that he drew this plea as a personal favor to Mr. Dawes, he at least so far considered it a matter of business, as to entitle him to a fee from Mr. Dawes's Client.

With respect to the latter part of this charge, we find that, on the 24th of June following, Your Excellency was pleased to direct the Attorney General to defend this action on behalf of the Crown; that the Attorney General thereupon returned Lawrie's retaining fee to his Attorney; and that on the following day he communicated to Messrs. Dawes and Patterson, then acting as the Defendant's Attorneys, the directions he had received from Your Excellency, at the same time stating that he was open to receive a retainer on the part of Mr. Griffiths. We further find that Mr. Dawes, in consequence of this communication, gave him a retainer paper on behalf of Mr. Griffiths, marked five guineas, and that, on the argument of the demurrer, a brief for the Defendant was given to the Attorney General. The Attorney General states in his affidavit that either a fee of five guineas was marked upon this brief, or that he received instructions from Mr. Dawes to charge it. And he further states that he received a brief on the trial, and that Mr. Dawes informed him that he was instructed by his Client to give the Attorney General thirty guineas with it: and it appears, by the before mentioned account sent by the Attorney General to Messrs. Dawes and Paterson, that all these fees, and others amounting to sixty four pounds, independant of the fee of five guineas for the plea, are there charged as being due.

If it be the duty of the Attorney General to conduct the business of the Crown in consideration of his salary, as we presume it is, it does appear to us that this part of the charge is made out. Mr. Dawes, in giving these fees, need not be supposed to have known the engagements of the Attorney General with Government in this respect; but the Attorney General, we conceive, should not have received them, much less have solicited a fee for a retainer, as he appears to have done.
We have enquired into the circumstances, mentioned in Your Excellency's letter as having occasioned so much perplexity to the Government relative to the conduct of the Attorney General in not affording protection to Captain Griffiths in this case, when the examinations, taken in it by the Magistrate at Launceston, were put into his hands there in August, 1824. Your Excellency is aware that this action arose out of the seizure made by Mr. Griffiths of Lawrie's vessel the Fame, Mr. Griffiths having or pretending to have, reason to suspect that Lawrie, and some of the persons in the Fame, had run away from Sydney with a boat belonging to one Ternen or Tennant, and that some of the persons on board the Fame were Convicts endeavouring to make their escape from New South Wales. It appears that Mr. Griffiths on his arrival at Port Dalrymple, the place of his destination, immediately made known his suspicions to the Commandant, who referred him to Mr. Mulgrave, the Magistrate, before whom the examinations were taken: and whether the conduct of the Attorney General in this case was, or was not, consistent with his duty, will depend mainly upon the nature of the case as disclosed by those examinations, and the time at which they came to his knowledge. It appears that the Attorney General arrived at Launceston on the evening of Monday the 9th of August; that, on the following morning the 10th, Lawrie went to him and laid before him, for his opinion a statement of the case contained in a letter to Mr. Murray (paper marked A); that on the same day Mr. Mulgrave the Magistrate stated verbally to the Attorney General the outline of the examinations, and asked his opinion as to the measures to be pursued, and that he mentioned the names of the principal parties concerned and his suspicions that some of them were convicts, who had run away, and that a boat had been improperly brought from Sydney by Lawrie's order. It appears that Mr. Mulgrave pointed out to the Attorney General the examinations as they lay on his table: and that either on that day, or the next, Mr. Mulgrave sent the examinations to the Attorney General.

We have considered it our duty to read over these examinations (paper marked K) and, although they contain no positive legal evidence that a felony had been committed by any of the parties in respect of Ternen's boat, or that any of them were prisoners of the Crown attempting to escape, we apprehend that no moral doubt of the latter fact at least could remain in the mind of any man after perusing them. By the examination of Apsey, the Master of Lawrie's vessel the Fame, it appears that she was cleared out at Sydney for Newcastle on the morning of
1826. the of June, 1824; that the name of the Master and two seamen only were in the clearance; that by Lawrie's direction she was taken out of the Cove that day; and that in the evening Lawrie, Child, Oldfield, and Green came on board of her, when below point Piper, in a boat which the Witness believed belonged to Tern. He said that Oldfield told him he had hired it to come on board, and that, immediately on the vessel getting out of the Heads, they made sail to the Southward, for which a most unsatisfactory reason was given. This witness says he was told by Oldfield and Lawrie, before they left Sydney, that they intended to come to Port Dalrymple to buy a vessel, and that, from conversations he overheard, he believed Child was possessed of bills to a large amount. He says that Oldfield painted the stern sheets of the boat in which he came on board, and that he knew Oldfield not to be free. Mr. Griffiths, in his examination, says that Ternen told him that his boat had been taken by the people of the Fame, and desired him to seize her if he could find her; that he found the Fame in Two fold Bay (which is a considerable way to the Southward) and that Apsey the Master told him that the small boat then with the Fame was Ternens. Mr. Griffiths says that he knew Oldfield, Lawrie, and Child to have been prisoners, and that they refused to shew him their certificates of freedom: that the Master further told him that these parties were possessed of forged bills to a considerable amount, and of their plan to buy provisions at Port Dalrymple with them: and he describes the contradictory accounts which Green gave of himself. The Depositions further shew the refusal of Lawrie to shew his Clearance, and the unsatisfactory manner in which he accounted for being found so far out of his course to Newcastle. Oldfield, on his examination, gave a most unsatisfactory account of himself. He said he was emancipated, but had not his Ticket with him, and that he had engaged to go to Newcastle on a shooting excursion, and he refused to answer whether he had hired the boat, in which he came on board the Fame or not. Green and Lawrie gave most contradictory statements before Mr. Mulgrave as to their Knowledge of and engagements with each other; and Lawrie admitted that he did not know if Green was bond or free. Lawrie produced two bills, one for £650, and the other for £800 though he said that, as he was going to the Coal River, he had no occasion for Cash. We find that the Attorney General gave his opinion to Lawrie on the 12th, which was one, if not two days, after he had received these examinations. And that he must have been well aware of the nature of the case appears from this, that he desired to have an interview
with Oldfield and Child before he gave that opinion, and ques-
tioned Oldfield as to his situation in life, and asked if there
were any Convicts on board the Fame, and made enquiries into
the circumstances of the boat alleged to be stolen; none of which
facts, except the last, are even hinted at in the statement laid
before him by Lawrie. Lawrie moreover, he says, that at his
first interview with the Attorney General the latter told him that
he had received a voluminous statement of the case from Mr.
Mulgrave. Mr. Lawrie gave him a retainer in this case at the
same time that he paid him his fee for the opinion. Such there­
fore as the case appeared to be on the face of those examinations,
the Attorney General was fully in possession of, not only when
he gave that opinion, but when he suffered Lawrie to retain him
as his Counsel against Mr. Griffiths. By the Tenor of the At­
torney General's letter to Your Excellency of the 8th of August,
and by the course pursued by him in his cross examinations of
Lawrie and Mr. Mulgrave before us, he appears to have thought
that, if the evidence furnished by these examinations fell short
of that necessary to a legal conviction, or that if the offences,
of which Lawrie or his party appeared to be guilty, were com­
mitted at Sydney, which is out of the jurisdiction of the Court
here, there was no impropriety in his advocating Lawrie's cause,
and thereby enabling him to do a serious injury to the person
who took the most effectual steps to bring the parties, if guilty,
to punishment.

Your Excellency has taken a different view of the duty of
the Attorney General in such a case, in which it is almost need­
less to say we entirely concur. For, admitting his right to
private practice, we apprehend that the nature of his office re­
stricts him from exercising that right against the known and
obvious duty and policy of Government. Considering the nature
and principal design of these Colonies, it is quite impossible to
suppose him to have been ignorant of the duty of the local Gov­
ernment to prevent by every possible means the escape of Con­
victs, or the policy of at least protecting those, who have honestly
acted in preventing the execution of such attempts; and there­
fore, if these examinations do really, as we conceive they do,
disclose a case in which there could be no moral doubt, that an
attempt of this sort had been made (to say nothing of the
offence of stealing Ternen's boat of which there might be a
doubt as far as appears by these examinations), we conceive that
the Attorney General was not only not bound to receive Mr.
Lawrie's retainer, but that his duty to the Government required
him to reject it; and, if he had doubt whether he could recom­

ought to have stood neuter. And it appears to us that the Attorney General was well aware that he had acted in this case inconsistently with his duty from the fact mentioned in your Excellency's letter to him of the 29th of October; that even in December last, although Your Excellency had conversed with him upon this subject, which appears to have excited much interest in Your Excellency's mind, he had never given Your Excellency reason to suppose that he was concerned for Lawrie.

And we cannot help observing that the Attorney General, in his letters to Your Excellency of the 21st June and 8th of August, represents the case as disclosed in the examinations, as they affect Lawrie and his party, in far gentler terms than it appears to us to deserve, and speaks of it as of much less consequence than we apprehend belongs to it. In the former letter, he states that it appeared to him that "unnecessary violence and injury was used, and the lives of the parties in the Fame had been endangered," and, in the latter, that "it appeared by the examinations that the parties in the Fame had been treated with unnecessary severity and cruelty," circumstances which we beg to say we have not found disclosed in those examinations, but which are much insisted on in the written statement, which Lawrie laid before him. We find that, a few days after the Attorney General received these examinations, Mr. Griffiths waited on him, and stated to him the manner in which Ternen's boat had been lost, and his motives in seizing the Fame, and told him he knew the people in the Fame to be runaways; but it appears that the Attorney General still acted upon the ground that his duty to the Government was bounded by ascertaining whether Lawrie and his party could be prosecuted here; and if so, whether he had then sufficient evidence to prosecute them with success. It does not appear that Griffiths expressly asked the Attorney General to recommend him to the protection of the Government, but the Attorney General must certainly have understood Griffiths to have applied to him for assistance as counsel in the Action brought against him, for he told Griffiths that he had received papers from Lawrie, and could not proceed for him, and that, if Griffiths had come first, he would have taken his cause in hand.

It appears that Mr. Griffiths was at Sydney in the interval between August and December, 1824, and that he there procured the Certificate of Mr. Wentworth, the Superintendent of Police; that Oldfield and the man called Green were Prisoners of the Crown, and also the Certificate of Mr. Campbell, and the affidavits of Apsey and Ternen made before Mr. Wentworth,
Arthur to Bathurst.

which, with those of Mr. Youl and Dr. Owen, are contained in
the bundle No. 3 of the paper relating to this case referred to
us by Your Excellency.

In December or January last, Griffiths waited on the Attorney
General then at Launceston and shewed him several of these
papers.

Mr. Griffiths well remembers that he shewed the Attorney
General the affidavit of Ternen, but which of the other papers, he
then shewed him, he does not now recollect. Griffiths says he
believes he had given Mr. Wentworth's certificate to Your
Excellency at that time, but he is sure that he mentioned the
contents of it to the Attorney General. But there can be no
doubt but this Certificate must have been shewn to the Attorney
General either by Your Excellency or Mr. Griffiths, for the
Attorney General in his letter to Your Excellency of the 8th
of August admits that, when he was at Launceston in January,
"some certificates from Sydney" were laid before him, and this
of Mr. Wentworth's, and the other of Mr. Campbell's were the
only Certificates, which Griffiths had brought from thence.
Afterwards Griffiths saw the Attorney General in Hobart Town,
and spoke to him of the documents he had obtained. The At­
torney General still however appears to have not only thought
himself bound by his retainer to Lawrie, but not to have thought
Griffiths' case one to be recommended to the protection of the
Government; which is the more extraordinary, as it appears to
us that he was then in possession of all the means, by which he
was enabled afterwards to form the Opinion, expressed in his
letter of the 21st June, that Mr. Griffiths had acted bona fide
in the seizure of the Fame.

And the observations, which apply to the conduct of the At­
torney General in suffering himself to be retained by Lawrie
after he had been furnished with the examination taken before
Mr. Mulgrave, apply with considerably more force to his conduct,
in continuing to act under Lawrie's retainer, after he had been
acquainted with Mr. Wentworth's certificate and Ternen's affi­
davit, which put beyond all doubt the fact that a felony had
been committed as to Ternen's boat, and that Oldfield and Green
were Convicts; of the latter of which it is barely possible that a
shadow of doubt might have previously existed.

With respect to the 3rd Charge, we find the same fully proved.

With respect to the 4th Charge, We find that the Attorney
General is the Counsel of Mr. Edward Lord, and that he advised
Messrs. Pitcairns, as to the form of an action to be brought,
in effect, against him, tho' other persons were the nominal
Defendants; but we have no evidence that he is defending that action as Mr. Lord's Counsel, nor that he is professionally concerned in all Mr. Lord's legal matters.

With respect to the 5th Charge, The Solicitor General has stated to us that he had been misinformed, as to the facts therein alleged of the Attorney General being assignee of all Mr. Thornton's effects, in trust for Messrs. Hopley and Lingen; and we have had no evidence that he was assignee to the property, the subject of the action against Mr. Evans, nor upon any other allegations in this charge excepting that, upon the cause coming on for trial, it was referred to the Attorney General.

With respect to the 6th Charge, We have no conclusive evidence that the Attorney General drew the deed, the subject of this charge, for Mr. Ingle.

With respect to the 7th Charge, We find that, in a cause of Bethune and Grant v. Loane, the Attorney General advised the Plaintiffs to bring the action, and became acquainted with their case, and conducted it up to the period of their obtaining judgment, and that, without their knowledge, and though retained by them, he drew a bill in Equity against them for the Defendant, in order to defeat that judgment; but we find that Messrs. Bethune and Grant had no interest in the subject matter of the suit, which was a promissory note given by Mr. Loane to Messrs. Sampson and Prince of the Isle of France, for whom Messrs. Bethune and Grant were Agents for the recovery of the sum secured thereby. And we find that Messrs. Bethune and Grant were only formal and nominal Defendants in the suit in Equity, which was against them and Messrs. Sampson and Prince, the latter being the real Defendants therein. And we find that the Attorney General held at this time a general retainer from Mr. Loane, and that he had none from Messrs. Sampson and Prince: and that he has expressly sworn in his affidavit, before mentioned, that he drew this bill solely upon the facts laid before him for that purpose by Mr. Loane's Solicitor, and not upon any facts, the Knowledge of which had been derived by him from any other source.

Upon the first part of the 8th Charge, We find that Oldfield, who is the person of that name mentioned in the 2nd Charge, was confined by Mr. Mulgrave, the Police Magistrate at Launceston, on suspicion of being a prisoner who had run away; but we do not find that the Attorney General recommended him to prosecute Mr. Mulgrave for having done so.

Upon the last part of it, we find that one Rogan, (by mistake called Logan or Hogan) a Prisoner, was sentenced by a Bench of Magistrates in 1823 to corporal punishment, and that the
Attorney General advised him to bring an action against the Magistrates. The question, which arises out of this case as to the conduct of the Attorney General, is similar to that involved in the 2nd Charge; and, as the circumstances of it are peculiar, we think it necessary to detail them.

It appears that Rogan was tried, sometime in the year 1823, on a charge of having stolen three bullocks the property of George Owen, and that he was found guilty of a misdemeanor, in obtaining them under false pretences, and sentenced to receive 100 lashes, and to be returned into the Government Works. It turns out in fact that Rogan had formerly sold a farm and these bullocks to one Muskerry for £150; that Muskerry paid him in three promissory notes for £50 each, and gave him a Mortgage of the same farm and bullocks, and also of another farm, for securing the payment of the promissory Notes when due. Muskerry was afterwards taken up on suspicion of felony, of which he has since been convicted, but, previous to his conviction, he conveyed this property to Owen in trust to pay his debts, including this debt to Rogan.

Rogan afterwards consulted the Attorney General upon his case, laying before him the Mortgage, the promissory notes, and a copy of the proceedings on his trial, which we have ascertained to be the same copy which we have received from Your Excellency. Rogan at the same time laid before the Attorney General, a written sketch of his case, in which he stated that Muskerry had appointed Owen trustee to pay the debt due to Rogan, but that Owen, instead of selling the property, had kept possession of it. He further stated that he had often applied to Owen for payment of the debt, after it became due, but without effect, and that he had taken possession of the property according to the tenor of the Mortgage, and that Owen had therefore laid an Information against him, which led to his trial before the Magistrates.

Upon this case the Attorney General gave his opinion to the effect that the Mortgage was good, and then he goes on to state "The proceedings before the Magistrates appear to me, by the evidence taken before them, to have been unjustifiable and illegal, and I certainly advise Mr. Rogan to bring an action against them for the flogging, for it never can be tolerated that an innocent man is to receive 100 lashes in securing his own property."

We do not presume to offer an opinion, which is not called for, as to whether an action could be maintained against the Magistrates upon this case as disclosed upon this copy of the proceedings.
It may be admitted that Magistrates, collectively or individually, are not entitled to the positive and active support of Government for all acts done by them in the execution of their offices, even though they be not malicious or oppressive; and also that, in this case, it would not have been the duty of the Attorney General to have acted in support of the Magistrates, had an action been brought against them without some express direction or authority from Your Excellency to do so.

On the other hand, if Magistrates are guilty of a corrupt and tyrannical exercise of their power, it is clearly the duty of the Attorney General to prosecute by Information. But we apprehend we are to enquire whether the Attorney General has not permitted himself, in the exercise of his private practice, to give an Opinion against the obvious policy of the Law and of the Government, whose official legal adviser he is and whose policy he ought not to counteract. That it is the policy of Government at least not to weaken the protection, which the Law itself gives to Magistrates, and that many instances occur, in which it is not less its duty than its good policy to afford them its active support, is, we apprehend, too plain to be disputed for a moment, and the Law recognizes the protection due to Magistrates in the honest, though perhaps erroneous, performance of their duties, as is shewn in the extreme tenderness and indulgence with which their mere mistakes have been invariably treated by the Courts, when called upon to punish them for their acts, even though those acts have not been strictly legal.

The Legislature has long since adopted this policy, and made it the Law of the Land, in respect of actions for damages by several statutes, one of which almost deprives persons injured by any conviction of all reparation beyond the amount of the penalty if any, which may have been levied, unless they prove the acts complained of to have been done maliciously and without reasonable and probable cause. It may be that these Statutes do not extend hither, and do not therefore protect the Magistrates of this Island; but, if they plainly mark the opinion of the Legislature and of Government upon a matter of public policy of the highest importance, the circumstances of their not extending hither in our opinion only encreases the obligation, which we think such an Officer as the Attorney General is under, so to exercise his right of private practice, as not to counteract that Policy which the Government, whose Officer he is, thus countenances. And had the Attorney General guided himself in his private practice by such a rule, we can hardly conceive that he would have given Rogan the advice contained in his Opinion. That opinion is professedly formed upon the case, as it appeared
in the copy of the proceedings, which we have had transmitted to us by Your Excellency; and, having read over with the utmost attention, we must declare we cannot discover the slightest ground for imputing malice or want of reasonable or probable cause to the conviction.

That the Cattle, when taken, were in the apparent legal possession of the prosecutor, (who was however not present) is quite clear, and mere possession is a sufficient evidence of property till a better right is shewn. If the Magistrates believed the prosecutor's servants, it is equally clear that, when Rogan took the cattle, he stated his claim to be under the authority of an order from the Police Magistrate and the Provost Marshall, an authority, which he never proved at the Trial, and which is inconsistent with his title by Mortgage. On his cross-examination of Owen, he tried to shew that the latter had promised to pay him Muskerry's debt, but this would give him no right to take the Cattle and though Owen admitted that he had received notice that Rogan claimed the Cattle, Rogan did not shew that he had any right to them. It does not appear that Rogan said any thing in his defence. He called a Witness to prove that he had attested the execution of a bill of sale from Muskerry to Rogan of a farm and some bullocks (which we suppose to be the Mortgage); but the bill of sale itself was not produced, neither did that witness even say that the bullocks, the subject of the bill of sale, were the bullocks in question. Another Witness, who had been a partner with the prosecutor, said he had understood that the bullocks were Rogan's under a Mortgage from Muskerry, and that he had heard the prosecutor offer Rogan £100 for his claim on Muskerry's effects. But the Mortgage was never given in evidence. If Rogan had a right under the Mortgage, it was his own fault if he did not make it clear by producing the Deed. And, after having had evidence of his claiming the Cattle under an authority, not only not proved, but inconsistent with his right by Mortgage, we cannot conceive that the Magistrates would have given any credit to such loose evidence as he brought of the existence and effect of such a Deed, especially when it was in his power to produce it, or at least to account for its non-production, and give such evidence of its contents, as would shew that it comprehended the Cattle taken. In the absence of this evidence, a strong suspicion must have arisen that the right, under which he attempted to justify himself that day, was as unfounded, as the authority under which he had claimed to take the Cattle; and we can hardly conceive that the Magistrates could come to any other conclusion than that his pretensions were false. And this conclusion will not
be weakened by our Knowledge of the fact that he had a right under the Mortgage. The only question in judging of the conduct of the Magistrates being, whether they had before them such evidence of any right in Rogan, as, taken with what was sworn to by the Witnesses for the prosecution, shewed that it was unreasonable in them to suppose, and improbable, that his pretensions to this property were false.

How far such an Opinion is calculated to counteract what appears to be equally the policy of the Law and of the Government, and to produce the very mischief, which it is the object of that Policy to prevent, we need hardly be required to point out. A few actions, brought on such cases as these and advocated by the Attorney General, would soon have the effect of deterring Gentlemen from undertaking the troublesome duties of a Magistrate, and thus deprive the Country of those valuable services from which it has derived so many benefits, And upon which mainly depend all order and public tranquillity.

Entertaining this view of the case, we cannot but be of opinion that the Attorney General has in this instance acted, not indeed in positive violation of the duty of his office, but certainly in a manner highly inconsistent with it.

We have reserved to this time the expression of our Opinion, upon those parts of the charges, which exclusively relate to the private conduct of the Attorney General towards his private Clients, in order that we may consider them collectively.

By a passage in Your Excellency's letter to us, it appears that the reason why these matters had been thereby referred to us was that the Solicitor General had at that time for certain reasons declined to bring the subject of them before the Supreme Court. We have ascertained, by the letter from Your Excellency to the Attorney General of the 29th of October, that Your Excellency's letter to us was written on the 10th of September, and it was received by us on the 15th of the same month. Between the 10th and 15th of September, the Solicitor General made a motion in the Supreme Court that the Attorney General should be ordered to answer the matters of certain affidavits of himself and others, which comprehended all the allegations of the former part of the second charge, and all the allegations which form the third, fourth, and seventh charges. And, although the Court, upon a point of form, ultimately dismissed so much of the motion, as related to the Matters contained in the last mentioned charges, yet it entertained the rest of the motion and decided upon it. And as, in coming to that decision, it was necessary to take into consideration, the effect both of general
and special retainers, and of the drawing of the pleadings of both Plaintiffs and defendants in the same suit by the same Counsel, when holding a retainer from one of the parties, the decision of that part of the motion is in fact applicable to the rest of it. For these reasons we should have concluded that Your Excellency would have relieved us from the obligation of giving our opinion on such practice, after the determination of the Solicitor General's motion. And we should only have taken evidence of the allegations contained in the above mentioned charges, relating thereto, with a view to shew how far the Solicitor General had been justified in preferring those changes. But, from a passage in Your Excellency's letter to the Attorney General of the 11th of September, we understand that Your Excellency's purpose in referring these charges to us was to ascertain, not only whether the practice of the Attorney General had been "legal and professional," but whether it had been "honorable and upright."

The Supreme Court determined that the practice of the Attorney General, in Lawrie's case, was not such as amounted to a wrong done to his Clients, which the Court would visit with punishment, there being no evidence to shew the commission of any fraud by making use of the information given him on either side for the benefit of the other; and the principles applying to that case are equally applicable to the third, fourth, and seventh charges.

Whatever may be our opinion of the dangers to be apprehended from such practice in the hands of dishonorable men, it is hard to say that such practice is in itself dishonorable and base, which the Court has determined in effect to be legal and professional, when the fraud, to which it appears calculated to give such facilities, is not proved to exist. And upon the whole we have thought it safest to conclude that that is not dishonorable, which the Court has said is allowable. The subject is very difficult, and one upon which but little information can be obtained.

We have endeavoured to learn, what is the actual practice of the Bar, and we are inclined to believe that there is not any uniform rule observed, and that some variety of Opinion would be found to prevail. By the copies of the affidavits, which your Excellency received from the Attorney General and forwarded to us, it appears that the Gentlemen, who made them, knew some instances in which Counsel and special pleaders had drawn pleadings on both sides. Mr. Hone appears to make a distinction between special pleaders and Counsel, and yet as to drawing
pleadings it is obvious that the same principles must apply to both. We are compelled to believe that, in point of fact, some few barristers do permit themselves to draw pleadings on both sides in the same suit; but we are convinced that the Majority of that honorable profession refrain from such a practice, being actuated by that jealous care of their reputation, which prevents men of honor from placing themselves in such situations as might bring upon them even the suspicion of being capable of acting dishonorably. The opportunities, which such a practice affords, of the basest and most mischievous of treachery, and that capable of being effected in a manner which it would be difficult, if not impossible, to detect, are too obvious to mention, and although the mere practice, unaccompanied by the treachery, does not deserve to be termed base and dishonorable, those who engage in it must necessarily become, in our opinion, the objects of a very strong and very just suspicion.

It remains to us to fulfil that part of Your Excellency's commands to us, by which we are to enquire whether the Solicitor General has advanced those parts of the charges, which he has not substantially made good, to the prejudice and injury of the Attorney General in wantonness or upon slight or superficial proof. With respect to the most important part of the 1st Charge, which remains unsubstantiated, viz., that the Attorney General had conversed with Mr. Murray respecting the writings there mentioned, and had declared his high opinion of them, and that he had himself expressed similar sentiments to those of the writer; The Solicitor General has stated to us that he derived his information respecting the whole of this charge solely from Mr. Dawes; and from a perusal of the correspondence between your Excellency and that Gentleman, and of a letter from Mr. Hamilton to the Solicitor General of the 6th of the present month, which has been laid before us, we are perfectly satisfied of that fact. The Solicitor General has stated to us, and we believe that Mr. Dawes has often repeated to him, the statements which are the basis of this charge; and that Mr. Dawes has both given him permission to mention them to Your Excellency and has repeatedly pledged himself to support them when necessary; And the Solicitor General has also stated to us that Mr. Dawes has voluntarily confirmed many parts of them to Your Excellency and to other persons. And as there does not appear to have been any reason why the Solicitor General should then have doubted the existence of facts, the knowledge of which was derived from a person, who, by his situation and connection with the parties concerned, had such opportunities of being acquainted with them.
we can have no reason for imputing to the Solicitor General that
he has brought forward these parts of the charge upon slight
or superficial proof.

The Solicitor General has also informed us that he derived all
his Information on the subject of the sixth (another charge not
substantially proved) from the same source, and of this we can-
not have the slightest doubt: It is the first article in Mr. Dawes's
written statement to Your Excellency of the 19th of August.
At the desire of the Solicitor General, we addressed a letter to
Mr. Dawes, requesting his attendance before us as a witness,
and, in reply, we have received his letter (marked P) in which,
for the reasons there stated, he refuses to comply with our re-
quest. We do not wish to comment upon Mr. Dawes' conduct,
which we leave to speak for itself; and we only mention this
fact in order to make it the occasion of expressing to Your
Excellency our opinion that the Solicitor General has done all
that was in his power, in order to prove the facts of this and
the other charges, the information on which was derived to him
from Mr. Dawes.

With respect to the fifth Charge, It appears that the Attorney
General is assignee of part only of Mr. Thornton's debts, and
not of that which was the subject of the action against Mr.
Evans, and the whole foundation of this charge therefore is
wanting.

The Solicitor General has, by his letter to us of the 15th of
November, expressed his regret that this charge should have been
in any case preferred; and he represents that it has been caused
by an error into which he was led by the Attorney General him-
self, who had formerly stated to him that he was the Agent of
Messrs. Hopley and Lingan, and that Mr. Thornton had assigned
over "his effects" to him in trust to pay them a very large
debt, and that he was commencing actions against Thornton's
debtors and should direct Mr. Young to employ the Solicitor
General in the cases where he himself was retained for the
Defendants.

And we perceive by the letters of Mr. Meredith, which your
Excellency was pleased to transmit to us, and by a letter from
Major Honner to the Solicitor General, which the latter has laid
before us, that both those gentlemen had received the impression
from the statements of Mr. Thornton and the Attorney General
himself that the latter was assignee of all Mr. Thornton's effects.
And it appears that the Solicitor General, upon receiving a brief
in the cause of Thornton v. Evans (from the latter of whom the
Attorney General did in fact hold a retainer) concluded that
Finding that others have been led into the same error with the Solicitor General, and by the conversations of the very persons whose evidence would be completely conclusive of the fact, which has been thus mistaken, we cannot conceive that it was incumbent upon the Solicitor General to satisfy himself of the truth of that fact by any other description of proof, before he drew any conclusion from it. And the fact of his receiving the brief in this cause from the very Solicitor whom the Attorney General had named to him, as the person whom he should direct to give him a brief in the actions to be commenced by his direction as assignee of Thornton, coupled with the fact of the Attorney General actually holding a retainer for the defendant, and the general impression he was under of the Attorney General being assignee of all Thornton's estate, are circumstances so strong, that it was most natural that he should have concluded that this action was brought by direction of the Attorney General.

We cannot therefore impute to the Solicitor General that he has preferred this charge in wantonness, or upon slight or superficial proof. Though we think more caution would have been shewn, had the Solicitor General applied for Information to Mr. Young, from whom he might have known the fact with certainty instead of trusting to his own conclusions, however natural.

With respect to the first part of the eighth charge, It appears to us that the information, on which this is grounded, has been derived from Mr. Lawrie.

Oldfield was in fact imprisoned by Mr. Mulgrave, the Police Magistrate at Launceston, upon suspicion of being a prisoner of the Crown: that, on the occasion out of which this charge arises, Oldfield stated that he had been imprisoned by Mr. Mulgrave for "refusing to answer interrogatories," and that he had been liberated on bail, and that the Attorney General observed to him "that he was a fool for giving bail, as he might have trounced Mr. Mulgrave."

Your Excellency will perceive that this by no means amounts to proof either of the letter or of the substance of the charge as laid.

The expression made use of, however indiscreet, was evidently a hasty one, and not intended to convey deliberate advice, which was not even asked by the person to whom it was addressed. And we feel compelled to express to Your Excellency
our regret that a charge of this nature should have been preferred upon grounds in our opinion so slight and superficial.

With respect to the fourth charge, With the exception of the allegation that the Attorney General is defending the action there mentioned, we consider the facts of this charge substantially made good: the only other allegation, which is not proved being in our opinion immaterial.

And we are of opinion that the facts of the second, third, and seventh charges and the latter part of the eighth charge, are substantially made good.

All which we very humbly submit to your Excellency.

We have, &c.,

JOHN LEWES PEDDER.
A. W. H. HUMPHREY.
JOCelyn THOMAS.

Hobart Town, 29th Decr., 1825.

[Enclosure No. 4.]

EXTRACTS from the Minutes of The Executive Council, held on Consideration of report by executive council.

the 29th, 30th, and 31st days of December, 1825, and on the first day of January, 1826.

December 29th at 1 p.m.

Present at all the above meetings of Council.—His Excellency The Lieut. Governor, His Honor The Chief Justice, A. W. H. Humphrey, Esqre., Jocelyn Thomas, Esqre.

His Excellency called the attention of this Council to the report of the Commissioners directed to investigate the matters of the charges preferr'd by the Solicitor General against the Attorney General and to require its advice as to the steps proper to be taken thereon.

The further consideration of this subject was postponed to the next Meeting of Council. Broke up at 1 a.m.

30th day of December, 1825, 10 a.m.

The Council renewed the consideration of the report of the Commissioners for investigating the charges of Mr. Solicitor General against the Attorney General; The further consideration of this subject was postponed to the next meeting of the Council after a long deliberation. Broke up 6 p.m.

31st December, 1825, 10 a.m.

The consideration of the question respecting the Attorney General was resumed, and there was laid before the Council the draft of a letter from His Excellency the Lieutt. Governor to the Attorney General, dated the 29th Inst.: and a letter from
the Attorney General to His Excellency of the same date, and
the Council after deliberation upon this question postponed the
further consideration thereof to the next meeting of Council.
Council broke up at 1 a.m.

The 1st day of January, 1826, 10 a.m.

The further consideration of the question respecting the At-
torney General was resumed, and the Council was of opinion that
the Attorney General is no longer entitled to the confidence of
the Government; and they hereby recommend that, for the safety
of the interests of Government, His Excellency should suspend
the Attorney General from the Exercise of the functions of his
Office, until the pleasure of His Majesty can be known, and that
His Excellency should give to the Solicitor General all proper
authority to act in the stead of the Attorney General in the
meantime.

The above extracts from the minutes of the Executive Coun­
cil (no clerk having been as yet appointed by His
Excellency) were taken this 17th day of January, 1826,
by me (one of the Members of the said Council).

JOCELYN THOMAS,
Colonial Treasurer.

[Enclosure No. 6 a.]

MR. J. T. GELIBRAND TO LIEUT.-GOVERNOR ARTHUR.

Sir,

Hobart Town, 21st December, 1825.

I have been anxiously expecting to receive from your
Excellency a copy of the report of the Commissioners upon the
several matters, which you were pleased to refer to their con­
sideration so long ago as September last.

Your Excellency must be well aware of the painful situation,
in which I have been so long placed, in having charges of this
description hanging over my head, and at the same time being
obliged to perform the public duties committed to my care in the
Criminal Court, and which I have endeavoured to execute, altho'
my mind has been much distracted by these proceedings; but, as
the Court is now adjourned to Launceston, I trust that my
feelings may not be further wounded by the result of this In­
vestigation being withheld.

As the motive, which has induced Your Excellency to refuse
my application for a Copy of the other Letters, does not now
exist (viz., that Mr. Stephens' mind might not be distracted by
legal proceedings pending the Investigation), I trust Your Ex­
cellency will now be pleased to order such Copy to be given with
as little delay as possible.

I have, &c.,

J. T. GELIBRAND.
ARTHUR TO BATHURST.

[Enclosure No. 6 b.]

LIEUT.-GOVERNOR ARTHUR TO MR. J. T. GELLIBRAND.

Sir,

Government House, 21st December, 1825.

I shall most satisfactorily reply to your Letter, which I have just received, by enclosing you the Copy of one, which I addressed to the Commissioners on the 16th Instant, and by informing you that to this hour I have not received any Report from them.

Whatever the cause of so much delay has been throughout this painful investigation, the consequences to me have been most embarrassing.

I have, &c.,

GEO. ARTHUR, Lt. Govr.

[Sub-enclosure.]

LIEUT.-GOVERNOR ARTHUR TO CHIEF JUSTICE PEDDER AND MESSRS. HUMPHREY AND THOMAS.

Gentlemen,

Government House, 16th December, 1825.

The situation in which I am placed in the administration of the Government in consequence of the delay in my receiving your report upon the most essential subject referred to your investigation and consideration is so truly distressing and injurious to the public Service of the Colony that I must beg to request it may have precedence of every other matter.

It is not necessary that I should detail particularly whereon my difficulty rests, for it must be obvious that points of such vast importance connected with the Officer, whose legal advice it is my duty to take, prevent my confidentially consulting with him and paralyze the measures of the Government to a very great degree.

I have, &c.,

GEO. ARTHUR, Lt. Govr.

[Enclosure No. 6 c.]

MR. J. T. GELLIBRAND TO LIEUT.-GOVERNOR ARTHUR.

Sir,

Hobart Town, 28th December, 1825.

As it is the intention of the Chief Justice to proceed with the Trial of the Prisoners at Launceston on Monday next, I propose leaving Town for that place to-morrow afternoon, unless Your Excellency wishes me to wait until the end of the Week, or there is any public business to detain me.

In the present disturbed state of the Colony, I feel much anxiety for the safety of my family during my absence, and request that Your Excellency will be kind enough to allow me a Constable at night for their protection; and, as I shall not have any occasion for the Messenger at my office, John Pound, I shall return him to the Public Works.

I have, &c.,

J. T. GELLIBRAND.
SECRETARY MONTAGU TO MR. J. T. GELLIBRAND.

Sir, Secretary's Office, Hobart Town, 28 Decr., 1825,

I am directed to reply to your letter of this date by acquainting you that the Lieutenant Governor would on no account prevent your departure for Launceston, as the business of the Court on that Side is of pressing importance.

It would have been desirable indeed for the Lieutenant Governor to have ascertained your opinion as to the Line of proceeding to be adopted in the case of Bartholomew Broughton. His Excellency has referred to the Act 4, Geo. 4, Cap. 84, to which you adverted this day, and, having obtained copy of it, has directed me to transmit it for your immediate reference.

A few months ago, application was made by Mr. Hone to have a Constable attached to his house for the protection of his family during his absence as Commissioner of the Court of Requests; and which the Lieu. Governor was unable to accede to from his inability of affording the same indulgence to other Officers of Government; but, under the peculiar circumstances of the Colony at this Moment, and as it is your intention to return your Office Messenger into the Public Works, His Excellency will allow a steady Man to act as Constable at your House during your absence on Duty, if you will have the goodness to name a Man for the employment, or, if you will fix upon any Man who is now acting as Constable, he shall be ordered to your House.

I have, &c.,

JOHN MONTAGU.

LIEUT.-GOVERNOR ARTHUR TO MR. J. T. GELLIBRAND.

Sir, Government House, 29th December, 1825.

I have this Morning received the report of the Commissioners directed to investigate the Statement made to me by the Solicitor General and Mr. Dawes in August last, and, as I perceive that on the 16th of November you withdrew abruptly from the Commissioners without offering such observations as it might have been your intention to have submitted at the close of the examination of the Solicitor General's Witnesses, I beg to inform you that I am perfectly open to receive any communication you may think proper to make; and I shall readily annex any such communication to the general proceedings of the Commissioners and take the same into my most deliberate consideration.

I have, &c.,

GEO. ARTHUR.
MR. J. T. GELLIBRAND TO LIEUT.-GOVERNOR ARTHUR.

Sir, Hobart Town, 29th December, 1825.

I have the honor to acknowledge the receipt of Your Excellency's letter, informing me that you have this morning received the report of the Commissioners directed to investigate the statements made to Your Excellency by the Solicitor General and Mr. Dawes in August last, and that you were perfectly open to receive any communication I may think proper to make in consequence of my having withdrawn from the Commissioners on the 16th November last.

It would have afforded me much satisfaction to have attended the Commissioners during the whole of the investigation, as it appeared to have been Your Excellency's wish that I should have done so, and in that event I should not only have offered some observations to the Commissioners upon the extraordinary nature of the case and of the Evidence adduced before them; but, as Your Excellency is well aware, I should have called Evidence to answer to that produced by the Solicitor General.

There is no person can have so much reason to lament the cause of my withdrawing from the Enquiry as myself; it is a subject which I cannot even at this distant period venture to dwell on, and the effect of it Your Excellency is well aware must have been highly prejudicial to me.

As I am in ignorance of the extent of the Evidence taken and of the nature of the Report made by the Commissioners, and am in obedience to Your Excellency's commands upon the point of proceeding to Launceston, I am unable to offer any observations to Your Excellency upon the subject.

I shall depart for Launceston at 5 o'clock this Evening, altho' I need not state to Your Excellency under what unpleasant circumstances.

J. T. GELLIBRAND.

MR. J. T. GELLIBRAND TO LIEUT.-GOVERNOR ARTHUR.

Sir, White's Hotel, Launceston, 9th January, 1826.

I have been waiting with considerable anxiety to hear from your Excellency in answer to my Letter of 29th Ultimo upon the subject of the report made by the Commissioners of Enquiry.

I proceeded to this place under Your Excellency's commands in the prosecution of my public duties; but, instead of having the accommodations which have been usually provided for me, I
have been under the necessity of seeking Lodgings at an Inn, whilst the Officers of the Court are accommodated at the Government House.

If, by this treatment, I am to understand that a slur is cast upon my character by any of the recent proceedings, it is an additional reason why the report should not be withheld; and, as I have reason to know that the whole of these proceedings will be transmitted to my Lord Bathurst by the Denmark Hill, I trust Your Excellency will not prevent me from giving such answer to them as I may think necessary.

In the prosecution of so many cases as are in the Calendar, much study and consideration is necessary, for which the present place of my abode is ill calculated to afford opportunity; independent of which, my papers are open to the access of many persons, the result of which has been that some of the Examinations have been abstracted.

Altho' I have never been in the habit of living at an Inn, I do not offer these matters for Your Excellency's consideration upon private grounds; but, having proceeded to this place at the risk of my Life in the execution of my duties, I cannot but feel that an insult is offered to me in my official situation as Attorney General of this Colony.

I have, &c.,

J. T. Gellibrand.

[Enclosure No. 6 b.]

SECRETARY MONTAGU TO MR. J. T. GELLIBRAND.

Sir,

I am to acknowledge the receipt of your Letter of the 9th Instant. It much surprises the Lieutenant Governor that you should have been expecting any answer to your Letter of the 29th Ultimo, which he considered as your reply to his communication of that date, declining to afford you the Information you had desired. It appeared to His Excellency unnecessary to tell you that you were already in possession of all the Evidence, which had been received by the Commissioners of Enquiry, and that you were consequently in a situation to offer any remarks upon that Evidence, if you thought proper, without being put in possession of the report of the Commissioners, which was a Document solely required for the Information of the Government. I am however to acquaint you that it is still open to you to offer any observations upon the nature of the case or upon the Evidence adduced to the Commissioners, as it is the sincere and ardent desire of The Lieutenant Governor that every possible light should be thrown upon this very important Enquiry.
ARTHUR TO BATHURST.

The Lieutenant Governor regrets that there should have been any such neglect as you represent on the part of the Inspector of Works in not providing a suitable residence for your accommodation at Launceston, and he has instructed me to address the Commandant upon the subject. The Government Cottage was directed to be appropriated to the use of the Chief Justice, and His Excellency is quite unconscious of its having been occupied by any Officers of the Court.

The Lieutenant Governor knows not from what Quarter you could have received any Commands from him to proceed to Launceston, being only sensible of having received an intimation from you that you were on the point of proceeding to Launceston, which met with his immediate acquiescence; it was inferred as a natural consequence that the usual accommodation would have been provided for you; but, had you expressed the least wish at this Office that Instructions should have been forwarded upon the Subject, your wish would have been immediately complied with.

I have, &c.,

JOHN MONTAGU, Secretary.

LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.

(Despatch No. 6; acknowledged by Earl Bathurst, 12th July, 1826.)

Government House, Van Diemen's Land,

My Lord, 1st February, 1826.

I have the honor to enclose a letter which has been addressed to me by the Revd. P. Conolly, the Roman Catholic Clergyman residing in Van Diemen's Land, soliciting additional support to enable him to maintain that respectability required from his situation, and pointing out his reasons for declining to accept any remuneration from the Roman Catholics in this Island.

The Revd. P. Conolly arrived in these Colonies in the year 1820, under Your Lordship's sanction and authority, and since that period his annual stipend has not exceeded £100, a sum quite inadequate to his support.

The conduct of this Gentleman was very favourably spoken of by my Predecessor, and, since my assumption of the Government, he has always merited my approbation, and I do not hesitate to inform Your Lordship that, in my opinion, it would not be possible for any person to perform the duties required by his Office, which in a Protestant Community are often of a delicate nature, with more satisfaction to the Government.

Under these circumstances, I beg leave to recommend Mr. Conolly's application to Your Lordship's most favorable
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consideration, and I would submit the increase of the Revd. P. Conolly's Salary to the Sum of £200 per Annum from the commencement of the present year.

I have, &c.,

GEO. ARTHUR.

[Enclosure.]

REVD. P. CONOLLY TO LIEUT.-GOVERNOR ARTHUR.

Sir,

Hobart Town, 10th January, 1826.

Request by Were a Catholic Priest, under the sanction of His Majesty's Government, to depend for support on a people such as salary. constitutes the Catholic Community of this Colony, his labours to promote the benefits of religion would be very ineffective; he could neither exercise that influence, which would be necessary to repress the immorality that may be expected to prevail in a Convict population, nor maintain that respectability which his Station would require. For these and other reasons of the same nature, I have not in any instance (as I have stated in reply to the several circulars on such points) asked any fees or emoluments of the Catholics of New South Wales or Van Dieman's Land in discharge of the arduous Duties of my profession during a period now closing on Six years.

I have often been urged by many of the most respectable Protestant inhabitants to represent how inadequate the Salary of one Hundred Pounds a year, which the British Government was pleased to order me, is towards affording me such means, as would render my Services more effectual. When the high prices of so many things here are considered, one hundred Pounds will not afford more than a limited support.

I persuade myself that, when His Majesty's Government sanctioned the discharge of my sacerdotal Functions in these Colonies, they wished for the best exercise of my Services; and I trust their liberality, when they know in what circumstances I stand, will induce them to order such salary, as will enable me to put these Services into effect. I therefore beg leave respectfully to submit this matter to your Excellency's consideration, assuring you it is not without great unwillingness I ask for additional support. Perhaps I was wrong in having acted so long under the influence of this unwillingness. I have been pressed by many to ask, which I now most respectfully do; and, I hope, from the interview your Excellency lately honoured me with, that my application may not be considered undeserving of consideration.

To make profession here of my attention to the faithful discharge of my Duties were as unexpected by your Excellency, as uncalled for in me. In this respect you know me sufficiently, and I am persuaded of Your Excellency that, by the application
I now make meeting your approbation, as I trust it will, the desired support will soon be afforded, and Provision sufficiently ample ultimately made for me. I have, &c., P. Conolly.

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Earl Bathurst to Governor Darling.
(Despatch No. 8; acknowledged by Governor Darling, 20th October, 1826.)

4th February, 1826.

[A copy of this despatch, appointing Governor Darling vice-admiral in Tasmania, will be found on page 157, volume XII, series I.]

Earl Bathurst to Lieut.-Governor Arthur.

7th February, 1826.

[A copy of this circular despatch will be found on page 169, volume XII, series I.]
by rendering him all the protection and assistance which are
within my means. Just at this time, arrangements are making
for carrying into effect Your Lordship's Instructions* for the
general Survey of the Colony, and, as Your Lordship suggests
that Captain Smith's services might be available, if required, in
that Department, I shall not fail to bear in mind Your Lord-
ship's intimation, if it becomes necessary to enlarge the Sur-
veyor General's Establishment.

I have the honor to remain With the highest respect and con-
sideration My Lord, &c.,

GEO. ARTHUR.

LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.
(Despatch No. 7.)

Government House, Van Diemen's Land,

My Lord,

9th February, 1826.

I have the honor to address Your Lordship† upon the sub-
ject of an exchange of Land, made in the Year 1821, between
the Government of this Colony and Mr. Edward Lord, who is
at present residing in England.

It has been recently discovered that some informalties exist
in the Conveyance, which render the present Title of the Crown
objectionable; and I am desirous of stating them, with a view
to obtaining Your Lordship's directions for the adoption of such
measures in England, as are necessary to give validity to the
transaction.

In the Year 1821, Colonel Sorell, with the sanction of Gov-
ernor Macquarie, made a purchase of Fourteen Acres of Land,
situated at Macquarie Point, Hobart Town, of Mr. Edward Lord,
giving him as a consideration Seven Thousand Acres in the
Interior of the Island. A Cottage, now in a state of total dilapi-
dation, with some out-buildings, was erected on the 14 Acres.

This Estate, so purchased of Mr. Lord, had originally be-
longed to a Mr. Fosbrook in virtue of a Grant from the Crown,
and became the property of Mr. E. Lord in 1813 by a conveyance
from Fosbrook, which is, however, in the highest degree informal
and incomplete; and, even according to the best construction of
which, Mr. Lord only received from Fosbrook an Estate for Life.

It appears that the Crown has been in possession of this pro-
PERTY since the period when the Contract with Mr. Lord was
made in 1821, but no conveyance of any kind was ever executed
by him; nor does any step towards giving effect to the Sale
appear to have taken place beyond the delivery up to Govern-
ment of the original Grant, which was in Mr. Lord’s possession,
for on the back of this document the incomplete assignment

* Note 30.† Note 31.
from Mr. Fosbrook to Mr. Lord, already alluded to, is endorsed, and which forms, as I have already acquainted Your Lordship, the only title to the Property which Mr. Lord ever possessed. Mr. Lord's Title to the Seven Thousand Acres was however reserved to him by Grant, under the Signature of the late Governor Macquarie.

I should also inform Your Lordship that a third person is interested in the transaction, namely, a Mr. Ingle, who is a Judgement Creditor of Mr. Lord's; and, if he was so in 1821, it will be necessary that he should form a party to the conveyance. Both Mr. Fosbrook and Mr. Ingle, as well as Mr. Lord, are now in England; I am advised by the Law Officers of the Crown that, if Mr. Fosbrook was married in 1813, and his Wife be now living, she must be included in the execution of the deed, which I have now the honor to solicit may be obtained.

Under these circumstances, I have to request Your Lordship will be pleased to cause application to be made, either to the three several parties I have named, if they are alive, or, in case of death, to their respective Heirs at Law, to execute such an Instrument as will secure the full and ample title to the Crown to the Land in question.

I beg to refer Your Lordship to my Despatch, No. 13, dated 12th of August, 1825, containing a draft, lease, and release, with full particulars regarding Mr. Lord and Mr. Ingle; and I have the honor to enclose herewith the opinions of the Attorney and Solicitor General as to the Title, together with a description of the land in question; and Your Lordship will perceive that a communication has been already made to Mr. Lord respecting it by his Agent Doctor Hood. I have, &c.,

GEO. ARTHUR.

Schedule of Papers transmitted with Lieut. Governor Arthur's Schedule of Dispatch No. 7 of the 9th of February, 1826.

<table>
<thead>
<tr>
<th>No.</th>
<th>Date</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>1.</td>
<td>1st Jan., 1806.</td>
<td>Copy of Grant of Fosbrook's Farm and Assignment to Edward Lord, Esqre.</td>
</tr>
<tr>
<td>2.</td>
<td>30 Decr., 1813.</td>
<td>Copy of a Letter from the Crown Solicitor to the Attorney General, requesting his opinion as to the Title conveying to the Government the above Farm</td>
</tr>
<tr>
<td>3.</td>
<td>8th June, 1825.</td>
<td>Copy of the Attorney General's opinion conveying to the Government the above Farm</td>
</tr>
<tr>
<td>4.</td>
<td>14th June, 1825.</td>
<td>Copy of a Letter from the Crown Solicitor stating the Title to be in complete</td>
</tr>
<tr>
<td>5.</td>
<td>26th December, 1825.</td>
<td>Copy of a Letter from the Crown Solicitor recommending a Conveyance to be executed</td>
</tr>
<tr>
<td>6.</td>
<td></td>
<td>Description of the Farm</td>
</tr>
</tbody>
</table>
By Philip Gidley King, Esquire, Captain General and Governor in Chief in and over His Majesty’s Territory of New South Wales and its Dependencies, etc., etc., etc.

WHEREAS full Power and Authority for Granting Lands in the Territory of New South Wales, to such Persons as may be desirous of becoming Settlers therein, is vested in His Majesty’s Captain General, and Governor in Chief, in and over the said Territory and its Dependencies by His Majesty’s Instructions under the Royal Sign Manual bearing date, respectively, the twenty fifth day of April One thousand seven hundred and Eighty Seven, and the twentieth day of August One thousand seven hundred and Eighty Nine.

IN PURSUANCE of the Power and Authority vested in me, as aforesaid, I do by these Presents give and GRANT unto LEONARD FOSBROOK, Esquire, his Heirs and Assigns to have and hold for ever Fourteen Acres of Land Situate on the North Side of Sullivan Cove, on the River Derwent, Van Diemen's Land. Bounded by the Cove on the East, leaving a Roadway one Chain broad on the Margin thereof, On the South of Mr. Collins's Premises, On the West by Mrs. Hobbs's Town Allotment, And on the North by George Guest's Premises, leaving a Roadway One Chain between each of the Boundaries.* The said One hundred Acres of Land to be known by the Name of Fosbrook Farm, and to be had and held by him the said Leonard Fosbrook his Heirs and Assigns free from all fees, Taxes, Quit Rents and other Acknowledgements for the space of Five Years from the Date hereof such Timber as may be now growing or that may grow hereafter upon the said Land, which may be deemed fit for naval purposes, to be reserved for the use of the Crown, and paying an annual Quit Rent of One Shilling after the Term or Time of Five Years before mentioned.

IN TESTIMONY whereof I have hereunto set my hand and the Seal of the Territory at Government House, Sydney, in New South Wales, this First day of January, One thousand Eight hundred and Six.

Signed and Sealed in our presence,

PHILIP GIDLEY KING.

Registered in the Secretary's Office,

G. BLAXCELL, Secretary.

* Marginal note.—Bearings N. 50 E., N. 40 W. Distances 14c. 001. sides. 10 00 front and back.
Fees.

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Leonard Fosbrook, Esqre., 14 Acres.

Van Diemen's Land, 1st Jan., 1806.

Know all Men by these Presents that I, the within named Leonard Fosbrook, Esquire, for and in consideration of the Sum of One thousand Six hundred Pounds of good and lawful money to me in hand well and truly paid by Edward Lord, Esquire, the receipt whereof I do hereby acknowledge and thereof or from the same, do hereby acquit release and for ever discharge the said Edward Lord, his Heirs, Executors, Administrators and Assigns, and by these have Bargained, Sold, Assigned, transferred and set over all my Right, Title, Interest, property, Claim and possession, in and to the within mentioned Fourteen Acres of Land together with all Buildings, Erections, enclosures, improvements, and Appurtenances unto the said Edward Lord, To have and to hold the same for ever, as Granted by the within Indenture.

In witness whereof I have hereunto set my hand and Seal this Thirtieth day of December in the year of Our Lord 1813.

Leonard Fosbrook.

Received the 30th day of Decr., 1813, from the above named Edward Lord the Sum of One thousand Six Hundred Pounds being the consideration money above mentioned to be paid by him to me.

£1,600. Leonard Fosbrook.

Registered in the Secretary's Office, the 29th Decr., 1813.

Thos. Lascelles, Actg. Secretary.

[Enclosure No. 2.]

Crown Solicitor Stephen to Attorney-General Gellibrand.

Sir, Hobart Town, 8th June, 1825.

The accompanying papers have been transmitted to me for perusal by His Honor The Lieutenant Governor; His Honor stating that in consequence of the recent difficulty which has appeared in the title to the Land in possession of Mr. Edward...
Lord, called Guest's Farm, for the purchase of which the Government was in Treaty, it had occurred to His Honor that the Title to the Land at Macquarie Point, formerly purchased by Government from the same Gentleman, might not be perfect.

This Land, it appears, was formerly Granted to a Mr. Fosbrook, who in the year 1813 conveyed it to Mr. Lord by the very inaccurate and incomplete Document endorsed on the Grant.

This Indorsement, considered as a conveyance, you will perceive is in every way and to the last degree informal. In the first place, it is not an Indenture. There is no Statement of any Delivery of the Deed; and the assignment is expressed to be not of the Land, but merely of the Granted Right and Title to the Land; but what appears unfortunately to be a far more solid objection, since it is an important error in Substance, is the circumstance that there are in the Granting part of this Instrument no words whatever of Inheritance, the assignment being merely "to the said Edward Lord" alone, and the habendum does not aid the operation, being in itself equally defective, since it names no one person whatever running thus, "To Have and to Hold the same for ever as granted by the within Indenture."

It appears by the Letters of Mr. and Mrs. Lord, which with the Grant accompany this Case, that the Crown purchased this Land in 1821; and it has ever since been, I understood, in possession; but, from that time to this, the purchase has not been completed by the execution of any Deed, nor has Government, as His Honor's Secretary informs me, any other papers upon the subject than those now submitted to you.

Under these circumstances the following questions arise:—

1st. Is Mr. Lord possessed of such a Title under the before mentioned endorsement, as the Crown the purchaser can safely accept: or could he have taken any greater interest by virtue of that Instrument than a Life Estate?

2ndly. If he have merely a Life interest, then the following consideration suggests itself; whether the Crown is or is not precluded from rejecting the Title, by an apparent acquiescence in it, in Consequence of having taken no earlier objection, although at this time having been in possession of the Land for a period of four years. In point of fact, the Title Deeds have (I presume) never been before looked into, nor was there possibly, at the time of the Sale, legal advice to be procured in the Colony.

If however under the circumstances an ordinary purchaser would be barred from now objecting to the Title, will the same Consequence extend equally to Bar the Crown?

* Note 32.
3rdly. If the Title be bad but the Crown cannot now reject it, ought not the Government to call upon Mr. Lord and Mr. Ingle (if his judgements were at the period of the sale in existence) to execute Deeds similar to those advised with respect to Guest's Farm,* and can any additional means be adopted to render the Title more secure than it now is, and what means, if any, are they?

The Consideration was a large Tract of Land in the Interior. The inconveniences attending the Execution of a Deed of exchange between the Crown and a Subject are such that I have in other cases, by Consent of His Honor and of the Vendors, expressed in the Deeds a Money Consideration, placing a nominal value on the Land newly Granted at so much per acre. I mention this that, if the plan appear to you undesirable, you may so advise me.

I have, &c.,

ALFRED STEPHEN, Crown Solicitor.

[Enclosure No. 3.]

ATTORNEY-GENERAL GELLIBRAND TO CROWN SOLICITOR STEPHEN.

Sir, Hobart Town, 14 June, 1825.

I beg to acknowledge the receipt of your letter of the opinion of J. T. Gellibrand.

I am of opinion that, under the Deed executed by Fosbrook, Mr. Lord has only taken an estate for Life.

2ndly. That Mr. Lord, not having made any Conveyance to the Crown, is still liable to be called upon to make a good Title, and that he is bound to procure the execution by all necessary parties to such a conveyance as the Crown may require.

The Judgement Debt of Mr. Ingle's was not I believe in existence at the time of his purchase; if it was, he ought to be a party.

I return you the papers enclosed. I have, &c.,

J. T. GELLIBRAND.

[Enclosure No. 4.]

CROWN SOLICITOR STEPHEN TO SECRETARY MONTAGU.

Sir, 14th June, 1825.

I have to acknowledge the receipt of your Letter, enclosing certain writings, relating to property called Fosbrook's, formerly purchased by Government from Mr. Edward Lord, and requesting that I would peruse the same and take all such steps thereupon, as might be necessary.

It appears to me that Mr. Lord could not, nor can make out Invalidity of title of E. Lord. a Title to that property, since he took by the Deed, under which he claims, a Life Interest merely.

* Note 32.
I therefore have laid a Case before the Attorney General, who
Concurs with me in that opinion; These papers you have enclosed
for His Honor The Lieutenant Governor’s information.

Under these Circumstances, I apprehend that the contract
with Mr. Lord may be considered as void, unless he can, and do,
within a reasonable time, procure a valid Conveyance for the
Crown from Fosbrook or his Heir, and at his own expense. In
this Deed, Mr. Lord himself should join and (if also that judg­
ment were in existence in 1821) Mr. Ingle. If Mr. Fosbrook
were married and his wife be alive, she also must be a party.
The Attorney General having, upon a former question* of this
nature, been of Opinion that the execution by Mrs. Lord was
not necessary, a conveyance by the parties just mentioned will I
conceive be sufficient. If Mr. Lord’s Agents here cannot under­
take to procure execution by them, the Crown ought to reject
the purchase and deliver up to him the possession of the Land.

With His Honor’s Approbation therefore, I will communicate
with Mr. Lord’s Agent, and require from him the execution of
the Deeds, with an intimation that, in the event of his inability
to procure such execution, The Crown must decline the purchase.

I have, &c.,

ALFRED STEPHEN, Crown Solicitor.

[Enclosure No. 5.]

CROWN SOLICITOR STEPHEN TO SECRETARY MONTAGU.

Sir,

9 Feb.

Valid conveyance
necessary.

State of title to F. Lord’s
land.

Crown Solicitor Stephen to Secretary Montagu.

Macquarie Street, 26th Decr., 1825.

I have the Honor to report to you, for the information of
His Excellency The Lieutenant Governor, that the following is
the state in which the subject of Mr. Lord’s sale to Government
of Fosbrook’s 14 Acres rests.

This property, as you are aware, was sold by Mr. Lord to the
Crown some years ago for a Consideration of several thousand
Acres of Land in the interior. I have only recently understood
that these Acres have been actually granted to him and that he
has long been in possession of them. No Conveyance of Fos­
brook’s, however of any kind, was ever executed by him, nor
does any step for the due effectuation of the sale appear to have
taken place, other than the delivery up to Government of the
Original Grant, which was in his possession. On the back of
this Grant is indorsed a very informal and incomplete sort of
assignment from Fosbrook to Mr. Lord, constituting the only
title to the property which Mr. Lord possessed.

Without recapitulating particularly the precise nature of the
legal Objections to this title, (upon which His Excellency has
already been furnished from me with the Attorney General’s

* Note 32.
and my own Opinion), it will be sufficient to state that they are such as can only be effectually removed by Mr. Fosbrook or, if he be dead, by his heir at Law, executing a proper instrument of conveyance to Mr. Lord, or being made a party to and jointly executing the Deeds, required from Mr. Lord, to the Trustees for the Crown.

Mr. Fosbrook is, I believe, alive and in England, and very little difficulty will probably be experienced by Mr. Lord in procuring him to adopt either of these Courses; since, as I understand, Mr. Fosbrook is a very respectable and Honorable man, and would therefore not be disposed unjustly to refuse compliance with an application of that nature.

With respect to the necessity of the Deeds of Conveyance being executed personally by Mr. Lord in England, and also by Mr. Ingle, his Judgement Creditor, and not by their Agents in this Colony, you have full information in previous Letters* upon the subject of "Guest's Farms." The reasons upon this point in that case apply equally to the present, as will also, Mutatis Mutandis, the form of Deeds proposed by me upon that Occasion, the Draft of which was then forwarded to you to be transmitted to the proper Law Officers at Home for the purpose (subject of course to their correction, or the substitution of any other form, deemed more adviseable) of being engrossed and executed there by the proper parties. All that is additionally necessary is consequently for me to furnish the Government with a proper description of the Land, which therefore I have the Honor to Enclose accordingly.

The formal difficulties, which would arise here from Specifying truly, in the Deed, the consideration of Land Exchanged with the Crown, I have found it desireable to avoid, by expressing a money consideration (placing some nominal value upon the Land usually 7s. 6d. per acre) and endorsing the usual form of a corresponding receipt for money on the Back.

I have, &c.,

ALFRED STEPHEN, Crown Solicitor.

P.S.—Upon refering to Dr. Hood, Mr. Lord's Agent here, I find that he has already addressed that Gentleman upon the subject reported in this Letter, and that he had transmitted to him a Copy, with which I furnished him, of the Original Grant to Mr. Fosbrook, and of the Latter's assignment of which I have spoken.

[Enclosure No. 6.]

DESCRIPTION OF LAND GRANTED TO L. FOSBROOK.

Fourteen Acres of Land, commonly called or known by the name of Fosbrook's, situate on Macquarie Point, on the North

* Note 32.
104 HISTORICAL RECORDS OF AUSTRALIA.

1826.
9 Feb.
Description of land granted to I. Fosbrook.

11 Feb.
Previous report re professional conduct of J. T. Gellibrand.

Refusal of A. Stephen to act as attorney-general.

Deliberations by executive council.

Doubts re power of suspension.

LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.
(Despatch No. 8.)

Government House, Van Diemen's Land,
My Lord,
11th February, 1826.

In my Despatch No. 5 of the 17th of January, I had the honor to report to Your Lordship upon the conduct of the Attorney General; the Inquiry that had been instituted by Commissioners; their Report thereon; the deliberations of the Executive Council upon the subject; their Opinion that Mr. Gellibrand was no longer entitled to the confidence of the Government, with their unanimous recommendation, for the safety of its Interests, that he should be suspended from the exercise of the functions of his Office, and proper authority given for their due execution by the Solicitor General. I further submitted to Your Lordship that, immediately after the return of the Court from Launceston, I should proceed to act upon the advice of the Council, but I entertained a doubt whether the Solicitor General from motives of delicacy, could be prevailed upon to undertake the duties of the Attorney General.

Copy of my letter to Mr. Stephen with his answer I have the honor to enclose, by which Your Lordship will perceive his determination was made, - that he would in no way whatever benefit by the suspension of Mr. Gellibrand, and as he steadily, and I think with great propriety, declined the Office, it became necessary to resort to other measures.

By the Minute of the Executive Council, which I have the honor to enclose, Your Lordship will perceive that the most careful deliberation has been again given to this subject for many hours during Eleven days almost successively. The most perfect unanimity has prevailed in the Council throughout, but the deliberation has been protracted from the following circumstance.

Although the Council had advised the suspension of Mr. Gellibrand, a doubt arose in my mind as to the powers I possessed of carrying such advice into effect. The Governor's Commission and Instructions* are both silent thereon, and, if the Appointment of Public Officers, subject to the confirmation or

* Note 33.
disallowance of His Majesty, or their suspension, is vested in the Lieutenant Governor, it must be inferred from the absolute necessity of the case, and be considered as comprehended in the general powers to administer the Government, for there is no precise authority to this point. This doubt led the Council to look with great attention for some authorities or precedents, and to examine with much care, the Act of 22nd Geo. 3rd, Chaptr. 75, which provides for the removal of Patent Officers by the Governor and Council.

The Chief Justice appeared to hold it doubtful whether that Statute, in strictness, applied to an Office determinable at pleasure; but, at all events, he considered it did not take away the power of the Crown to remove any Officer holding an Appointment during pleasure; and the Council, in consequence, came to the decision of recommending me still to act upon their former advice of suspending Mr. Gellibrand.

Upon this decision, therefore, I have finally acted; and beg to lay before Your Lordship Copy of my letter to Mr. Gellibrand, and to report that, until the King’s pleasure shall be known, I have appointed Mr. Hone to act as His Majesty’s Attorney-General.

Some minor arrangements will in consequence be necessary in providing for the Court of Requests, etc., and, upon these points, I shall have the honor to report to Your Lordship by a Vessel which will sail for England during the ensuing Month.

As Mr. Gellibrand has declined offering any explanation to me, I am prevented from deciding on the whole merits of the case; but Your Lordship will not labour under this difficulty, as Mr. Gellibrand, I understand, makes a full representation direct to Your Lordship. I may sincerely say I have been governed by a desire to do him justice; but it is my conscientious belief that he has lent himself to a small faction, whose views and intentions have been and are of the most mischievous kind.

The powers of a Governor to suspend a Patent Officer, I am not so clear upon as I could wish; but it is quite evident the Public Interest requires such Powers to be vested somewhere, and I trust it will not appear to Your Lordship, that it has been unduly or unnecessarily exercised on the present occasion.

Mr. Hone has been given distinctly to understand that his Appointment is of a temporary nature; He is, I believe, a very conscientious, zealous, Public Officer; but, in the present state of this Colony, the Government requires the aid of a Legal Adviser of considerable attainments; and I venture therefore again very humbly to impress upon Your Lordship that a Salary, which would induce a professional Gentleman of known Integrity
and reputation to accept the Office, would be an expenditure of Public Money, justified by every motive of expediency, if not of positive necessity.

It is not probable it will appear advisable to His Majesty's Government to alter, for some years, the present restricted Constitution of this Colony; and, whilst such extensive powers are necessarily placed in the hands of the Attorney General, it is of the last importance to the Government and to the People that the Office should be filled by an Individual of corresponding qualifications.

I have, &c.,

GEO. ARTHUR.

[Enclosure No. 1.]  
LIEUT.-GOVERNOR ARTHUR TO CROWN SOLICITOR STEPHEN.

Government House, Hobart Town,

Sir, 7th Jany., 1826,

On the receipt of your Letter of the 1st August, and the interviews which followed with Mr. Dawes respecting the conduct of the Attorney General, I have personally stated to you that I should refer the subject to Commissioners to be specially enquired into and fully reported upon by them; and that, preparatory to receiving their report, I was unable to come to any decision on the propriety of accepting the resignation of your Offices, as Solicitor General and Crown Solicitor.

After the most painful delay proceeding from various causes of difficulty to the Commissioners, I received their Report on the 29th Decr. last; to which I have given the most earnest consideration; and I feel the greatest satisfaction in assuring you that, upon their statement, I have every reason to be satisfied with your conduct throughout the transaction in question.

The Government, indeed, has just and strong reasons to be sensible of the manly, straight-forward part, you have taken, to protect its interests to your own manifest prejudice, whilst the contrary principle, which seems so decidedly to have preponderated with the Attorney General, is deeply to be lamented.

With such a disclosure of the whole of Mr. Gellibrand's conduct, as the report exhibits, it would be altogether unsafe for me to continue the administration of the Government with that Gentleman as its legal adviser; and therefore, at the close of the Session now holding at Launceston, it is my intention to dispense with his Services, and to request that you will, as Solicitor General (under such temporary appointment as may be deemed necessary) conduct the Legal business of the Crown, until His Majesty's pleasure can be known.

It is quite impossible I can convey to you a higher opinion of my entire confidence, or that I could by my expressions so
strongly testify my approbation of your conduct, upon which I
shall have very great satisfaction in reporting to His Majesty's
Government.

The arrangement, which I propose with your concurrence, will
be carried into effect as soon as possible after the Session has ter-
minated and the Court returns to Hobart Town.

I have, &c,

G. ARTHUR.

CROWN SOLICITOR STEPHEN TO LIUET.-GOVERNOR ARTHUR.
Macquarie Street, Hobart Town,

Sir,

8th January, 1826.

It is with feelings of unfeigned gratitude, that I acknow-
ledge the receipt of Your Excellency's Letter of yesterday, con-
voying to me your opinion, founded upon  the circumstances
disclosed by the report from the Commissioners of Enquiry, of
my conduct in relation to certain charges preferred by me
against the Attorney General.

It is most gratifying to me to find that the performance of
this painful duty towards the Crown and the Public has not
been misconstrued; and that I am so fortunate as to have
secured by it the approbation of Your Excellency. This circum-
stance is rendered still more acceptable to me by that approval
having been withheld untill the Sittings of the Commission had
terminated. Your Excellency, before bestowing it, had not only
the whole case fully before you, but had been informed of all its
circumstances by a deliberate report from Three Gentlemen of
the first consideration in the Colony, to whom they were referred
for investigation. I shall trust to the extraordinary nature of
that case, altho' by actual evidence but imperfectly developed;
and, to the importance of those circumstances, altho' from the
difficulties opposed to me but partially disclosed, to secure a
result elsewhere equally honorable to me: whilst those very
difficulties (several of them thrown in my way by the Attorney
General himself) will, I hope, obtain for me, even with respect
to my unsupported statements, the most favourable considera-
tion of His Majesty's Ministers, to whom, I do not doubt, pains
will be taken by certain Individuals here to represent my conduct in
the most invidious and disadvantageous light.

For obvious reasons connected with this point, it would have
been more satisfactory to me personally, had the nature of the
Report appeared to Your Excellency to leave an alternative to
the measure contemplated, or the arrangement proposed in conse-
quence of it. There are persons in this Town, who have in every
instance attacked, by individual insolence and hostility, and
persecuted with unceasing calumnies, the Public Officer, who
has ventured to discharge faithfully his duty to The Government.
Your Excellency is well aware that to this rule, unhappily for
me, my case has been no exception. These persons will not be
persuaded that such an arrangement can produce no adequate
pecuniary advantage to me; nor understand the fact that no
temporary appointment, however honorable, can compensate for
those losses, which the discharge of my duty in this case has
already entailed upon me; or for the abandonment of those more
lucrative prospects elsewhere, which a continued residence in
the Colony must compel me to relinquish.

I should not, however, think it becoming in me to be influenced
on this occasion by mere personal considerations of that kind.
I have, on the contrary, no wish at present but to attain two
objects. The first: to avoid even the appearance of deriving
advantage from Mr. Gellibrand’s impeachment. My next is:
not to desert the Government at this critical juncture, when I
cannot but feel sensible that my exertions, humble as they are,
will possibly be not entirely useless to it. I am desirous of this
proving that my motives throughout this business really have
been as honorable, as impartial men have hitherto thought them.
If I assented to the proposed arrangement, I could scarcely
expect the most candid not to impute to me the existence of
sinister views. My Friends even would probably suspect me.
I should under such circumstances begin to suspect myself.

The two objects can, as it appears to me, only be effected by
my remaining in the Colony in my present Offices, but with
neither the duties nor the emoluments of the situation of At­
torney General. I would therefore most humbly suggest whether
those duties and all the powers of the Office, under the Court
Act, might not be better confided, in the temporary manner
projected, to the Master Mr. Hone; assuring Your Excellency,
for my own part that I shall be ready, in all other respects, to
give up my whole time and attention, if necessary, to the per­
formance of any portion or portions of the Crown business, or
of any other duty which may be intrusted to me; and to the dis­
charge of which, I may be competent, either directly in aid of
that Gentleman, or otherwise, as may best promote the interests
of His Majesty’s Government. By this means also, the Crown
will continue to have the Services of Two Legal assistants, when
requisite: a circumstance, which appears to me to be of great
importance in all cases; but, in the numerous matters requiring
the intervention of an Attorney, one that is almost indispensable.

That there may be no other ground, on which a doubt respecting
my conduct hitherto may be raised, I would further solicit
that, as respects the remuneration of my proposed Services, it
may be limited to the smallest sum sufficient for enabling me to
maintain myself and my family in my proper situation in life;
and even this I should be desirous of declining, if I could
expect for several months any resources from private practice.

It remains for me to tender to Your Excellency my warmest
acknowledgements and thanks for that mark of your entire
confidence, with which your kindness had proposed to honor me.
My chief source of regret is that I am not more worthy of
your favourable opinion, and that my very humble talents do
not better qualify me for performing even those duties which
have already been entrusted to me. I have, &c.,

ALFRED STEPHEN.

[Enclosure No. 3.]

EXTRACTS from the Minutes of the Executive Council held on
the 27th, 30th, and 31st days of January, and on the 1st, 2nd,
3rd, 4th, 6th, 8th and 9th days of February, 1826.

Present at all the above Meetings—His Excellency The Lieu-
tenant Governor, His Honor The Chief Justice, A. W. H.
Humphrey, Esqre., Jocelyn Thomas, Esqre.

Read the Minutes of Council* of the 1st day of January instant,
recommending His Excellency the Lieutenant Governor to sus­
pend the Attorney General from the functions of his Office until
the pleasure of His Majesty can be known; and recommending
His Excellency to give all proper authority to the Solicitor
General in the mean time. His Excellency was pleased to inform
the Council that, owing to the absence of the Chief Justice at
the Sitting of the Supreme Court at Launceston from the 3rd
to the 24th of the present Month, His Excellency had not thought
it advisable to take any step towards carrying into effect the
advice contained in the Minute now read; and was pleased to
ask the opinion of this Council as to the proper steps to be
taken thereon; and a question being raised, whether, since the
arrival of His Majesty’s Sign Manual* appointing this Council,
yany proceeding to deprive the Attorney General, he being an
Officer created by patent, ought not to be by His Excellency and
this Council, under the Act of Parliament of the 22nd year of
His late Majesty Chaptr. 75, The same was taken into con­
sideration, and after much discussion the further consideration
thereof was postponed until the next Meeting of Council.

The 30th day of January, 1826, 10 a.m.

The Lieutenant Governor drew the attention of the Council
to the question respecting the Attorney General left for further

* Note 34.
HISTORICAL RECORDS OF AUSTRALIA.

consideration at the last Meeting of Council; and the con­sideration thereof was now resumed, and the further considera­tion thereof postponed to the next Meeting of Council.

Broke up at 2 P.M.

The 31st day of January, 1826.

The Minutes of the last Council were read, and the considera­tion of the question respecting the Attorney General was re­sumed, and the following letters* were now read, viz.:—A letter from the Attorney General to His Excellency the Lieutenant Governor dated the 9th day of January instant, a letter from Captain Montagu (His Excellency's Secretary) to the Attorney General, dated the 13th day of the same Month, a letter from Captain Montagu to the Attorney General dated the 26th day of the same Month, and a letter from the Attorney General to Captain Montagu of the same date. After considerable discus­sion the further consideration of the question above mentioned was postponed to the next Meeting of Council.

The 1st day of February, 1826, 12 at noon.

The Minutes of the last Council were read. The consideration of the question respecting the Attorney General was now re­sumed, and the further consideration of the subject was post­poned to the next Meeting of Council.

Broke up at half past 6 P.M.

The 2nd day of February, 1826, 12 at noon.

The Minutes of the last Council were read. The further con­sideration of the question relating to the Attorney General was now resumed, and the further consideration thereof postponed to the next Meeting of Council.

Broke up 3 P.M.

The 3rd day of February, 1826, at One P.M.

The Minute of the last Council was read. The consideration of the question respecting the Attorney General was now re­sumed, and the further consideration thereof postponed to the next Meeting of Council.

Broke up half past 6 P.M.

The 4th day of February, 1826, 1 P.M.

The Minutes of the last Council were read. The consideration of the question relating to the Attorney General was now re­sumed, and the further consideration thereof postponed to the next Meeting of Council.

Broke up at half past 6 P.M.

* Note 34.
The 6th day of February, 1826, 2 P.M.

The Minutes of the last Council were read. The consideration of the question relating to the Attorney General was resumed, and there having been laid before this Council a Copy of the letters Patent* under the Great Seal of New South Wales, whereby Mr. Gellibrand was appointed to the Office of Attorney General, and it appearing thereby that Mr. Gellibrand's Office was made determinable at pleasure, the Council were of opinion that the Act of Parliament of the 22nd year of His late Majesty did not take away the power of the Crown to remove any Officer holding an Appointment by Patent during pleasure, and that, therefore, no necessity existed for proceeding against the Attorney under that Act in the present case; and this Council were further of opinion that, although proceedings might be taken against the Attorney General under the Act of Parliament for misbehaviour in his Office, if the Lieutenant Governor and Council should think fit so to do, yet, as many of the necessary witnesses were absent from the Colony, and as, for the reason above mentioned, no necessity existed for such a measure, they recommended that the advice of this Council to His Excellency, contained in the Minute of the 1st of January last, to suspend Mr. Gellibrand, be still acted upon. And it appearing by the letters of the Solicitor General, read at the Council held on the 31st day of January instant, that he had for the reasons therein mentioned declin'd to receive the Appointment of Attorney General, and His Excellency the Lieut. Governor having informed this Council that Joseph Hone, Esqre., the Master of the Supreme Court, was willing to perform the duties of that Office until His Majesty's pleasure could be known, and, having desired the advice of the Council thereon, the Council were of opinion and did humbly advise that His Excellency should cause a proper Commission to be forthwith prepared and issued, appointing Mr. Hone to the Office of Attorney General until His Majesty's pleasure respecting Mr. Gellibrand's suspension can be known.

The 8th day of February, 1826.

The Minutes of the last Council were read. His Excellency was pleased to lay before this Council the following papers and correspondence, viz.:—A Dispatch† dated the 22nd February, 1825, addressed to His Excellency by Robert Wilmot Horton, Esqre., Under Secretary of State by direction of Earl Bathurst, transmitting to His Excellency copies of the letters addressed to His Lordship by Messrs. Rawson and Thackery, Merchants in Leeds, on the subject of a Sum of Money which they stated to be due to them from Mr. Gellibrand, and expressing His
1826.

11 Feb.

Minutes of executive council re suspension of J. T. Gellibrand and appointment of J. Hone.

Lordship’s opinion that the statements of Messrs. Rawson and Thackery respecting this debt, if true, would seriously involve the respectability of Mr. Gellibrand’s conduct, and render him a very unfit person for the important situation, which he fills in the Colony, and requesting His Excellency to call upon Mr. Gellibrand to furnish His Excellency with an answer to the allegations in Messrs. Rawson and Thackery’s letter: A Copy of a letter* from His Excellency to Mr. Gellibrand dated 13th September, 1825, enclosing to him Copies of Messrs. Rawson’s and Thackery’s letters, and acquainting him with the substance of Mr. Wilmot Horton’s Despatch, and desiring him to furnish His Excellency with such an explanation as was therein required for Earl Bathurst’s information; also, a letter* from Mr. Gellibrand of the same date, acknowledging the receipt of His Excellency’s letter, and stating that he would write to his Agent in England with instructions to lay before Earl Bathurst the necessary papers, which were in the Agent’s possession, which would fully explain the transaction alluded to; and further stating that previously to leaving England he had settled all his accounts and had left no debts legal or moral; and His Excellency was pleased to desire the opinion of this Council upon the conduct of the Attorney General in omitting to furnish any explanation to His Excellency as required by His Excellency’s letter; and this Council were of opinion that Mr. Gellibrand’s conduct was highly improper and evasive, and formed another and distinct ground on which it would be proper that he should be suspended from his Office of Attorney General until His Majesty’s pleasure could be known.

* His Excellency was further pleased to lay before the Council a letter from His Excellency to Mr. Gellibrand notifying to him that His Excellency, with the advice of the Council, had suspended him from His Office, until the pleasure of His Majesty can be known, for their opinion whether the same was proper to be sent; and the Council gave it as their opinion that the said letter was proper to be sent to Mr. Gellibrand.

The 9th day of February, 1826.

The Minutes of the last Council were read. His Excellency was pleased to inform the Council that he had caused the letter from His Excellency to Mr. Gellibrand, which was read in the Council yesterday, to be sent to Mr. Gellibrand.

By His Excellency’s Command, there was laid before the Council and read, the draft of a Commission to Joseph Hone, Esqre., appointing him to be Attorney General in this Island during pleasure, and during residence and good behaviour; and

* Note 35.
His Excellency was pleased to ask the opinion of this Council if the same was proper to be issued, and the Council gave it as their opinion that the same was a proper Commission to be issued.

I hereby certify that the above extracts are correct copies taken from the Original minutes of the Executive Council.

JOCelyn ThomaS,
One of the members of said Council.

[Enclosure No. 4.]

LIEUT.-GOVERNOR ARTHUR TO ATTORNEY-GENERAL GELLIBRAND.

Government House, Hobart Town,
8th February, 1826.

Sir,

I beg to inform you that, with the Executive Council, I have taken into the most deliberate consideration the whole of the Investigation and Proceedings arising out of the Charges preferred against you by the Solicitor General, together with the correspondence which has since transpired, in which I have in vain invited from you any observations or explanations upon the Case.

It is the opinion of the Council that you are no longer entitled to the confidence of the Government, and they have unanimously advised me that, for the safety of its interests, I should suspend you from the exercise of the functions of your Office until His Majesty's pleasure can be known. It becomes therefore my painful duty to notify to you that you are from the date hereof suspended accordingly.

I have directed a Commission to be forthwith prepared appointing Joseph Hone, Esqre., to be Attorney General until His Majesty shall be pleased to reinstate you in that Office; or, to appoint some other Gentleman to fill it, and you will be pleased to deliver over to Mr. Hone all depositions, instruments, and papers now in your hands as Attorney General.

It is just towards you, I should add, that I have laid before the Council Lord Bathurst's Despatch of the 22nd of February with its enclosure from Messrs. Rawson and Thackery, with Copy of my Letter to you, and your reply upon that subject. And the Council are of opinion that your conduct, in omitting to furnish me with any answer to the allegations of Messrs. Rawson and Thackery, which Earl Bathurst's Despatch directs me to call upon you for, forms another distinct ground on which it is proper that you should be suspended during pleasure.

I have, &c.,
GEO. ARTHUR.
1826.
14 Feb.

Requisitions for supplies.

LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.
(Despatch No. 9; acknowledged by Earl Bathurst, 3rd February, 1827.)

Government House, Van Diemen's Land,

My Lord,

I have the honor to transmit sundry Requisitions, Schedule of which is annexed, for Stores for the Public Departments in this Colony, which I beg to hope Your Lordship will be pleased to direct may be shipped by the earliest opportunity.

Some of these Requisitions comprise Articles which have been included in former Returns, but not having been furnished, the Requisition is renewed.

It would be desirable for the sake of perspicuity in the accounts, if the Requisitions could be at once completed, so that, henceforth, the supply may be regularly required annually, and annually accounted for.

The Storekeeper's Department is now under my consideration, and I shall shortly have the honor to submit to Your Lordship an arrangement for its better superintendence and direction.

I have, &c.,

GEO. ARTHUR.

16 Feb.

Arrival of R. O'Ferrall as naval officer.

LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.
(Despatch No. 10; acknowledged by Earl Bathurst, 7th September, 1826.)

Government House, Van Diemen's Land,

My Lord,

I have had the honor to receive Your Lordship's Dispatch, No. 15, of the 4th of June last, communicating to me the Appointment of Mr. Rollo O'Ferrall to be Naval Officer at a Salary of £800 p. annum, one half of which was to be paid him from the date of his Embarkation. Mr. O'Ferrall arrived in the "Toward Castle" on the 7th of February last.

2. Your Lordship, approving of Mr. Hamilton's receiving the Salary which had been assigned him as Acting Naval Officer up to the time of his Successor's arrival, is pleased to apprise me that in future all Officers, appointed from Home to Appointments in this Colony, will receive half the Emoluments from the date of their embarkation; and, therefore, when it shall hereafter become necessary to provide for the temporary discharge of the Duties of any Official situation, the person executing them is to receive no more than one half of the usual emoluments.

In obedience to Your Lordship's Commands, I shall take care to be governed by this general principle; but I submit, in two instances now under reference to Your Lordship, it has been impossible for me to carry this instruction into effect.
In the case of the Office of the Attorney General, Mr. Hone would under no circumstances have consented to undertake its laborious duties for a less Sum than the full Salary allowed the Attorney General. It is an Office of high trust and importance, and the Criminal business of the Country alone entails incessant occupation upon the Individual who fills it.

In the case of the Surveyor General, the Salary hitherto fixed by the Parliamentary Estimate has been only £200 pr. annum. The Fees of this Office, I have in my Dispatch, No. 22, reporting the arrangements made in that Department, recommended to be compounded for some fixed Salary to be determined by Your Lordship, nor have I been able, with a combined view to Your Lordship's Instructions, and to the necessity of respectively filling this most important Department, been able to make any temporary arrangement more advantageous to the Public Service.

3. I have apprized Mr. Hamilton of Your Lordship's condescending expressions of regret at the circumstances which have interfered with his confirmation as Naval Officer, and have notified to Mr. Thomas that Your Lordship has been pleased to appoint him to the Office of Public Treasurer. Mr. Thomas has already given his personal bond with the Sureties, which Your Lordship requires, for the faithful discharge of his Office, and Mr. O'Ferrall will be immediately called upon to come under the like obligation.

I have, &c,

GEO. ARTHUR.

Under Secretary Hay to Lieut.-Governor Arthur.

Sir,

Downing Street, 1 March, 1826.

I have laid before Earl Bathurst your letter of the 19th May, addressed to Mr. Wilmot Horton on the subject of Mr. William Worthey's application for his Mother and her family to be provided with a Passage from England to Van Diemen's Land in a Government Transport, and his Lordship desires me to acquaint you in reply that, from the favorable testimony which you have borne to the value of Mr. Worthey's services, it would have given him great pleasure to have complied with his request, but, as none but the families of Convicts are provided with passages at the Public charge, his Lordship could not send out Mr. Worthey's family without opening the door to many similar Applications which would be attended with much inconvenience on account of the expense. I have, &c,

R. W. Hay.
EARL BATHURST TO LIEUT.-GOVERNOR ARTHUR.

(Despatch No. 2.)

Sir, Downing Street, 2 March, 1826.

I have received your dispatch of the 12th August, accompanied by a variety of documents connected with an arrangement, into which you have entered with the Agent of Mr. Lord, for the purchase of a small piece of Land consisting of 24 Acres adjoining the Government Granaries in face of the Harbour of Hobart Town, and for which you have offered to give £529, the sum paid by the present proprietor in the year 1821 for that property. I have much satisfaction in acquainting you that the measures, which you have taken for the acquisition of the allotment of Land in question, is highly approved by His Majesty's Government, and I shall have the honor of forwarding to you by the earliest opportunity the Deed of conveyance, which, with reference to the explanations contained in your dispatch, it may appear proper to competent legal Authorities in this Country to require to be executed by the Parties making over the property to the Crown, in order to secure its interests against any claim for Dower, etc., which might be hereafter advanced in consequence of any defects in the Title.

I have, &c.,

BATHURST.

UNDER SECRETARY HAY TO LIEUT.-GOVERNOR ARTHUR.

(Despatch acknowledged by lieut.-governor Arthur, 4th November, 1826.)

Sir, Downing Street, 3 March, 1826.

I am directed by Earl Bathurst to transmit to you herewith the Copy of a letter received from Mr. Salter of Hobart Town, and I am directed by his Lordship to desire that you will confirm to him the Grant of 200 acres, which he states to have been given to him, and that, should Mr. Salter's means be equal to the cultivation of a larger Grant, you will extend the same accordingly.

I have, &c.,

R. W. HAY.

[Enclosure.]

MR. J. SALTER TO EARL BATHURST.

Hobarttown, 6th September, 1825.

I most respectfully beg leave to state that I arrived in this Colony with a Wife and three Children on board the Harvey (Merchant Ship) on the 3d May, 1825, at the particular request of my Uncle Mr. George Salter, a resident in these Colonies for a period of Years, and the greatest part of that time as Superintendent of Government Herds. Upon my landing here, my Uncle was so kind as to make over to me Property to the Amount One thousand five hundred Pounds, consisting of
HAY TO ARTHUR.

Horned Cattle, Horses, Implements of Husbandry, etc., in consequence of which I addressed His Honor Lieutenant Governor Arthur, who was pleased in consideration of the knowledge of my Uncle's Services of Government to grant me a Location of Two Hundred Acres (200) of Land, until the result of Your Lordship's Opinion thereon was Confirmed, and His Honor was pleaded to advise me, in his letter to my application, to immediately apply to Your Lordship for any further indulgence which Your Lordship may Deem meet.

And most respectfully submit to Your Lordship's consideration, the increase of his Herds, together with the property he is possessed of for the purpose of Agriculture, that Your Lordship will be pleased to extend his Grant according to Your Lordship's Opinion of Capability of prosecuting his intended views.

I beg leave, My Lord, &c.,

JAMES SALTER.

UNDER SECRETARY HAY TO LIEUT.-GOVERNOR ARTHUR.

(Despatch acknowledged by lieut.-governor Arthur, 3rd November, 1826.)

Sir,

Downing Street, 4 March, 1826.

I am directed by Earl Bathurst to forward to you the Copy of a letter from Lieutenant Ritchie of His Majesty's Navy with the request that you will comply with the application therein contained by extending Mr. Ritchie's Grant of Land, should he possess the property which he states, and be otherwise deserving of the Indulgence for which he applies.

I am, &c.,

R. W. HAY.

[Enclosure.]

LIEUTENANT RITCHIE TO EARL BATHURST.

Scone, County of Cornwall, Van Dieman's Land,

May it please Your Lordship,

7 Augt., 1825.

I do myself the honour of submitting to your Lordship the subjoined Statement, with the view that your Lordship will be pleased to do me the favor of ordering me a Location of Land in this Colony, proportionate to the means I possess of Cultivating and improving the same.

I am now a Lieutent. in the Navy, upwards of 13 years standing, having been in actual Service from 1804 up to the Peace, excepting the period of 18 Months, being a Prisoner of War in Denmark.

At the Peace, I obtained leave of absence from the Lords Commissioners of the Admiralty and commanded a Ship from Bengal to Sydney, New South Wales, till 1820, when I then came here...
to take possession of some property, which fell to me by the death of my brother Capt. John Ritchie of H.M. 73 Regt., who fell in the King's service a Victim to the climate of Ceylon.

I possessed at that time nearly £3,000 Sterling, and applied to His Excellency the then Governor in Chief Macquarie for a Grant of Land; but, neither pledging myself to settle here, nor having any Order from Your Lordship for a Location, I only received 700 acres.

The Capital I have since sunk in Agriculture has decided me to settle here, until, in the event of war, I may be again called upon to Serve, and, possessing at this moment upwards of 500 head of horned Cattle, besides horses, etc., without the means of feeding them except on Government Lands, from which I am frequently compelled to remove as the Country becomes occupied by New Emigrants. I therefore most respectfully Solicit that Your Lordship will be pleased to take my Case into your consideration and Order me such a Location, as to your Lordship shall seem meet.

I have, &c.

THOS. RITCHIE, Lt., R.N.

5 March.

Despatch acknowledged.

Prohibition of payment of convicts in live stock.

EARL BATHURST TO LIEUT.-GOVERNOR ARTHUR.

(Despatch No. 3; acknowledged by lieut.-governor Arthur, 25th October, 1826.)

Sir,

Downing Street, 5 March, 1826.

I have had the honor to receive and lay before The King your dispatch of the 11 August, 1825.

I shall reserve for a future opportunity the expression of His Majesty's Commands upon most of the points to which you have therein called my attention; but towards the concluding part of your letter you advert to a practice, which has recently grown up in Van Diemen's Land, and which appears so very objectionable in principle that I deem it necessary without a moment's loss of time to instruct you to put a stop to it, wherever it is found to prevail. I allude to the payment of Convicts for their labor by the Settlers in Cattle and Sheep, for the increase and maintenance of which Convicts have recourse to the following expedient. Having no land on which to graze such Stock as they may have acquired in payment of their labor, they place them in the hands of Settlers, who are in circumstances the very reverse of their own, having land but no means of stocking it, the conditions of the Compact, which follow from this transaction, being that the Receiver shall have one third of the Increase, and thus many, who have imposed upon the Local Government by a shew of Stock, acquire property and become importunate for additional Land without possessing any means of their own for its improvement.
BATHURST TO ARTHUR.

I have accordingly to desire that you will take immediate Steps for preventing the continuance of this practice; and you will direct that it should be explained to those Settlers, who have so employed their Land, that, by neglecting its cultivation and not laying out Capital in Cattle and Sheep, bona fide their own property, they have failed to comply with the terms upon which it was granted to them, and that their Land has thereby become liable to resumption, whenever the Government may think proper to enforce the conditions of the original Grant.

I have, &c.,

BATHURST.

EARL BATHURST TO LIEUT.-GOVERNOR ARTHUR.

(Despatch No. 4; acknowledged by lieut.-governor Arthur, 23rd November, 1826.)

Sir, Downing Street, 6 March, 1826.

Circumstances having prevented Mr. Charles Ellis from proceeding to Van Diemen's Land to take upon him the duties of Colonial Secretary, I have been under the necessity of appointing another Individual to fill that situation; Mr. John Burnett is the Gentleman whom I have selected, and I trust that he will be able to complete his arrangements so as to embark for the Colony in one of the first Ships that may proceed to that destination.

I have already so fully explained to you the footing in point of Salary, etc., on which the Colonial Secretary will be placed, that I have nothing further to communicate to you on the subject; but, as discussions* have recently arisen in New South Wales respecting the relative duties of the Colonial Secretary and the Governor, and as it is highly necessary to prevent the possible recurrence of any similar controversy in Van Diemen's Land, you will understand that the Colonial Secretary is to conduct, under your directions, all official Correspondence in the Colony, and is to act on all occasions as the general medium of communication through which your orders are to be signified either to the Community at large or to private persons; He is also to render to you his assistance in the various details of your Administration on every occasion on which you may require such assistance, and in the manner in which you may think proper to prescribe.

As however you will remain exclusively responsible for every act which may be done by your authority and in your name, the Colonial Secretary will have no pretension to control your Judgement or to direct your decisions in any particular case.

I have, &c.,

BATHURST.

* Note 36.
HISTORICAL RECORDS OF AUSTRALIA.

1826.
6 March.

Commission of J. Burnett as colonial secretary.

GEORGE R.

George the Fourth by the Grace of God of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, etc. To Our Trusty and Well Beloved John Burnett, Esquire, Greeting. We reposing especial Trust and Confidence in your Loyalty, Integrity and Ability do by these Presents constitute and appoint you to be Secretary and Registrar of the Records of Our Territory of Van Diemen's Land and its Dependencies to have hold, exercise and enjoy the same during Our Pleasure and your Residence within Our said Territory, together with all and singular the Fees, Rights, Privileges, Perquisites, Salaries and Advantages to the said Office or Place belonging or appertaining.

Given at Our Court at Windsor the sixth day of March, One Thousand Eight Hundred and Twenty Six in the Seventh Year of Our Reign.

By His Majesty's Command,

BATHURST.

LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.

(Despatch No. 11; acknowledged by Earl Bathurst, 8th September, 1826.)

Government House, Van Diemen's Land,

My Lord, 8th March, 1826.

I had the honor to report to Your Lordship, in my Dispatch No. 22 of the 16th of December last, upon the Surveyor General's Department.

Several difficulties have been in my way to prevent the earlier adjustment of this Branch with a view to commence upon the General Survey, required to be made by His Majesty's Instructions; and, even now, it cannot be proceeded on with all the energy, I should wish, from the want of Instruments which are not to be obtained in the Island.

In obedience to His Majesty's Instructions,* I brought the subject of the general Survey of the Island under the consideration of the Executive Council for their advice, especially drawing their attention to the Salary which it would be proper to allow the Commissioners. It has been the unanimous opinion of the Council that, with reference to the responsibility and trust of the Office in the valuation of the land generally, and in the apportionment and valuation of the Church and School Lands in particular, the labour and privations to which the Commissioners will be

* Note 37.
subject, and the expense of time, outfit and subsistence in the Interior, the salary to each of the Commissioners should be £500 pr. annum without any other Allowances.

I have the honor to submit Copy of the Commission under which the Commissioners have been appointed, together with Copy of the Instructions I have drawn up for their direction, which, I trust, will be satisfactory to Your Lordship.

In my Dispatch No. 22, I reported in detail the circumstances under which I had appointed Mr. Dumaresq to act as Surveyor General, submitting the Salary to Your Lordship's consideration, and recommending that the Fees should be paid into the Colonial Treasury. It is an Office of great trust, and I am much satisfied with the manner in which Mr. Dumaresq is conducting it.

Mr. Murdoch, whose name stands second on the Commission, was nominated in New South Wales by Sir Thomas Brisbane before the separation of the Colonies.

Mr. O'Connor, the third Commissioner, is a very respectable Settler, whom I have selected wholly on the ground of his character and ability for such a duty. He is in other respects a perfect Stranger to me, and wholly unconnected in every way with the Government. I am thus particular in describing the Commissioners, because I think it impossible that any Individuals can give general satisfaction in the valuation of Lands, and I have, therefore, done my utmost to remove all prejudice as between the Government and the Public by naming Three impartial Gentlemen.

I have, &c.,

GEO. ARTHUR.

[Enclosure No. 1.]

APPOINTMENT OF COMMISSIONERS FOR SURVEY OF LANDS.

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 our trusty and well beloved Edward Dumaresq of Hobart Town, in Our Island of Van Diemen's Land, Esquire, our Acting Surveyor General of Our said Island and to our trusty and well beloved Peter Murdock and Roderic O'Connor, both of Hobart Town aforesaid Esquires. GREETING.

Know ye that we, reposing especial trust and confidence in your Loyalty, Integrity, and Ability, of our especial grace certain Knowledge and mere motion, Have nominated, constituted and appointed and by these presents Do nominate, constitute and appoint you the said Edward Dumaresq to be our First or Chief Commissioner, and you the said Peter Murdock and Roderic O'Connor to be joint Commissioners together with the said
Edward Dumaresq to make a Survey of all the Lands within our said Island of Van Diemen's Land and the Dependencies thereof, and to apportion our said Island and Dependencies into Counties, Hundreds and Parishes, and to make valuation of all Waste and other Lands within our said Island and Dependencies un-granted by us; and in order thereto We have given and granted and by these presents Do give and grant unto you the said Edward Dumaresq, Peter Murdock and Roderic O'Connor full power authority to make such Survey and appointment and Valuation as aforesaid, and do all things requisite and necessary to the making thereof respectively; And we do hereby require and command to do and execute all things which shall belong to the trust hereby reposed in you according to the powers and directions granted and appointed to you by this Commission and that Instructions herewith given to you and according to such further instructions as shall at any time hereafter be given to you by Our Governor in Chief for the time being of and in our said Island of Van Diemen's Land or in case of his death or absence by our Lieutenant Governor for the time being or other person administering the Government therein; and all Civil Officers in Our said Island and the Dependencies thereof and to be aiding and assisting you in the Execution of this Commission.

And lastly we do hereby ordain, declare and appoint that you the said Edward Dumaresq Peter Murdock and Roderic O'Connor shall and may hold and exercise the Office of Our Commissioners as aforesaid during our pleasures and securing your good behaviour therein Provided that you be actually resident within our said Island of Van Diemen's Land and execute your said Office in your own proper persons.

In Witness whereof we have caused these our Letters to be made patent and to be Sealed with the private Seal of Our trusty and well beloved George Arthur, Esquire, Colonel of our Forces, Our Lieutenant Governor of and in Our said Island of Van Diemen's Land and the Dependencies thereof we having as yet no great seal within Our said Island.

Witness our trusty and well beloved George Arthur, Lieutenant Governor as aforesaid, this 7th day of March in the 7th Year of Our Reign.

By His Excellency's Command,

John Montagu, Secy.

Registered in the Secretary's Office this 9th day of March, 1826.
LIEUT.-GOVERNOR ARTHUR TO COMMISSIONERS OF SURVEY.

Government House, Hobart Town,

Gentlemen,

You will herewith receive a Commission under the Great Seal, by which you are appointed Commissioners for the Survey and Valuation of Lands within this Island and its Dependencies.

The objects embraced by this Commission are four: First, the division of the Whole Island into Counties, Hundreds, and Parishes, in a manner hereinafter mentioned. Secondly, a General Valuation of Waste and uncultivated Land throughout the Colony. Thirdly, The reservation of Land for Roads, Sites of Towns, and various other Public Purposes. Lastly, The appropriation of Lands for the support of the Clergy and the Education of Youth.

In the performance of the arduous and important duties thus confided to you, you will be guided by the following instructions.

As respects the first of the above mentioned objects.

1st. You are to divide and apportion the whole of the Island into Counties, each of which shall contain, as nearly may be, Forty Square Miles; and to apportion each County into Hundreds, each of which shall, as nearly as may be, comprise an area of one Hundred Square Miles, and, again, to subdivide each Hundred into Parishes, of which each shall, as nearly as may be, comprise an Area of twenty five Miles.

2nd. In the proposed division however, you will have regard to all such great natural divisions, as may be formed by high Lands, Rivers, Streams, Islands, or otherwise, preferring a clear and well defined natural boundary Line, even at the sacrifice of regularity in the dimensions, provided that no County, Hundred, or Parish shall in any case exceed, or fall short of the dimensions before prescribed to the extent of more than one third Part. Subject to the qualification mentioned in this paragraph, you are to adhere as closely as possible to the exact dimensions already prescribed.

3rd. You will, as the Survey proceeds, make to me, from time to time regular reports in Writing of your Progress, specifying therein, with all possible precision, the limits of each County, Hundred, and Parish, which you may have apportioned. To these reports also, you will annex Charts or Maps of every such County, Hundred and Parish, and every care must be taken to avoid doubt and uncertainty respecting the precise proposed boundaries of each.

4. Your second object has been already stated to be the making a Valuation of all the waste and ungranted Land in the Colony.
For this purpose, you will strike an average Value of the Land in each Parish separately, taking into your consideration the fertility, and other natural, accidental or local advantages or disadvantages of the Land in each such Parish as a basis for the Calculation. You will assume that the Land would be purchased in tracts containing 1,920 Acres each, and be held in fee Simple, in free and common soccage, without the payment of any Quit rent or Duty; and that the price would be paid in ready Money at the time of Conveyance.

Upon these assumptions, you will consider how much money a Purchaser might reasonably be expected to pay.

5. You will make written reports to me of the progress of this Valuation, and, in order to prevent uncertainty and confusion respecting the Lots of Land, which will, upon such your Valuation, be hereafter offered for Sale, you are also to prepare Charts of each Parish with Division Lines, by which the whole Parish shall be divided into Lots of 640 Acres each, to be in such Charts severally described by a numerical Mark. To these Charts you will moreover attach Schedules, in which you will point out and describe the natural or artificial Land Marks, corresponding with the Division Lines on the Plan.

6. The two operations of Survey and Valuation, you will effect contemporaneously; but you are to understand, that neither will extend at present into Districts, which lie entirely beyond the range of any actual settlements.

7. In the third place, you are, in the course of your Survey, carefully to ascertain and report to me, what particular Land it would be proper to reserve in each County, Hundred, and Parish for Public Purposes, for Public Roads, and other internal communication, whether by Land or Water, for the erection of Towns, Villages, Churches, School or Parsonage Houses, or as places of interment for the Dead, for the future extension of existing towns or Villages, for purposes connected with the health and recreation of the Inhabitants, for Quays, and Landing places in the neighbourhood of navigable streams or on the Sea Coast, or generally, for any other purpose of Public Convenience, health or gratification.

8. In addition to the specification in your reports of the tracts, or pieces of Ground, appearing to you to be best adapted for the various public purposes thus enumerated, you will also accurately distinguish such tracts or pieces of Land in the Charts or Maps annexed to those reports.

9. The subject that remains is the appropriation of Lands for the maintenance of the Established Church, and for the education of Youth in the principles of that Church. For these most
important purposes, it will be your duty to mark out and set apart in each County, into which you may divide the Island, a tract of Land, comprising one Seventh part in extent and Value of all the Lands in such County.

10. This Land, to be called the Clergy and School Estate of that County, must, as nearly as may be, be in one continuous and unbroken tract. If, however, this should be impracticable, without serious injury or inconvenience to private Settlers, then you will be at liberty to allot such Estate in two or more contiguous tracts in the same County. You will, nevertheless, take especial care that the Clergy and School Estate in each County be not interspersed with, or divided with other Lands, except in those special Cases. If a sufficient quantity of vacant and unallotted Land cannot be found in either of the Counties to make up the Clergy and School Estate of that County, then you will supply the deficiency by an allotment of Land from the nearest adjacent County.

11. These Estates are to be of an average quality and Value, in reference to the general quality and Value of the Land comprised within the County, in which each allotment may be made. You will also select such Situations for the said Estates, as shall afford in each County a reasonable and equal share of every natural advantage of Water Carriage and internal communication, which may be possessed by the Land in general throughout such County.

12. Your reports upon the Subject of the Tracts, so to be appropriated for the Clergy and School Estates, will be special and distinct reports made in reference to each County, and must point out with all possible precision the particular tracts appropriated.

Lastly, In case you should not unanimously concur in any report which I have hereinbefore directed you to make, you are respectively to communicate to me the Grounds and reasons of the different opinions, which you may severally entertain.

I will merely add that the various duties, upon which you have now received my instructions, extending to objects of the highest importance, I have every confidence that they will be executed, not only with Judgment and ability, but with the utmost despatch, of which their performance will admit; and, under circumstances which have been fully considered in Council, the Survey may be made, taking New Norfolk and the Surrounding Country for the first County.*

I have, &c.,
GEO. ARTHUR. Lt. Gov.

* Note 35.
1826.
20 March.

Lieut.-Governor Arthur to Under Secretary Hay.

(Despatch acknowledged by under secretary Hay, 3rd September, 1826.)

Government House, Van Diemen’s Land,

Sir,

I have the honor to acknowledge the receipt of your letter of the 28th of July last, transmitting the Copy of a Memorial from Mr. George Hobbes with a statement of the Capital he is about to invest in this Colony, and communicating, from the magnitude of the Capital he states it to be his intention to employ, that Earl Bathurst is willing to sanction a Grant being made to him of as large an extent as it may appear reasonable he should receive.

Mr. Hobbes has not yet reached the Colony; but, on his arrival, I shall not fail to inform him of Earl Bathurst’s favorable disposition towards him. At the same time, I submit, that the Government at Home, as well as the local Government, is continually exposed to the most exaggerated descriptions of the means of Individuals. By limiting the original Grant, Time generally develops the real circumstances of the Parties; and, making a due allowance for the Capital required in the erection of a House and other necessary Buildings, there are few Individuals, who can at once stock a larger Grant than Two Thousand Acres, which has hitherto been considered his maximum original Grant. It is easy to augment a Grant in proportion to the encouragement to which a Settler is justly entitled, but it is a very difficult point, in the event of failure, or imposition on his part, to deprive him of Land of which, he has, by whatever means once obtained possession.

I have, &c.,

GEO. ARTHUR.

21 March.

Lieut.-Governor Arthur to Under Secretary Hay.

(Despatch acknowledged by under secretary Hay, 3rd September, 1826.)

Government House, Van Diemen’s Land,

Sir,

I have the honor to acknowledge the receipt of your Letter of the 17th of July last, enclosing a Letter received from Mr. Jellicoe, requesting an additional Grant of Land for his Son, and conveying to me Earl Bathurst’s Instructions that an additional Grant should be made to Mr. Jellicoe in proportion to the means he may possess of bringing the same into cultivation.

In my Dispatch to Earl Bathurst, No. 16 of the 12th September last, I submitted a Memorial from Mr. Jellicoe, praying
for relief in consequence of the loss he had sustained by the
defalcation of Mr. Bromley, and recommending the same to His Lordship's favorable attention. It is with pleasure therefore that I have received Lord Bathurst's sanction to make an augmentation of his Grant, and I have accordingly directed Two Thousand Acres additional to be located to him.

Mr. Henry Jellicoe has received a communication from his Father apprising him of Earl Bathurst's indulgent intentions respecting him, and he seems to imagine this an act of Grace altogether independent of the question of the loss sustained by him from the defalcation of Mr. Bromley, and that it should have no weight in the consideration of his Memorial.

I cannot, however, subscribe to this opinion! Mr. Jellicoe is a very respectable Settler, but, according to his means, it appears to me the total Grant which has now been made to him is highly liberal!

I have, &c.

Geo. Arthur.

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Earl Bathurst to Lieut.-Governor Arthur.

(Despatch No. 5; acknowledged by lieutenant-governor Arthur, 18th October, 1826.)

Sir, Downing Street, 29th March, 1826.

With reference to the discretionary power of remitting the Sentences of Convicts, which is given to General Darling by his Commission and Instructions* as Governor of New South Wales and Van Diemen's Land, and which power, so far as Van Diemen's Land is concerned, is now devolved on you, I have to signify to you The King's Commands that in no case shall a pardon be granted to any description of Convicts above the condition of the laboring Class, unless he shall first subscribe a declaration to be drawn up or approved by the Chief Judge, by which the Convict shall bind himself to quit the Colony immediately on receiving such pardon, and neither return to it, nor to proceed to New South Wales, without the especial License of the Secretary of State; in default of performing which agreement, he shall be exposed to all the Penalties of the Original Sentence.

I have, &c.,

Bathurst.

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Lieut.-Governor Arthur to Under Secretary Hay.

Government House, Van Diemen's Land, 29th March, 1826.

I have the honor to acknowledge the receipt of your letter of the 15th September last, acquainting me that you had been

* Note 33.
directed by Earl Bathurst to recommend to my protection Mr. Alexander Goldie, who has been appointed to fill some minor situation in the Van Diemen's Land Company.

Mr. Goldie arrived here on the 4th Instant, and I shall have much pleasure in shewing him every attention in my power.

I have, &c.,

GEO. ARTHUR.

EARL BATHURST TO LIEUT.-GOVERNOR ARTHUR.

(Despatch No. 6; acknowledged by lieut.-governor Arthur, 28th January, 1827.)

Sir,

I deem it necessary to call your attention to that part of Mr. Commissioner Bigge's first Report, Page 158, which suggests that "the Money and Property, which a Convict may possess at the time of his arrival in the Colony, should be taken and deposited under Regulations for the ultimate use of the Party," and to convey to you at the same time such Instructions as appear to be necessary relative to the disposal of the same, as well as to the employment of such other Sums of Money as he may acquire by his labor, when permitted from his good behaviour or otherwise to work for his own benefit.

It appears very essential to the ends of Justice that no practicable means should be neglected of keeping up in the minds of criminals that salutary apprehension of Transportation, which originally existed when New South Wales and Van Diemen's Land were first selected as places of Banishment for Offenders, but which it is to be feared has been scarcely felt at all by many of those who have been sent there for their Crimes at a late period. There appears to be no mode more effectual for the attainment of this object than the following:—First, to debar the Convict from all those Privileges which, as a free person, he would be entitled to enjoy; Secondly, to withhold from him those indulgencies which the possession of money may afford him the means of obtaining; and Lastly, by a rigid adherence to such Regulations as it may be considered advisable to adopt for this purpose, to convince him by experience that it must entirely depend upon the propriety of his conduct whether he shall regain any portion of those rights, from the enjoyment of which he has been debarred by his Crimes.

The necessity of acting upon this principle cannot be too strictly enforced; and it is with this view that I consider it expedient to direct that no Convict shall henceforth be allowed on any pretence whatever to have the possession of any money or...
property, which he may be entitled to at the time of his arrival in the Colony; He should be recommended to dispose of it in the Savings Banks, according to the suggestions contained in that part of the Commissioner's Report to which I have referred; but on no account must he be permitted to retain possession of it. The time when he may be allowed the free use of his Money will depend upon his conduct; but it must not at the soonest be under two years in cases where the Convicts are transported for life, and then only in special cases wherein you shall have every reason to believe from the Character and uniform good conduct of the Convict that the use of his Money can be allowed without the risk of its misapplication. It might be desirable in all cases that this permission should be granted gradually, and that only a portion of his money should in the first instance be allowed to any Convict, the payment of the remainder at some subsequent period depending upon the use made by him of the first Instalment.

You will cause a Return to be made regularly to the Colonial Office of all the cases in which this allowance of Money to Convicts may be granted.

I have, &c.,

BATHURST.

EARL BATHURST TO LIEUT.-GOVERNOR ARTHUR.

(Despatch No. 7; acknowledged by lieut.-governor Arthur, 21st October, 1826.)

Sir,

Downing Street, 1st April, 1826.

Accounts having been transmitted to His Majesty's Government that Mr. Gellibrand, the Attorney General, at Van Diemen's Land is in habits of close communication with the Editor of the "Colonial Times," whose character and conduct are stated to be disreputable, and the contents of whose paper expose him to Legal proceedings, in which the Attorney General would be called upon officially to take a leading part, I have to desire, in case this information should prove correct, that you will take immediate Steps for conveying to the Attorney General His Majesty disapprobation of the course which he is pursuing; and I am further to direct that, if notwithstanding this warning, Mr. Gellibrand should persist in such an Association, you will adopt the only mode by which he may be brought to a proper sense of his duty by exercising the powers with which you are invested of suspending him from his Office until the pleasure of His Majesty shall be known, after a full report sent home of all the circumstances of the case.

I have, &c.,

BATHURST.
EARL BATHURST TO LIEUT.-GOVERNOR ARTHUR.
(Despatch No. 8; acknowledged by lieut.-governor Arthur,
12th March, 1827.)

Sir,
Downing Street, 2d April, 1826.

The perusal of a collection of Newspapers published in New South Wales and Van Diemen's Land since the removal of the restrictions, which formerly existed on the freedom of the Press in those Colonies, has led to the Consideration how far such a measure is calculated to promote the welfare of His Majesty's Subjects resident there.

It is unnecessary that I should make any particular comment upon the contents of these Newspapers. It is impossible however not to perceive, from the most cursory examination of them, that the entire exemption of the Publishers from all restraint of the local Government must be highly dangerous in a Society of so peculiar a description.

I should, however, be unwilling (even while the Convict Population preponderates so greatly in numerical amount over that of the free Settlers) to subject the Editors of these Publications to restrictions at variance with the Spirit of the Law in force in the Mother Country. But you are aware that, even in England, no person enjoys that absolute discretion with regard to the Publication of Newspapers, which, as I collect from the Information which has reached me, is claimed by the Editors of the Colonial Journals in question. Various restraints on this liberty have been imposed by the Acts of Parliament 38th Geo. 3d, Cap. 78, and 60th Geo. 3d, and 1st Geo. 4th, Cap. 9. By referring to those Statutes, you will observe that the names of the Printers, Publishers and Proprietors must be delivered, on Oath at the Stamp Office, and printed in every successive Newspaper; and that the Publisher must enter into a recognizance or Bond to the Crown, with two Sureties, for the securing the payment of any fine which may be imposed upon him, upon conviction, for a blasphemous or seditious Libel.

I should apprehend that, for reasons which it would be needless to point out, neither of these Acts of Parliament extends to New South Wales or Van Diemen's Land; but I am not aware of any reason why the respective Governors of those Colonies should not, with the advice of their Legislative Councils, promulgate a Law to the same effect, and extending somewhat further the principles which those Acts of Parliament have sanctioned.

You will, therefore, avail yourself of the earliest opportunity of proposing to the Legislative Council of your Government the enactment of a Law founded in general upon the provisions of the Statutes to which I have referred. You will further propose...
it to be enacted that no Newspapers be published without a Licence to be applied for to the Governor, but such Licence should in no case be made to continue in force more than for one year from its date; and that it be made resumable before the expiration of the year, if an order to that effect be issued by the Governor with the advice of his executive Council, the reason for every such Order, of resumption being first duly entered on the Minutes of Council and transmitted for His Majesty's Information through one of His principal Secretaries of State by the first opportunity. You will further propose that every such Licence should be, ipso facto, forfeited upon the conviction of the Publisher, Printer or Proprietor, for any Blasphemous or Seditious Libel. The Licence ought, as in England, to bear a Stamp, but, as it is resumable, with a duty not exceeding one Pound, and each number of each successive Newspaper ought also to be subjected to a Stamp Duty. The produce of the duty thus to be raised would most properly be declared applicable to the defraying the charges of printing Public Acts, Proclamations and Orders. The Colonial Treasury might thus be relieved from any charge thrown upon it by the Government Printer having been deprived of the exclusive right of publishing a Colonial Newspaper, in consideration of which he was formerly content to execute this branch of the Public Service without a direct pecuniary compensation. In fixing the amount of the Stamps, you will therefore so regulate the Scale of the duty, that the produce of it may be adequate to provide for this charge should any have been incurred on this account.

I have, &c.,
BATHURST.

LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.
(Despatch marked "Separate"; acknowledged by Earl Bathurst, 5th September, 1826.)

Government House, Van Diemen's Land,

My Lord,

I had the honor to receive on the 4th of March, Your Lordship's Dispatch, marked Separate, of the 13th of September, introducing Mr. Curr, the principal Agent of the Van Diemen's Land Company, to my protection, and recommending to my attention any wishes he might make known to me connected with the new Establishment he is instructed to form.

Your Lordship is also pleased equally to recommend to my protection Mr. Stephen Adey, the Company's principal Agent resident upon their Lands, whose name Your Lordship further
1826. 4 April.

I have been happy since their arrival to afford both these Gentlemen an earnest of my disposition to pay every attention to Your Lordship's Instructions respecting them; and I shall be most willing to comply with their wishes in any way that may be consistent with other demands upon the Government, and with the fair proportion of indulgence due to private Settlers.

As soon as their Land is selected, Mr. Adey will be put in the Commission of the Peace for the purpose of investing him with authority over the Servants and Convicts employed by the Company. It may be hoped that no practical evil will result in the case of Mr. Adey; but it is my duty to intimate, for Your Lordship's consideration, that it has hitherto been a principle observed that no Magistrate shall personally decide in matters relating to his own Servants, and this has been strictly attended to even in the largest Establishments and is expressly provided for by an Act of the Legislative Council!

I have, &c.,
GEO. ARTHUR.

LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.
(Despatch No. 12; acknowledged by Earl Bathurst, 7th January, 1827.)

My Lord,

Government House, Van Diemen's Land, 4th April, 1826.

I have the honor to acknowledge Your Lordship's Dispatch, No. 19, of the 12th of September last, conveying to me Your Lordship's Instructions respecting the Establishment of the Van Diemen's Land Company, and calling my attention to the points conveyed in a Letter addressed to Your Lordship by Mr. Curr on the 31st of August, a Copy of which is enclosed in the Dispatch.

2. Every countenance and support, which Your Lordship has desired to afford to the Company in England, will be zealously and cheerfully continued by the local Government.

3. The Company's views, I apprehend, will be chiefly pastoral, and the want of Labourers will consequently be limited; the applications for Convict Labour by the Settlers infinitely exceeds the present capacity of the Government to supply; but, I conclude, with the augmented means of employment, the number of Prisoners sent out will be proportionably increased so as to meet the demands of all.
ARTHUR TO BATHURST.

April 4th, 1826.

4. With regard to Mechanics, it is not possible to erect the necessary Public Buildings from the want of them; the exception, therefore, which Your Lordship has made in this particular, is most considerate towards those private Settlers who greatly need all the aid that can be afforded them by the Government Mechanics.

5. My Dispatches by the present opportunity will inform Your Lordship that Bushranging has been for the present pretty well put down. Military protection, therefore, from external Foes is not so essential to the Company; and, within themselves, with so large a proportion of Free Persons as they profess their intention of bringing out, there should be less apprehension from the Crown Servants in their Establishment than in any other. The good or bad conduct of the Prisoners in almost every situation, I am quite confident, depends on the management and treatment they receive from their superiors. If a good system is introduced and order and regularity followed, the Prisoners will generally behave well; if the arrangements of the Company are defective, a Regiment would not insure harmony.

However, I have promised Mr. Curr and Mr. Adie a few Soldiers to accompany them in their first Establishment; but this I have done rather to manifest my wish to oblige than from any impression that the Soldiers will be useful.

6. With regard to the selection and measurement of the Land, Your Lordship's Instructions will be carefully observed. A question has arisen upon the construction of Your Lordship's definition of the extent of the District out of which the Company is to select its Land, and according to the Letter of Your Lordship's Dispatch, Mr. Curr admits the full force of the doubt; but I have consented to waive it in favor of the Company, upon the assurance of Mr. Curr that it was Your Lordship's intention to extend to them the privilege of selection along the whole Northern Coast from Port Sorell to Cape Grim.

I fear a difficulty will arise in determining what Land is to be considered available to the Company, and what may be rejected; it might have been perhaps more amicably arranged had it been determined to cede to them double the quantity upon the same principle as Land is measured to Individuals. The Settler names his own spot, and then the quantity is measured off taking the good with the bad.

But I am so impressed that it will be desirable the Company should be provided for in the Island, rather than be permitted to resort to any of its Dependencies, that I shall be willing to make any reasonable concession to prevent a measure which may in after times become very troublesome.
The main difficulty, as to the position of the Company’s Land, refers to the penal Settlement of Macquarie Harbour, and I almost fear it will be necessary to abandon that Station if they occupy Cape Grim; but Mr. Curr and Mr. Adey are not yet prepared to move from Hobart Town, and, until their election is made and reported to me, this consideration is premature.

7. If the Company are desirous to work any Mines that may be found under their own Grant, I shall not fail to forward their application for Your Lordship’s allowance; at present, they appear to have brought but very limited means, and their undertakings, I conclude, will be confined to Stocking and working their Farms, and raising the necessary Buildings upon them.

8. In the whole arrangement with this Company, I will endeavour to enter into Your Lordship’s mind, as far as I can trace it from the Papers which have been transmitted to me, and I trust I may be directed rightly to discover it.

I have, &c.,
Geo. Arthur.

LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.
(Despatch No. 13.)

Government House, Van Diemen’s Land,
5th April, 1826.

My Lord,

I have the honor to acknowledge the receipt of your Lordship’s Dispatch, No. 20, of the 14th of September last, directing my attention to the measures which are to be resorted to in case the Van Diemen’s Land Company are not satisfied with such award as the Surveyor General may propose for their acceptance.

The understanding between the local Government and the Company’s Servants appears, at present, to be such as justifies the expectation that no unnecessary difficulties will be intruded, and those which are unavoidable will I hope be discussed in a just and amicable spirit on both sides. It is, however, highly satisfactory that Your Lordship has provided the means of adjusting any differences which may arise.

It has been duly notified to the Surveyor General that the Price at which the Company is to have the Land forms no part of his duty; and, that it has been agreed upon by His Majesty’s Government at the valuation of 2s. 6d. pr. Acre on which a Quit Rent of 1½ or 30s. p. Cent. will be imposed.

I have, &c.,
Geo. Arthur.
Earl Bathurst to Lieut.-Governor Arthur.

(Despatch No. 9; acknowledged by lieut.-governor Arthur, 23rd October, 1826.)

Sir,

Downing Street, 6th April, 1826.

Since I addressed to you my dispatch* of the 12th December, I have received the enclosed Communication from the Revd. Dr. Poynter. In consequence of the severe animadversions which it contains on the conduct of the Revd. Mr. Coote, an Irish Catholic Clergyman in Van Diemen's Land, I consider it expedient that he should no longer receive the countenance and protection of the Local Authorities, and you will therefore be pleased to withdraw from him any permission which he may have received from the Colonial Government in consequence of the Letter of recommendation with which he was furnished by me in the year 1823 on the recommendation of Dr. Poynter, who, from Mr. Coote's subsequent misconduct has considered it necessary to solicit his removal.

I have, &c.,

Bathurst.

[Enclosure.]

Revd. Dr. Poynter to Under Secretary Hay.

4 Castle Street, Holborn, 3rd April, 1826.

My Dear Sir,

I beg to inform you, that I have received a letter from the Revd. P. Conolly, a most respectable Clergyman, and the principal Roman Catholic Chaplain in the Colonies about New South Wales, containing serious complaints against the Revd. Mr. Coote, an Irish Catholic Clergyman in Van Diemen's Land. Mr. Conolly's letter is dated Hobart Town, Van Diemen's Land, Sepr. 9th, 1825.

If you please to refer to a letter from Mr. Wilmot Horton to the officer administering the Government of Van Diemen's Land, dated London, 28th August, 1823, you will see that I named Mr. Coote to Earl Bathurst, on the strong recommendation of Dr. Murray of Dublin.

Mr. Conolly informs me, that the conduct of Mr. Coote, even in his passage to that Colony, was marked with such acts of imprudence, as to occasion the complaints of Gentlemen of great respectability, who witnessed them in the voyage; that, after his arrival, Mr. Coote soon began to associate with some of the lowest class of Convicts, and to conduct himself so much like them, as to disgrace his character; that he got some of the most immoral Catholics in the Island to go about from house to house to obtain signatures in his favour; that complaints have been made against him to the Lieutenant Governor; that Mr. Coote has not yet received any spiritual appointment to administer the

* Note 40.
Sacraments of the Catholic Church. Still, Mr. Conolly observes, Mr. Coote avails himself of the words of the letter of Introduction from the Colonial Office, above referred to, to claim, as a right from the Lieutenant Governor, to be allowed to have the care of Souls in Van Diemen’s Land.

That a man, who has proved himself so unworthy to be employed as a Catholic Clergyman, may not intrude himself and do mischief among the people, under the Sanction of His Majesty’s Government, Mr. Conolly expresses a hope that I shall be able to obtain that an order may be sent out from the Colonial Department to have Mr. Coote entirely removed from the Colony, or publicly disavowed by the Government.

Confident of the veracity of the Revd. Mr. Conolly, I beg leave respectfully to request, that such measures may be adopted, as to Earl Bathurst’s wisdom may appear best, that Mr. Coote may not be allowed to avail himself, under the present circumstances, of the recommendation formerly given in his favor.

I have the honor to be with the highest esteem, &c.,

WILLIAM POYNTER, V.A.L.

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EARL BATHURST TO LIEUT.-GOVERNOR ARTHUR.

(Despatch No. 10; acknowledged by lieut.-governor Arthur, 24th October, 1826.)

7 April.

Sir,

Downing Street, 7th April, 1826.

In my dispatch dated the 5th Ultimo X. 3, I did myself the Honor of replying to that part of your letter of the 11th August which relates to the practice which has lately grown up amongst the Settlers of taking in Sheep to graze upon their Lands upon what is termed “Thirds.” I now proceed to advert to those other points alluded to in your communication, upon which you request to receive Instruction. The first case relates to Mr. W. E. Lawrence* a Settler who went out to the Colony in the year 1821, provided with a Letter to Sir Thomas Brisbane, directing two Grants of 2,000 Acres each to be made out, one to him and the other to his Brother, Mr. E. B. Lawrence, whose intention it was to join him, and that the like quantity should be reserved for each of them which they were to receive as additional Grants, if within five years, they rendered themselves eligible to the Indulgence, by the due cultivation and improvement of those originally given to them.

The circumstances, under which Mr. Lawrence appears to have obtained the possession of a Tract of Land so much larger than that which was contemplated by the Instructions to Sir Thomas Brisbane which Mr. Lawrence carried out with him, leaves me but one course to direct you to adopt on the present occasion,

* Note 41.
that of reducing his grant to the original 2,000 Acres with the reserve of the like quantity on the condition stipulated, and as his Brother, Mr. E. B. Lawrence, seems not to have arrived in the Colony, I consider he has forfeited all claim to the Grant which I had authorized to be given to him, as well as to the Reserve, which (having never occupied the former) cannot be any longer kept for him to the prejudice of other persons who may be desirous of obtaining Locations in that particular Spot.

I am sorry to observe that the conduct of Mr. Evans, the Surveyor General, throughout this affair has been so reprehensible, and as the explanations which he has attempted to give in his justification are anything but satisfactory, you will cause him to be informed that no steps can be taken in regard to his retiring pension until he shall have satisfied the Authorities in the Colony with respect to the part which he took in this transaction.

The next case to which you refer in your dispatch is that of Mr. Horne who appears to have proceeded to the Colony in 1823, and who, though he has received a Grant of 2,000 Acres, is dissatisfied at not having obtained a larger quantity. The principle upon which you have refused to comply with that Settler’s request is one with which I am so perfectly satisfied, that I have deemed it necessary to make it the subject of a separate dispatch in order that the directions, which are therein conveyed to you, may also be communicated and adopted at New South Wales, should a similar system be found to prevail in that Colony.

In regard to the particular question which you have put to me (arising out of the above application) with reference to the case of a Settler, who may apply for an additional Grant upon Grounds similar to those urged by Mr. Horne, it is my decided opinion that no Petitions of this nature should be complied with, unless the Parties shall have brought into cultivation a given portion of their former Grants, as the Possession of Stock alone ought not to be considered a sufficient claim.

Acting upon this principle, I have always made it a rule, when applications for additional Grants have been addressed to me by persons resident in the Colony, to refer the same to the local authorities, authorizing a compliance only upon the condition that the parties shall have made that progress in the improvement of the allotments of Land which may have been already made to them, as in the opinion of the Colonial Govt. would entitle them to further encouragement.

I cannot conclude this dispatch without making known to you the approbation with which His Majesty has observed the caution with which you have acted in granting Lands to Persons.
1826.

7 April.

Approval of restriction of land grants by G. Arthur.

8 April.

Requests by convicts for passages for families.

11 April.

Outrages by M. Brady and his gang.

who have applied for that Indulgence, which has been the more satisfactory as it appears that, owing to the improvident manner in which the Lands were originally distributed, there have not been sufficient Reservations for public purposes, an omission which is much to be lamented from the difficulty, at present, of supplying the deficiency. I have, &c.,

BATHURST.

LIEUT.-GOVERNOR ARTHUR TO UNDER SECRETARY HAY.

Government House, Hobart Town,

Sir,

8 April, 1826.

I have the honor to transmit the applications of several Convicts resident in this Island, for their Wives and Families, to be sent from England, to Van Diemen's Land, and, as it is stated, that these Persons have the means of supporting their Families should they arrive, I beg to recommend their requests to the favourable consideration of Earl Bathurst.

I have, &c.,

GEO. ARTHUR.

LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST:

(Despatch No. 14; acknowledged by Earl Bathurst, 6th September, 1826.)

Government House, Van Diemen's Land,

My Lord,

11th April, 1826.

I had the honor in my Dispatches No. 18 of the 14th of September last, and No. 1, of the 2nd of January, to report to Your Lordship the Outrages committed by the Bushrangers in this Colony, more especially, by a most desperate Gang under a leader named "Brady." Whilst the boldness and atrocious acts of these Felons filled the Settlers with terror and alarm, the skill and conduct of this extraordinary Man, who directed them, baffled the united effort of the Civil and Military power for their apprehension.

Early in this Year, as soon as the Harvest was ripe, "Brady" put himself into great activity, leading his Men to the most wanton Robberies, and threatening to fire and destroy the property of any Individual, who should dare to give information, or join in his pursuit, and so great was the apprehension of the Settlers, that the temporary abandonment of their Farms was seriously contemplated.

In this state of things, with the advice of the Executive Council, I issued a Proclamation of which the enclosed is a Copy, and, at the same time, directed twelve smart Soldiers of the 40th Regt. who were good riders to be selected; and, providing them with such Horses as could at the moment be collected, I
proceeded with them into the Interior, for the purpose of stimulating the Inhabitants to make a Stand, and of exciting the armed parties to still greater exertion. The result, I am happy to report to Your Lordship, has fully answered my expectation. "Brady," with nine of his Gang has been taken, three have been shot, and one only, who is badly wounded, remains at large.

It is impossible to convey to Your Lordship a just idea of this most discouraging warfare. In addition to the natural facilities of a mountainous Country to an armed Banditti, there is such a combination and communication kept up between the Bushrangers and the Convict Stock-keepers throughout the Colony, that, whilst these Miscreants acquire the most accurate information of all the measures that are resorted to for their apprehension, their Pursuers are misled and imposed upon by every device that can be practised.

His Excellency Governor Darling, having witnessed whilst he remained here the embarrassment of my Command from the want of Troops, has most handsomely sent me during this emergency every Man whom he could possibly spare, and, I beg to intreat, Your Lordship will be pleased to provide, in addition to the Garrison Company destined for this Colony, that an effective Regiment may be afforded for its protection.

In my Dispatch, No. 4, of the 9th of January last, I had the honor to report to Your Lordship that it had been notified to Mr. Abbott that he should proceed to Port Dalrymple as Civil Commandant. Whilst the Colonists remained in so great a state of consternation, I could not, however, with any degree of prudence, withdraw Lieut. Colonel Balfour from that Post; but, the immediate cause of general excitement being removed by the capture of "Brady," I have not lost a week in carrying Your Lordship's Instructions finally into effect.

Colonel Balfour's activity in harrassing the Bushrangers, as well as his uniform conduct as Commandant, has excited a strong expression of regret from the Inhabitants at his removal, which they have expressed in an Address voted at a Public Meeting convened at Launceston by the Sheriff. I confess, I am not generally very friendly to these Addresses, and, therefore, I do not lay this before Your Lordship; but, the Government Order which I have issued on the supercession of Lieut. Colonel Balfour I have the honor to enclose, and I trust the arrangement I have made, in dividing the Country into Military Districts and continuing the Services of Colonel Balfour in charge of the whole as Commandant, upon the Salary he was before receiving of 10s. pr. diem, will meet Your Lordship's approbation and confirmation.
Proposed employment of W. Balfour.

General Darling has derived great assistance from the services of the Lieut. Governor of New South Wales as president of the several Boards he has formed, and I shall now have an opportunity of occasionally calling upon Colonel Balfour for the like assistance.

I have, 

Geo. Arthur.

[Enclosure No. 1.]

PROCLAMATION.

Van Diemen’s Land.

By His Excellency Colonel George Arthur, Lieutenant Governor of the Island of Van Diemen’s Land, and its Dependencies.

WHEREAS Matthew Brady, Patrick Bryant, Josiah Bird, William Brown, Michael Cody, Patrick Dunne, James Goodwin, John Greger, James McKenney, James Murphy, Edward Williams, and William Tilly (for whose apprehension Rewards have been already offered), yet remain at large; and have lately added to their Crimes of Murder, and other personal Outrage and Plunder, by a most wanton and unprovoked Attack upon the Premises and Property of William Effingham Lawrence, Esquire, at his Farm near the Lake River, and destroying by Fire his House, with all the Barns and Out-houses, several large Stacks of Wheat, together also with the whole of the Wool produced by the shearing of his Flocks for the last three Years; and, when leaving the Farm, threatened to fire upon and be avenged of all such Persons as followed them, having previously attempted to Murder the Overseer of the Farm by discharging their Guns at him: AND WHEREAS many evil-disposed Persons connect themselves with the Offenders, by purchasing or procuring a Market for their Plunder, and, so far from giving any Information that may lead to their Apprehension, receive, harbour and maintain them, thereby committing a Crime punishable by Death, all which Persons are hereby warned not to entertain the slightest hope of Mercy being extended to them in the Event of their Conviction: Now, THEREFORE, for the Protection of the Settlers, and inducing them and all other good and peaceable Members of Society to co-operate promptly and vigorously with the Government in the prosecution of those Measures, which it is constantly desirous of adopting for the Welfare of the Inhabitants of this Island, and in particular at this important Time.

I DO HEREBY PROCLAIM, that, instead of the Rewards already offered, the Persons, who may apprehend and lodge in any of His Majesty’s Gaols in this Island the Twelve Offenders before named, or any of them, shall immediately receive from the Government as follows, that is to say; For every such Offender, either the Sum of One Hundred Guineas, or (at their election) Three Hundred Acres of Land, free from all Restrictions: And that, if the Offenders shall be apprehended by Prisoners, or Prisoners shall be of the Party by whom those Offenders may be apprehended, such Prisoners shall receive a Free Pardon, in addition to their Share of the before-mentioned Reward: AND I DO HEREBY FURTHER PROCLAIM, that any Person giving such Information as may lead to the Apprehension of the said Offenders, shall immediately afterwards receive from the Government, either the Sum of One Hundred Guineas, or (at his election) Three Hundred Acres of Land, free from all Restrictions: And that, if the Information be given by a Prisoner, he shall receive a Free Pardon, and be provided with a free Passage to England, in addition to the last-mentioned Reward: AND I DO HEREBY FURTHER PROCLAIM, that the Chief
ARThUR TO BATHURST.

Constable of the District, in which the Offenders may be apprehended, shall immediately afterwards receive a Grant of One Hundred Acres of Land, free from all Restrictions, provided it shall be certified by the Magistrates of such District, that he then, and at all Times, zealously exerted himself to detect and apprehend the said Offenders: And, for the Purpose of aiding and assisting in clearing the Island of this most hardened Banditti, the Settlers are hereby most earnestly entreated forthwith to arm themselves, and associate in Parties, under the Advice and Direction of the Magistrates of their Districts, with whom all the Military Parties have been placed in Communication; or, if there shall not be any Magistrate residing in the District, then of their Chief District Constable: LASTLY, I do hereby strictly command the Chief and Petty Constables throughout the Island, and particularly Prisoners holding Tickets of Leave, to be aiding and assisting the Magistrates, to the utmost of their Power, by all possible Means, not only in the Apprehension of the Offenders before referred to, but also in discovering and communicating, as quickly as possible, the Names and Residences of those who receive, harbour, or maintain the said Offenders, or any of them.

Given under my Hand and Seal at Government House, the First Day of March, in the Year of Our Lord One thousand eight hundred and twenty-six. GEO. ARThUR, (L.S.).

By His Excellency's Command,
JOHN MONTAGU, Secretary.

God save the King!

[Here followed a description of the bushrangers.]

[Enclosure No. 2.]

Extract from Hobart Town Gazette, April 1, 1826.

GOVERNMENT ORDER.

His MAJESTY having been pleased to appoint Edward Abbott, Esquire, to be Civil Commandant at Port Dalrymple, the Services of Lieutenant Colonel Balfour cease to be permanently required at that Station.

As it was not within the knowledge of His Majesty that Lieutenant Colonel Balfour had been appointed Commandant of Port Dalrymple by the Governor of New South Wales, the Arrangement under which a Successor was named could in no way contemplate the Removal of Lieutenant Colonel Balfour, whose Conduct, as Commandant, has been entirely to the Satisfaction of the Government.

The Lieutenant Governor has directed the immediate Subdivision of the Colony into Military Districts, in which Troops will be stationed, together with a proportion of the Field Police. A System will be laid down, and communicated to the Magistrates, for the Co-operation of this united Force in the Interior in the Apprehension of all Prisoners unlawfully at large, and with a view to introduce a more active Surveillance for the Suppression of Sheep-Stealing.

The whole of this Establishment will be placed under the Charge of the Commandant, Lieutenant Colonel Balfour, one of His Majesty’s Justices of the Peace, who will direct its Operations, in concert with the Civil Authorities, throughout the Island.

By His Excellency’s Command,
JOHN MONTAGU, Secretary.
HISTORICAL RECORDS OF AUSTRALIA.

LIEUT.-GOVERNOR ARTHUR TO UNDER SECRETARY HORTON.

Government House, Van Diemen's Land,

My Dear Sir,

Captain Morrow of the 40th Regt. is ordered to proceed with a small Detachment of his Regiment to England. He entertains some wish, being a very old Officer, of retiring from the Service, and returning to Van Diemen's Land as a Settler, and is anxious to receive from me some testimonial of his Character to present in Downing Street on applying for Lord Bathurst's authority for a Grant of Land.

It affords me great pleasure to say that I entertain the highest opinion of Captain Morrow, both as an Officer and a Gentleman, and I should be highly gratified to receive a thousand such Settlers into the Colony.

I have, &c,

GEO. ARTHUR.

UNDER SECRETARY HAY TO LIEUT.-GOVERNOR ARTHUR.

(Despatch acknowledged by lieut.-governor Arthur, 4th November, 1826.)

Sir,

Downing Street, 14 April, 1826.

Error in convict indent papers.

It appearing, subsequently to the sailing of the Ship "Woodman" for Van Diemen's Land, in November last, that among the Prisoners embarked in that Ship was one by the name of James Davis, who is stated in the Assignment List to have been tried and convicted at Gloucester Assizes on the 10th August, 1825, and Sentenced to Transportation for Life, but which should have been "James Davis, tried and convicted at the great Sessions for the County of Pembroke, and sentenced to be Transported for Fourteen years, and that his Character had been orderly in Gaol," I am directed by Earl Bathurst at the request of Mr. Secretary Peel to address this letter to you, for the purpose of explaining the above circumstance, and with a view to the mistake being rectified in the records in that Colony.

I have, &c,

R. W. HAY.

EARL BATHURST TO LIEUT.-GOVERNOR ARTHUR.

(Despatch No. 11; acknowledged by lieut.-governor Arthur, 7th April, 1827.)

Sir,

Downing Street, 15th April, 1826.

Appointment of J. Beamont as clerk of council.

I do myself the honor to acquaint you that I have appointed Mr. Beamont to be Clerk of the Council at Van Diemen's Land. This appointment should have been communicated to you in the month of July last, at which time Mr. Beamont himself was informed of it, but as it appears that, owing to some inadvertence this was omitted, I have taken the first opportunity to make you acquainted with my intentions.
The Salary of the Clerk of the Council will be £500 per annum to commence from the period of his entering upon the duties of his Office, in the event of your having made the appointment under the Authority of the communication addressed to Mr. Beamont; but should you have deferred placing him in that situation until the receipt of Instructions from me, you will nevertheless allow him to draw his Salary from the 1st January, 1826, that being the date at which, had it not been for the omission I have noticed, his appointment would most probably have reached the Colony. I have, &c.,

Bathurst.

Lieut.-Governor Arthur to Earl Bathurst.
(Despatch No. 15.)

Government House, Van Diemen's Land,

My Lord, 19th April, 1826.

I have the honor to acknowledge the receipt of Your Lordship's Dispatch No. 17 of the 15th of July last, transmitting the Copy of a letter written by the direction of Mr. Secretary Peel enclosing His Majesty's Gracious Warrant for the granting of a Free Pardon to John Watson, alias John Naylor, who was transported from England in the Ship Malabar in the Year 1821, and instructing me to grant a Free Pardon to this Individual, provided he should have conducted himself with propriety during his residence in the Colony.

In obedience to His Majesty's Gracious disposition a Free Pardon has been granted to John Watson, and he has engaged a passage to proceed to England by the Ship Medway.

I have, &c.,
Geo. Arthur.

Lieut.-Governor Arthur to Under Secretary Hay.
(Despatch acknowledged by under secretary Hay, 9th September, 1826.)

Government House, Van Diemen's Land,

Sir, 19th April, 1826.

I have the honor to acquaint you that, on the separation of Van Dieman's Land from New South Wales, a Public Seal was required for the Colony.

Under the impression that a Seal* would have been sent out under Lord Bathurst's direction, I have refrained from making any communication upon the subject; but, as it has lately been much required to give effect to some public Instruments, I have thought it better to take the liberty of apprising you of the circumstance in case our want in this respect should have, accidentally, remained unnoticed.

I have, &c.,
Geo. Arthur.

* Note 38.
1826.

20 April.

Transfer of control of correspondence to R. W. Hay.

UNDER SECRETARY HORTON TO LIEUT.-GOVERNOR ARTHUR.

My Dear Sir,

Downing Street, 20th April, 1826.

The Circular which has been sent out will have informed you of the Division of Business* in this Office consequent on the appointment of a second Under Secretary.

The effect of this has necessarily been to remove from me all detail in connection with Van Diemen's Land; but as there are many points in your private Letters which have been introduced on the faith of finding me as you left me, responsible for the details of the Correspondence with that Colony, I have placed them in Mr. Hay's hands, and begged him at the same time to refer to me any point which cannot be disposed of without such reference; and I have prepared Mr. Hay, by a perusal of the correspondence between us, to receive letters from you in continuation of it upon the general subjects upon which we have corresponded. I beg however most particularly that this may not be understood as precluding any communication to me which after this explanation you may deem it necessary to make, for, whether in or out of Office, I shall always be happy to attend to any letters which you may address to me.

I am, &c.,

E. W. HORTON.

LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.

(Despatch No. 16; acknowledged by Earl Bathurst, 14th October, 1826.)

Government House, Van Diemen's Land,

My Lord,

20th April, 1826.

I have the honor to report to Your Lordship that theMilitary Duties of this Colony, from the Outrages committed by runaway Convicts and Bushrangers, have been such as have occupied my time to a great degree, both in the Field and in the Office; and it has become absolutely necessary that I should have the assistance of some personal Staff.

The question being one of a Military nature, I considered it proper to represent it to His Excellency General Darling, who both witnessed here the pressing demands upon my time, and has since experienced in New South Wales the excessive labours of administering these Governments in detail.

His Excellency, in reply, has intimated to me, that he is quite aware I must be in need of more aid, and considers it so reasonable that I should have assistance in the Military Department, that he most readily allows the Appointment of an Aid-de-camp, confident Your Lordship will not object.

My proceeding to make the Appointment before I can possibly be honored with Your Lordship's sanction is altogether

* Note 22.
unavoidable; but I beg to submit, that, as Your Lordship on recommending to His Majesty my Appointment as Colonel on the Staff was pleased to provide that the Appointment should be accompanied with no Military Pay, I would not, so long as Your Lordship might deem it proper to continue that restriction, have ventured to ask for any personal Staff unless it was absolutely necessary, indeed, physically impossible to get on without it.

His Excellency the Governor of New South Wales will have confirmed to Your Lordship my Reports of the active Military Duties of these Colonies: the whole character of which has undergone a most remarkable change within the last two years, and from no cause, in my opinion, has it been more injuriously affected than by the freedom of the Press, a Liberty I most strenuously but ineffectually entreated Sir Thomas Brisbane to put under some wholesome restrictions by Legislative Enactment.

I have, &c.,

Geo. Arthur.

P.S.—It is submitted, that every Military Contingency is now defrayed through the Commissariat upon the principle reported to Your Lordship.

G.A.

**LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.**

(Despatch No. 17; acknowledged by Earl Bathurst, 1st October, 1826.)

Government House, Van Diemen's Land,

My Lord,

I have the honor to report to Your Lordship that, not having received Your Lordship's Commands respecting the Office of Clerk of the Councils, I have, with much personal labour and inconvenience in the Executive Council, continued to proceed without any such assistance: It has now, however, become impossible for me to carry on the increased duties of the Government without some further aid; and, subject to Your Lordship's confirmation, which I beg very earnestly to solicit, I have appointed Captain Montagu who has for two Years, as Private Secretary, discharged the whole of the duties of the Colonial Secretary, to the Office of Clerk of the Executive and Legislative Councils.

Mr. Beamont, formerly provost Marshal, waited upon me on the arrival of Governor Darling, with the Copy of a Letter from Mr. Horton from which he was led to expect Your Lordship would have named him to the Office of Clerk of the Council; referring to the political state of this Colony, and Mr. Beamont's connexions in it, I confidentially consulted with the Governor what step I should take in the event of this measure
being confirmed, and His Excellency did not hesitate to propose
the propriety of my delaying to act upon it until I could lay
the case before Your Lordship, which I have continued to defer
in the hope of being honored with Your Lordship's Instructions.

Mr. Beamont is the Son in Law of Mr. Evans, whose retire­
ment from the Surveyor's Office is under Your Lordship's con­
sideration. It is impossible to expect Your Lordship would
sanction a Clerk to each of the Councils, and I need not impress
upon Your Lordship how painful and distressing it must be to
me, for various reasons, to transact the confidential business of
the Government with Mr. Beamont, for the Clerk of the Execu­
tive Council must of course be entirely in the confidence of the
Governor, and have access to all the Papers and Documents
which may become the subjects of private investigation and
discussion.

Whilst Captain Montagu's services have been exclusively de­
vo ted to the duties of Colonial Secretary, receiving only the
Emoluments of Private Secretary, my Nephew, Mr. Charles
Arthur, has gratuitously acted as my Private Secretary from the
period of my arrival, but Captain Montagu now entirely resigns
that Office in Mr. Arthur's favour.

Mr. Perceval's destination* has, I understand, been altered; but
I anxiously hope the Gentleman Your Lordship may have named
as his Successor may be on his Passage; in the mean time, the
Colonial Secretary's Office will be filled by Mr. Hamilton, who
has remained unemployed since his supercession as Naval Officer
without any additional charge to the Public.

I have, &c.,

GEO. ARTHUR.

EARL BATHURST TO LIEUT.-GOVERNOR ARTHUR.
(Despatch No. 12; acknowledged by lieut.-governor Arthur,
20th August, 1826.)

Sir,

Downing Street, 21st April, 1826.

Having received from the Chief Justice of Van Diemen's
Land a representation respecting the Inadequacy of the Salary
annexed to his Office whether considered with reference to the
extent and responsibility of his duties, or to the expenses of
Living in that Country, I have recommended to His Ma­
jesty that the Salary of the Chief Justice should be augmented
to £1,500 per annum, at which rate you will consider yourself
authorized to issue the same to Mr. Pedder, commencing from
the date at which you may receive this communication.

I have, &c.,

BATHURST.

* Note 42.
ARTHUR TO BATHURST.

UNDER SECRETARY HAY TO LIEUT.-GOVERNOR ARTHUR.

(Despatch marked "Private"; acknowledged by lieut.-governor Arthur, 15th August, 1826.)

Dear Sir,

 Downing Street, 21st April, 1826.

From your private Letter* to Mr. Wilmot Horton, Lord Bathurst has been informed of the very reprehensible line of conduct, which has been of late pursued by Mr. Gellibrand the Attorney General, and of the difficulties in which you have been in consequence involved.

Although, from your having made no official communication on this Subject to Lord Bathurst, he might have hesitated on the propriety of taking any decided step for the removal of the Attorney General, His Lordship would certainly have felt it incumbent upon him at once to have adopted that course, had not some circumstances intervened, which incline him to pause before he comes to any final decision on the case. The few communications on points relating to the Situation filled by Mr. Gellibrand, which have been addressed by him to this Department, shew, in Lord Bathurst's opinion, so much ability and legal acuteness, that he cannot help feeling desirous, that one so well fitted, as in many respects Mr. Gellibrand is for the Office he holds, should if possible be brought back to a sense of his duty, and that the trial should be made, if it can be done without any sacrifice of your own dignity, whether he may not yet prove himself as useful a Public Servant, as Lord Bathurst is persuaded he might be, if his talents were properly directed.

Since your letter* on this subject was addressed to Mr. Wilmot Horton, you will have received the Instructions from Lord Bathurst, which confer upon you, among other powers, that of suspending the Attorney General from his Office, should you consider it necessary to do so, and Lord Bathurst is inclined to hope, that the knowledge of the increased authority which you have thus obtained, combined with a firm remonstrance with the Attorney General on the impropriety of his conduct, will have the effect of reclaiming him from the errors into which he appears to have fallen.

I have, &c,

E. W. HAY.

LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.

(Despatch No. 18; acknowledged by Earl Bathurst, 2nd October and 11th December, 1826.)

Government House, Van Diemen's Land,

My Lord, 21st April, 1826.

I have the honor to report to Your Lordship that I assembled the Legislative Council† on the 12th of April Inst., for the purpose of Mr. Edward Curr's taking his Seat as a Member.

* Note 43. † Note 8.
The Oaths enumerated in the Margin* have been tendered and taken by every Member of both Councils, as well as the Declaration against Transubstantiation; indeed, it is expressly provided for by the King’s Instructions as far as relates to the Executive Council, and these Oaths with the Declaration have also hitherto been undeviatingly required from every Magistrate in both Colonies, which Office Mr. Curr enjoys by virtue of his Appointment as a Member of the Legislative Council.

As a Roman Catholic, Mr. Curr has declined subscribing to the Declaration, or taking the Oath of Supremacy, and, I have, in consequence, had some considerable doubt how to proceed, more especially, as General Darling required all the Oaths to be taken by the Members of both Councils.

Mr. Curr, whose Appointment is a sufficient proof of his respectability, assures me, that it was well known at Home that he was a Member of the Church of Rome, and, under the opinion of the Attorney General, I have therefore admitted Mr. Curr to take his Seat waving his conformity in this matter, but submitting my decision to Your Lordship’s judgement.

Mr. Curr proceeded a few days since into the Interior, at least One Hundred and Fifty Miles from Hobart Town, to select the Company’s Land, and although he is not to be the resident Agent of the Company on the Land, yet he must, in the course of business, be frequently called there.

Mr. Edward Abbott has proceeded to Port Dalrymple, a distance of One Hundred and Twenty Miles; if he attends the Council from such a distance it must be at considerable expense, and, at his period of life, very fatiguing.

Both these Gentlemen, therefore though not in point of Law (for the Law must intend absence out of the Colony for which the Governor is empowered to provide) but, in point of fact, will be absent Members, and the casual absence of any other Member will render the Council inoperative!

I submit, therefore, to Your Lordship the necessity which appears to exist of giving the Council the additional Member which the Act allows, and, as Mr. Curr has been named from amongst the Mercantile Body, I would propose Thomas Anstey, Esqre., a Justice of the Peace, to Your Lordship’s consideration, as a most respectable Agriculturist.

Mr. Anstey came out about three years ago under several strong recommendations, particularly those of Mr. Goulburn

* Marginal note.—Of Allegiance, of Abjuration, of Office, of Supremacy and the Declaration (see note 44).
and Commissioner Bigge. I should have renewed the name of Mr. Thomas Archer, but he resides on the other side of the Island, near Launceston, which is the practical inconvenience I am submitting to provide against. I have, &c., T. Archer.

GEO. ARTHUR.

LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.

(Despatch No. 19; acknowledged by Earl Bathurst, 22nd December, 1826.)

Government House, Van Diemen's Land,

My Lord, 21st April, 1826.

I have the honor to report to Your Lordship that Archdeacon Scott made his first Visitation to this Colony in January last, and remained about Two Months, during which period he made the most minute Investigation into every circumstance connected with our Church and School Establishments, as well as into the Religious and Moral condition of the Inhabitants generally.

I had not the pleasure of being before known to the Archdeacon; but, understanding him to be a very sensible Man, thoroughly acquainted, from his connexion with the Parliamentary Commission, with the affairs of Van Diemen's Land, I caused every Channel through which information could be derived to be open to him, and I trust he will have afforded Your Lordship a satisfactory statement of the result of his Investigation.

I have had to encounter in the Government a system of opposition so appaling, worked up in the most artful and designing manner to impose upon the Public Mind, that I cannot describe to Your Lordship the satisfaction with which I have received two such Public Functionaries as General Darling and Archdeacon Scott: a circumstance, I feel the more gratifying at this time, because two or three of the moving Characters, not contented with stirring up the Community here, have had recourse to the various Journals in England to cast imputation upon my Administration.

I have, my Lord, endeavoured to pursue a straight forward course making Your Lordship's Instructions my guide, and, I am quite determined, with Your Lordship's support, to put down the faction that, under various heads, has raised itself to distress the Government; and, as far as I know, simply because Public Affairs are not conducted upon the Principle they approve.

The Archdeacon has addressed to me two Reports, Copies of which I have the honor to transmit to Your Lordship, and as
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HISTORICAL RECORDS OF AUSTRALIA.

1826.
21 April.
Reports submitted by Revd. T. H. Scott.

they are drawn up at considerable length, I have taken the liberty of adding Marginal Notes* to them to relieve Your Lordship in the perusal.

These Reports may be divided under the following heads:—
Firstly.—The General State and condition of the Colony.
Secondly.—Education generally, and the Establishment of Public Schools.
Thirdly.—The Church and Clerical Establishment, as connected with the Religious Instruction of the People.
Fourthly.—The Church Revenue.
Fifthly.—The support of the Church and School Establishments of the Colony.

First.—The Picture the Archdeacon draws of the general State and Condition of the Colony is very gloomy. I believe he is quite right as to the causes of disaffection and vice, but I confess I do not consider the consequences in the same alarming light.

Second.—The whole of the Archdeacon’s distinct and elaborate statements respecting the Schools meet my entire concurrence, and I recommend the measures he proposes strongly to Your Lordship’s approbation for adoption; simply observing that, urgent as I admit the existing evils to be, the arrangements for removing them can only be progressive; for, if the whole energy of the very contracted means of this Government is directed to one point, it is clear, that others, perhaps no less important in their relation to a Penal Colony, must be neglected. The Orphan Schools, however, are of paramount importance, and my attention will be more particularly directed to them until I am honored with Your Lordship’s further Commands.

Third.—In my Dispatch No. 6, 15th August, 1824, I submitted to Your Lordship the opinion I formed of the immediate necessity of an augmentation of Chaplains in the Colony. The Archdeacon, to whom Your Lordship was pleased to refer for a further Report, has not only confirmed my representation, but has, in the strongest manner, submitted the urgency of a very increased number both of Chaplains and Schoolmasters: I perfectly coincide with the Archdeacon in the more extended view he has taken; but I thought it rather desirable, when I addressed my Dispatch to Your Lordship, to recommend only such an augmentation as I considered at the time absolutely indispensable.

The Archdeacon, submitting the strongest arguments in detail, and particularizing the Stations they should occupy, recommends that Ten additional Chaplains should be immediately sent out.

* Note 45.
which includes one Minister for each of the Penal Settlements of Macquarie Harbour and Maria Island.

From the very unpleasant duty which must necessarily devolve on Ministers labouring among Persons so extremely depraved as the Prisoners in those Settlements, Mr. Scott suggests that two of the Chaplains should be distinctly named from Home for them. After giving this subject very mature deliberation, I take the liberty of suggesting to Your Lordship, whether it may not be more advisable to engage two Ministers from the Wesleyan Mission in these Colonies to undertake the duties of the Penal Settlements? Their Services may no doubt be obtained at a very moderate charge, and I should conceive they would be better qualified for the Office than any Gentlemen who have received a liberal University education. I have conversed with the resident Wesleyan Minister in Hobart Town, Mr. Carvosso, upon the subject, who is of opinion, that the Directors in London would not hesitate a moment in appointing two additional Ministers, provided some assistance is afforded on the part of His Majesty's Government; and this Gentleman further assures me, that an expression of Your Lordship's wish to Mr. Butterworth would receive immediate attention.

The Archdeacon further recommends that a Rural Dean should be appointed to preside over the Church here during his absence, which I apprehend will generally be an interval of two Years. I entertain the highest respect for Mr. Scott: I know no person more competent to regulate the temporalities of the Church, and I should lament suggesting any measure which might in the least degree be painful to him; but I believe Your Lordship will find he accords with me, that with such an augmented number of Chaplains there should be a decided superior in the Church for the management and direction both of its spiritual and temporal concerns; and, I submit, it is most important that an Archdeacon should be appointed for Van Diemen's Land: the expense might be relieved by his holding one of the Chaplaincies, the duties of which, if he is active and zealous, might without difficulty be performed.

I accord most entirely with Mr. Scott in the vast importance of selecting Clergymen for this Colony; their duties are of a peculiar nature, and if their hearts are not earnestly devoted to their Calling they will be of little use.

The Archdeacon represents the extensive duties which will devolve on the Chaplains; and this, connected with other considerations, induces him to recommend their Salary should not be less at first than £300 pr. Annum with a prospect of augmentation. Mr. Scott's remarks upon this subject lead me with
Comparison of salaries in N.S.W. and Tasmania.

much submission to observe, that, in the arrangement of all Salaries for this Colony, Your Lordship has hitherto made a decided difference between New South Wales and Van Diemen's Land, limiting the latter in proportion to the supposed decrease of duty.

In speaking of the Clergy the Archdeacon submits to Your Lordship, from personal experience, that every Article of Life is 30 pr. Cent. dearer to a Purchaser here than in New South Wales, and I may venture to assure Your Lordship, of all the other Departments, that their duties are no less arduous than in the Sister Colony; for it is to be observed that all the Public Offices are open during the same hours, and, if there is any trifling excess of Business, it is readily discharged by an additional Clerk, without imposing upon the Head of the Department any further trouble or labour.

I can be responsible, My Lord, that no Public Officer in this Colony has a sinecure of it, and as I have cut off most of their allowances, which were formerly a heavy indirect charge upon the Public, in some shape or other, I cannot but with great submission recommend that the Public Officers should be placed beyond the reach of temptation by the receipt of fair and liberal Salaries.

Fourth.—The subject of the Church Revenue is one on which, at the present moment, I do not feel competent to offer any decided opinion upon the calculations of the Archdeacon; But it does seem to me, that fixing any value upon Land at this time is purely speculative: its value must shortly be greatly enhanced, for, although there are at present difficulties, nothing can long check the energies or retard the prosperity of a population of Englishmen in such a Climate.

Fifth.—The expences of the Church and School Establishments are fully detailed by the Archdeacon, and his conclusive reasoning, why there should be no hesitation in meeting these charges seems quite incontrovertible, and is in unison with the sentiments scattered through various of the Dispatches I have had the honor to address Your Lordship. This Colony must be considered in the light of an extensive Gaol to the Empire—the punishment of Crimes and reformation of Criminals the grand objects, in its Penal character, to be attended to; and these, under Providence, can alone be effected by the presence of a respectable Military Force; by the erection of proper places for confinement: by an active Judicial Establishment: by a more general diffusion of knowledge; and by the powerful operation of Religion.
These are the means by which I humbly beg to assure Your Lordship the wise and benevolent ends of His Majesty's Government can be best promoted in transporting Felons to this Colony; and, the more experience I have, the more I am confirmed, that, if a liberal Provision is made to carry all these branches forward with vigour and constancy, crime will decrease, and the expenditure of a few Thousand Pounds in Van Diemen's Land will be the saving of ten times the Amount to the general Revenue of the Empire.

With every desire to limit the expenditure of the Island, and to augment its Income, which, I have given Your Lordship proof, are objects I have strictly watched over, I would still, in referring the Archdeacon's question, as to the proportion of expense which should be borne by the Mother Country to Your Lordship's wisdom and judgement, beg to impress on Your Lordship's mind, that the best economy will be found in subduing vice both at home and here, and which can only be effected by arrangements which cannot be established without a liberal outlay, although they may ultimately be conducted at a very trifling expense.

The work of regulating a Penal Settlement would be easy were not Your Lordship contemporaneously laying the foundation of a free Colony. The Settlers want the Prisoners as Servants, and pamper or neglect them at the very time these Prisoners should be kept at hard labour for their Offences. It is this, with other circumstances, that creates jarrings, and generates discontent: But these difficulties, though discouraging for the moment, pass away and are forgotten; and, as, when the rugged scaffolding and rubbish is removed, a magnificent and well proportioned Building delights the Eye, so here, when transportation shall cease, and all its Chains and Trammels disappear, a flourishing Country will be at once exhibited, one of the fairest monuments of Your Lordship's long Administration.

The minor points noticed by the Archdeacon I conclude it will be Your Lordship's pleasure I should carry into effect as circumstances allow, reporting only upon those hereafter which I may find practically objectionable; but, as the whole, more or less, involve an expenditure of Money or may be important in their issue, it will be most satisfactory to me to be honored with Your Lordship's general Instructions upon the Reports.

The compensation which the Archdeacon strongly recommends being made to the Revd. Wm. Bedford for his extra Services in the Jail, Factory, etc., etc., both retrospectively, and prospectively so long as he shall continue them, appears so very

ARThur TO BATHURST.

1826.
21 April.

ARThur TO BATHURST.

1826.
21 April.

Anticipated advantages.
Report upon church and school establishments.

State of public education.

Number of children in colony.

Number of children in public and private schools.

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Reasonable and just, that I have sanctioned the advance at the rate of One Hundred Pounds pr. annum to be defrayed from the Colonial Fund subject to Your Lordship's confirmation.

I have, &c.,

Geo. Arthur.

[Enclosure No. 1.]

ARCHDEACON SCOTT TO LIEUT.-GOVERNOR ARTHUR.

Sir,

Hobart Town, 13 February, 1826.

First I beg to submit to the consideration of your Excellency, and through you, to that of His Majesty's Government, the following report upon the state of the Church Establishment, as well as of the Schools in the Colony of Van Diemen's Land, which I have drawn up on very mature deliberation from my own observations made during my visitation to this portion of the Archdeaconry; and from the various documents, with which your Excellency has with so much earnestness for the welfare of both the subjects furnished me; and with which I have been supplied on the part of the Clergy and several officers of your Government, to whom I have had occasion to apply for assistance.

Secondly, although first in importance to the present and future prosperity and happiness of His Majesty's subjects here, and of their Offspring, as the Religion of the Establishment unquestionably must be, yet as a recent addition has been made by the King's most gracious commands to that branch, I shall commence my remarks on the state of Public Education.

Thirdly, it appears from the census of November, 1825, that there were 2,444 children of which 1,276 are Males, and 1,168 Females, under 15 years of age; of these 1,355 came free, or are of free persons, 695 of emancipated persons and 394 of actual Convicts. I state this as regards the prejudice affecting the associating of these Children in Public Schools, and also as it regards a provision for those whose Parents are under the sentence of the Law, and consequently cannot be supposed to have any means of educating them, and little to support them.

Fourthly, from another Document marked A, it appears that there are of Males under 5 years of age 545, and of Females 561; from 5 to 8 years of age 195 Males and 201 Females; from 8 to 15 years, 311 Males and 287 Females, forming a total of 2,090 children, under the age of 15 years. By the returns made from the several Schoolmasters, there do not appear of the above total of Children, under 15 years of age, more than 312 in the course of education in the Public Schools; and from all I have been
able to collect, not more than 130 in private families and Schools, of which latter there are very few. It was not possible to ascertain how many of the whole Number had been educated; but, from my former observations in this Colony, six years ago, and the information given me by the Clergy now, I fear whatever education has been given, was of a most imperfect character, and, I grieve to say, with little effect. If, however, I deduct from the totality 400 infants of 4 years old, there will be only about 20 in 100 receiving any education; so that there is a manifest necessity of some immediate step being taken. By some information on which I have reason to depend, and especially as it was within my own observation how little moral principle ever was instilled into the minds of the rising generation, I fear vice and immorality have extended widely; for it appears that many native born youths have been brought to an untimely end, by the hands of Justice, and it is known that seduction and prostitution have destroyed the happiness of nearly as many unfortunate Girls.

Fifthly. I am not surprised at this, when I reflect that Twenty years were allowed to pass away, since the first settlement of this colony, with only two Clergymen, at the distance of 120 Miles from each other; and of this time, the first fifteen years, the scattered inhabitants had but one Spiritual Pastor, and no regularly paid Schoolmaster. The dissolute habits of the Parents, and the want of attention on the part of the Government, are also amongst the many causes of this state of ignorance and vice, which appear to me to be so rooted, that a long time, incessant watchfulness, and perseverance can be the only means of turning them to the paths of virtue and morality. Instances are before me of not only a total disregard of any of the solemn ordinances of Religion, but a repugnance to conform to the initiatory rite of Baptism, and a total insensibility to consequence hereafter of a future state; and however many Parents have lately expressed a desire that their Children should learn, yet the great irregularity of attendance, the various excuses and capricious conduct of the former, are sufficient evidence that a new race must spring up before any considerable benefits can be expected as the result, especially with the present inadequate means of affording education even partially.

Sixthly. There is another reason which operates very powerfully against the progress of amendment; the baseful example set by a large majority of free persons living in a state of adultery, and unblushingly avowing it to the World; there are persons also, who whilst they loudly complain of these examples, are parties to them, by associating with and countenancing persons,
who live in such a state; and, although they are frequently upbraiding the Government of the Colony for taking no steps to improve the rising generation, are themselves the first to throw obstacles in the way; and whilst they disapprove of every thing, will suggest nothing which interferes with their own superficial, if not baneful views. I cannot be indifferent to a recent event which took place to celebrate the return of an Individual to this Colony, which will operate on the minds of young persons in a most pernicious manner.

Seventhly. To these may be added, the vilest abuse of that which is amongst the greatest of God's blessings on mankind, the freedom of the Press, established in these Colonies by the Law of England. How far the promulgation of blasphemy, resistance to the Government, and countenancing all the lowest vices of mankind, even to the justification of adultery, with a ridicule upon our religion and its Ministers, can be construed into the benefits of a free press, I confess, with all my veneration for freedom of discussion and expression of opinions, I am unable to understand. It may be answered that the good sense and judgment of the people will oppose this; but unfortunately too many of those free people of a better informed understanding, mindful only of their own selfish views and immediate interests, instead of the general welfare, give their countenance and support to such persons who have been convicts (now free) sent hither for Crime; but who have received a better education than the common Thief, and abusing their state of freedom, inflame the Convicts to discontent, and excite in the mind of the common Settler imaginary grievances and oppressions.

Eighthly. The persons are too notorious to your Excellency, and I need not name them; but this base subserviency, and these self interested views of reputed opulence countenancing these evils, stand on record under the King's Commission of Enquiry—first by exhibiting charges of the immoral tendency which the example of concubinage had on the rising generation here, and at a subsequent period by a public association with, and unqualified approval of the individual's conduct against whom these complaints were made; Secondly, the Charges preferred against a Judicial Character for violating the duties of his high office, which were not substantiated; thirdly a close and intimate connection with, and support of, an avowed libeller; and lastly, an open defiance to a most wholesome regulation, and resistance to the authorities on conviction, merely because it interfered with personal interests and gains. These form but one portion of the Character of one, which may serve as a specimen of many others, indeed of nearly the whole.

* Note 46.
Ninthly. I have entered into this detail to account for the vice, and disinclination to receive instruction, which every where prevail, and which will prevail as long as the mind is poisoned by such examples and by such instructions. To contend with these persons in a larger and more highly civilized community, is not difficult, because the materials for combatting are numerous and ready; but here, where there are few of any tolerable character, and these of slender abilities and less means, such difficulties can be only appreciated by those who feel them; and I am not going beyond my line of duty, in stating unequivocally to your Excellency, my opinion founded on a closer examination of the different views and passions of the free people here, and in the other Colony, than it has been possible for any other person hitherto to acquire, that so long as the Legislature of England enacts Laws in detail for these Colonies, not being in possession of sufficient data, on which it can form its judgment how these laws will operate, and so long as the technical discriminations admitted by the Courts of Justice, in a Country where the overwhelming mass of the Population is free from Vice, and finds its own particular interests too strong not to yield to the general good, are followed up in a Country where directly the reverse of the population and feeling is the case, I do not hesitate, I repeat, unequivocally to declare it to be my opinion, that there is not only no hope of intellectual or moral improvement, but a most alarming apprehension of open resistance, if not of open rebellion to the Government. These sentiments have been avowed by those Newspapers, which are propagated by the organs of such factions; and until they are checked by some power, until they can be controlled by reason, which will only be, either as the emigrant population should be respectable and virtuous, or the rising generation be trained up in the paths of religion and virtue, I cannot retract my opinion.

Tenthly. To counteract these evils, I have to recommend to your Excellency the immediate increase of Clergy and of Schools, leaving any political measure to the better judgment of your Excellency and those who are appointed by the King to assist you. By the document annexed and marked A your Excellency will perceive that there are 1,106 Male and Female Children, under five years of age, in the fifteen districts out of Eighteen, into which at present the Island is divided; and for these I strongly recommend the formation of Infant Schools, in which, the cleanliness, care and discipline are chiefly attended to, with some of the rudiments of instruction; but all founded by bringing the mind to the acquirement of knowledge, by
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Report upon church and school establishments.
Parochial schools.

Number of schools required.

Necessity for eleven new schools.

Sites proposed for schools.

Proposal for orphan schools for children of convicts.

gentleness rather than coercion, and by the plainest methods of ocular demonstration, such as are now becoming general in the Mother Country.

Eleventhly. These Schools are preparatory to the primary Parochial Schools, into which the Children may be removed at five years old, and there to remain till the eighth year, during which time under the National system, the Mind is sufficiently filled with the rudiments of instruction, reading, writing, and arithmetic, that it might then be optional with the Parent to continue the Child longer or not. It appears by the return marked B, that of this age there are in those fifteen districts or Counties, 397 Male and Female Children, spreading over the whole Island, in length 170 Miles and in breadth 30. The present subdivision of 18 districts, according to the scattered population will require Twenty Schools, School masters and Mistresses, so as to afford facility of access; and this has been calculated, on placing the School in a Centre of 5 or 6 Miles. The number of Children from 8 to 15 are 311 Males and 287 Females; at which age it is fair to presume, common education finishes, and labour, or some other resource, commences for a provision. There is however no objection to a Child remaining in the School, until 15 or 16 years of age.

Twelfthly. From those most conversant with the State of the districts and of the population, I do not see how education can be diffused unless Eleven Schools be immediately erected, in addition to those already in activity, and consequently an equal number of Masters and Mistresses, who I recommend should be married. On a reference to a return marked B, your Excellency will perceive even with this provision, how very large a proportion of the population will find a difficulty of procuring education. These should be placed, as it appears to me, subject to Your Excellency's approval, one near Sandy Bay, one at Richmond Township, one at the Carlton River, one at Bagdad, one nearly opposite to Elizabeth Town, one at or near Macquarie Township, one on the River Ouse, one at Jericho, one at Ross bridge or Campbell Town, one on Norfolk Plains, and one at Paterson Plains.

Thirteenthly. The number of Male and Female Children, the offspring of actual Convicts, is 394, and as these persons are subject to a summary legal process, and cannot possess property in themselves, I am of opinion it would be advisable to erect a Male and Female Orphan School for their entire support and instruction. It should not be in the neighbourhood of a populous Town or near a spot where one is likely to rise up. Both should be placed under the general superintending controul of a
married Clergyman, a Matron and Assistants in proportion to the numbers; and for the Male Orphan School a Superintendent of Agriculture to instruct the Boys in its ordinary operations, especially in the care and management of Sheep and Cattle. Such an institution ought to be placed on a Spot, not less in this Country, where nearly all the good Land is granted, than 5,000 Acres; and if 10,000, it would be the better. Such a School as this might under the same regulations embrace an Infant, a Primary and a Secondary School; which last should be devoted to the common pursuits of Life, such as mechanical, domestic, horticultural and agricultural, with a given proportion of the day to be devoted to a continuance of Scholastic exercises. The Female School should be devoted partly to Work, education, and a weekly rotation, after a certain course of education, in domestic duties.

Fourteenthly. Into these Schools the first objects of admission, I think, ought to be the wholly destitute; the next, those who not being destitute, may be saved from ruin, especially girls; and the third, those from large families to whom assistance would be a charity. I do not think there would be of both sexes less than 400.

Fifteenthly. As your Excellency has done me the honour of consulting me on a point unquestionably of importance to the Colony, though not strictly speaking within my line of duty, since it is not placed under the controul of the King’s Visitor, yet I most willingly lend my aid to a cause wherein you take so deep an interest. As there exists a considerable reluctance on the part of the free people to allow their Children to associate with those of emancipated or Convict Parents, even amongst those who are depraved enough to associate with, and give support and encouragement to them, themselves, your Excellency has brought to my notice, the plan of a School supported by Subscriptions at a moderate rate. With this view, I beg to submit to you in the following Paper, my opinion on the subject; observing that you may, without injury to the whole, adopt such parts of it as you may think proper.

Plan for a General Boarding School.

First. To be divided into Six Parts.
Secondly. Each part to be subdivided into Senior and Junior.
Thirdly. The Child to be admitted must not be under 7 years of age, and not to remain after 16, except under special causes.

4. The National System to be adopted, throughout the Progress.
5. The Divisions to be junior part I Elementary. Senior part I: Reading, Writing, and Arithmetic in the higher branches, and elementary grammatical exercises; this will occupy two years.

6. Junior part 2. Lectures on the elements of Mechanics. Senior part 2 experimental lectures on the Chemical elements, and higher parts of grammatical exercises in English and Latin —this will occupy two years.

7th. Junior part 3. Gardening, Domestic Economy, Manufactures. Senior part 3. Husbandry in all its branches which will occupy two years more.

8th. At this period, an increased charge should take place for the higher branches of knowledge; but it is to be understood that, during the first division of this progress, the rudiments of History, Geography, Biography and Chronology are to be given. Should it be desired to continue the Boy in the Senior part 3, an additional Sum to be paid.

9th. Junior part 4. Rudiments of Natural History—Mineral, Vegetable and Animal. Senior part 4. The generic names of the Minerals, Vegetables and Animals, with specimens as far as they can be obtained, their habits and localities—Economy of health, to avoid the causes of diseases, both for the human Body and useful Animals, one year.


11. Junior part 6. Notetaking from Lectures. Recapitulation of the foregoing exercises. Senior part 6. Classes of the higher order—as the rudiments of classical learning will be comprised in all the stages of the second division down to junior part 6 inclusive.

12. The first division will take a Boy down to the 13 year, at which age for the ordinary purposes of life, he will have acquired a sufficient education.

13. The second division will bring him down to his 17 year for the higher branches; and if he is destined for a learned profession, he may be kept in the 3rd division, or senior part 6, at the pleasure of the Parent.

14. Boys, from their entrance to senior part 3 inclusive, should pay £25 per annum, to junior part 6 inclusive £30 per annum, and in senior part 6, £50 the first year, £75 the second year, and £100 the third.
15th. Day Scholars may be admitted by paying for the first division £5 p. annum, for the second division £10 p. annum, and for the third division £15 for the first year, £20 for the second and £30 for the third year.

16th. The discipline of the School, the course and practice of Study, and the exercise to be on the National Plan, without deviation.

17. The Cloathing to be uniform, either a round close jacket and loose trowsers, blue or mixt, blue worsted Socks, black Stock Shoes, round foraging leather Cap, with front to fall down, two of each a year. Stock: 9 Shirts, 6 Pair Socks, 3 Handkerchiefs.

18. The vacation to be at Christmas 14 days, i.e., seven days before and seven days after Christmas day, to return on the day without fail, no excuse but illness to be received, certified by a Medical Man.

19. Half a year’s notice to be given previous to a removal.

20. Subscribers to the original endowment of £50 shall send two Children without entrance, those who have not subscribed shall pay Entrance for the first division £14, for the second division £30 and for the third division £50, or for the three divisions at once £60; at the discretion of the Visitors or Trustees, this may be omitted.

21. If it is found that the School should encrease, or that persons from distant countries should send their Children in sufficient numbers to remain in the third division, so as to justify a separate establishment, the principles before laid down may be applied, in which case a larger Salary must be given to the Head Master, and others must be procured.

22nd. The Cost of 50 Boys at 18 each—

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>per annum</td>
<td>£900</td>
</tr>
<tr>
<td>Cloathes for ditto</td>
<td>100</td>
</tr>
<tr>
<td>Master, ditto, ditto</td>
<td>250</td>
</tr>
<tr>
<td>Total</td>
<td>1,250</td>
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</tbody>
</table>

£20 Boys £20 p. ann. is £400
20 do 30 is 600
10 do 50 is 500 1,500

The remaining £250 will be for contingencies.

23. It may be remarked on the Indian Scheme that, if they will fulfil those proposals both as to endowments, and the number as well as charge for Pupils, some arrangement might be made with the Church and School Corporation, as for example, the 4,000 Acres required might be yielded on condition that the Surplus £7,500 be appropriated to the Male and Female Orphan
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Plan for general boarding school.

School of the Colony. The Corporation have the power of selling one third of their Lands, and these 4,000 may be part of that third.

24th. So much of the above plan as will apply to a Male Orphan School may be taken up to be proceeded upon; and I should recommend the following Establishments to be all in connection one with another, and the Children to proceed gradually through them.

25. An Infant Day School for both sexes until the 5 year, and 2, a primary Day School until the 8 year, in every Parish or Township. 3. The Orphan School to be filled with the destitute, and also from the above Primary Day School, where they may be put into the several parts according to their future destination, observing the distinction of selecting those who are in danger of destruction by Vice, and those to whom Assistance might be useful. The expenses would be—

A Master at £200 and his food with the Boys . . . £200
150 Boys at £20 p. ann. .................. 3,000
150 Girls Ditto .................. 3,000
Mistress .................................... 200
Medical Attendance, etc., etc. ............ 600

£7,000

Necessity for adequate salary to secure competent teachers.

16thly. Upon the expenditure of these Schools, it is hardly possible to lay down one general rule for the present and future guidance, yet something approaching it for the present might be named; considering the facility with which Land has been, and still is acquired in this and all new Countries, and the mode upon which Stock is obtained, unless large inducements are held out, there is no chance of procuring competent persons in character and ability. It is in vain to apply within this Colony, and experience has proved, in almost every instance of those who come from England at low Salaries, how soon they quit their employments, not only in search of but actually for situations, which may be almost said to be seeking them; and as Character is not at present a necessary qualification for these employments the facility of obtaining such situations is the greater. I have thought it right to enlarge on this point, because otherwise it might appear a matter of surprize to His Majesty's Government; but your Excellency is too well aware of the fact, and how severely it presses on any person required by his situation to keep up a respectable appearance on a low Salary, especially the Clergy. I do not imagine you could procure an eligible Man and his Wife, at a less Salary than £75 per annum, with a house, and the Meat and flour at the Government
price. If there are, as there ought to be, Twenty School Masters and Mistresses at that Salary the expenditure on that head will be .................................................. £1,500

Building 20 Schools at £200 each, Interest and repayment of ditto 10 p. Ct ........................................ 400
400 Orphans at £20 each ........................................ 8,000
2 Masters and Mistress, being one of the Clergy in addition ........................................ 500
2 Matrons ........................................ 300
Servants, Medical, etc. ........................................ 200

£10,900

Seventeenthly. As the population has increased of late years very rapidly, and has spread itself over a very wide space of Country there must necessarily be an increase of Clerical Assistance; and the necessity is the greater since the Sectaries, as well as others, are gaining ground rapidly.

The Paper marked B will at one view shew to your Excellency, even with the increase proposed, how very laborious the duties of the Clergy will be, when, in addition to the Sunday and weekly duties of so great a space to travel over, a constant inspection of the Schools is required of them. I must beg of your Excellency to impress on His Majesty’s Government, that the future welfare of this Colony depends on the selection made, and the character of the Clergy; they must be able to endure fatigue, they must be active and zealous, and of a peculiar turn to endeavour to overcome the hardened vices of the generality of the population here, and also in being well qualified to instruct the Schools on the National System. Two of these ought to be apprized of the stations they must occupy, as they are penal settlements, where privations must be endured to a great degree, and to which places, the most vicious and abandoned wretches are transported. I certainly could not recommend a family Man to undertake so arduous a duty, where such evil examples would be before their eyes; and it would be desirable, that independent of the King’s Warrant a Letter from the Secretary of State should be transmitted, intimating His Majesty’s pleasure, that these two Gentlemen should be destined for the two Penal Settlements. From amongst the Clergy, one should be selected capable of controlling the whole body in quality of Rural Dean, with a higher Salary, subordinate to the directions of the Archdeacon. I consider also that this Gentleman should be specially nominated by the Secretary of State.

Eighteenthly. If it be the intention, as I am persuaded it is, of His Majesty’s Government to afford the rising generation of
these important Colonies an opportunity of being brought up in the principles and faith of the Church of England, of virtue and morality, and to become good Christians and Members of Society, I must confess I do not see how otherwise it can be expected, but by the providence of God, and through the instrumentality of an active, zealous, pious, and virtuous Clergy, constantly watching over their flocks, and the Schools committed to their charge. To a want of a due supply of these establishments, as I have before remarked, many of the sad and evil proceedings in these Colonies. One of the Clergy has put into my hands a document, from which it appears that, between the periods of the 3rd January, 1822, and the 16 March, 1825, no less than 112 felons have been missing from the penal settlement of Macquarie Harbour, and no doubt exists of their deaths. It is not, I think, an unwarrantable conclusion to draw, that some portion at least might have been saved, had spiritual aid been nigh at hand to have advised them. I am justified in drawing this conclusion from the success which has attended the efforts of the Rev. W. Bedford, Chaplain of Hobart Town, amongst the hardened and depraved who have come under his care; and I consider it, but an act of duty from me, and of justice to himself, to bear my testimony to the zeal and unaffected piety, with which he discharges his laborious duties here, and the effect his manner and address are likely to produce on the Convict.

Nineteenthly. I so fully enter into the views and opinion of your Excellency, which you have expressed in your despatch to the Earl Bathurst dated 15 August, 1824, and of which I have received by his Lordship’s directions an extract, that little remains for me to add to your conclusive reasoning. I am convinced that, could it be for a moment supposed that financial considerations ought to enter into a competition with the good which must inevitably result from an increase of judiciously chosen Clergy and Schoolmasters, it could be proved by the clearest arithmetical demonstration, that there would be an immediate saving to the Public revenue, and a saving in the result to a considerable amount. It is only necessary at the present moment to call your Excellency’s attention to the state of Crime in these Colonies, produced from the want of education, not only amongst the exiled Criminals from England, but those who have been born here, as well as the fact, that 8 out of 10 Inquests have found, that Intoxication has been the cause of death.

Twentiethly. I must again beg to call your Excellency’s attention to the document marked B, and you will perceive the severe
labours of the Clergy in this Island. It shews at once the places for Schools, both immediate and prospective, the several stations which require the residence of a Clergyman, the population of various ages under his charge, the extent of Country over which he will have to travel, both to attend Schools and administer the ordinances of the Church; and when it is taken into consideration, the unsettled state of a new Country, the want of Roads and of places for refreshment, the nature of the population and the great difficulties both a Clergyman and Schoolmaster will have to contend with in procuring even the necessaries of life, your Excellency will not, I am sure, fail to impress on the King’s Government that, unless a more competent provision be made for them, so that both may maintain that station in the Country, which, if they are to have any influence over their flock or Scholars, they should be expected to have, the great object, which must ever be kept in view, will undoubtedly fail. In this Colony, every article of Consumption is 30 per cent. dearer to a Purchaser than in New South Wales; and unless the Clergy turn their minds to agricultural pursuits, and that to so great a degree as to absorb all their attention from their other duties, they will be often unable to procure meat and bread for their support.

They, who have lived in a civilised and populous country, can form no idea of the privations persons in a respectable class of life undergo in a new Country, especially those whose duties prevent them from applying their hands to labour.

21st. Upon the most mature deliberation I cannot venture to recommend an increase, and that immediately, of less than ten Clergyman for this Colony; and unless, before their arrival, circumstances should happen to alter their destination, I beg leave respectfully to recommend to your Excellency, that one be placed at Hobart Town or near it, to participate in the arduous duties of that populous district, and which I will arrange on his arrival, one at Clarence Plains, one at Brighton, one at or near the Macquarie Township, one at Jericho, one at Campbell Town or Lincoln, one at Norfolk Plains or Perth, and one at Launceston, removing the Rev. Mr. Youl to George Town, one at the Penal Settlement at Maria Island, and one at the other Penal Settlement of Macquarie Harbour; and after what I have said, I cannot venture to hope that any Clergyman will undertake such duties at a less Salary than £300 per annum, with a prospect of rising in proportion to the length of his services and duties. Thus the whole Establishment of Clergymen being fourteen will cost per annum £4,200. The cost of erecting ten additional Churches need not yet be calculated, inasmuch as the
166 HISTORICAL RECORDS OF AUSTRALIA.

1826.
21 April.

Report upon church and school establishments.

Estimated expenditure on church establishment.

Problems of finance.

several School houses will at present be sufficient for the celebration of Divine Worship, so that the annual expenditure of the Church Establishment will be thus—

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>14 Clergymen at £300 per annum</td>
<td>4,200</td>
</tr>
<tr>
<td>4 Clerks</td>
<td>100</td>
</tr>
<tr>
<td>16 Sextons</td>
<td>200</td>
</tr>
<tr>
<td>4 Keepers</td>
<td>80</td>
</tr>
<tr>
<td>16 School keepers</td>
<td>96</td>
</tr>
<tr>
<td>Interest on £7,000 for erecting 3 additional Churches</td>
<td>350</td>
</tr>
<tr>
<td>Annual reduction of £7,000 or thereabouts</td>
<td>350</td>
</tr>
<tr>
<td>Sundry repairs and expenses for the several ordinances</td>
<td>300</td>
</tr>
</tbody>
</table>

£5,928

22ndly. To meet these expenses, I can but at present give but a rude sketch of the probable revenue; and unfortunately, from the very improvident grants of Land by former Governors, and the little regard paid by them to the King's instructions, both of an early period and very recently, I regret to find that His Majesty's gracious intentions for providing for his Church and Schools will in a great measure be frustrated, at least for a long time to come, unless Parliament should continue its liberality to forward the cause of religious instruction. From a return of the Surveyor General, it appears that the quantity of lands surveyed up to this period is 2,800,000 Acres; and taking one seventh of that quantity as the Church and School reserves, there will be about 400,000 Acres, which, at a valuation, one with another of the present period, at one penny per acre rental, will not yield more than £1,700 per annum. If however, the whole Island be taken at 24,000,000 of Acres, and then the one seventh of that, being 3,428,571, the rental, at a valuation of one farthing per acre, would not yield more than £3,571 Is. per annum, leaving for several years a defect of £2,500. I cannot however but remark that the increase in the price of Land is such, that I have no doubt in a few years very considerable Sums can be raised, both by judicious sales and rentals; and the only question now is, what proportion ought to be borne by the Parent State, and the Colonial Revenue. But as I conceive such an opinion from me would be travelling out of the line of duty marked out for me, I submit to your Excellency the propriety of referring it to the consideration of His Majesty's Principal Secretary of State for these Colonies.
23rd. I trust Sir, I may not be considered as intrusive on your time, whilst I conclude this report by offering to your Excellency my warmest thanks for the friendship and hospitality, with which you have been pleased to receive me personally, and the respect which your Excellency has paid to the station, to which His Majesty has been pleased to call me. Could the tribute of an individual under your Government add to the honour, which so high and so important a trust so justly confided to you by your Sovereign has already conferred, that tribute for your unwearied zeal and ability to such weighty interests is with sincerity and earnestness offered you. But Sir, the more than ordinary anxiety you have evinced, for the moral and religious instruction and welfare of the people under your administration, will secure to you a reward above all earthly praise.

I have, &c,

[Enclosure No. 2 or A.] T. H. SCOTT.

GENERAL MUSTER, 1824, VAN DIEMEN'S LAND.

A Return of Male and Female Children under 5, 8 and 15 Years of Age.

<table>
<thead>
<tr>
<th>District</th>
<th>5 Years</th>
<th>8 Years</th>
<th>15 Years</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Males</td>
<td>Females</td>
<td>Males</td>
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<tr>
<td>BUCKINGHAMSHIRE.</td>
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<tr>
<td>1. Argyle, Kingboro', Queenboro', Glen-</td>
<td>244</td>
<td>246</td>
<td>80</td>
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<tr>
<td>archy, Sorell River, North West Bay and Brund Island</td>
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<td>139</td>
<td>982</td>
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<tr>
<td>2. Clarence Plains and York ..................</td>
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<td>22</td>
<td>8</td>
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<td>3. Cambridge, Ulva, Ormaig, Staffa, Caledon</td>
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<td>16</td>
<td>6</td>
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<tr>
<td>4. Sussex, Gloucester, and Arrington, New Plains and the Carlton ...............</td>
<td>33</td>
<td>30</td>
<td>18</td>
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<tr>
<td>5. Melville, Drummond, Strangford, Jarvis and Forbes, Herdman Cove, Old Beach, Black Brush, Tea Tree, Brus</td>
<td>30</td>
<td>28</td>
<td>10</td>
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<tr>
<td>6. New Norfolk ................................</td>
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<tr>
<td>7. Macquarie ..................................</td>
<td>6</td>
<td>11</td>
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<td>8. South Plains and Adjacents..................</td>
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<td>9. Murray and Amberst .......................</td>
<td>7</td>
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<td>10. Green Ponds, Bath and Metham ..............</td>
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<td>10</td>
<td>9</td>
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<td>11. Lennox and Richmond, Campbell Town, Elizabeth River, Eastern Marsh and the upper part of the Macquarie River</td>
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<tr>
<td>CORNWALL.</td>
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<td>12. Lower Macquarie and Lake Rivers ..........</td>
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<td>14</td>
<td>5</td>
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<tr>
<td>13. Norfolk Plains, and Bathurst and the Settlements on the South Esk, Gordon Plains and the Western River, etc.</td>
<td>23</td>
<td>37</td>
<td>11</td>
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<tr>
<td>14. Launceston, Patterson’s Plains, and the Settlements on the North Esk</td>
<td>84</td>
<td>90</td>
<td>31</td>
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<tr>
<td>15. George Town ................................</td>
<td>8</td>
<td>12</td>
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<tr>
<td>16. Swan Port ..................................</td>
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</table>

<p>| Total | 545 | 561 | 195 | 201 | 311 | 287 | 12,090 |</p>
<table>
<thead>
<tr>
<th>No.</th>
<th>Places for Schools</th>
<th>Children of free persons</th>
<th>Children of Emancipated persons</th>
<th>Children of Convicts</th>
<th>Children under 5 years of age</th>
<th>Children under 8 years of age</th>
<th>Children under 15 years</th>
<th>Total Population</th>
<th>Distance (miles)</th>
<th>Places for Clergymen</th>
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<tbody>
<tr>
<td>1</td>
<td>Brown's river and Blackman's Bay</td>
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<td>2</td>
<td>(x) Crayfish Point and part of Sandy Bay</td>
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<td>3</td>
<td>Hobart Town</td>
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<td>4</td>
<td>Humphrey's rivulet near the Road</td>
<td>304 181 124 143 133 163 341 233</td>
<td>80 90 134 120 540</td>
<td>12 6</td>
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<td>Mr. Capon's Glenarmy</td>
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<td>Black Snake</td>
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<td>15 38 15 32</td>
<td>14 15 7 8</td>
<td>22 11 11 12</td>
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<td>Kangaroo Point</td>
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<td>Muddy Plains</td>
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<td>Orielton</td>
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<td>Upper part of Iron Creek</td>
<td>42 14 11 17 11 11 11 16</td>
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<td>14</td>
<td>Mr. Gordon lower part of Pidwater</td>
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<td>15</td>
<td>(x) Carlton River</td>
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<td>16</td>
<td>Mr. Cummings farm, Coal River</td>
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<td>17</td>
<td>(x) Richmond Township, do</td>
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<td>18</td>
<td>Hollow tree or Coal River Road</td>
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<td>19</td>
<td>(x) Bagdad (Centre)</td>
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<td>20</td>
<td>Black Brush</td>
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<td>21</td>
<td>Brighton</td>
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<td>22</td>
<td>Tea Tree Brush near Mr. Griffiths</td>
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<td>23</td>
<td>Maidfield's at Green Point</td>
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<td>No.</td>
<td>Places for Schools</td>
<td>Children of free persons</td>
<td>Children of Enam.</td>
<td>Children of Convicts</td>
<td>Children under 5 years of age</td>
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<td>Distance (miles)</td>
<td>Places for Clergymen</td>
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<td>25</td>
<td>River Plenty</td>
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<td>River Styx Bridge</td>
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<td>28</td>
<td>Mr. Abel's, Juir. farm opposite River Plenty</td>
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<td>Elizabeth Town</td>
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<td>30</td>
<td>Mr. Haywood's house</td>
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<td>31</td>
<td>(x) Macquarie Township</td>
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<tr>
<td>32</td>
<td>Hollow tree Settlement near do.</td>
<td>9 12</td>
<td>3 6</td>
<td>2 2</td>
<td>6 11</td>
<td>1 4</td>
<td>2 2</td>
<td>365</td>
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<td>Emu Valley on the Clyde</td>
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<td>34</td>
<td>Jones's River</td>
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<td>35</td>
<td>Mr. McPherson's Grant on do.</td>
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<td>36</td>
<td>(x) Ouse or Big River Triflet's Farm</td>
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<td>37</td>
<td>Shannon's river, Mr. Patterson's</td>
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<td>38</td>
<td>Bothwell's Township</td>
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<td>Mr. Amstey's</td>
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</tr>
<tr>
<td>41</td>
<td>Sorell Springs and York Plains</td>
<td>...</td>
<td>...</td>
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<td>...</td>
<td>...</td>
<td>...</td>
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</tr>
<tr>
<td>42</td>
<td>Lovely Springs</td>
<td>...</td>
<td>...</td>
<td>...</td>
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<td>...</td>
<td>...</td>
<td>...</td>
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</tr>
<tr>
<td>43</td>
<td>Green Ponds</td>
<td>...</td>
<td>...</td>
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<td>...</td>
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31 April. 1826.

Return of proposed schools.
<table>
<thead>
<tr>
<th>No.</th>
<th>Places for Schools</th>
<th>Children of free persons</th>
<th>Children of Emancipated persons</th>
<th>Children of Convicts</th>
<th>Children under 5 years of age</th>
<th>Children under 8 years of age</th>
<th>Children under 15 years</th>
<th>Distance (miles)</th>
<th>Places for Clergymen</th>
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</thead>
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<tr>
<td>44</td>
<td>Ross Bridge</td>
<td>36 M 37 F</td>
<td></td>
<td></td>
<td>0 M 0 F</td>
<td>0 M 0 F</td>
<td>1 M 1 F</td>
<td>204</td>
<td>Campbell Town</td>
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<tr>
<td>45</td>
<td>(x) Campbell Town</td>
<td>0 M 0 F</td>
<td></td>
<td></td>
<td>0 M 0 F</td>
<td>0 M 0 F</td>
<td>0 M 0 F</td>
<td></td>
<td></td>
</tr>
<tr>
<td>46</td>
<td>Near Murray's Grant Macquarie River</td>
<td>0 M 0 F</td>
<td></td>
<td></td>
<td>0 M 0 F</td>
<td>0 M 0 F</td>
<td>0 M 0 F</td>
<td></td>
<td></td>
</tr>
<tr>
<td>47</td>
<td>Penny-royal creek near Lincoln Township</td>
<td>11 M 6 F</td>
<td>0 M 0 F</td>
<td>0 M 0 F</td>
<td>11 M 14 F</td>
<td>3 M 9 F</td>
<td>7 M 7 F</td>
<td>229</td>
<td>Lincoln</td>
</tr>
<tr>
<td>48</td>
<td>Near the Grant of Mrs. Von Bibra Macquarie River</td>
<td>0 M 0 F</td>
<td></td>
<td></td>
<td>0 M 0 F</td>
<td>0 M 0 F</td>
<td>0 M 0 F</td>
<td></td>
<td></td>
</tr>
<tr>
<td>49</td>
<td>Baker's Farm upper Norfolk Plains</td>
<td>0 M 0 F</td>
<td></td>
<td></td>
<td>0 M 0 F</td>
<td>0 M 0 F</td>
<td>0 M 0 F</td>
<td></td>
<td></td>
</tr>
<tr>
<td>50</td>
<td>(x) Centre of lower Norfolk Plains</td>
<td>0 M 14 F</td>
<td>34 M 3 F</td>
<td>3 M 5 F</td>
<td>28 M 27 F</td>
<td>11 M 13 F</td>
<td>10 M 13 F</td>
<td>675</td>
<td>Norfolk Plains or Perth</td>
</tr>
<tr>
<td>51</td>
<td>Perth</td>
<td>0 M 14 F</td>
<td>34 M 3 F</td>
<td>3 M 5 F</td>
<td>28 M 27 F</td>
<td>11 M 13 F</td>
<td>10 M 13 F</td>
<td>675</td>
<td></td>
</tr>
<tr>
<td>52</td>
<td>On the Western River</td>
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<td>34 M 3 F</td>
<td>3 M 5 F</td>
<td>28 M 27 F</td>
<td>11 M 13 F</td>
<td>10 M 13 F</td>
<td>675</td>
<td></td>
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<tr>
<td>53</td>
<td>Launceston</td>
<td>88 M 75 F</td>
<td>86 M 72 F</td>
<td>24 M 19 F</td>
<td>84 M 90 F</td>
<td>31 M 22 F</td>
<td>41 M 27 F</td>
<td>2,020</td>
<td>Launceston</td>
</tr>
<tr>
<td>54</td>
<td>(x) Patterson's Plains</td>
<td>88 M 75 F</td>
<td>86 M 72 F</td>
<td>24 M 19 F</td>
<td>84 M 90 F</td>
<td>31 M 22 F</td>
<td>41 M 27 F</td>
<td>2,020</td>
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<tr>
<td>55</td>
<td>Near Mr. McLeod at the Sugar Loaf called Campbell Valley</td>
<td>0 M 14 F</td>
<td>34 M 3 F</td>
<td>3 M 5 F</td>
<td>28 M 27 F</td>
<td>11 M 13 F</td>
<td>10 M 13 F</td>
<td>675</td>
<td></td>
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<tr>
<td>56</td>
<td>George Town</td>
<td>1 M 2</td>
<td>6 M 7</td>
<td>8 M 12</td>
<td>2 M 6 F</td>
<td>3 M 3 F</td>
<td>0 M 0 F</td>
<td>295</td>
<td></td>
</tr>
<tr>
<td>57</td>
<td>Macquarie Harbour</td>
<td>1 M 2</td>
<td>6 M 7</td>
<td>8 M 12</td>
<td>2 M 6 F</td>
<td>3 M 3 F</td>
<td>0 M 0 F</td>
<td>295</td>
<td>Macquarie Harbour</td>
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<tr>
<td>58</td>
<td>Maria Island</td>
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<td></td>
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<td>0 M 0 F</td>
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<tr>
<td>59</td>
<td>Swan Port</td>
<td>0 M 15 F</td>
<td></td>
<td></td>
<td>0 M 0 F</td>
<td>0 M 0 F</td>
<td>0 M 0 F</td>
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</tbody>
</table>

**Enclosure No. 3 or B**—continued.

- The places marked with a cross (x) will require a School immediately in addition to those already established.
[Enclosure No. 4.]

ARCHDEACON SCOTT to Lieut.-Governor ARTHUR.

Sir,

Hobart Town, 7 March, 1826.

In the report I have had the honour to submit to your Excellency on the 13 Ultimo, I avoided entering into too much detail as regarding Local circumstances, reserving such detail for the present communication, and leaving it to your Excellency's judgment, whether a copy should be submitted to His Majesty's Government or not.

2nd. The first point will relate to the Clergy. From the increased population, and which is so widely scattered, it follows that an addition must be made to their number, as I have represented. Until the period of their arrival, your Excellency must be aware, that a large proportion of the Inhabitants of this Island, in the Interior, amounting to upwards of 1,800 Souls, cannot be supplied with the usual ordinances of religious worship; neither with the rites of Baptism, Marriage, or Burial; especially the last, where interment so speedily after death is necessary to prevent unpleasant consequences in a hot Climate.

3rd. As a remedy for the first, I should recommend to your Excellency, that the four Chaplains be required to visit each a district, or tract of Country, most convenient to his place of residence, once in each Quarter, by which he would be enabled to give both Divine Service, and the ordinances of the Church, at least as often as his other duties will allow him; and should any thing arise to require an extraordinary visit, the Chaplain in that district might be sent for, except in Cases of Marriage, where the parties and the Witnesses required by Law to sign the Register, a danger of Loss would arise by its removal from the place, in which the Law requires it to be kept. Marriage must therefore be solemnized at the place where the Minister usually officiates, if a Church be not already built.

4. With regard to Burials, I should recommend to your Excellency to cause the Surveyor to mark out Ground, which hereafter I will submit as being proper places for interment; and that Public notice of the same be given. The Clergy should recommend to their several flocks that, if interment must so immediately follow the decease of any one, as to preclude his attendance in time, the body should be interred, and he will repair as soon as possible to read the Burial Service.

5. These duties cannot be performed, unless Means are furnished to the Clergy, which their limited Stipends, and high price of provisions, will not allow them to procure; and I therefore further recommend to Your Excellency, that a good, serviceable Horse be found them, or such an allowance as would
1826.
21 April.

Travelling expenses.

Proposed gratuity to chaplain at Hobart town.

Repairs to glebe houses.

Repairs required at Hobart town.

Inutility of glebe lands.

enable them to procure one; and also an allowance, according to the rate of Corn for the keep of it, not exceeding Two Shillings and sixpence per Day. I am also clearly of opinion, that the expenses incurred by these quarterly visits should be defrayed for them, for it would be unreasonable to expect any Clergyman to be living at so exorbitant a Charge during this duty, as must necessarily be the case, and the expenses of his family still continuing.

6. There are also other duties required of them, which are, the attendance of the Gaol, the Execution of Criminals, the Penitentiary, and the Women confined in the Factory; and for which the Chaplain at Hobart Town has never received any recompense, although it is well known to be most laborious and harassing to the mind. In England, Chaplains are especially provided by the County, and here, when it is considered that all these are required from one Individual, besides three Services on the Sunday, and the weekly duties of a population so extensive, and at the same time so vicious and difficult to instruct, I cannot but consider such Services as highly deserving remuneration. It appears to me, that the Chaplain should be required to state the dates he has been employed on them, and, that not less than a Guinea and a Half per Week should be allowed him for the past and future Services.

7. The repairs for the Glebe Houses, I submit should be chargeable on the Church Revenues; I mean such substantial and necessary repairs, as would be required of a Landlord; for as the Chaplains here have only a temporary interest in their appointments, being at the pleasure of the Crown, not as the Clergy in England, a Corporation and for Life, I do not see that in this case they bear any analogy. It is however to be borne in mind, that occasional reparations, caused by neglect or wilful damage, ought to be made good by themselves. It is usual for the Archdeacon on his Visitation to represent their state, and, under this Usage, I beg to call your Excellency’s immediate attention to the dangerous state of that occupied by the Rev. Mr. Bedford, in Hobart Town for a report of which I have called on the Colonial Architect a Week since, but as yet I have not been furnished with it.

8. The Glebes, which were hitherto granted to the Clergy, have been, as they have all stated to me, of little or no use to them, and this I am perfectly satisfied must be the truth, considering with how little care they have been selected as to quality, and the enormous expense which attends any Agricultural operations in this Country, besides the unpleasant situation in which
these large Secular Concerns place them, and the opportunity it gives to any evil minded person for Slander and Calumny.

I cannot illustrate this more strongly to your Excellency, than by referring to the wilful misrepresentations and Scurrility of a Paper published here, called the Colonial Times of the 17th February, which paper I consider to be my duty to forward to Lord Bathurst. As the Clergy here have manifested a wish to relinquish their Glebes, and receive a compensation, I do not, under the circumstances, see any other course to be taken, than to recommend to your Excellency, as soon as His Majesty's Charter of Incorporation arrives, to lay the proposition before them for their adoption.

9. Upon making my Visitation to the Town of Launceston, I beg to express to Your Excellency the great satisfaction I felt at finding the Church, which you had ordered to be built, in so forward a state, as to enable the Inhabitants to attend Divine Service, without much inconvenience. As however, circumstances did not admit of immediate consecration, I have judged it prudent to defer it, until a more seasonable opportunity.

10. The arrangement and structure of the Edifice being simple, but convenient, and admirably adapted to the celebration of Divine Worship, it only remains for me to recommend to your Excellency, that directions be given for the erection of a plain Font, and Bason, opposite to the Western entrance—that a Table and plain communion plate be provided, consisting of a plated Cup and two Salvers of moderate dimensions; two Linen napkins, and one quarto altar Service, a Scarlet covering for the Table, together with two kneeling Stools and two plain chairs. There ought also to be provided two Surplices for the Minister, a large sized Bible and Prayer Book for the Desk, and a smaller Prayer Book for the Clerk. The Pulpit ornaments should correspond with the Communion; and it appears to me, that a Cushion and Cloth for the front will be sufficient, as soon as the dimensions of the Pulpit are ascertained. It will be also necessary to supply a bell of sufficient power, that the inhabitants may ascertain the time, when Divine Service is about to commence.

11. In the Room appropriated for the Vestments, there should be provided the usual conveniences for the Clergyman; such as a Washing stand, and Looking Glass, Towels, Chairs and Cupboard for locking up of books and Communion Plate. The Elements for the administration of the Holy Sacrament should be provided by the Clergyman, who must be reimbursed quarterly. As all these appointments apply equally to every Church I recommend to Your Excellency their adoption in all future cases.
where Churches may be built, or where alterations are required in those now used. The repairs of the Churches must be paid from the Church Revenues, and I beg to enclose to your Excellency, the Colonial Architect's report on St. David's Church.

12. With respect to the arrangement of the Pews, the course I should recommend is to take the first Pew opposite the Reading Desk, of sufficient dimensions to contain eight persons, for the Minister, and another for his Servants near the West end of the Church; The first Seat on the North Side near the Altar for the Governor, and in his absence, the Commandant of the Place; the corresponding Seat on the South Side for the Military Officers; and I would also recommend a Seat of sufficient size next below that of the Minister for Strangers. After these distributions, the other Seats might be assigned in rotation to the most respectable inhabitants, residing within the Parish, taking care to reserve one fifth of the whole for Free Seats, the others being chargeable with a rent sufficient to pay the interest of money expended for the erection and repairs of the Pews. In the event of any dispute arising about priority of pews, or of rent, the Law places the decision in the ordinary or his Commissary.

13. As it is probable that in some cases 20 Acres of Land cannot be procured around the Church, and as some of the Church Yards are already marked out and consecrated, it would be advisable to erect a house on 10 Acres of Land adjacent to the Township or Place, or purchase a House of convenient size and suitable to the living as near the Church as possible; and taking the rule laid down by the Residence Act, as my Guide, I beg to recommend that the house and office should not be at a greater charge, than about two years value, which might be in this case about £600.

14. To each Church there ought to be a Clerk and Sexton; and in this Country where Burglary is so prevalent, a Church Keeper who should sleep in the Church; and where the Churches are large and the Congregations numerous, some additional assistance might be afforded. And as the King has been pleased to give the appointment of these Persons to the Parochial Minister, subject to the revision of the Archdeacon, I beg to recommend that in my absence, your Excellency be consulted as to Character and remuneration, which last however will devolve upon the Corporation, when the Charter arrives.

15. With regard to the Organist at Hobart Town and at Launceston, I do not think myself authorized to interfere, unless formally appealed to as the Bishop's Commissary, and for the sake of preserving order and quiet in the Church. But I would
strongly recommend to Your Excellency to bring it before the Corporation, and if they vote the Salary, the appointment should be in them.

16. As in the Charter* His Majesty has been pleased to order that no parish shall exceed a space of five Miles square, or thereabouts, and that in each parish twenty acres be reserved for the Church Burial Ground, Glebe House and School, I have consulted with the Surveyor General, as to the best mode of pointing out proper places for Burial Grounds, and I beg to recommend to your Excellency that he be directed to mark off that quantity in the following Places, of which, half an Acre may be fenced in immediately for that purpose:—Paterson's Plains, Norfolk Plains, Gordon Plains on the South Esk, at Lincoln, at Campbell Town, Ross Bridge, Sorell Springs, Lemon Springs, near Jericho on the Jordan, at the Green Ponds, at Brighton, at Clarence Plains, at the Hollow Tree, Richmond, Sorell, the Carlton River, Kangaroo Point, Sandy Bay, Glenarchy or the Styx, Macquarie Plains, Macquarie Township, Bothwell, on the Ouse.

These are exclusive of one already set out at Launceston, Sorell, Elizabeth Town and Hobart Town,† which last, being so inconveniently placed, and so small, I beg to submit, should be fenced in, and discontinued, and that another of four Acres be selected, about a Mile from the Town, on the road to New Norfolk. It appears to me, that the same rule should be laid down for Burials here as in England, and that is, that no Brick Grave or Tomb can be made without leave from the Ordinary, and a high valuation should be put on the Soil, by the Square or Cubic Foot, otherwise in a populous Parish there would be no possibility of appropriating a sufficient space for a future increase. If a Superficies of 6 feet by 2½ be allowed for each Corpse, an Acre would contain not more than 900, and it may require twelve Years before the same Grave can be reopened.

I should recommend a Scale to be made out for the approval of the Ordinary.

17. It appears to me very desirable on every account that the Public School should be near the Church; and therefore in the intended arrangements, a building should be contemplated for that purpose, together with a residence for the Master and his family. As I have entered into the arrangement of Schools in general throughout the Island, in my report dated 13 February, which I had the honour of submitting to Your Excellency, I beg leave to refer you to it for the detail, as it may regard the Public School or Schools, of any place wherein they may be thought necessary.

* Note 47. † Note 48.
18. As a general rule I should say that a School House 40 or feet long by 30 or 40 feet wide would, in a great many places, answer for the present in this Colony for both Church and School, and in some places of a less size, but in others larger, which of course must be regulated by circumstances. The most populous districts for them are Hobart Town, Crawfish Point, Carlton River, Richmond Township, Bagdad, on the Back River, Glenarchy, Clarence Plains, Kangaroo Point, Sorell, Old Beach, on the River Plenty, at or near Jericho, Lower Norfolk Plains, Upper Ditto, Launceston, Macquarie Township, Ouse River, and I am decidedly of opinion that Ross Bridge would be the most convenient, because it is the most central, for a Male and Female Orphan School, and also the School, an outline of the plan of which, I submitted to your Excellency in my report of 13 February, so these same Schools may embrace a primary Day one, and thus the whole of them would be united almost under the inspection of one Clergyman, who would officiate on the Spot. I must beg to observe that not only the present situation of the School House, but the House itself from its size, at Hobart Town, is so highly objectionable and inconvenient, on account of the danger the Children are exposed to from its Vicinity to a Slaughter House, and also the difficulty of access across a Stream and its distance from the population, that I should recommend the construction of another in a more central part of the Town.

19. I do not think I have any authority to fix the Salaries of Schoolmasters, but the Sum, recommended in my report, is as low, as it can be expected to find a competent Man for that occupation. I regret that I cannot report favourably of the School at Launceston, neither does the Master appear to me to understand the System. I am aware of the difficulties he has to encounter, but I am persuaded a quick intelligent person might be more successful. A person named Charles Tonge, near Glenarchy, whose School The Superintendent has represented to be in a flourishing state, is a proof of what can be done by exertion. Upon this subject I expect to be under the necessity of enclosing to your Excellency a Letter from the Rev. W. Garrard, relative to the Schoolmaster at Sorell, and which my illness has prevented me from investigating.

In the formation and Superintendence of these Schools, I have much pleasure in paying my tribute of applause to Mr. W. Bedford, whose exertions merit very marked approbation; and as he is about to leave the Situation for England, I should submit to Your Excellency, that these Parochial Schools be placed under the controul of each Chaplain.

I have, &c.,

T. H. Scott.
Sir,

I have received your dispatch of the 20th of August submitting to my consideration two cases of distress in the Colony which have appeared to you to require the assistance of the Local Government, the first occasioned by the alteration of the duties on Colonial Spirits, by which Major de Gellem, who had expended a large Capital in the erection of a Distillery, was compelled to abandon his undertaking from the impossibility of competing with the Importer, after the great reduction in the duty on Foreign Spirits had been determined upon; the second, that of Mr. Peevor, who, having devoted his entire Capital to the cultivation of Grain, on the faith of the Colonial Distillation being continued, and at a time when Supplies of Wheat were received into the Government Stores at the fixed price of 10s. per Bushel, was obliged to dispose of the same at a price very inferior to that which he had calculated upon, and which he would have obtained for it, had not the reductions in the duties on Spirits, and the other alterations in the mode of purchasing provisions for the Commissariat, taken place.

To relieve the distress which would otherwise be experienced by the first mentioned Officer, you have proposed for my consideration that 2,000 Acres should be given to him without restriction, for the payment of which Major de Gellem is willing to relinquish such annual proportion of his half Pay, as His Majesty’s Government may think proper to direct.

I am glad to observe by your letter, that the Indulgence which you have granted to that Officer has benefitted him to the extent which you had anticipated; But I must confess my inability to understand in what way it has operated to his advantage, or in other words, how a Grant of Waste Lands to a person, avowedly without the pecuniary means requisite to render it productive, can tend to preserve from Bankruptcy a person whose ruin was apparently brought about in consequence of the failure of another Speculation.

In apportioning the Sum which should be stopped from Major de Gellem’s half pay, it would have been satisfactory had you acquainted me with the amount of the Sum which, according to existing regulations, he would be called upon to advance for the Land he has received. In the absence of that information, I have to direct, that Major de Gellem may be held responsible for the payment to the Colonial Government, of £50 a year, (being 5 pr. Cent. on the value of 2,000 Acres taken at the rate
1826.
22 April.

Annual payments on land grant.

Land granted to J. Peevor.

Objections to practice of compensation.

Annual payments by J. Peevor.

of 10s. per acre). This Sum will be equal to the annual Quit-rent payable by other persons, and therefore appears to be a proper sum to be required from Major de Gellem under the arrangements which you have proposed, due precautions being taken to secure the regular payment of that Sum annually by Major de Gellem (or by his representatives in case of his death) until such time as the whole value of the Land shall be thus realized to the Colonial Government.

With respect to the case of Mr. Peevor, the same difficulties as those which I have mentioned in the former case of Major de Gellem, and the same questions naturally occur. Mr. Peevor appears to have been reduced, equally with that Officer, from a state of comparative affluence to one of extreme embarrassment, if not of actual poverty, and the same course has been suggested for relieving him from his difficulties. As you state that the effect of the Indulgence which you have granted to Mr. Peevor has been to alleviate much of the distress which he would otherwise have experienced, I should be sorry, by withholding my consent to the arrangement, to deprive so very respectable and deserving a person, as you have represented Mr. Peevor to be, of the only mode by which it is conceived, that he can effectually extricate himself from his pecuniary Embarrassment; but as instances of distress resulting from the same causes may not unfrequently occur, I think it proper to acquaint you, in order that the same principle may not be adhered to hereafter, that I entertain strong objections to the mode by which assistance has been given in the two cases in question. In addition to many other reasons which might be stated for putting a stop to this practice, it may be observed, that were it to be extensively followed, applications for the same indulgence would from their frequency become extremely embarrassing to the Colonial Government; in many cases probably the distress of the applicant might be real and deserving of relief, but others no doubt would be fictitious and undeserving of Indulgence. The general result would be to produce the effect of dispensing, in favor of many persons, with those regulations relating to the granting of Lands to which it was the wish of His Majesty's Government to adhere most strictly in all future arrangements for the disposal of them. It only remains for me, in reply to that part of your letter which relates to the proportion of his retired allowance which Mr. Peevor should be required to give up in payment for the grant of 2,000 Acres, to acquaint you that His Majesty's Government will be satisfied with the annual Sum of £100 as recommended in your letter until the value of the Land averaged at 10s. per acre shall be paid. It must however rest with the Local authorities to take
such steps as may be necessary to ensure the payment of the Instalments regularly by Mr. Peevor, and for rendering his representatives responsible for any arrears in the event of his death; and with this view, I should recommend (in case no more effectual way should be pointed out by the Law Officer of the Colony) that, in the Deed of Conveyance, resumption of the Land by the Crown with the benefit of all the improvements should be distinctly stated as the consequence of any default of payment.

I have only to observe in conclusion that, should you consider the terms upon which I have authorized Major de Gellem's Grant to be made, as proper to be applied to the case of Mr. Peevor, you will consider that you have my permission to substitute that arrangement for the one which I have directed, and on the other hand, you will equally modify the conditions of Mr. Peevor's Grant, so as to assimilate his payment with that required from Major de Gellem, should that course appear to you to be preferable. I should probably have made no distinction between the two persons, had you not, by specifying the Sum which you thought Mr. Peevor should be called upon to pay in return for his Land, whilst you omitted to mention that which should be required from Major de Gellem, led me to suppose that there were circumstances, which rendered some distinction necessary.

I have, &c.,

BATHURST.


dispatch No. 20; acknowledged by Earl Bathurst, 3rd November, 1826.)

Government House, Van Diemen's Land,

My Lord,

22nd April, 1826.

I have the honor to bring under Your Lordship's consideration, a subject of great importance to Van Diemen's Land, both immediately, and prospectively: The situation of its principal Town and Seat of Government!

On my arrival in the Colony I was immediately struck with the situation of Hobart Town as being exceedingly ill-judged. It is situated on an Arm of the Sea, exposed to violent winds, extremely difficult of defense, and quite open to an attack by Sea.

Attaching therefore only a just importance to those Public Institutions and valuable Archives, which in time are objects in every Community of vital importance to the People at large, Hobart Town seemed a most insecure place to be selected as the Capital of a future flourishing Country.

The residence of the Government being necessarily attended by various Departments, forming the Head Quarters of the Troops, with the Courts of Judicature, and numberless other
appendages, must, as a matter of necessity, and in defiance of every arrangement to remove the evil, draw around it a large number of the miserable outcasts from their native Land.

In this view, as a Penal Colony, the Seat of Government being fixed at a Sea Port Town presents to the most casual observer all the irregularities, and all the objections which Commissioner Bigge so judiciously makes against Maritime situations as Entrepots for Convicts, whose every effort and unceasing desire is for escape!

These, My Lord, were my earliest impressions on landing. I had yet to learn that Hobart Town was most inconvenient, from it's difficulty of access, and remoteness to the Inhabitants in the Interior, being separated from the whole of the Settled Districts by the River Derwent.

At that time, I found, I think, every respectable Inhabitant as full of objections to Hobart Town, as I was of surprize that it had ever been selected as the Seat of Government. Your Lordship, on casting your Eye for an instant over the Map of this Colony, will perceive at once the difficulty of administering it's affairs from such a Point.

With these objections to Hobart Town, I was led to consider where the Seat of Government could with more advantage be placed, and the Township of Brighton arrested my attention, not that I thought it the best situation, but, because, I understood it to have been pointed out* by Commissioner Bigge, and it was evidently very superior to Hobart Town.

Under this impression I communicated with the principal Inhabitants and Merchants to extract their opinion upon the subject, but I found as great a variety of opinions as there were of Interests concerned: the consultation, therefore, assisted me but little through my difficulty, and left me undecided how to act, unwilling to proceed with any Public Buildings at Hobart Town, cautious to erect them elsewhere, and even doubtful how to report to Your Lordship as the result of my own decided conviction; for it is impossible, with all the glaring objections to Hobart Town, not to be impressed with the responsibility of recommending a change which in any degree affects private Interests, or interferes with long settled habits.

Matters remained in this state, until Archdeacon Scott arrived in New South Wales, and from his connexion with the Commissioner I was anxious to draw an opinion from him. His reply confirmed to me that Mr. Bigge was as greatly impressed with the objections to Hobart Town as had been represented to me, but he undeceived me in the Commissioner's having noticed Brighton further than as an eligible spot for a Township.

* Note 49.
With this explanation, on receiving His Majesty's Instructions to proceed with the division and Survey of the Island, I brought the subject under the consideration of the Executive Council, and the result of a most minute enquiry and deliberate Investigation has been the decided, unanimous opinion of the Council that the General Survey should be ordered with a view to making New Norfolk the future Seat of Government!

The Minute of the Council I have the honor to lay before Your Lordship; it embraces, in the most minute manner, every consideration connected with the subject, and has removed every doubt that rested on my mind; and looking to the present Policy and future Prosperity of the Colony, I can no longer hesitate to recommend to Your Lordship that the permanent residence of the Government of this Colony should be established at New Norfolk, and that our future operations should be carried forward upon the principle of that arrangement.

The strongest objections I have heard against any Change are recited in a letter which was addressed to me by the Merchants in Hobart Town, Copy of which I have the honor to enclose. They are of course the persons who will be most inconvenienced, but I cannot consider the evils which they set forth in any degree balance the advantages which must result to the Agricultural Community; their apprehension that their Stores and buildings will be rendered of no value is quite groundless, for they cannot but be convinced that Hobart Town must continue the Sea Port of this part of the Island, and will require ten times the number of buildings as the Colony advances. But, if it was otherwise, it would be only a just retribution for having drained the Agricultural Interest to the last degree; there is nothing unreasonable in their being called upon to make some little restitution in this way. It is moreover only proper in this, and in every other case, that the General Interest should be consulted, that the Prosperity of the Colony upon a broad basis should be considered, that the Security of the Prisoners should be provided for, and that their dissolute habits and associations in Hobart Town should be effectually broken through.

My Annual Report of last Year, Dispatch No. 10, of the 3rd July, 1825, in which I have at length described the want of Public Buildings in the Colony, will inform Your Lordship, that, if the removal of the Seat of Government is ever to be carried into effect, the present is the period, in order that what is done may be effectual and permanent, and that our progress though slow, from the want of means, may have a solid foundation.

I have, &c.,

GEO. ARTHUR.
1826.
22 April.
Consideration by executive council of instructions to lands commissioners re seat of government.

[Enclosure No. 1.]

Extracts from the Minutes of the Executive Council held at Government House on the 29th and 30th days of December, 1825, at 1 P.M.

Present:—His Excellency the Lieutenant Governor, His Honor the Chief Justice, A. W. H. Humphrey, Esqr., J.P., Jocelyn Thomas, Esqr., J.P.

His Excellency called the attention of this Council to that part of His Majesty's Commission* to the Governor in Chief which relates to the division of this Island into Counties, Hundreds, Townships, and Parishes; and to that part of His Majesty's Instructions,* by which His Majesty has been pleased to authorize and direct the Governor in Chief to appoint a Commission for surveying this Island, and making division and apportionment thereof into Counties, Hundreds, Town, Townships, and Parishes in the manner therein mentioned, and commanding that the Governor in Chief shall issue to such Commissioners such Instructions relative thereto, as in His Majesty's Instructions are prescribed; and, the same being now read, His Excellency was pleased to require the Advice of this Council, whether it will be proper, that there should be inserted in the Instructions to be issued to the Commissioners for surveying, dividing, and apportioning this Island, any special Instruction to make their Survey and Division in such manner, as may best consist with the continuance of the Seat of Government at Hobart Town, and, the same Survey being deliberated upon, the further consideration thereof was postponed to the next Meeting of Council.

The Council broke up at 1 A.M.

The 30th day of December, 1825, 10 A.M.

By the Command of His Excellency, the Council resumed the consideration of the question relative to the Instructions to be delivered to the Commissioners of Survey and Valuation, And there being now read a Dispatch from Earl Bathurst to the Governor in Chief of New South Wales, dated the 1st January, 1825, and also a Letter from His Excellency Sir Thomas Brisbane, late Governor in Chief, to the Lieutenant Governor, and also a Copy of the Instruction* issued by Sir Thomas Brisbane to the Commissioners appointed by him for surveying that Territory, dated the 23rd June, 1825, and also several passages in the report† made by Mr. Commissioner Bigge to Earl Bathurst, conveying his Opinion of the benefits to be derived in this Colony from a removal of the Convicts in the employment of Government to places distant from Maritime Towns; And this Council having heard the opinion of Mr. Scott (Assistant Surveyor

* Note 50. † Note 49.
General) who was called in to give the same, as to the advantages to the Agriculturists generally, which might be probably expected to arise from the erection of a Bridge over the Derwent at New Norfolk, and the opening a road in a direct line from New Norfolk to Launceston, and the opening a line of communication between New Norfolk and the road now running between Launceston and Hobart Town, and there being also read a letter dated 19th May, 1825, from the principal Merchants and Traders of Hobart Town to His Excellency the Lieutenant Governor, expressing their Opinion of the advantages and disadvantages likely to arise to the Settlers in general, and themselves in particular, from a removal of the Seat of Government from Hobart Town to Brighton Plains, and this Council having also heard the opinion of the Superintendent of Police upon the advantages of separating the Convict Population as respects their discipline, their morals, and safe detention in the Colony, and there being now read the report of the Magistrates directed to visit and report upon the state of the Gaol of this Town in July last, and the report of the Surveyor General and the Colonial Architect on the state of the Government House in this Town, dated 7th August, 1824; And having heard the opinion of the Chief Justice, as to the effect likely to be produced, in the Administration of Justice, by a removal of the Offices of the Supreme Court to New Norfolk; This Council were of opinion to advise His Excellency not to insert such special direction in the Instructions to be issued to the Commissioners of Survey, directing the Commissioners to make their Survey, in such manner, as may consist with the continuance of the Seat of Government at Hobart Town; but that a special Instruction should be therein inserted, directing the Commissioners to make their Survey in such manner, as may consist with the removal of the Seat of Government to New Norfolk, for the reasons now given, and which are inserted in the following special Minute.

**SPECIAL MINUTE** of the reasons for the special direction recommended by this Council to be inserted in the Instructions issued to the Commissioners of Survey and Valuation.

1. Because the situation of Hobart Town has been found very inconvenient for the Seat of Government; and because it is highly desirable that the Seat of Government be fixed in some place more in the Interior of the Island.

2. That the present time affords the best opportunity of removing the Seat of Government.

3. The situation of New Norfolk offers greater advantages than that of any other known place in the Island for the Seat of Government.
4. The inconveniencies of the situation of Hobart Town, are—

that it is so far distant, and entirely cut off from the greater

part of the Island, the only means of approach to it from those

parts, situated on the left Bank of the Derwent, being by three

wide Ferries all of them much exposed to strong winds which

prevail at all times, and strong Currents, and which occasion

much delay and much expence, and sometimes no inconsiderable

danger to passengers and property. That the delay in com­

municating with the other parts of the Island, which it's situa­
tion causes, has been very recently and still is severely felt by

the Government, which has been thereby prevented from receiv­ing

and giving such early information respecting the motions of

the runaway Convicts now at large in the Interior, and from

giving such immediate protection to the places exposed to their

attacks, as a situation more central, and not so cut off, would

have afforded. This consideration is, in the opinion of this

Council, of great importance, both as regards the operations of

Government, and the safety and protection of the Settlers in
general; and the Council are of opinion, that nothing but the

establishment of the Seat of Government, and of a considerable

Military force in a place of easier and more equal access, will be

a sufficient protection against the recurrence of such Outrages.

That the expences, incurred by the Majority of the Country

Settlers who have occasion to resort to Hobart Town, either for

the purpose of transacting business at any of the Government

Offices, or, as a Market, both directly on account of the length

of their journies, and indirectly by delay and loss of time.

would be most materially diminished were the Seat of Govern­

ment fixed more in the Interior, and more equally accessible;

especially, upon the supposition, that the Seat of Government

would become an entrepot from which Articles imported would

be retailed and distributed through the Interior, and, at which,

the produce of the Settler for exportation would be received.

That the situation of Hobart Town upon a Port renders it a

very unfit place for the residence of the great body of Convicts

in Government employment, who are necessarily resident at the

Seat of Government.

It's situation affords them many temptations to endeavour in

escape, and the success, which has so frequently attended their

attempts, proves that the facilities of escape are inconsistent

with their safe custody in such a place.

That the removal of the seat of Government, and, with it, of

the Convicts now in it's employment, will have an immediately

beneficial effect upon the latter, by breaking the mischeirous
connections which, from the circumstance of their being un-
provided with lodging by the Government, and being therefore
suffered to lodge themselves, they have already formed in this
Town, and by withdrawing them from the temptation and means,
which so large a Town affords of the Commission of every species
of Crime, will facilitate the introduction of a better system of
discipline, of employment, and gradually improvement of their
morals.

5. That the present time affords the best opportunity for re-
moving the Seat of Government if desirable to do so.

Because it appears to be necessary that a Barrack for lodging
the Convicts who are employed upon Government Works, a new
Female Factory, a new Government House, and a new Gaol
upon a very large scale, and capable of the classification and
useful employment of the Prisoners therein, should be immedi-
ately erected; and, it is also necessary to provide for the accom-
modation of a much greater number of Troops than the Barracks
at this place can contain, and a House for the Chief Justice.

6. The situation of New Norfolk offers greater advantages
than that of any other known place in the Island for the Seat
of Government. Because, though not in the Centre of the Island,
it is yet so far advanced towards it that, by means of a Bridge
thrown across the Derwent at that place, a road of communica-
tion which can be opened in a direct line with Launceston,
and with the present line of Road between the latter place and
Hobart Town, it opens a more equal means of access to the Seat
of Government from all the Districts at present settled, than
they now enjoy, and will give additional facilities to the Settle-
ment which may be expected to be made to the North Westward,
while it is the only place which enjoys the advantage of a direct
natural communication by water with Hobart Town, which will
ever be the principal part of the Island, a consideration of the
highest importance, as it respects the probability of the Seat of
Government becoming an entrepôt of the description above men-
tioned, the River Derwent being navigable thus far, and no
further, for the largest description of Vessels usually employed
in inland navigation.

One great advantage, which the situation of New Norfolk
affords as the scite of a considerable Town, is the constant sup-
ply of water for all purposes.

At Hobart Town, the want of water is severely felt. The
water of the Derwent there is Salt. The only Stream, by which
the Town is supplied, is subject to failure, and the water of it
unpleasant to the taste. The failure of the Stream has frequently put a stop to the working of the Mills erected upon it.

At New Norfolk the water of the Derwent is pure, and palatable, and perhaps, few situations in the world offer greater advantages for the erection of Mills, Breweries, and Distilleries. The Rivulet, called the Thames, is a never failing Current of fresh Water, which can with ease be introduced into the Town, and the banks of which, and of another Stream in the neighbourhood, are admirably adapted for Mills.

These are the Chief reasons of this Council for their reconsideration.

A True Extract,

JOHN MONTAGU, Clk. Col.

[Enclosure No. 2.]

MR. A. F. KEMP TO LIEUT.-GOVERNOR ARTHUR.

Sir,

Hobart Town, 19th May, 1825.

We the principal Merchants and Traders of Hobart Town, in obedience to your Honor's Commands of the 13th May, have taken into our most serious consideration the probable consequences of the establishment of the principal Township of the Colony at Brighton, and, with the very utmost deference and respect, we beg leave to offer to your Honor the following remarks thereupon.

There can be no doubt that many important reasons exist, why the establishment of a Secondary Township in the Interior, and the establishment of a Competent Military Force, would be attended with important advantages to the General Interests.

It becomes then the first object of enquiry, to what extent these advantages would go, and what are the circumstances by which they would be counteracted; the utmost possible advantages, that could be obtained, would be the Saving of a Sum, probably not exceeding One Shilling per Bushel, in the carriage of Grain to Market, while on the other hand, every article of life, necessary to be purchased from the Sea Port, would be charged with a considerable advance, independent of the great difficulties presented to the Shipping Interests, by the natural impediments which exist, as to the establishment of a port of discharge on the Brighton side of the River above New Town.

We have humbly submitted this, in candour to your Honor, as we have been anxious, previous to looking at the measure, as it regards our own Interests, to contemplate it, as it regards those of others.

We now beg leave to state to your Honor the objections which occur to us on this subject, and first, the very great and serious
results which must arise from the Division of Capital, necessarily consequent upon our having to establish ourselves in the Interior.

We need not call to your Honor's attention the highly flourishing state of the Warehouses, Stores, and Buildings, the property of Individuals, which now equally ornament and advantage Hobart Town, and are progressively improving; the immense expenditure of Capital thereon is obvious, as is also the ruinous consequences to all those, who have so embarked large Sums, in a manner which they felt satisfied would be always availing to themselves, and their Posterity.

The Amazing depreciation in the value of all such would be of the most alarming extent, and of course, as those, who have so expended their Capital, have done so on the faith of Government, seeing that the erection of Public Buildings was carried on in as extensive a manner as the Colonial resources would permit, so would all these persons fairly expect to be remunerated for their most serious losses, in the event of the proposed removal of the Seat of Government.

Another view of the Subject yet remains, limited as we lament to admit is the present state of our Colonial Exports, yet we hope and trust, that the fostering hand of His Majesty's Government will be extended to our relief.

It is obvious that no Country can flourish against which a balance of Trade exists to a very extensive degree. It becomes us therefore not to limit our views to present circumstances, but to look prospectively.

We beg leave to call to your Honor's attention, how disadvantageous would be the establishment of the Public Office of Government in a Situation considerably removed from the Port of Discharge, the inconveniences of this would be as much felt by Government, as by Individuals, to the great loss of the Revenue, because the expense attendant upon its collection, as well as of affording the fair Trader the proper protection against Smuggling, could not but be considerable.

Again, a very great private expense must be incurred by the necessary erection of Establishments, which the principal Merchants would necessarily require, at the Port of Discharge; whereby their Capital would be again divided, an evil to the mercantile Interests of the most serious consideration.

Another point, which we beg leave to submit to your Honor's attention, is the probable result as regards this Town of the proposed removal of the Seat of Government, it would certainly soon fall into a state of Dilapidation and ruin, an evil, which we feel confident your Honor could not contemplate without the
most serious alarm, in as much as of course the Individuals, so seriously affected, would naturally expect to receive a fair compensation from the Government.

In reference to that passage in your Honor's Letter, in which you are pleased to mention Mr. Commissioner Bigg's suggestion* of the proposed removal, we beg leave to submit that, at the time of Mr. Bigg's visit to this place, this Town was by no means what it is now. It was without many public or private Buildings of any magnitude or consideration, and had the proposed removal then taken place, it would have been attended with none of the ruinous consequences, which would obviously at present ensue.

In begging leave most respectfully to offer to your Honor our best thanks for the permission we have received, thus to make known our Sentiments upon the most important subject, we have only to add that, whenever it may be your Honor's pleasure to admit us to a Similar indulgence, We shall consider ourselves highly flattered by so satisfactory a mark of your Honor's consideration and Confidence.

I have, &c,

ANTHONY FENN KEMP.

On behalf of the Principal Merchants and Traders of Hobart Town.

LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.

(Despatch No. 21; acknowledged by Earl Bathurst, 1st November, 1826.)

Government House, Hobart Town,

My Lord,

22nd April, 1826.

The Act 4 Geo. 4, cap. 96, sec. 35, requiring that all Free or Conditional Pardons, issued by the Lieutenant Governor of this Colony, should be sent to England, in Duplicate, to be included in the first general Pardons under the Great Seal, I have the honor to transmit herewith to Your Lordship Thirteen Free and Seventeen Conditional Pards for His Majesty's allowance and approbation.

2. Many of these pardons ought, as Your Lordship will perceive, to have been issued on the good faith of the Government three years since; and, as I lay it down as a principle that the Prisoners shall have no just cause of complaint, I have exercised the power with which I am invested, at the earliest moment, to render them the justice which I consider is due to them.

3. The other Pardons, Your Lordship will observe, are the rewards due to the several parties concerned, under Proclamation.

* Note 19.
4. I submit to Your Lordship, I am quite sensible the power of granting these pardons should be exercised with the utmost caution, that the ends of Justice may be fully answered; and the reasons, which I have expressed in the columns of remarks, in the accompanying Schedule, will, I hope, be quite satisfactory to Your Lordship, that there is no indiscretion on this occasion!

5th. A doubt having arisen upon the construction of the Clause* of the New South Wales Bill, respecting the effect of the Pardons in question, I have taken and been guided by the Opinion of the Attorney General thereon, Copy of which I have the honor to enclose.

I have, &c.,
Geo. Arthur.

[Enclosure No. 1.]

Opinion of Joseph Hone.

I have perused the 35th Section of the Act 4 G. 4, C. 96, which directs that all Instruments of Remission signed by the Governor in pursuance of the Act of 30 G. 3 (C. 47) shall be transmitted to His Majesty, and that in case His Majesty shall, as therein mentioned, signify his approbation thereof, then, and then only, the same shall have within the Colony, and not elsewhere, the same effect as a General Pardon under the Great Seal, containing the Names of the Offenders.

I have at times thought, that the Legislature meant to give His Majesty the right of disallowing these Colonial Remissions, but not being able to discover anything repealing the Act of 30 G. 3, C. 47, and not doubting that it must have been the intention of the Parliament to relieve Persons whose conduct meets the approbation of the proper Authorities, from the obstacles and difficulties heretofore experienced, I am of opinion that (notwithstanding the Act 4 G. 4, C. 96) the Act of the late King, before alluded to, is still in force, and that, as the Law now stands, in all cases where Governors, authorized by Commission under the Great Seal, shall, in exercise of the power, remit either absolutely or conditionally, and immediately transmit, in regular form, Duplicates of the Remissions to one of His Majesty's principal Secretaries of State, the Names of the Offenders therein contained, will be included in the then next General Pardon under the Great Seal, for I perceive that the Words in the 2nd Section of the unrepealed Act are extremely plain and intelligible, and render such insertion imperative.

Joseph Hone.

Hobart Town, 18th April, 1826.

* Note 51.
[Enclosure No. 2.]

FORM OF ABSOLUTE PARDON.

VAN DIEMEN'S LAND.

No. . By His Excellency Colonel George Arthur, Lieutenant Governor of the Island of Van Diemen's Land and its Dependencies.

WHEREAS who arrived at in the Year

by the Ship under a Sentence of Transportation for passed at in the Year ; hath, by good Conduct and Behaviour during

Residence in this Island, appeared to me, the said Lieutenant Governor, to be a fit Object for the Extension to of an Absolute Remission of Sentence: Now therefore, in Consideration of the Premises, I, the Lieutenant Governor aforesaid, by Virtue of the Powers and Authorities in me, in that Behalf vested, Do, by this Instrument, in Writing, ABSOLUTELY REMIT all the Residue or Remainder of the Time or Term of Transportation, yet to come and unexpired, of or under the said Sentence, so passed on the said

as aforesaid, and the same is hereby Absolutely Remitted accordingly.

Given under my Hand and Seal at Arms (there being as yet no Great Seal in the said Island) at the Government House, Hobart Town, the

Day of in the Year of Our Lord One thousand eight hundred and twenty-

Registered A.

[The above "Description" was also written across document in red ink.]
[Enclosure No. 3.]

FORM OF CONDITIONAL PARDON.

No. By His Excellency Colonel George Arthur, Lieutenant Governor of the Island of Van Diemen's Land and its Dependencies.

Whereas who arrived at in the Year by the Ship passed at under a Sentence of Transportation for in the Year, hath by his good Conduct during his Residence in this Island, appeared to me, the said Lieutenant Governor, to be a fit Object for the Extension to him of a Conditional Remission of his Sentence; Now Therefore, in Consideration of the Premises, I, the Lieutenant Governor aforesaid, by Virtue of the Powers and Authorities in me, in this Behalf vested, Do, by this Instrument in writing,Remit all the Residue or Remainder of the Time or Term of Transportation, yet to come and unexpired, of or under the said Sentence, so passed on the said as aforesaid; Nevertheless, upon this express Condition, that the said do and shall, during the Whole of such Residue of the Term of his Original Sentence, continue to be and reside within the said Island of Van Diemen's Land or its Dependencies.

Given under my Hand and Seal at Arms (there being as yet no Great Seal in the said Island) at the Government House, Hobart Town, the Day of in the Year of Our Lord One thousand eight hundred and twenty-

[The above “Description” was also written across document in red ink.]
1826
22 April.

LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.

(Despatch No. 22; acknowledged by Earl Bathurst, 2nd December, 1826.)

Government House, Van Diemen's Land,

My Lord,

22 April, 1826.

I have the honor to bring under the consideration of Your Lordship the urgent necessity that exists for inducing a Gentleman of talent and respectability to proceed to this Colony to undertake the duties of Civil Engineer and Mineralogist.

General Darling acquainted me with Your Lordship's Instructions that Mr. Busby should proceed to this Island if he could be spared, but His Excellency has informed me it is not possible from the necessity of Mr. Busby's presence in New South Wales to attend to the various operations in which he is engaged.

Colonel Sorell has already submitted to Your Lordship that no part of this Island has yet been scientifically examined, and the nature of its Minerals, its Geology and its Native Productions are yet nearly, if not wholly, unknown. But the assistance of a Civil Engineer is a point of still greater importance to which I am most anxious to draw Your Lordship's attention, for there is not a man of experience or science in the Island to whom I can refer for professional information, or to whom I can intrust the execution of any undertaking of magnitude or importance.

A striking instance of the total absence of this description of Ability has been sadly ascertained in the construction of a Stone Bridge over the Coal River, which was commenced by my Predecessor, and was so far advanced that I was compelled to proceed with it. But it had scarcely been completed when a report was made of the necessity of immediate steps being taken to secure it from falling, the Piers having considerably sunk.

The expense of Public Money on a fair Estimate of the Labour upon this Bridge could not have been less than £2,000, and the imprudence of commencing other important operations of the same nature without some additional imported knowledge would involve me in much responsibility.

I therefore trust Your Lordship will direct a suitable person to be employed and sent out to this Colony without delay as Mineralogist and Civil Engineer; in one single Year a scientific Man would abundantly save to the Public any reasonable Salary Your Lordship may think proper to allow.

I have, &c.,

GEO. ARTHUR.
LIEUT.-GOVERNOR ARTHUR TO UNDER SECRETARY HAY.
(Despatch marked "Separate"; acknowledged by under secretary Hay, 1st December, 1826.)

Government House, Van Diemen's Land, 22 April, 1826.

Sir,

I am under the necessity of reporting to you upon the supply of Shoes sent annually to this Colony, which are of a quality so very inferior as to render the purchase of them a complete waste of Public Money.

This evil I am persuaded needs only be pointed out to the proper Department to be corrected, and I would not trouble you upon it, if I knew to whom I could immediately address myself.

It is quite impossible that the regulated supply can be made to last the period for which they are ordered, the consequence is, that extra issues are from necessity made, which leads to much irregularity and confusion, as well as very considerable additional expense.

Stores in New South Wales are of less importance than in Van Diemen's Land, where, as Commissioner Bigge reports, they are essential to the Health of the Prisoners.

I have, &c,

GEO. ARTHUR.

LIEUT.-GOVERNOR ARTHUR TO UNDER SECRETARY HAY.
(Despatch marked "Private and Confidential.")

My dear Sir, Van Diemen's Land, 22nd April, 1826.

In a letter, which I had the honor to address you on the 10th January last, I communicated to you that Mr. Beamont, late Provost Marshall, had called upon me to state that he had received a Letter from you intimating that he would be named Clerk of the Council. Referring to the political state of this Colony, and Mr. Beamont's connexion in it, I availed myself of the Governor-in-Chief's presence to consult with him what step I should take in the event of this appointment being officially confirmed, and his decided opinion was, that I should defer carrying it into effect until I communicated to you such particulars as, he felt persuaded with myself, you could not be aware of.

Mr. Beamont is the Son in Law to Mr. Evans, whose retirement from the Surveyor's Department is under Lord Bathurst's consideration; but this circumstance, painful as it would be to me to be brought into frequent personal contact with that connexion, I would consider no sufficient grounds for objecting to
Mr. Beamont. But he is, by Education, by Habits, and by his Associations, totally unsuited to the Office. Mr. Beamont accompanied Colonel Davey to this Colony, as I have always been led to understand, under peculiar circumstances; but on their arrival was left to shift for himself. He was first employed in some inferior capacity by Mr. Ingles, afterwards was an Overseer to Mr. Edward Lord, then removed to some Public Office, and finally Colonel Sorell advanced him to be Provost Marshall. But the Colonel must be perfectly aware, (though I doubt not, as he has left Mr. Beamont one of the Co-Trustees for his Property, he thinks well of him) that Mr. Beamont is not more fit to be Clerk of the Council than he is to be Chief Justice.

It is probable that Lord Bathurst will sanction the expense of a Clerk to each Council, and I am sure it would be an act of derangement in me to place in Mr. Beamont's hands the confidential Documents of the Government, which may become the subject of private Investigation before the Executive Council.

Having waited in patience for Six Months since Mr. Beamont presented himself upon the subject, and no Despatch having been received, I hope that the measure may have been reconsidered, and will never be carried into effect. Captain Montagu has for two years discharged the Duties of Colonial Secretary, from which he has been for some time daily expecting to be relieved by Earl Bathurst's appointment from Home. I have, therefore, as he has given me entire satisfaction, named him for the situation of Clerk to the Executive and Legislative Councils.

I have troubled you with this wearisome detail that you may exactly understand the case, and I sincerely hope it may be satisfactory in removing the most distant idea from your mind, that I would for a moment hesitate in paying the utmost respect and attention to any communication from you.

You have taken so great an interest and given yourself so much pains in forwarding the Establishment of the V. D. Land Company that you will expect me to say something of it. But I cannot say much, the Chieftains, Messrs. Curr and Adey, have arrived. Much, indeed everything, depended on them and their resources. They have experienced, and shall continue to receive every possible assistance from the local Government, and, if the Plan breaks down, I hope you will have no reason to complain of me.

I take the liberty in this private letter to mention to you that Mr. O'Farrell, who was lately sent out as Naval Officer, totally misunderstood the nature of his Office, which, from the Title, he supposed had little to do with Accounts; now the fact is, that
the Duties of the Naval Officer at this Port are exactly the same with those of a Collector of the Customs in England, and the Gentleman at the Head of the Department should be conversant with business generally and Mercantile transactions in particular; but Mr. O'Farrell is entirely ignorant of both and knows nothing of Accounts. The Revenue I hope will not suffer; but I rather quake for it, as the Merchants have only been kept to the point by Mr. Hamilton's being more than a match for them upon all the questions which have been agitated relating to Trade. I have examined but little into Mr. O'Farrell's Office since he took charge of it; but the Bush-Ranging having been put down, which, with the opposition I have had to encounter, has harassed me a great deal, I shall now have some time to devote to the Departments, and I hope I may have it in my power to communicate to you that Mr. O'Farrell's zeal fully compensates for his lack of official information.

I have, &c,

GEO. ARTHUR.

UNDER SECRETARY HAY TO LIEUT.-GOVERNOR ARTHUR.
(Despatch acknowledged by lieut.-governor Arthur, 3rd November, 1826.)

Sir,
Downing Street, 22 April, 1826.

With reference to Lord Bathurst's dispatch of this day's date I am directed by his Lordship to transmit to you the enclosed List of Prisoners selected from those Convicts recently embarked in the Ship "Earl St. Vincent," who in the opinion of His Majesty's Government are fit objects to be transferred to Norfolk Island, or to be otherwise disposed of apart from the rest of the Convicts under your charge as you shall think fit.

I am, &c,

R. W. HAY.

EARL BATHURST TO LIEUT.-GOVERNOR ARTHUR.
(Despatch No. 14; acknowledged by lieut.-governor Arthur, 14th November, 1826.)

Sir,
Downing Street, 23 April, 1826.

I avail myself of the present opportunity of proceeding to the consideration of the several points referred to in your Dispatches mentioned in the Margin,* relating to the state and circumstances of the Colony under your administration, and to the measures of improvement which you consider may be introduced into the several Establishments belonging to the Colony.

* Marginal note.—N. 10, 3d July, 1825; 11, 10 Augst.; 18, 14 Septr.
The explanatory statements with which you have accompanied the annual returns which you are required to send home connected with the Revenue and Expenditure of the Colony have placed His Majesty's Government in the possession of many important particulars with which they had not already been made acquainted, and I take the present occasion of observing to you, that you need not entertain any apprehension of entering into too minute details when treating of subjects of this nature. There is no circumstance that could have afforded His Majesty's greater satisfaction, than to learn that the anticipations of your Predecessor as to the probable falling off of the Revenue should have proved erroneous, and that not only had no diminution taken place in the quarter which immediately succeeded Colonel Sorell's departure, but that each successive quarter has continued progressively to improve. I am sorry however to perceive, that you cannot hold out the expectation that its Revenues will be equal to meet its disbursements, a circumstance which would have induced me, had you not already evinced so great a disposition to adopt every measure which might tend to improve the Public Revenue, to call your serious attention to that subject, as well as to the equally important object of lessening the public expenditure whenever found to be practicable.

The following Instructions were given to General Darling on his proceeding to assume the Government of New South Wales, and, as they relate to a subject upon which you have solicited Instructions, you will consider them, so far as they apply to the circumstances of the Colony over which you preside, as being equally addressed to yourself.

"His Majesty's Revenues in the Colonies of New South Wales, are, in general, derived from four distinct sources. They are, first, the duties levied under the 3d Geo. 4th, Cap. 96, on Rum, Tobacco, and other imported goods: Secondly, the casual Revenue of the Crown derived from Quit-Rents, from the Sale of Government Lands, and from fines, forfeitures, and other similar sources. Thirdly, such duties as, in pursuance of the powers granted by Parliament, the Legislative Council may think proper to impose; and, fourthly, the Money annually voted by Parliament, in aid of the Civil Establishment of the Colony.

"Of these four sources of Revenue, the two first named are entirely unappropriated. The duties to be voted by the Legislative Council must be specially applied to such purposes as shall be prescribed by the Act imposing the duty; and the money voted by Parliament is always the subject of Specific Appropriation."
"The Money arising from those Sources of Revenue is either received by the Colonial Treasurer, by the Commissary or Deputy Commissary General, the latter Officer drawing Bills upon The King's Agent in England for the amount of the Sums voted by Parliament. It will be your duty to receive from each of these Officers, a monthly report of the cash or Government Bills in their hands. They will not be at liberty to issue any money for the Public Service except in obedience to such Warrants as may be addressed to them by you for that purpose. That part of His Majesty's Revenue which is appropriated either by Parliament, or the Legislative Council, to any specific Service, you will of course apply to that Service only: That portion of the Revenue which is not so appropriated, you will apply to the Public Service of the Colony, in pursuance of such general or special Instructions as you may receive from me, or from the Lords Commissioners of His Majesty's Treasury. As it will be highly important to you to know to what extent you are to be personally responsible for the due Administration of the Revenue of the Colony under your Government, I have the honor to enclose for your Information the Copy of a letter addressed by the Commissrs. of Colonial Audit to the Lords Commissrs. of His Majesty's Treasury, by which you will perceive, how far it is intended to deviate from the System of accounting hitherto observed by the respective Governors of the Colonies."

Adverting to the fourth Source of Revenue above mentioned, it becomes necessary that I should make a few additional observations, an arrangement having been adopted since the Instruction in question was addressed to General Darling, by which the charge of defraying the Civil Establishments of New South Wales and Van Diemen's Land will fall upon the Colonial Revenues, the latter, however, being relieved from an equal charge, to which it is now subject on account of the Salaries of the Officers who are employed in the management of the Convicts. I refer you to the enclosed Copy of a letter which has been addressed to the Treasury for an explanation of the Principle, on which it is intended, that the expenses of the Civil Establishment of the two Colonies shall in future be defrayed.

Under the new system to which I have just referred, it will be proper that a separation of the two Classes of Public Servants above mentioned, vizt., those composing the regular Civil Establishment of the Colony in its Character of a British Settlement, and those whose employments originate from its appropriation as a place of Punishment for persons convicted of Offences in

* Note 52.
1826.
23 April.

Funds to be provided for salaries of persons employed in control of convicts.

Payments for colonial salaries and services.

Appropriation of surplus revenue.

Date of change of system.

Funds to meet bills drawn.

Employment of unappropriated funds.

HISTORICAL RECORDS OF AUSTRALIA.

this Country, should take place, and that the System, according to which their respective Salaries are now paid, should be changed.

You will accordingly transmit to me by an early opportunity, a List containing the names of all persons whose employments are connected with the Superintendence and Control of the Convicts, together with the amount of Salary assigned to them respectively, in order that the Treasury may be informed of the probable amount of the Bills which they may expect to be called upon to pay annually on this account, and that they may provide the necessary funds, by such an increase to the usual Estimate of funds requisite "to defray the amount of Bills drawn from New South Wales for the maintenance of Convicts" as may appear, by reference to that List to be necessary. You will at once see the propriety of authorizing no encrease to that Establishment, without obtaining the previous sanction of the Government at home, by whom provision is to be made for defraying the expense.

After paying the expense of the Civil Establishment in the manner herein mentioned, and such other Colonial Services as shall appear indispensibly necessary, and shall have received the approbation of the Secretary of State, including the necessary remittances to the Colonial Agent resident in this Country, to enable him to defray current Services, it is the opinion of His Majesty's Government, that whatever surplus Revenue may be found to remain (an event which I am not sanguine enough to expect can take place for some time to come) should be paid over to the Military Chest to be appropriated towards the defraying of the Military charges incurred by Great Britain on account of the Colony.

It was the wish of His Majesty's Government, that the System of drawing Bills upon England, for the Salaries of the Civil Officers hitherto paid in Estimate, should be discontinued subsequently to the 5th of July. But as this letter cannot possibly reach the Colony, until some of the Bills will have been drawn for Salaries becoming subsequently due, which the Lords Commissrs. of the Treasury have undertaken to pay, I have to desire that you will cause an equal amount, to that which may be so drawn for, to be paid from the Colonial Revenue into the Military Chest.

The manner, in which you propose to employ the unappropriated funds of the Colony, meets with my approbation; You will not fail however to bear in mind that, as the Judicial and Surveyor General's Department were included amongst the Salaries until now provided for by Parliament, and as, according
to the arrangement lately made with the Treasury, all such charges are to be defrayed out of the Colonial Funds, no measure of general Improvement can be conveniently undertaken, until due provision has been made for all the demands which may be expected to occur on account of the Civil Establishment.

Such expenses, however, as may be necessary to be incurred in the charge of Convicts, or in objects which have reference to their safe custody, must be defrayed in the first instance by Bills drawn by the Commissary upon the Lords of the Treasury. But in authorizing any such disbursements to be made, you will bear in mind that the funds, out of which those Disbursements will be to be paid, are voted for Specific Services, and that any charges, not contemplated at the time the Estimate may have been prepared, will be an excess of expenditure to be made good from other sources, which it may not always be convenient to divert to such purposes: But, although I consider it necessary to call your attention to this point, I beg you to believe, that I am far from supposing that any expense would be incurred beyond what the real necessity of the case required.

At a time when so many public Buildings appear to be necessary for the general Improvement of the Colony, and with a view of establishing a better System of Discipline among the Convicts, the loss occasioned to the public by the defalcation of Dr. Bromley was particularly unfortunate. But I trust that the precautions which have since been taken will prevent the recurrence of any similar disasters. It is to be expected that, as the Colony increases in importance, a larger expenditure will be required; but it is essential that immediate measures be taken for remedying the evils which must arise from the want of places of safe Custody for the Convicts, who may be sent to the Settlement, or for their reception in Lodgings at night, whatever may be the cost of attaining those desirable objects.

It is to be lamented that you should not have sent an Estimate of the Sums, which are required for erecting Barracks at the different Settlements for the accommodation of the Convicts, and for putting the different Jails in a state which would render them secure places of confinement. No time, however, should be lost in commencing this task, for which purpose you will immediately make the necessary preparations. It is equally essential to the welfare of the Colony that immediate steps should be taken for putting an end to that state of disorder which you describe as prevailing amongst the Convicts, and that means should be adopted for exercising a more effectual controul over them, than appears of late to have been employed. I am at a loss to imagine why the condition of the Jail at Hobart Town
is so deplorable as it is represented to be, or why the Factory should be in a similar state. It is His Majesty's direction, therefore, that a Barrack for the reception of Convicts newly arrived be erected at Hobart Town; that the Jail at that place and at Launceston be immediately repaired (if this has not been done already) and that a place of safe custody for the reception of Convicts be established between those two places. These objects should be the first to which your attention should be directed, the Building of Churches, Glebe Houses, and Schools (however desirable it may be that they should be erected with as little delay as possible) being an after consideration.

The Establishment of Maria Island as a Penal Settlement is approved, and I have to direct that those Convicts whom you describe as being too ill-disposed to work should be sent there, or to Macquarie Harbour at once, instead of being disposed of in such manner as to have it in their power to abscond and become Bush-Rangers. In order to clear the Colony of those disorderly persons, who whilst at large become objects of alarm to the Settlers, all Convicts of a refractory description should be forthwith transferred to those Penal Settlements. It seems to be imagined (but very erroneously) that the Governor has the power of sending to such Penal Establishments, as may be formed in the Colony, those Convicts only who may have been guilty of Crimes since their arrival in the Island, whereas it is open to him to distribute, in the way he thinks best, those Convicts who may be assigned to his care, and to provide for their security and good conduct in the manner which he considers to be most fitting for the Interests of the Colony; and for this purpose I shall not fail to draw your attention to those whose crimes are of such a magnitude, as to require that they should be at once consigned to one of the Penal Settlements. For minor offences the Tread Mills, which you have no doubt established at the different Settlements, will be found to be sufficient punishment.

With these precautions I am persuaded that a larger force than that already employed in the Colony will not be required to keep the Country in order, and that with the assistance of one of the Companies of the Veterans already embodied expressly for the Service of New South Wales and Van Diemen's Land to act as Overseers a stop will be put to those enormities which have marked the conduct of the Convicts as detailed in your Dispatch of the 14 September, 1825. I regret to find that the system of Bush-ranging has extended so widely, and the two Soldiers whom you mention should have fallen victims to the disorder.

* Note 53.
which must naturally arise from it; but I entertain the confident hope that by a proper distribution of the additional force announced in my Dispatch of the 28th of July, 1825, similar excesses will be entirely prevented for the future.

The sentiments which you have expressed with respect to the security and treatment of the Convicts are generally speaking, in strict unison with those entertained by H.M. Government, whose attention has been very recently directed, as you will have been informed by my Dispatch* of the 28th of July, 1825, to the expediency of imposing greater restrictions than appear hitherto to have been adopted. The immoderate use of Spirits by the Convicts must lead to excesses to which a Stop should be put by every means in your power, and I am happy to find that the subject has not escaped your attention. I should have been glad, however, to have known what Laws you propose to enact for this desirable object, as well as the nature of the restraints which you have in contemplation to impose upon the Settlers in the control of their assigned Servants in order that I might at once have signified His Majesty's Approbation of them, and thereby have saved the delay of a future reference, had they appeared unobjectionable.

There can be no doubt that any measure, which with a due attention to the Legal powers with which you are invested will enable you to enforce a stricter discipline, should be resorted to, and that the establishment of the Penal Settlements upon a better footing will conduce more than any other step to that desirable object.

I shall not fail to attend to your wishes relative to the Master Carpenters and Police Officers whom you are desirous should be sent out to the Colony; and I beg to add that the utmost care will be taken in the selection of proper persons for those appointments. The only point in your dispatch of the 3d July, 1825, to which I have not yet adverted is that which relates to the Government House; and as I consider it extremely necessary that the Officer administering the Government should be provided with suitable accommodation, you will consider yourself authorized to proceed in the construction of a New Building upon a reasonable scale of expense, should your present Residence be found to be incapable of being placed in a proper and permanent state of Repair.

I have, &c.,

BATHURST.

[Enclosures.]

[Copies of these papers will be found on page 215 et seq., volume XII, series I.]

* Note 54.
LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.

(Despatch No. 23; acknowledged by Earl Bathurst, 5th February, 1827.)

Government House, Van Diemen’s Land,

My Lord,

29th April, 1826,

At the request of a numerous and respectable body of Scotch Settlers upon the Banks of the Macquarie River in this Island, I have the honor to transmit a Memorial addressed by them to your Lordship, expressing their intention of building a Church in that District, and praying Your Lordship’s sanction for an annual stipend to be paid to its Minister from the Public Funds of this Colony.

In my Dispatch No. 19,* I had the honor of bringing under Your Lordship’s consideration the Clerical Establishment of this Colony, and, having strongly recommended a large and immediate encrease to it, it becomes unnecessary for me to trouble Your Lordship on the present occasion with the existing necessities of the Settlers generally for Religious Instruction.

Having complied with the request of the Memorialists, I beg permission to leave the subject to Your Lordship’s judgement, as I do not, at present, feel myself justified in recommending to Your Lordship any further encrease to the Clerical Establishment beyond that which I have already submitted.

I have, &c,

GEO. ARTHUR.

[Enclosure No. 1.]

MEMORIAL

UNTO the Right Honorable Earl Bathurst, Secretary of State for Colonial Affairs, etc., etc., etc.

May it please your Lordship,

We, the committee appointed at a General Meeting of the Scotch Settlers upon the Banks of the Macquarie and Elizabeth Rivers, Van Diemen’s Land, held on the 9th day of March, 1826, for the purposes as set forth in the Resolutions, beg leave to express to your Lordship our most sincere and grateful respect for the assistance and protection, which, by Divine Providence, have been the means of our comfortable establishment in this most distant portion of His Majesty’s Dominions.

We have feelingly experienced that the Paternal care of Government could not have been more graciously extended to us, when from local situation we might almost have been said to surround the Throne, than now that we are withdrawn to the greatest distance from its influence.

* Note 55.
On the other hand, it is our most ardent wish to offer to His Majesty our humble and dutiful assurance that our attachment to his Royal Person is unabated, that we are acutely alive to whatever may affect the interest or dignity of his Crown, and that we still exult in those noble institutions, which have rendered our beloved native Land preeminent above the Nations.

But, when we consider this exceeding grandeur of the British Empire, we are compelled ultimately to attribute it to that virtue of the people, which has arisen from their love of Religion, and their clear apprehensions of its nature and principles, derived from the periodical celebration of its Ordinances.

We have to lament our deprivation of Public Worship, as our greatest, perhaps our only misfortune.

When we look back to the benefits, derived by our Countrymen from the public administration of the services of our Church and from the conversation and exemplary lives of its Ministers, and when we reflect that our nearest place for Worship is not less than Forty Miles distant, we feel that we are bound to realize, by every possible exertion, the advantages which must accrue from our being enabled to become a church going population.

The object, therefore, of this address is to gain your Lordship's Powerful Patronage in support of our undertaking, which we presume to advocate, not merely as beneficial to ourselves, but as promising the most decided advantages to the Colony in general; For, as stated, there is not a Church of any persuasion in the Interior, although the closeness of the population and its general Character, both as to Wealth and respectability, render such an establishment not only desirable but absolutely necessary.

Our determination to adopt the Service of the Church of Scotland has been formed, because the Majority of Settlers in this Quarter of the Island are Emigrants from North Britain; Our Episcopalian Brethren have expressed their wishes for our success, and several of their Signatures will be found appended to the documents transmitted as illustrative of this Memorial. Our object was, in the first place, to obtain a Church, and, when the first Meeting had already expressed their conviction of the necessity of the measure, it was unanimously agreed that it should be Presbyterian.

And, with submission, we would with every respect for the forms and spirit of the Episcopal Service state it to be our conviction that the humility of our native Church, its peculiar discipline, the manners and education of the young Clergymen, and their possessing, in consequence, more of a Missionary spirit,
Memorial soliciting stipend for Presbyterian chaplain at Macquarie river.

1826. April 29th.

We are better adapted to the necessary simplicity of Church Worship in a new Colony; We cannot here command an Organ or a Choir of Singers to give its full emphasis to the beautiful Liturgy of the English Church, while nothing but sincerity and attention in the Congregation are requisite for ensuring their full effect to the exertions of a Presbyterian.

But to carry this argument further would in the present case be improper; it is sufficient for us to know that your Lordship has already ordered a liberal salary to the Presbyterian Clergyman of Sydney; We shall therefore go on establishing our Clergyman, with the assurance that, when your Lordship shall have perused the subjoined document, you will order for our assistance a salary from the Colonial funds, sufficient, with the sum voted him by us, to obtain for him a decent and respectable, though not affluent livelihood.

With respect to the Documents, we would state that the most remote subscriber does not live at a greater distance than eight Miles from the intended scite of the Church; but the most striking particular is the great number of Children; For their sakes we would chiefly request the assistance of your Lordship. We, who are Fathers, have sworn at the Baptismal Font that we would with our utmost exertions endeavour to procure religious instruction for our Children, nor can we with any regard for decency, to use the coldest phrase, debar them of the advantages, now so liberally enjoyed, through the beneficence of our Countrymen, by the Indian and the Negro. And, even had we opportunity and articles, we could not, in the retirement of our own dwellings, impress upon their minds, with sufficient force, the duties and affections of Christianity.

The true meaning of Our Religion cannot be developed to the young mind in private; The youth emerging from the Cavern found himself rather encumbered than aided by the book knowledge he had there acquired. It had not received the chastening of actual life; It was to him therefore a mass of barren notions, and could not be brought to bear on the real contingencies, which occur in Society. To know Religion as it is, and not as the barren dogmata of a School-Master, the Child must be led to the house of God, and, when the prayers of his Brethren ascend to the Throne, then, for the first time, will his Sympathies be excited, and his heart kindle with love to God and Man.

With these observations, we would conclude our Memorial, and, trusting that your Lordship will be impressed with the importance of the subject which we have so feebly laid before you. The welfare of several hundred souls depends upon the decision you.

* Note 56.
may form, for, without the assistance of Government, our means and influence must be insufficient to carry through our undertaking, so as to command that respect, which is absolutely necessary in a population like ours, to render such an Establishment generally either impressive or beneficial. By acceding to our request, your Lordship will strengthen and Knit faster the bonds, which unite us to home; and, when future Ages shall have rolled on, and this wilderness shall have assumed the gayness of crowded population, of cultivation and refinement, then will the retrospective thanks of a grateful and Loyal People be directed towards that Government, which secured them happiness by supplying them with the Springs of Morality and Activity, a religious education.

That our Father's God may be with your Lordship, that he may bless you and keep you a Faithful Counsellor around our King's Throne to do for his distant people what may be good for them, is the earnest Prayer of Your Lordship's very humble Petitioners.

Adam Turnbull, M.D.
Hugh Murray.
James Reid.
Geo. Taylor.
John McLeod.

[Enclosure No. 2.]

Resolutions at a Meeting held at Dr. Turnbull's, Macquarie River, on Monday, the Second January, 1826, To consider the propriety of Establishing a Church in the Settlement.

Present.—Messrs. George Taylor, Senr.; James Reid; Adam Turnbull, M.D.; Robert Young; Robert Taylor; William Malcolm; Arthur Priest; John Con; Hugh Murray; George Stewart.

It was moved and seconded that Mr. George Taylor be called to the Chair, and that Mr. Hugh Murray act as Secretary.

It was Resolved

1st. That it is the Opinion of this Meeting, that the establishment of a place of Worship upon the River, after the form and service of the Church of Scotland, must evidently be most beneficial to the Settlement at Large.

2nd. That a contribution be therefore commenced for the purpose of purchasing a Glebe, and erecting a Church and Dwelling House.

3rd. That an Income from the Subscribers shall be secured to the Clergyman of at least One Hundred Pounds a year.

4th. That, to raise this Annuity, each Individual be assessed in proportion to the extent of his landed property in the vicinity.
5th. That a subscription be now commenced to the amount of One good Ewe for every Hundred Acres, of Landed property, possessed by the Subscribers, for the purpose of raising a fund for the purchase of a Glebe and Building a Church and Dwelling House, leaving it to the decision of a Majority of the next Meeting, whether the said Subscription shall be collected in Ewes or Money at the rate of Twenty Shillings for each Ewe.

6th. That a Committee consisting of the following Gentlemen:

Messrs. George Taylor; James Reid; Adam Turnbull, M.D.; and Hugh Murray

be appointed to obtain further Subscriptions, and to call a General Meeting within two Months, from this date.

GEORGE TAYLOR, P.; HUGH MURRAY, Secy.

Then follows the subscribing Names being then present.

A True Copy:—HUGH MURRAY, Secy.

LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.

(Despatch marked "Separate.")

Government House, Hobart Town,

My Lord, 30th April, 1826.

I have the honor to reply to Your Lordship's Circular of 25th November last, calling for a return of all fees levied on the Shipping and Trade of this Colony, received by any individual, not connected with the Collection of the Revenue.

The enclosed return will afford all the information required by Your Lordship, with the exception of the amount of fees on the Registry of Vessels for the years 1821 to 1824 inclusive; but no record of their collection, or any other document whereby their average can be ascertained, appears to have been kept prior to my assumption of the Government of this Colony; and I regret that I am consequently unable to comply with that part of Your Lordship's Circular.

I have, &c,

GEO. ARTHUR.

[Enclosure No. 1.]

RETURN of the Amount of Fees levied on the Shipping and Trade of the Colony of Van Diemen's Land, for the five years 1821 to 1825 inclusive.

From 1 January to 31 Dec., 1821.

Received by the Secretary, Tonnage Fees £381 7 0
Head Money 109 9 6
by the Chief Clerk, Head Money 72 19 0

£563 15 6
<table>
<thead>
<tr>
<th>Year</th>
<th>Tonnage Fees (Secretary)</th>
<th>Head Money (Secretary)</th>
<th>Tonnage Fees (Chief Clerk)</th>
<th>Head Money (Chief Clerk)</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1822</td>
<td>£374 10 0</td>
<td>100 8 0</td>
<td>66 19 0</td>
<td></td>
<td>£541 17 6</td>
</tr>
<tr>
<td>1823</td>
<td>£403 2 0</td>
<td>116 11 0</td>
<td>77 14 0</td>
<td></td>
<td>£597 7 0</td>
</tr>
<tr>
<td>1824</td>
<td>£312 8 0</td>
<td>93 0 0</td>
<td>62 0 0</td>
<td></td>
<td>£467 8 0</td>
</tr>
<tr>
<td>1825</td>
<td>£325 15 0</td>
<td>101 8 0</td>
<td>67 12 0</td>
<td>5 0 0</td>
<td>£522 17 0</td>
</tr>
</tbody>
</table>

I certify that this return of Fees, received in the Secretary's Office, is, to the best of my knowledge and belief, a correct one, it having been extracted from the Copies of the Port Clearance of Vessels from 1 Jany., 1821, to May, 1824, and subsequently from the record of the Collection of Fees, kept in the Secretary's Office. No Fees of any description have been received by the Lieutenant Governor.

30th April, 1826.

JOHN MONTAGU, Secretary.

[Enclosure No. 2.]

Account of Fees, levied on the Shipping and Trade of the Colony of Van Diemen's Land, received by Individuals not connected with the Collection and Management of the Customs Revenue, as required by Earl Bathurst's Circular, dated 25 November, 1825.

Fees received in the Secretary's Office.

On the Clearance of Vessels.................pr. ton £0 0 6
Every Person leaving the Colony...........0 2 6
N.B.—One Shilling of this is paid to the Chief Clerk.

Registry of Vessels.......................to 40 Tons 2 0 0
Above 40 Tons.............................per Ton 0 1 0
To the Chief Clerk........................0 10 0

By authority of His Excellency The Governor in Chief, under his proclamation dated 12 Oct., 1811, Confirmed by H.M. Government.
1836.
30 April.

according to a Government Order dated Sydney, June 26, 1813, and subsequently confirmed by The Legislative Council of New South Wales, Act No. 20.

LIEUT.-GOVERNOR ARTHUR to UNDER SECRETARY HAY.

Government House, Hobart Town,

Sir, 30th April, 1826.

I have the honor to acknowledge Mr. Adam Gordon's letter of 18 July, 1824, introducing to my notice Messrs. John and Alexander Macra, who had been recommended by Colonel Doyle to Lord Bathurst, as young men of respectability, intending to settle in this Colony.

The Letter has only been recently delivered to me by one of these Gentlemen, the other not having yet arrived; and I beg to assure you that I shall have much satisfaction in promoting the views of Mr. Macra, and will make to him a Grant of Land, in proportion to his means of cultivation, extending to him also any other indulgence consistent with the established regulations.

I have, &c.,
GEO. ARTHUR.

31 April.

Recommendation of W. Henderson as settler.

LIEUT.-GOVERNOR ARTHUR to UNDER SECRETARY HAY.

Government House, Hobart Town,

Sir, 31st April, 1826.

I have the honor to acknowledge the receipt of Mr. Wilmot Horton's duplicate Letter of 4 May, 1825, the original of which has not reached me, transmitting Copy of Captain W. Henderson's Letter to the Earl Bathurst, communicating his intention of becoming a Settler in Van Diemen's Land.

I beg to express the pleasure I shall have in carrying Mr. Horton's wishes into effect with respect to Capt. Henderson, whenever that Gentleman may arrive here, and will make to him a Grant of Land, in proportion to the means he may possess of bringing the same into Cultivation.

I have, &c.,
GEO. ARTHUR.

EARL BATHURST to LIEUT.-GOVERNOR ARTHUR.

(Despatch No. 15; acknowledged by lieut.-governor Arthur, 3rd March, 1827.)

Sir,

Downing Street, 1 May, '26.

The propriety of augmenting the Establishment of Land Surveyors at Van Diemen's Land had occupied the attention of
His Majesty's Government previously to the receipt of your dispatch of the 1 March last, and the Instructions on the subject have only been delayed until the question as to Mr. Evans' retirement should be decided. The recent transactions however, which have taken place in the Colony, as communicated in your dispatch of the 11 August, 1825, connected with Mr. Lawrence's Allotment of Land, requiring explanation from the Surveyor General before any steps can be taken for granting to him a pension, I have determined to carry into effect the arrangement to which I have adverted, without waiting for the arrival of those explanations.

The following is the Establishment of the Surveyor General's Department as at present fixed.

<table>
<thead>
<tr>
<th>Position</th>
<th>Salary (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deputy Surveyor General</td>
<td>200</td>
</tr>
<tr>
<td>1st Assistant</td>
<td>150</td>
</tr>
<tr>
<td>2nd Assistant</td>
<td>100</td>
</tr>
<tr>
<td>3rd Assistant</td>
<td>100</td>
</tr>
</tbody>
</table>

To that number I consider one additional Surveyor necessary, and I am also of opinion that a proportionate augmentation should be made to their Salaries to place them upon a footing with the corresponding Situations at New South Wales. Under the arrangement which I propose, the future Establishment of the Surveyor General's Department will be as follows:

<table>
<thead>
<tr>
<th>Position</th>
<th>Salary (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surveyor General</td>
<td>300</td>
</tr>
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<td>Deputy do</td>
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You will observe by the above scale that it is intended to annex to the appointment of Surveyor General a Salary of £300 pr. annum; but as, for the reasons of which you are already aware, I am unable to accept Mr. Evans' resignation at the present moment, so I am prevented from authorizing you to grant to him the benefit of the increase of Salary, which it is my intention shall be enjoyed by his Successor when appointed, and by the other persons composing his Department from the date at which this Dispatch may arrive in the Colony. At the same time I think it right to apprise you that, should Mr. Evans be able to shew to your satisfaction that his conduct is free from any blame in the particular cases which have been alledged against him, I have no objection to you directing that he shall
HISTORICAL RECORDS OF AUSTRALIA.

1826.
1 May.

receive the difference between the old and the new rate of Salary, from the time of the augmentation taking place in the Colony until that of his actual retirement.

I shall have the honor, in a separate dispatch, of acquainting you with the name of the person whom I have selected for the additional appointment, and I shall take that opportunity of communicating to you the relative gradation of each of the Gentlemen composing the Surveyor's Department. But it must not be supposed from this arrangement that they will be permitted to succeed as a matter of course to the higher appointments, which may become vacant in that Department, without reference being had to their respective qualifications.

I have, &c.,

BATHURST.

LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.
(Despatch marked "Separate.")

Government House, Van Diemen's Land, 1st May, 1826.

My Lord,

I have the honor to acknowledge the receipt of Your Lordship's Circular of 18 November last, communicating the course to be adopted with respect to the footing, on which Vessels which arrive at this Colony, are to be considered, when freighted by the Commissioners of His Majesty's Navy; and I beg to acquaint Your Lordship that the necessary measures for carrying Your Lordship's instructions into full effect were immediately adopted.

I have, &c.,

GEO. ARTHUR.

EARL BATHURST TO LIEUT.-GOVERNOR ARTHUR.
(Despatch No. 16.)

2 May.

Sir,

I have the honor to acknowledge the receipt of your despatch of the 25th August last, reporting the grounds on which you have considered it necessary to recommend the appointment of some professional Gentleman to perform the Office and duties of collecting the Debts due to the Crown; of eliciting the property forfeited to the Crown, and the nature of such property; and also, to assist the Attorney General in drawing Information, whenever he might require additional Aid." and you inform me that you have in consequence, been induced to nominate Alfred Stephen, Esq., to the situation of Solicitor...
General and Crown Solicitor, assigning to him a Salary at the rate of £300 pr. annum, subject to the approbation of His Majesty's Government.

In reply I do myself the honor to acquaint you that I have deemed it necessary to confirm Mr. Stephen in the above Situation; but, considering the number of new Appointments which circumstances have rendered it expedient to make with a view to the more complete efficiency of the Judicial and other Departments of your Government, and the heavy increase of expenditure which has resulted, I am prevented from authorizing any larger allowance to be given to the Person exercising the duties of the appointment in question than that which you have already attached to it.

I have, &c.

BATHURST.

LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.
(Despatch No. 24; acknowledged by Earl Bathurst, 2nd February, 1827.)

Government House, Van Diemen's Land, 2nd May, 1826.

I have the honor to transmit to your Lordship herewith a copy of a Memorial from Mr. William Young, a very respectable Settler in this Colony.

My object in bringing this memorial under your Lordship's consideration is not only to comply with the urgent request of Mr. Young, but to obtain Your Lordship's instructions upon the two points introduced therein, as they equally affect many Individuals similarly circumstanced.

Mr. Young's claims are; first, for a grant of land in his Son's behalf, a minor, five years of age; secondly, indemnification for loss sustained by an attack of Bushrangers.

I have not felt myself justified in entertaining the prayer of the Memorial, and it is on that account Mr. Young has solicited that his appeal may be laid before Your Lordship.

Mr. William Young arrived in this Colony in the month of April, 1825, bringing with him a letter from your Lordship's office, sanctioning his receiving a grant of land in proportion to his means of cultivation. His property being upwards of Three Thousand Pounds, he received an order for a maximum grant of Land (2,000 Acres).

Mr. William Young, Junr., arrived at the same time, and a similar letter from Your Lordship's office was presented in his name, with a return of property in Cash, to the Amount of Five hundred and Sixty Pounds Sterling. It was however discovered that Mr. William Young, Junr., was a child of only five years.
of Age, the Son of the before mentioned Gentleman; and therefore in this, as in other similar cases, I felt a difficulty in authorizing any Grant.

The circumstance of a letter having been brought in his Son's name from the Colonial Office, authorizing his receiving land in proportion to his means of cultivation, is considered by the Father as an undeniable claim; but I am impressed with the idea that it might have been obtained, without the fact being at all understood that the applicant was a Child; and I therefore submit the question for Your Lordship's general instructions upon Similar Cases.

With respect to the second claim, Mr. Young, in common with many respectable settlers, suffered a very serious loss from an attack of the gang of Bushrangers, headed by Brady, the most wary the most destructive and desperate Villain that was ever let loose upon any Community.

Mr. Young's loss I believe to be fairly estimated at Four hundred Pounds; and others have suffered to the extent of four times that amount; so that the total sum is distressingly great. I have felt grieved and concerned beyond expression at the misfortunes thus brought on so many industrious Settlers, but I cannot afford relief myself, nor can I feel justified in doing more than submitting the Case to Your Lordship's consideration.

The consequence of affording relief in one instance must lead to innumerable applications, and many, no doubt, as unfounded as I believe Mr. Young's to be correct; besides, it must be considered that few settlers would hereafter resist the attack of such Villains, if, without resistance, they hoped to find indemnification at the hands of the Government.

It is with this view to the common safety of the Community that I should question the policy of indemnification, even if the Colonial Government possessed the means, and those means were more unrestrictedly at my disposal.     

GEO. ARTHUR.

[Enclosure.]

The Memorial of Mr. William Young, a Resident upon the Lake River,

To His Excellency Lieut. Governor Arthur, etc., etc., etc.

May it please Your Excellency to take into consideration the very heavy loss lately sustained by Your Excellency's Memorialist from the depredations committed upon his property by the Banditti, called Bushrangers, that have so long infested this Colony, and that are now in Custody to answer for their offences at the bar of Justice.
Memorialist begs to remind your Excellency that he emigrated to this Colony from Scotland in the Ship City of Edinburgh, that arrived here twelve Months ago; that he proceeded with his family to occupy his Location upon the Lake River, taking with him considerable property; that, upon the 20 February last, the notorious Brady and his associates plundered his residence of property, amounting to upwards of Four Hundred Pounds; and that Memorialist has not been able to recover any part thereof, nor is there the least probability that any portion will be so restored to him; and, as Memorialist has a very large Family, he confidently hopes Your Excellency will give such a consideration to this unfortunate occurrence, as may be productive of benefit to his family, in compensation for their present Loss; and, with this view, he humbly requests that Your Excellency will forward a statement of his Case to His Majesty's Ministers in England, so that they may be induced to grant him an additional quantity of Land as an equivalent.

Your Excellency's Memorialist embraces the present opportunity of soliciting attention to his Claims upon other and very different grounds; and begs to refer Your Excellency to an order from Lord Bathurst for a Grant of Land being made to Your Memorialist's Son, and also to the statement of funds, furnished in compliance with the terms of that order, when it was Your Excellency's pleasure to decline complying with the same by reason of his Sons not being of mature Age; and he further begs of Your Excellency to refer his claims on that account also, as the property still is and will at any time be available for the purpose of such location. And Memorialist will furnish any required Security for its being devoted thereto.

And your Excellency's Memorialist will ever pray, etc., etc.,

Hobart Town, 16 April, 1826.

WM. YOUNG.

LIEUT.-GOVERNOR ARTHUR TO EARL BATHURST.

(My Lord, Van Diemen's Land, 3rd May, 1826.)

I have the honor to bring under Your Lordship's consideration two Memorials from the Revd. Mr. Knopwood, a retired Chaplain upon this Establishment.

The import of these Memorials differs materially; but, as they are in a degree connected by events of some standing, and
are presented by the same Gentleman, I have considered it better to bring them both in one view before Your Lordship.

2. In the one Memorial, Compensation is prayed for in lieu of House Rent for a period of thirteen Years and a half; In the other, Compensation is prayed for loss sustained by the non-confirmation of an alteration of a line of Road through his property at Hobart Town.

3. Mr. Knopwood's claim for House Rent was more particularly brought under my notice by the Archdeacon, who stated his conviction that some compensation was due to Mr. Knopwood, as the other Chaplains had been provided with Dwellings.

Although I am of opinion that this Claim should more properly have been brought under the consideration of the Parliamentary Commissioner of Enquiry, yet, upon the whole merits of the case, and under the Archdeacon's recommendation, Your Lordship may probably be disposed to allow the Sum of £337 10s. to be paid to Mr. Knopwood as compensation for House Rent during the period of 13½ Years, being at the rate of £25 per annum.

The accompanying Letter from the Archdeacon, with the Documents connected with it, will put Your Lordship in possession of all the circumstances attending the Claim; the essence of which is that Mr. Knopwood came to this Colony in the Year 1804, under a promise from Lord Hobart that a House should be provided for him; but it was found impossible to appropriate one for his accommodation, and, at the recommendation of the then Lieutenant Governor (Lieutenant Governor Collins), he was induced to erect a Dwelling at his own expense with an understanding that an allowance in lieu of a Government Residence should be made to him; but this promise was never realised, Governor Macquarie continuing to state up to the period of his departure that no answer had been received from Your Lordship upon the subject.

4. The circumstances under which Mr. Knopwood prays for Compensation in his second Memorial, which I have the honor to enclose, are as follows; A Grant of 30 Acres of Land* was made in the Year 1806 to the Revd. Mr. Knopwood at Sullivan's Cove adjoining Hobart Town, with a Reserve to the Crown of a right of Road of eleven Yards, along the Margin of the Cove.

In the early part of the Year 1824, just preceding my arrival, at the earnest solicitation of Mr. Knopwood, Lieutenant Governor Sorell sanctioned an alteration in the line of Road carrying it higher up, and, by a verbal communication, surrendered to Mr. Knopwood the reserved Line adjoining the Cove with its entire water Frontage, which of course greatly enhanced the value of Mr. Knopwood's property.

* Note 37.
The Grant was shortly afterwards divided into small Allotments, and sold by Public Auction, upon the condition that the alteration of the Road should be carried into effect. But, as this arrangement would entirely have deprived the Crown of the Naval Officer's Wharf, as well as a most desirable site for other public purposes, upon application being made to me to confirm officially the alteration informally assented to by my Predecessor, I did not feel myself justified in confirming it; and, the Purchasers consequently demanding an abatement of the purchase money, Mr. Knopwood thereupon claims compensation from the Government for the non-confirmation of the promise made by Lieutenant Governor Sorell.

It is to be observed that no Road was opened and no expense incurred; and had no doubt existed on my mind respecting the power to relinquish a public right of the importance of the one in question, the precedent, which such a measure would have created, would have deterred me from formally sanctioning it without reference to Your Lordship's judgement.

5. With the view I entertain of the case, and which has been already expressed to Mr. Knopwood (as Your Lordship will perceive by my Letter annexed to his Memorial), I do not feel that I can recommend his claim for compensation to Your Lordship's favorable consideration; but, at the same time, it is my duty not to decline acceding to his request of laying it before Your Lordship.

I have, &c,

GEO. ARTHUR.

[Enclosure No. 1.]

ARCHDEACON SCOTT TO LIEUT.-GOVERNOR ARTHUR.

Sir,

Hobart Town, 10th March, 1826.

I do myself the honor of transmitting to Your Excellency a memorial from The Revd. Robt. Knopwood relative to arrears for House Rent.

As these arrears were due previous to the arrival of Mr. Commissioner Bigge, and as Mr. Knopwood made no statement before him on this subject, I do not feel myself at liberty to enter on the subject.

Should Your Excellency think proper to take the pleasure of Compensation recommended.

His Majesty's Government on the subject, and any opinion be required from me, I am bound to say a remuneration does appear to me but just and reasonable, since all the Clergy were promised House rent, but to what extent your Excellency may have better means of knowing than are within my knowledge.

I have, &c,

T. H. SCOTT.
The Memorial of Revd. Robert Knopwood, M.A., Late Assistant Chaplain to the Colonies,

To His Honor Lieutenant Governor Arthur, etc., etc., etc.

Sheweth,

That Memorialist respectfully takes leave to lay before your Honor the total incompetency of his Pension for his support in his present state of ill health and infirmity of Age, of his being wholly without help from private possessions, which circumstances rendered impossible for the Clergyman of Van Diemen's Land to acquire or improve for the first 18 Years of the Settlement, and of the prospect of his latter days being embittered by want of many comforts, indispensible at his time of life and under his bodily affliction.

That Memorialist has suffered many hardships and deprivations during his Official holding of the Clerical Office, which have led to his present circumstances, and the want of a due representation of which to His Majesty's Government, Memorialist cannot but feel the chief cause of his retirement being unaccompanied by due remuneration, or such Pension as would protect him from further suffering.

That Memorialist begs to submit to Your Honor a series of correspondence and papers (No. 1 to 7), which shew the following facts, respectfully confiding in Your Honor's support by such representation as to Your Honor shall seem suitable for the furtherance and accomplishment of this Object.

That Memorialist had no House or Barrack provided by Government as promised by Lord Hobart.

That in 19 Years' service Memorialist had only five and a half years' Barrack allowance.

That Memorialist built a Cottage without any assistance from Government, at a time when every necessary article was so enormously high, that Memorialist incurred such pecuniary obligations as ever after influenced his worldly prosperity.

That Memorialist tendered his resignation at the instance of Governor Macquarie under flattering hopes of His Excellency's recommendation, viz., £260 Sterling per Annum.

That His Majesty's Government did not order such full pay, but a Pension of £100 a Year, which Your Honor knows is wholly inadequate to the decent maintainance of any person in these Colonies.

That Memorialist received a Grant of Land, which the obligations, above stated incurred by Memorialist, obliged him to
ARTHUR TO BATHURST.

dispose of to prevent him being deprived of personal liberty, leaving him still somewhat embarrassed, and which would have been spared, had the usual Barrack allowance for the whole period of his Service been paid to Memorialist.

That the Chaplains have been in the habit of receiving Rent allowance of £100 per Annum on arrival.

That Memorialist, under all the circumstances respectfully submitted, prays Your Honor's recommendation for increase of Pension, and remuneration for loss of non-payment of Rent or Barrack allowance for 13½ Years.

And Memorialist Prays,

4th August, 1825.

REVD. R. KNOPWOOD.

[Enclosure No. 3.]

MEMORANDUM of payment to The Revd. Robert Knopwood on account of Barrack allowance between

16th Feb., 1804, to 18th April, 1823.
1816, Feby. 5th. By James Gordon, Esqr., £25 15s. Od. 1 year.
24th June, 1816. By J. Drummond, Esqr., £12 7s. Od.

T. DAVEY, Lieut. Governor.

From 1 January, 1819, to 18 April, 1823. By Order of Governor Macquarie, £86.

Total, £124.

REVD. R. KNOPWOOD.

[Enclosure No. 4.]


To His Excellency Lachlan Macquarie, Esquire, Governor in Chief of His Majesty's Territory of New South Wales, etc., etc.

Respectfully Sheweth,

That Your Excellency's Memorialist has been Chaplain at these Settlements, since the first formation under His Honor the late Lieutenant Governor Collins, and, upon his arrival at Sullivan Cove, had a promise that a suitable Barrack should be erected for his residence: after remaining Eighteen months under Canvas, and owing to the scarcity of Crown Servants, it could not be carried into effect; Your Excellency's Memorialist was therefore under the necessity of building a Cottage for himself for which he has received no remuneration except one Year and a half Barrack rent at Eight shillings per week.

Your Excellency's Memorialist therefore respectfully solicits Your Excellency will take into Your consideration the justice of his claim for the allowance of Barrack rent, and that you will
be pleased to direct that such allowance may be continued him
from the period to which he was last paid, and at such rate as
Your Excellency may deem meet, and for which indulgence Your
Excellency's Memorialist will ever pray, etc., etc., etc.

I recommend this Gent.'s case to your Excellency's favour­
able consideration. T. Davey, Lieut. Governor.

Hobart Town, 18th Octr., 1816.

Answer.

No allowance for House rent for Chaplains in this Colony has
ever been ordered or sanctioned by Government, and therefore a
reference will be made on the subject to His Majesty's Ministers
by the Governor; but, until an answer is received from them, The
Governor cannot authorize any allowance for House rent to be
paid to The Revd. Mr. Knopwood. L.M.

10th Decr., 1816.

[Enclosure No. 5.]

REVD. R. KNOPWOOD TO GOVERNOR MACQUARIE.

Sir, 11th Jan., 1817.

I beg leave to acknowledge the receipt of Your Excellency's
Answer to my Memorial, and I cannot but think it extremely
hard that, after servitude as Chaplain to this Settlement from
its commencement in 1803, I should be denied the indulgence
which has ever been extended to my Brethren at Sydney. The
Commission, I have the Honor to hold from Our Most Gracious
Sovereign, constitutes me His Majesty's Assistant Chaplain to
these Settlements; and, prior to my leaving England, I was
assured by Lord Hobart, then Secretary of State for the
Colonies, that a comfortable House should be Erected me by
Government as soon as possible after the formation of the
Settlement, which House was commenced upon in the early part
of 1805, but the distressed period which for such a length of time
visited this Settlement by its being literally deprived of food,
except what the Game of the Country afforded, prevented its
completion, and I was induced at the particular request of
Lieutenant Governor Collins to erect a House, in which I have
ever since lived, on an assurance from His Honor that the Gov­
ernment would remunerate me by a good Rent for the heavy
expence I was then put to; but, as not any adequate remunera­
tion has ever been made, having only received the Sum of £31 2s.
one year and a half pay House Rent, I have been compelled to
dispose of the House, which had cost me so heavy an expence in
building, for the express purpose of discharging the embarrass­
ments I had been put to and laboured under from its erection.
Your Excellency is fully sensible of the inadiquancy of my pay in this expensive part of the World to admit a deduction for House rent, the common charge for a poor house have been One Hundred per Annum; and, unless Your Excellency will take my Case into your consideration, and give Orders for a House to be provided for the Chaplain, I shall in a few Weeks be destitute even of a covering wherein I can repose after the Labour of the day.

I have, &c.,

ROBERT KNOPWOOD.

Answer.

The Governor has received Mr. Knopwood's Letter of date 11th of January last, and, in reply thereto, has now to inform him that he cannot allow him any House rent, or build him a House until an answer from His Majesty's Principal Secretary of State for the Colonies, to a recent communication made to him on this Subject, is received.

Government House, Sydney, 7th March, 1817.

[Enclosure No. 6.]

THE MEMORIAL of The Revd. Robert Knopwood, Assistant Chaplain of Van Diemen's Land,

To His Excellency Governor Macquarie, etc., etc., etc.

Respectfully sheweth,

That Your Excellency's Memorialist, after doing duty in this Dependency from its first Settlement, participating the hardships and privations which belonged to its first formation and establishment, now, at the end of Eighteen years, finds his state of health so indifferent, and his infirmities so fast encreasing, as to render the greatly extended Clerical Duties of the Settlement, under its present comparrison large Population, almost too much for him to go through:

That Memorialist, in submitting to Your Excellency his situation, has with pain to observe that, from many disadvantages, his circumstances have not improved in the Settlement, and that, in entertaining the possibility of retirement being considered by Your Excellency best suited to Memorialist, he laments to state that half pay would be wholly inadequate to his decent maintainance, much less to afford him those comforts which his state of health make indispensably necessary.

That Memorialist, upon Your Excellency's concurrence, would beg to be allowed to resign his Clerical Office when competent relief might arrive, should your Excellency be pleased to give support to his solicitation that his retirement might be accompanied by full pay: and he trusts, under the circumstances of having perform'd the whole duty of this Settlement for so long
Memorial
of Revd.
R. Knopwood
soliciting
permission to
retire on full
pay.

1826.
3 May.

a period, of its state affording for many months no shelter but
that of Canvas, which greatly added to impair his health and
lead to his feeling incompetent at this period to the full per-
formance of the duties required, it may not be too much to hope
from His Majesty's Government.

That Memorialist further begs leave to submit to Your Excel-
ency that he has suffer'd considerable inconvenience and depriva-
tion during this long period of services, in not having had a
house provided for him agreeable to the assurance of the Secre-
tary of state in 1803. "That a comfortable House should be
erected for him by Government as soon as possible after the
formation of the Settlement," such having been commenced in
the period of distress, which so long visited this Settlement, when
it was without food excepting such as the Game of the Country
afforded.

That, after remaining Eighteen months under Canvas, Me-
moralist, at a great expense and with much difficulty, erected
himself a Cottage, in which he has ever since resided, and has
kept up the same as a shelter after the duties of the day at
much cost.

That Memorialist has not been relieved by a Barrack allow-
ance or any Compensation except for the first Year and a half
at the rate of £25 15s. Per Annum; and has thus not enjoyed
the same indulgence, extended to his Brethren in the Territory.

That Your Excellency was pleased to express in 1817 an inten-
tion of referring the question of allowance to Memorialist to His Majesty's Principal Secretary of State.

That Memorialist begs now most respectfully to state to Your
Excellency that an allowance, according to his comparative
Rank, would greatly contribute to relieve Memorialist's embar-
rassments and add to his peace of mind in his declining Years.

And that Memorialist now submits to and rests with Your
Excellency this his case, assured that Your Excellency's con-
sideration will not allow him to suffer in those points in which
he comes fairly before you. And as in duty prays,

REVD. ROBERT KNOPWOOD.

Answer.

The Governor will have great pleasure in recommending The
Revd. Mr. Knopwood (in the event of his sending in his resigna-
tion) to the favourable consideration of His Majesty's Govern-
ment, and, in the event of their not allowing him to retire on full
pay, He will recommend that he be allowed a liberal grant of
Land with his half pay on retirement. The Revd. Mr. Knopwood
will also be allowed in future House rent equal to that of Cap-
tain commencing on and from the 1st Jay., 1819.
Arthur to Bathurst.

[Enclosure No. 7.]

The Memorial of the Revd. Robert Knopwood, Assistant Chaplain, Van Diemen's Land.

His Excellency Major General Macquarie, Governor in Chief of the Territory of New South Wales and its Dependencies, etc., etc., etc.

That Memorialist has been assistant Chaplain in this dependency since its first settlement Eighteen Years.

That Memorialist is fifty Eight Years of Age and labours under considerable infirmity, especially that of great defect in his sight.

That Memorialist, from which and the very great increasing demand of Clerical duties in this enlarged Settlement, feels it his duty reluctantly to pray Your Excellency will be pleased to state to His Majesty's Secretary of State for the Colonies his respectful desire to resign his Situation.

That Memorialist further entreats Your Excellency's recommendation for his retirement being accompanied by full pay, it being known to Your Excellency that he has not improved his circumstances in the Colony, but that he had all the hardships of the first Settlement to contend with, as well as various disadvantages incident to a new Colony.

And Memorialist as in duty prays,

Revd. Robert Knopwood, M.A.

[Enclosure No. 8.]

This was a copy of Earl Bathurst's despatch to Sir Thomas Brisbane, dated 7th September, 1825; see page 780, volume X, series I.

[Enclosure No. 9.]

Captain Robinson to Revd. R. Knopwood.

Dear Sir,

Hobart Town, 26th July, 1825.

In answer to your enquiry, I beg to inform you that I was allowed lodging Money by Government, during my stay at Sydney, at the rate of £2 a Week.

I am, &c.

H. E. Robinson.

[Enclosure No. 10.]


My Dear Sir,

Hobart Town, 26th July, 1825.

In answer to your enquiry, I beg leave to inform you that I was allowed lodging Money during my stay at Sydney at the rate of £100 per annum.

I am, &c.

Wm. Bedford.
[Enclosure No. 11.]

Mr. S. Hood to Revd. R. Knopwood.

My Dear Sir,

Macquarie Street, 1 August, 1825.

In reply to the queries which you made respecting the cause of your embarrassment, I can have no hesitation in saying frankly that they arise solely from your not enjoying the usual Barrack allowance, and from the very extraordinary verdict of Judge Field. It is my opinion, if your claims and services were fairly laid before His Honor The Lieutenant Governor, that he would procure you full pay, as I am informed that 20 Years' service entitles Officers holding civil Appointments to this indulgence.

I am, &c.

S. Hood.

[Enclosure No. 12.]

Revd. R. Knopwood to Archdeacon Scott.

Venerable Sir,

9th March, 1826.

Upon my renewed appointment, Officially notified in the Hobart Town Gazette of the 4th Instant, to the performance of District Clerical Duties in this Colony, it becomes my duty most respectfully to offer my thanks for the recommendation which led to it; and I beg you may be pleased to accept the assurance of my grateful feeling for this attention at a period of my existence, not the most enviable in point of circumstances from various causes connected with the early disadvantages of a New Colony.

I shall be pardoned, I trust, for seeking to engage your good offices further upon a subject of certain arrears, which I have not hitherto had opportunity of urging successfully, although His Excellency Lieutenant Governor Arthur has evinced every feeling and disposition to forward my object in obtaining a due consideration of my claim thereupon. And I beg to be permitted to accompany this by an extract from a Memorial recently addressed to His Excellency, supported by documents,* respectfully begging the favour of your recommending what to you the case appears to merit.

I beg to subscribe myself, &c.,

Robert Knopwood.

[Enclosure No. 13.]

The Memorial of the Revd. Robert Knopwood.

To His Excellency Lieutenant Governor Arthur, etc., etc., etc.

Sheweth,

That Your Excellency's Memorialist, having become subject to a verdict of the Supreme Court† of New South Wales for a sum of Money, which he considers was not warranted either by Law or Equity, was compelled to expose part of his Town Grant for Sale to discharge this claim.

I beg to refer if needful to the documents in possession of His Excellency.

† Note 59.