

**NEW SOUTH WALES.**

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**VOTES**

AND

**PROCEEDINGS**

OF

**THE LEGISLATIVE COUNCIL,**

DURING

**THE SESSION OF THE YEAR**

**1834,**

**WITH THE VARIOUS DOCUMENTS CONNECTED THEREWITH.**

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**Sydney,**

**RE-PRINTED BY W. W. DAVIES, GOVERNMENT PRINTING OFFICE, BENT-STREET.**

**1846.**

**MEMBERS**  
OF  
**THE LEGISLATIVE COUNCIL,**  
**1834.**

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**HIS EXCELLENCY THE GOVERNOR,**

**HIS HONOR THE CHIEF JUSTICE, . . .**  
**THE VENERABLE THE ARCHDEACON,**  
**THE HON. COLONEL KENNETH SNODGRASS, C. B.,**  
**THE HONORABLE THE COLONIAL SECRETARY,**  
**THE ATTORNEY GENERAL,**  
**THE CONTROLLER OF CUSTOMS,**  
**THE AUDITOR GENERAL,**

**ROBERT CAMPBELL, SENIOR, ESQ.,**  
**ALEXANDER BERRY, ESQ.,**  
**RICHARD JONES, ESQ.,**  
**JOHN BLAXLAND, ESQ.,**  
**EDWARD CHARLES CLOSE, ESQ.,**  
**HANNIBAL HAWKINS MACARTHUR, ESQ.**  
**ARCHIBALD BELL, ESQ.,**

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VOTES AND PROCEEDINGS  
OF THE  
LEGISLATIVE COUNCIL,  
1834.

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No. 1.

THURSDAY, 13 MARCH, 1834.

1. Council met pursuant to summons.—His Excellency the Governor took the Chair. *New Member Sworn. The Honorable Lieutenant-Colonel Kenneth Snodgrass, as senior Officer of His Majesty's Land Forces.* His Excellency then read the following Address:—

*Gentlemen of the Legislative Council,*

I have called you together at this time at the instance of their Honors the Judges, who have represented to me the necessity of remedying, by a Legislative enactment, an omission of the Police Magistrates of Sydney, in respect to the Jury Lists for this year. The Magistrates having omitted to frame the Lists in the month of January as required by law, it has become necessary that an Act of the Governor and Council should authorize their being prepared at a later period. The administration of justice has not, however, been hitherto impeded by the omission of the Magistrates, as the Act of the Governor and Council 2nd Gul. IV., No. 3, has provided that the Jurors' Book for the past year shall be in force until the Jury Lists for the year next ensuing shall be transcribed by the Sheriff into the Jurors' Book.

There is one other matter of importance connected with the administration of the law to which I have to call your early attention. I allude to the expediency of continuing the Act of the Governor and Council, 11 Geo. IV., No. 10, intituled, "*An Act to suppress robbery and housebreaking, and the harbouring of robbers and housebreakers,*" which expires on the 21st April. I need hardly recall to the recollection of this Council, the circumstances under which the Act was passed, nor observe to you that many of its provisions are of a nature so unprecedented in the law of England, and opposed to the liberty of the subject, that nothing but an entire conviction that the continuance of such a measure is absolutely required for the security of the lives and property of the Colonists, should induce you to prolong it. To guide your decision in this important matter, I have caused a Circular Letter to be addressed to the Commandant of the Mounted Police, and to the several Police Magistrates in the Colony, calling for their opinions as to the necessity for continuing the operation of this law. These opinions shall be laid before you, together with a Bill to prolong the Act for two years; and I shall leave it to your wisdom, and knowledge of the state of the Colony, assisted by the information which will be furnished to you, to adopt or reject it.

" RICHARD BOURKE."

2. His Excellency the Governor laid upon the Table, "*A Bill for giving further time to prepare and settle the Jury Lists for the District of Sydney, for the year one thousand eight hundred and thirty-four.*" Bill read a first time. Motion made and question put—That in conformity to the 11th Standing Order, providing for cases of emergency, this Bill be carried through its several stages at the present sitting.—*Passed without a division.* Bill read a second and third time, and passed.
3. His Excellency the Governor presented a Petition from certain of the Free Inhabitants of the Colony, praying the Revision of the Estimates of Expenditure for the year 1834, which His Excellency stated he had not received until after the close of the last Session of Council.—Petition to lie on the Table.
4. His Excellency the Governor laid upon the Table, "*A Return of the Number of Free Persons who have arrived in New South Wales from the 1st of January, 1829, to the 31st of December, 1833.*" To lie on the Table, and be printed.  
Council adjourned at two o'clock, until Thursday, the third of April, at twelve o'clock.

E. DEAS THOMSON, *Clerk of the Council.*

. RETURN



## No. 2.

TUESDAY, 8TH APRIL, 1834.

1. Council met pursuant to adjournment.—His Excellency the Governor took the Chair, and laid upon the Table the following Minute, which was read, together with the opinions of the Magistrates referred to therein :—

## MINUTE.

In conformity to the intention expressed at the last Meeting, I now lay before Council a Bill to prolong the duration of the Act 11 Geo. IV.; No. 10, and also lay before them the opinions of the Magistrates upon the expediency of adopting this measure at the present time.

The Council will perceive that, with but few exceptions, the necessity for renewing this enactment is clearly asserted by the Magistracy; a sentiment which, I presume, in accordance with public opinion, as whilst every possible notoriety has been given to the proposal for prolonging the duration of the Law, no Petition from any quarter has been presented against it. I have also to state, and feel great satisfaction in stating, that the Act does not appear to have operated oppressively or vexatiously, whilst the present immunity from those continued deeds of violence and rapine which the Law was first framed to check, is attributed by many of the Magistrates to the efficient character of its provisions.

Some of the Magistrates, it will be perceived, have proposed certain modifications of the existing Law; I have also reason to believe, should the Bill now laid before you be presented for registration in the Supreme Court, the Judges will deem it their duty to represent to the Governor, under the provisions of the 9th Geo. IV., cap. 83, that the proposed Law in several of its enactments is not in accordance with the Common or Statute Law of England. The Council, however, are aware that the same Act of the British Parliament which authorises the Judges to make such representations, enables the Council to determine in the last resort whether the Act which is objected to shall continue in force until His Majesty's pleasure be made known in regard to it. I have before intimated that nothing but a conviction that the Act is necessary for the security of His Majesty's subjects, should induce the Council to prolong it. Upon this ground, and this alone, can so wide a departure from the Law of England be justified.

If it shall be thought advisable to introduce any considerable modification of the Act, I recommend that it be continued in its present form only until the 31st July next, giving opportunity for considering the proposed amendments before the usual sitting of Council in June. If, on the other hand, it shall be thought proper to re-enact the Law as it now stands, it will be most convenient to prolong its duration to the 31st July, 1836.

RICHARD BOURKE.

2. His Excellency the Governor laid upon the Table "*A Bill further to continue an Act of the Governor, with the advice of the Legislative Council, passed in the eleventh Year of the reign of His late Majesty, intituled, 'An Act to suppress Robbery and House-breaking, and the harbouring of Robbers and Housebreakers.'*"

Bill read a first time.

Motion made and question put, That in conformity to the 11th Standing Order, providing for cases of emergency, this Bill be carried through its several stages at the present Sitting.—*Passed without a division.*

Motion made and question put, That the words "*thirtieth day of June, one thousand eight hundred and thirty-six*" be omitted, and that the words "*thirty-first day of August, one thousand eight hundred and thirty-four*" be inserted.—*Passed without a division.*

Bill read a second and third times and passed.

3. His Excellency the Governor laid upon the Table "*A Bill further to continue an Act of the Governor, with the advice of the Legislative Council, passed in the eleventh Year of the reign of His late Majesty, intituled, 'An Act for regulating the Slaughtering of Cattle, and for preventing the improper driving of the same through the Streets of Sydney, and for other purposes.'*"

Bill read a first time.

Motion made and question put, That in conformity to the 11th Standing Order, this Bill be carried through its several stages at the present Sitting.—*Passed without a division.*

Bill read a second and third times and passed.

Council adjourned at two o'clock, until Friday the thirtieth day of May next, at twelve o'clock.

E. DEAS THOMSON, Clerk of the Council.

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 OPINIONS

*OPINIONS of the Magistrates as to the expediency of prolonging the Act of the Governor and Council, 11th Geo. IV., No. 10, commonly called "The Bushranging Act."*

CIRCULAR,  
No. 34-9.

Colonial Secretary's Office,  
Sydney, 6th March, 1834.

GENTLEMEN,

I am directed by the Governor to point out to you that the Act of Council, 11 Geo. IV., No. 10, commonly called the Bushranging Act, expires on the 21st April next; and to inform you that His Excellency is desirous of obtaining the opinion of the Magistrates in your District, as to the necessity of renewing an Enactment, many of the provisions of which are of a description which he would not propose to the Legislative Council to prolong, if the security and protection of His Majesty's free subjects in this Colony should not appear to require it.

I have the honor to be,

GENTLEMEN,

&c., &c., &c.

(Signed)

ALEXANDER M'LEAY.

*List of the Benches, &c., to whom the foregoing Circular was addressed:—*

Benches of Magistrates.....	{ Bong Bong, Invermein, Liverpool, Lunley, Merton, Newcastle, Paterson, Penrith, Port Stephens, Williams River, Cawdor, Sydney.
Superintendents of Police .....	{ Parramatta, Windsor, Bathurst.
Police Magistrates.....	{ Maitland, Patrick's Plains, Wollongong, Goulburn, Campbell Town, Port Macquarie, Stonequarry.
Commandant of Mounted Police, Principal Superintendent of Convicts.	

*Police Office, Maitland,  
14th March, 1834.*

SIR,

We have the honor to acknowledge the receipt of your letter dated 6th instant, requesting the opinion of the Magistrates of this District as to the necessity for renewing the Act of Council 11 Geo. IV. No. 10, commonly called the Bushranging Act.

In reply, we beg to give our decided and unqualified opinion that the renewal of that Act is absolutely necessary for the good order and discipline of the prison population of this Colony, and for the security and protection of His Majesty's free subjects; facilitating, as it does, the detection and apprehension of runaways, and others guilty of serious offences.

We have the honor to be,

SIR,

Your most obedient Servants,

(Signed)

{ P. N. ANLEY, J. P., Resident Magistrate.  
{ H. MITCHELL, J. P.

THE HONORABLE THE COLONIAL SECRETARY,  
&c., &c., &c.  
SYDNEY.

*Police*

*Police Office, Port Stephens,  
14th March, 1834.*

SIR,

We have the honor to acknowledge the receipt of your circular letter of the 6th instant, No. 34-9, requesting that the Bench of Magistrates of this District would give their opinion as to the necessity of renewing the Act commonly called the Bushranging Act, or not.

In reply, we beg to inform you, for the information of His Excellency the Governor, that it is our opinion the Act cannot at present be dispensed with.

We have the honor to be,

SIR,

Your obedient Servants,

(Signed)

{ E. W. PARRY, J.P.  
R. G. MOFFATT, J.P.  
J. EDWARD EBSWORTH, J.P.

THE HONORABLE THE COLONIAL SECRETARY,  
&c., &c., &c.  
SYDNEY.

*Court House, Parrith,  
14th March, 1834.*

SIR,

We have the honor to acknowledge the receipt of your letter of the 6th instant, and in reply, beg leave to state, for His Excellency the Governor's information, that owing to the peculiar constitution of this Colony, we feel desirous to recommend a renewal of the Act of the Governor and Council of the 11th Geo. IV., No. 10, particularly as the powers it gives the Magistracy, have, in general, for years past, been used with much discretion.

At the same time we consider the clauses of the Act IV, VI, and VII, susceptible of considerable modification.

And we have the honor to be,

SIR,

Your most obedient servants,

(Signed.)

{ JOHN JAMISON, J.P.  
G. COX, J.P.

THE HONORABLE THE COLONIAL SECRETARY,  
&c., &c., &c.  
SYDNEY.

*Police Office, Sydney,  
17th March, 1834.*

SIR,

I beg leave to acknowledge the receipt of your letter of the 6th instant, which I have done myself the honor to communicate to some of the Magistrates of Sydney, who occasionally sit on this Bench, as well as to the two other Police Magistrates, each of whom, I have no doubt, will furnish you with their opinions, for the information of His Excellency individually, on the expediency of renewing the Act, &c. which appears to me to be the best way, in a case in which the question may be divided into several parts, and so involve many shades of opinion.

Before I state my own opinion, I would venture to say, that the Gentlemen of the interior are, perhaps, more competent to form an idea of the usefulness of the Act, on the whole, than the Magistrates of Sydney.

As for myself, I beg leave to say, that I think the present Act might be allowed to expire without producing any ill effect; but I must add, that some modification, or some other enactment, in lieu of certain clauses of it, would then be absolutely necessary.

In the Town of Sydney, where the prisoner population bears so great a proportion to the number of free inhabitants, the first and second clauses could not be dispensed with under the present circumstances, without great inconvenience, as it appears to me that Sydney would be inundated at all hours with prisoners of the Crown, whom the police would not venture to meddle with. In this respect alone, I think the good effects overbalance the evil arising from the operation of the Act, and the occasional inconvenience to which individuals are subjected by it.

I have the honor to be,

SIR,

Your most obedient humble Servant,

(Signed)

H. C. WILSON,

F. P. M.

THE HONORABLE THE COLONIAL SECRETARY,  
&c., &c., &c.

No. 378-34.

Sydney, 17th March, 1834.

SIR,

I have the honor to acknowledge your letter of the 6th instant, stating, "That you were directed by the Governor to point out to me that the Act of Council 11 Geo. IV. No. 10, commonly called the Bushranging Act, expires on the 21st April next, and to inform me that His Excellency is desirous of obtaining the opinion of the Magistrates as to the necessity for renewing an Enactment, many of the provisions of which are of a description which he would not propose to the Legislative Council to prolong, if the security and protection of His Majesty's free subjects in this Colony should not require it;" and in reply, beg to inform you that I consider the re-enactment of the Bushranging Act absolutely necessary for the protection and security of His Majesty's free subjects in the Colony. At the same time, I feel it necessary to state, that I think due restrictions should be placed on the constabulary in order to prevent their apprehending free persons upon frivolous and vexatious motives, under the cloak of exercising their official functions.

I have the honor to be,

SIR,

Your most obedient humble Servant,

(Signed)

T. WILLIAMS, Captain,

Commandant of Mounted Police.

THE HONORABLE THE COLONIAL SECRETARY,  
&c., &c., &c.

Sydney, 18th March, 1834.

SIR,

In reply to your letter of the 6th instant, addressed to the Magistrates of this Territory, a copy of which I have had the honor to receive, requesting my opinion as to the necessity of renewing the Act of Council 11 Geo. IV., No. 10, commonly called the Bushranging (or Housebreaking) Act, which expires on the 21st proximo, I beg leave to state, that I consider the renewal of that Act as essentially necessary for the protection of life and property, and the due discipline and effectual surveillance of the convict population of this Colony.

I am not prepared to say, that some of its enactments are not susceptible of modifications which would render them less obnoxious to the objections of those who, without apparently much considering the differences in circumstance and material of the population of both countries, compare them with the standards of English law; but however I may regret the necessity, I feel bound to declare my firm conviction that the leading principle of that Act, the arrest and interrogation of suspicious persons, and placing the *onus probandi* upon them, cannot be abandoned with safety.

No honest man, with *bond fide* purposes, can object to this, as none such will be molested by using a little precaution; and all should be prepared to admit the reasonableness of the restraints, which a peculiar state of things imposes in this *enlarged penitentiary*.

I have the honor to be,

SIR,

Your obedient servant,

FRED. A. HELY, J. P.

THE HONORABLE THE COLONIAL SECRETARY,  
&c., &c., &c.

Newcastle, Police Office,  
18th March, 1834.

SIR,

In reply to your Circular of the 6th instant, requesting our opinion of the Bushranging Act, we have the honor to state, for the information of His Excellency the Governor that we consider the first and second paragraphs of the Act indispensable, it being impossible for Magistrates to do their duty, unless the suspected person be obliged to prove himself free. The fifth paragraph might be dispensed with, and any of the others modified. Mr. Brooks, J. P., is of opinion the Act should be renewed in its present shape.

We have the honor to be,

SIR,

Your obedient servants,

(Signed)

{J. REID, J. P.

{JONATHAN WARNER, J. P.

THE HONORABLE THE COLONIAL SECRETARY,  
&c., &c., &c.

SYDNEY.

SIR,



*Bench of Magistracy at Invermeist,*  
19th March, 1834.

SIR,

We have to acknowledge the receipt of your Circular of the 6th instant, requiring our opinion as to the expediency of renewing the Act of Council commonly called the Bush-ranging Act.

In reply, we have the honor to inform you, that in our opinion the principles of the Act are indispensable to the security of the country. No less than six bushrangers have been brought before this Bench this day, not one of whom probably would have been apprehended but for the power conferred by this Act; and it also appears to us that except for the provisions contained in this Act, the Mounted Police would be a perfectly inefficient body.

We have the honor to be,

SIR,

Your obedient Servants,

(Signed) { JOHN BINGLE, J. P.  
                  } WM. DUMABESQ, J. P.

THE HONORABLE THE COLONIAL SECRETARY,  
&c.,                   &c.,                   &c.

*Police Office, Windsor,*  
20th March, 1834.

SIR,

In reply to your letter of the 6th instant, stating that His Excellency the Governor is desirous of obtaining the opinions of the Magistrates of this district as to the necessity of renewing the Act of Council, 11 Geo. IV., No. 10, commonly called the Bush-ranging Act, which will expire on the 21st April next, I have the honor to state, for the information of His Excellency the Governor, that it is the opinion of the four Magistrates named in the margin\* that the Act should be renewed, or at least so much of it as is comprised in the first, second, fifth, eighth, and ninth clauses.

Mr. William Cox, jun., dissents from this opinion, and considers the renewal of the Act unnecessary.

Mr. Bell, the only other Magistrate residing in this District, has not given any opinion on this subject.

I have the honor to be,

SIR,

Your most obedient Servant,

S. NORTH, J. P.,

Superintendent of Police.

THE HONORABLE THE COLONIAL SECRETARY,  
&c.,                   &c.,                   &c.

\* Samuel North, W. Cox, sen., W. Richardson, G. M. C. Bowen, Esquires.

*Police Office, Sydney,*  
21st March, 1834.

SIR,

I have the honor to acknowledge the receipt of your letter of the 6th instant, addressed to the Police Magistrates of Sydney, relative to the Act of Council, 11 Geo. IV., No. 10, commonly called the Bush-ranging Act, and requiring the opinion of the Magistrates as to the necessity of its further continuance.

In reply, I beg leave to report to you, for the information of His Excellency the Governor, that in the Town of Sydney, the Act in question has been very seldom called into operation, and I am not aware of any instance in which the enlarged powers therein given, have contributed to the detection and punishment of crime.

I am disposed to believe also, that the powers of this law have been but seldom applied in the country districts; and I think it will appear that throughout the Colony, few, if any, convictions have taken place under the Act in question.

The 5th clause of this Act, which gives a power of *general* search, may possibly have operated in preventing the commission of crime; but of this it would be difficult to adduce any positive proof.

The operation of the 2nd clause of the Act, has been of some utility in Sydney, and in the country I should conceive a power of this sort absolutely necessary, as a check upon runaway prisoners; but with this last exception, I have little diffidence in respectfully submitting it as my opinion, that in the present state of the Colony, there is no necessity, with a view to the objects stated in your letter, to prolong the law in question beyond the period at present fixed for its expiration.

I beg leave to add, that this opinion is mainly founded upon the operation of the law in this district; in the interior districts, circumstances, of which I am ignorant, may exist to give it a greater value.

I have the honor to be,

SIR,

Your most obedient humble Servant,

(Signed)

CHARLES WINDEYER.

Second Police Magistrate.

THE HONORABLE THE COLONIAL SECRETARY,  
&c., &c., &c.

*Police Office, Patrick's Plains,  
21st March, 1834.*

SIR,

I have the honor to acknowledge the receipt of the Circular, No. 34-9, dated 6th March, 1834.

And in obedience thereto, have consulted the Magistrates of this Bench, all of whom are of opinion that it is necessary to prolong the Act of Council, 11 Geo. IV., No. 10, for the security and protection of His Majesty's free subjects.

In which opinion I personally concur.

I have the honor to be,

SIR,

Your most obedient Servant,

(Signed)

CHARLES FORBES, J. P.

THE HONORABLE THE COLONIAL SECRETARY,  
&c., &c., &c.

*Court House, Parramatta,  
22nd March, 1834.*

We, Magistrates, residing in Parramatta district, having this day assembled for the purpose of taking into consideration the subject stated in the Colonial Secretary's letter of the 6th instant,—and the Act of Council, 11 Geo. IV. No. 10, being read over to us, we are of opinion, that for the security and protection of His Majesty's free subjects in this Colony, the above Act should be renewed, with exception of 6th and 7th sections, which we are of opinion should be modified.

(Signed)

W. LAWSON, J. P.  
GEO. THOS. PALMER, J. P.  
M. ANDERSON, J. P.  
S. WRIGHT, J. P.  
G. W. WALL, J. P.  
T. FORSTER, J. P.  
PERCY SIMPSON, J. P.

THE HONORABLE THE COLONIAL SECRETARY,  
&c., &c., &c.

*Stonequarry,  
24th March, 1834.*

SIR,

In reply to your Circular of the 6th instant, calling upon the Magistrates to give their opinion as to the necessity of renewing an Enactment 11 Geo. IV., No. 10, many of the provisions of which are of a description which His Excellency would not propose to the Legislative Council to prolong, if the security and protection of His Majesty's free subjects should not appear to require it.

I have the honor to state, for His Excellency's information, my opinion, that although at the time of the passing and renewing the Act in question, the state of the Colony might call for some strong measures to be adopted against the freedom of the subject; the again renewing the Act at this time must depend in a great measure upon the state of the Colony.

I think that the present state of this District, does not require those severe measures to be continued.

I have the honor to be,

SIR,

Your most obedient Servant,

(Signed)

H. C. ANTILL, Resident Magistrate.

THE HONORABLE THE COLONIAL SECRETARY,  
&c., &c., &c.

SIR,

Police Office, Bathurst.  
24th March, 1834.

Sir,

In conformity with the instructions conveyed in your Circular, No: 34-9, of the 6th instant, requesting me to obtain the opinion of the Magistrates of this district as to the necessity of continuing the Act of Council, commonly called the Bushranging Act; I have the honor to state, that having convened a meeting of the Magistrates on the 22nd instant, the Gentlemen assembled were unanimous in their opinion, that the security of His Majesty's free subjects requires its extension for two years longer, in consequence of the number of bush-rangers now at large in this district.

I have the honor to be,

Sir,

Your obedient Servant,

(Signed)

THOMAS EVEREDEN, J. P.;  
Superintendent of Police.

(No: 34-12.)

Police Office, Campbelltown,  
24th March, 1834.

Sir,

I have the honor, in reference to your Circular of the 6th March, 1834, No: 34-9, to state, that I caused copies thereof to be made and sent to the several Magistrates in this district, for their respective opinions on the policy of continuing the 11 Geo: IV., No: 10; commonly called the Bushranging Act, and as I receive their answers will do myself the honor of forwarding them.

The little knowledge I possess on this subject, as well as the general condition of the Colony, is derived merely from my having acted as a Police Magistrate for the short space of four months. When, therefore, I look at the importance of the question under consideration; and at my own inability to form a correct opinion thereon, I am bound to observe, that it is with reluctance I venture on so onerous a duty. No man values the liberty of the subject more than myself, but it is admitted as a truism, that the members of every civilized society, are bound to give up a certain portion of their freedom for the general welfare of the community, the amount of restraint to be imposed being invariably dependant upon the peculiar circumstances of that community.

The only question therefore is, whether in a country set apart for the reception of convicted felons, established as one large gaol in which certain parties make an agreement with the Government, upon certain conditions, to detain in custody these convicted felons; whether, then, it is necessary to put greater restraints upon the free inhabitants of that penal settlement; their voluntary or accidental residence; than are necessary in a country where every individual is by the ancient maxim considered innocent until found guilty; a maxim which in this Colony, however much it may militate against our feelings, and so long as the prison population can be met on the highways, undistinguishable from the general mass of the free inhabitants; must be, if not entirely reversed; greatly modified.

The grand question in considering the "Bushranging Act," is the annihilation or modified establishment of this very maxim—is the proof of being free to rest with the inhabitants of a penal settlement—or is every individual to be so considered until found the reverse. I have heard that some free persons have been inconvenienced by the operation of this Act, but I have made diligent inquiries, without success, for the proof of one act of oppression shielded by its provisions.

It appears by the last Census, that there are 4,303 more male convicts than free men in the Colony, the women and children I omit, as not bearing upon the subject submitted to my attention, and for many years this preponderance will obtain. While, therefore, the numbers of the bond, exceed so greatly those of the free, and while the prisoners have hourly the opportunity of escaping from the durance in which they have been placed, some means must be devised of ascertaining who are illegally, and who lawfully at large. If some means be not devised, if constables and Magistrates, whose duty it must be to apprehend and punish all criminals who have escaped from confinement, are not protected by some peculiar law adapted to the peculiar state of the existing society, and the mode of imprisoning its criminals, how will they venture to determine between the bond and the free? to render themselves liable for neglect of duty, on the one hand, and the consequences of false imprisonment on the other. At present it is only the *freed* and the *bond* who are required to obtain certificates of freedom and passes. England and America are the only countries in which persons have the unrestricted right of passing from one place to another. The locality of England is the reason, I apprehend, why the system of passports does not there prevail. The forced and affected abhorrence of the Americans to all restraint, or perhaps the absence of foreign nations, the reason they be not required in the States. I would then most respectfully suggest, that an Officer should be appointed, with power to grant on demand, to every free inhabitant of the Colony, a certificate of freedom or general passport. This Officer, in the event of his duties not fully occupying his time, might also act as one of the Police Magistrates of Sydney, and that to persons residing a certain distance from Sydney, these certificates should be granted on other certificates of the Police or Resident Magistrate, where no Police Magistrates have been appointed; and I would also further suggest, that the present manner of granting passes and certificates to the freed, should be continued, in order to remove any odium that might be erroneously attached to the procuring of such certificates as I have proposed.

It

It has been suggested to me, that the dress of every convict should be as distinguishable as possible; the trousers, for instance, of some conspicuous color, but any sudden regulation of this sort, by raising the price of clothing, would greatly injure the assignee; and another objection would be, its impracticability with respect to domestic servants.

The position I have taken up will shew that I am an advocate for the continuance of the Bushranging Act, modified certainly, and the means of protection given to the free inhabitants with that continuance, and which at present they do not enjoy.

Having made these general remarks, I will now consider the clauses of the Act *seriatim* and do myself the honor of offering such opinion thereon as occur to me.

I. The preamble I would of course alter; the necessity of the Act is certainly not founded upon the increase of bushranging, but upon the necessity of apprehending those illegally at large, and the great difficulty of ascertaining the fact of their being free or not; but I am of opinion that the right of arrest (on suspicion) should be confined to the constabulary and police.

II. In reference to the plan of general passports, I think the former part of this clause should remain; but if passports are adopted the latter becomes unnecessary, as enquiries might be made through the medium of the post; but if the power of forwarding to Sydney be retained, I would object to their being sent handcuffed unless resistance was made.

III & IV. I beg to submit, with respect, that there is no necessity for the re-enactment of these clauses. If there be reason to suppose any person illegally at large, he could be apprehended on that ground, and the fact of carrying arms, when for protection so universal a custom prevails, is not a sufficient reason in itself for compelling a free man to prove that he did not intend to commit a robbery.

V. This clause I regard most jealously; it is one repugnant in toto to every principle of British Law, and can only be justified by the direst necessity. It may be made the instrument of so much petty tyranny that I am doubtful if ever it has or would be acted upon, and therefore I cannot give an opinion in favor of its continuance in its present shape. Certificates of freedom would, however, afford protection to the inmates; but certainly not until demand or refusal of entry ought constables to have the power of breaking into any man's house, and they surely ought not have the right of taking possession of any goods and chattels unless a suspected person was found beneath the roof. In considering this clause I have also borne in mind that heavy penalties are by another law imposed upon the harbourers of convicts.

VI. I humbly submit that this clause should be expunged as unnecessary and sanguinary; it is the certainty and not the severity of punishment that can ever become an effectual barrier against the commission of crime.

VII. The observations I have ventured to offer upon the clauses III. and IV. apply here, and it is to be recollected that convicts in the possession of fire arms are punishable under 3 Wil. IV., No. 3.

VIII. I am of opinion should stand.

IX. Although I would certainly claim for myself, and all persons administering the laws of their country, a fair protection, I would not by any enactment impose or imply restraint upon any individual feeling himself aggrieved, and therefore if a plaintiff failed I would not make him liable for *treble costs*; but, on the other hand, where a Magistrate or Constable did not act maliciously I would protect him, leaving it to the jury to determine the fact.

In conclusion I have the honor to observe, that I think in a penal settlement every inhabitant should be liable to prove that he is free, and that he should have readier means of so doing than he in this Colony now possesses; but my experience is so very limited that it is only in the execution of a duty I have ventured to offer opinions upon so important a question—a question too daily becoming more important as the Colony increases in its population and prosperity.

I have the honor to be,  
Sir,

Your most obedient humble servant.

(Signed) ROBERT STEWART, J. P.  
Police Magistrate.

THE HONORABLE THE COLONIAL SECRETARY,  
&c., &c., &c.

Police Office, Merton,  
25th March, 1834.

SIR,

We had the honor to receive your Circular; No. 34-D, of the 6th March, and in reply we beg to state—

That we have found the Act in question very useful on many occasions, and that no case has come within our knowledge in which any individual has been injured or inconvenienced by it; and it is our opinion that it would not be expedient, at present, to allow the Act to expire.

We have the honor to be,

SIR,

Your most obedient Servants,

(Signed) } GREGORY BLAXLAND, J. P.  
                  } WILLIAM OGILVIE, J. P.

THE HONORABLE THE COLONIAL SECRETARY,  
&c., &c., &c., SYDNEY.

SIR,

*Police Office, Liverpool,  
26th March, 1834.*

SIR,

In reply to your Circular of the 6th instant, No. 34-9, we have the honor to acquaint you, for the information of His Excellency the Governor, that in our opinion it is expedient to renew the Act of Council 11 Geo. IV. No. 10, commonly called the Bushranging Act. In this District we have found the first and second sections particularly useful and necessary.

We have the honor to be,

SIR,

Your most obedient Servants,

(Signed) { THOMAS MOORE, J. P.  
ALEXANDER KINGHORNE, J. P.  
PATRICK HILL, J. P.

THE HONORABLE THE COLONIAL SECRETARY,  
&c., &c., &c.

*Police Office, Sydney,  
27th March, 1834.*

SIR,

I do myself the honor to enclose for the information of His Excellency the Governor, the opinions of the Magistrates who met this day at the Police Office pursuant to adjournment, for the purpose of considering the expediency of a re-enactment of the 11th Geo. IV., No. 10, from which His Excellency will perceive that the Magistrates who attended the meeting are not aware of any instances of oppression under the Act, which could outweigh its advantageous effects in the Colony in its present state and circumstances.

I have known but few instances where much inconvenience has arisen from its operation. But Sydney certainly is not the place where the inconvenience (if any) would most appear, and as this was also the opinion of the other Magistrates assembled, they seemed to agree in what I said in my former letter on this subject, that as to many of the clauses, the Country Gentlemen had better opportunities of forming a correct judgment than those of Sydney.

If the Act should be renewed, I think it very possible that arrangements might be made to remove many of its inconveniences, but it would perhaps be going beyond what His Excellency desires, if I were not to confine myself to the question of the renewal, or not, of the Act of Council.

I have the honor to be,

SIR,

Your most obedient humble Servant,

H. C. WILSON, J. P.,  
F. P. M.

THE HONORABLE THE COLONIAL SECRETARY,  
&c., &c., &c.

*At a Meeting of the Magistrates for the District of Sydney, holden at the Police Office, this twenty-seventh day of March, 1834, assembled for the purpose of taking into consideration and giving their opinions on the expediency of renewing the several provisions of the Act of Council, 11 Geo. IV., No. 10, commonly called the Bushranging Act.*

Present—H. C. WILSON, Esq., J. P. in the Chair;

J. B. BETTINGTON, Esq., J. P. ;  
THOMAS WALKER, Esq., J. P. ;  
JOHN NICHOLSON, Esq., J. P. ;  
WILLIAM MACPHERSON, Esq., J. P.

It is the opinion of the Meeting that under circumstances which still exist in this Colony, and in a state of society such as must for some time exist here, it is expedient that the Act 11 Geo. IV. No. 10, dated 23rd April, 1830, should be re-enacted with the following amendments; viz. :—

In the 5th section, that the words "on oath," be inserted in the second line after the words "credible information," and the words "admittance having been demanded, refused, or delayed," be inserted after the word "District," in the eleventh line.

This opinion is given in the absence of any information tending to shew that this Act has been found oppressive to individuals, or that the advantage to the public arising from these enactments is overbalanced by inconvenience to private persons.

(Signed) H. C. WILSON, F. P. M.,  
Chairman.

SIR,

Lumley, Argyle,  
28th March, 1834.

SIR,

With reference to your letter of the 6th instant relative to the necessity of renewing an Act of Council, 11 Geo. IV., No. 10, commonly called the Bushranging Act.

I do myself the honor to acquaint you, for the information of His Excellency the Governor, that I consider the said Act requires to be renewed, to prevent the lawless and ill-disposed from endangering the lives and property of His Majesty's free subjects in this Colony.

I have the honor to be,

SIR,

Your most obedient Servant,

ROBERT FUTTER, J. P.

THE HONORABLE THE COLONIAL SECRETARY,  
&c., &c., &c.

Caudor, 31st March, 1834.

SIR,

We have the honor to acknowledge the receipt of your letter of the 6th instant, calling upon us, at the instance of His Excellency the Governor, for our opinion as to the necessity for renewing a certain Act of Council, commonly called the Bushranging Act, now about to expire. In compliance with such invitation, we beg leave to state, that it is our decided opinion, that in the absence of the abovementioned Act, the police would find it impossible to perform their duty, and that the safety of His Majesty's free subjects in this peculiarly circumstanced Colony, most imperatively requires its renewal.

We further beg leave to state, that whilst we have every reason to believe that the comparative freedom from bushranging for some time past, and at present enjoyed in this district, as well, we understand, as throughout the Colony, is principally to be attributed to the existence of this Act, we have never, since its first coming into force, known any instance arising out of it of individual hardship or oppression, nor of the powers vested by it in the police having been wantonly or improperly exercised.

We have the honor to be,

SIR,

Your most obedient Servants,

(Signed)

{ JAMES M'ARTHUR, J. P.  
WILLIAM M'ARTHUR, J. P.  
GEORGE M'LEAY, J. P.

THE HONORABLE THE COLONIAL SECRETARY,  
&c., &c., &c.

Police Office, Goulburn,  
5th April, 1834.

SIR,

I have the honor to acknowledge the receipt of your Circular, dated 6th March, 1834, No. 34-9, pointing out to me, by direction of the Governor, that the Act of Council, 11 Geo. IV., No. 10, commonly called the Bushranging Act, expires on the 21st April next, and to inform me that His Excellency is desirous of obtaining the opinion of the Magistrates of my district as to the necessity for renewing an enactment, many of the provisions of which are of a description he would not propose to the Legislative Council to prolong, if the security and protection of His Majesty's free subjects of this Colony should not appear to require it.

In answer, I do myself the honor of informing you, that having maturely and attentively considered of the expediency of renewing the Act in question, I am of opinion that its continuance is still necessary; and having consulted five of my brother Magistrates of this district, they unanimously agree with me.

Mr. Futter is the only gentleman in the Commission of the Peace whom I have not been able, as yet, to consult, but shall not fail in communicating his sentiments on the subject, by the earliest opportunity.

I have the honor to be,

SIR,

Your most obedient humble Servant,

(Signed)

F. ALLMAN, J. P.

Police Magistrate,

THE HONORABLE THE COLONIAL SECRETARY,  
&c., &c., &c.

## No. 3.

FRIDAY, 30 MAY, 1834.

1. Council met pursuant to adjournment, His Excellency the Governor in the Chair.  
New Member sworn—John George Nathaniel Gibbes, Esquire, Collector of Customs.
2. His Excellency the Governor then read the following Address:—

*Gentlemen of the Legislative Council,*

The period of this year having arrived at which I am commanded by His Majesty to lay before you the Estimates of the Expenditure for the next, I propose at the same time to bring under your consideration such legislative enactments as the circumstances of the Colony appear to require. The following are the principal matters which seem to claim present attention.

A Bill "*for removing doubts respecting the rate of interest which may be recovered in any action or suit in any Court in this Colony,*" was introduced in the Session of last year. The Bill was brought in upon the application of the Council, in a Resolution passed unanimously, and recommending that the amount of interest to be recovered should be stated at a rate not higher than eight per cent. The Bill was read a first time, but its further progress was purposely delayed, on the ground that a measure of such importance to the landed and commercial interests of the Colony required much deliberation, and that by allowing it to stand over till the ensuing Session, some additional information might be elicited as to its probable effect. The subject has since engaged the attention of Government, and after giving due consideration to what has been advanced either for or against the Bill, it is presented for your adoption in the same terms as recommended by the Council in the last year.

The solemnization of Marriages within the Colony by Ministers of the Church of Scotland, and of the Church of Rome, requires the sanction and regulation of a law expressly applicable to the subject. It was found necessary, in the year 1818, to pass an Act of the British Parliament to regulate in India a matter of so much importance to the peace and happiness of families. A Bill, resembling in its provisions the Act for India (58 Geo. III., cap. 84,) which has been found efficient and convenient in operation, will be laid before you.

I have lately had occasion to call your attention to the Colonial Act of the Governor and Council (11 Geo. IV., No. 10,) for suppressing Robbery and Housebreaking. The Council then considered the necessity for renewing the Act to be clearly established by the Reports from the Magistracy laid upon your Table, but extended the duration to 31st August only, with the view in the mean time of maturely weighing whether any, and what alterations might be effected in its enactments, to remove as far as should be found practicable, without defeating the purpose of the law, the objection made to it by the Judges on account of its repugnancy to the law of England. A Bill will now be laid before you, modifying some of the provisions of the 11 Geo. IV., No. 10, and asserting the necessity for its enactment in terms more suited to the present comparatively tranquil state of the Colony, than those which are found in the preamble of the Act now in force. Whilst it must be admitted, however, that the necessity of the case can alone justify the Council in passing a law at variance with the law of England, it should be borne in mind that the state of society in this Colony, so widely different from that of the Mother Country, does not permit a perfect similarity in its laws to be at all times preserved. If it be alleged that the provisions of the Colonial Act against Bushranging are altogether dissimilar to the law of England, it must be also allowed that there have been periods at which, by the repeal of the *Habeas Corpus* Act, and by other restrictive measures, the state of the law in England has varied essentially from its ordinary free character. It cannot then be said to be repugnant to the English Constitution to enact laws restricting the usual liberty of the subject when the public safety demands the innovation. In the present mixed state of the population of New South Wales, it is required to give ample protection to His Majesty's free subjects, although, in order to afford this protection, it is at the same time necessary to subject them to a restraint unknown to the ordinary administration of English law. This necessity is now declared to exist, and will exist, in some degree or other, as long as the population of this Colony continues to be of this mixed description. The Bill now to be presented varies little from that which it is intended to replace. I recommend its being sent to a Sub-committee for report.

Bills providing for the Apprenticeship of Children in the Orphan Schools; for amending the Act establishing Courts of Quarter Sessions; for continuing with amendments the Act for regulating the Slaughtering of Cattle; and some others for objects equally necessary, will be laid before you.

A change has taken place since the Session of Council in the last year, in the Colonial Church Establishment, by the dissolution of the Church and School Corporation. The lands which had been granted by the Crown under Seal to the Corporation, have reverted to His Majesty, subject to mortgages and contracts for sale, to be held and applied in such manner as shall appear to His Majesty most conducive to the maintenance and promotion of religion, and the education of youth in the Colony. A return of these lands will be laid on the Table. I propose to appropriate the income which is now obtained from them to discharge, in part, the expenses of the Orphan Schools. The lands will in process of time, produce a considerable revenue, and may, under prudent management, contribute largely, at no distant period; to the purposes for which they have been resumed by the Crown. These purposes embrace the general education of the people of the Colony—a measure of vast importance, and which, since the dissolution of the Corporation, has been brought under the consideration of His Majesty's Government. In the mean time, whilst a more comprehensive arrangement is pending, the Council will, I trust, enable this Government to keep up all those Schools which the Corporation established, and will extend their aid to such others as it may be found useful to originate. The support of the Clergy and Churches will require to

to be provided for, as heretofore, from the Revenues of the Colony. Some legal difficulty having been experienced in calling in sums due to the late Corporation, and in taking possession of their chattels, a Bill will be laid before you to empower the Agent for the Crown to act in these respects.

Some progress has been made during the last twelve months in the public works, for which the Council provided funds. On the roads to the southern and western parts of the Colony a considerable portion of difficult labour has been executed. About one-third of a new line of road from the Green Hills, on the River Hunter, to Maitland has already been completed, and contracts have been made for opening and clearing the whole line of road from Maitland to the Upper Hunter, which work is now in progress. In the Streets of Sydney, adjoining Darling Harbour, some very striking improvements have been effected, and others of still greater importance and magnitude are in contemplation in the same quarter. Measures are in progress for opening the new Streets on the Surry Hills. The improvement of the navigation of the Parramatta River, and the erection of a commodious wharf at that town, are nearly completed. Some of these works have not, indeed, proceeded with the rapidity which is desired, but which it is hardly reasonable to expect in a Colony of recent date, where contractors are rarely to be met with, and where their place is inadequately supplied by forced labour. It has been thought right also to avoid raising the price of labour, by yielding to extravagant demands for the service of Government, and thus rendering more difficult a beneficial expenditure of private capital. All these causes tend generally to retard the progress of the public works of this Colony. Their state will be more fully detailed in laying before you the Estimates for the ensuing year, and some new works will be proposed for which funds are required.

The maintenance of a sufficient Police in the Colony has engaged the attention of Government, and considerable additions have been made to this force, both in Magistrates and Constables, during the last year. A Return will be laid on your Table, showing the gross number of Police Magistrates and Constables in the Country Districts, with the annual charge for the same in the last five years, ending with the 31st December, 1833. By this it will be perceived that an extensive reduction in the number of Constables, and consequently in the charge for their maintenance, took place in 1831, under a former administration of this Government. The number to which the Constabulary was then reduced having been since represented by several of the Magistrates as too low for the duty of their respective districts, additions have been made in the last two years to a considerable extent. The call for this augmentation to the civil force has been occasioned partly by the great increase of population, both free and bond, within the last two years, and partly by the dispersion of the former, who having obtained and located land in the remote parts of the Colony, indulge an expectation, that the same protection to persons and property, and the same active administration of the law, which is attainable in populous districts, will be extended to these distant places, where no organised civil force has hitherto subsisted, and where the expense of protection, as compared with the numbers to be protected, must be in a greatly augmented ratio. Notwithstanding the additions of the last two years, the call for an increased civil force has not yet ceased, and being occasioned in a great degree by the measures adopted by the Colonists themselves in a successful pursuit of wealth, and by the general augmentation of the free population of the Colony, it seems but proper that the expense which is thus occasioned should be defrayed from the Colonial Revenue. The time has not yet arrived in which it may be practicable to raise in each county the funds necessary to maintain its required civil force; it will therefore be for the Council to enable the Government to make such further augmentation as shall appear necessary, by appropriating a larger sum in aid of the Police Force of the Colony than has been granted in former years.

Considerable additions have been made to the Sydney Police, required by the increasing population of the Town, and the consequent erection of buildings over a large area. A return of the strength of the Sydney Police, with the annual charge for the same for the last five years, will be laid on the Table.

I have directed to be laid before you a Report from the Missionaries established at Wellington Valley. It conveys a brief account of their proceedings for the last year. If it raises no sanguine expectation of the future civilization of the Aborigines through the Mission, it at least affords no grounds for despair. I need hardly add, it is the duty of the Colonists to attempt, by every probable means, the improvement, moral and physical, of these people. It is painful to notice the acts of violence which the Missionaries represent to be perpetrated against them by the stockmen and others residing on the remote frontiers of the Colony. This Government has used, and will continue to use, all legal means for the suppression of such crimes, and the protection of the Aborigines.

The Estimates for the year 1835 will be laid before you. An Abstract of the Revenue and Expenditure for the last year is now prepared. The unprecedented prosperity of the Colony, attributable under Providence to the exertions and industry of the Colonists, affords matter for general congratulation. The Revenue has been productive beyond any former experience. Trade and Agriculture are flourishing; capital is expending in various ways upon objects producing a profitable return, whilst the arrival of free Emigrants from Great Britain, in greatly augmented numbers, strongly indicates the rising reputation of this infant country.

RICHARD BOURKE.

30th May, 1834.

3. His Excellency the Governor laid upon the Table, "A Bill for removing doubts respecting the Rate of Interest which may be recovered in any Action or Suit in any Court in this Colony." Bill read a first time; to be printed, and read a second time on Wednesday next.

4.



4. His Excellency the Governor laid upon the Table, "*A Bill to remove doubts as to the validity of certain Marriages had and solemnized within the Colony of New South Wales.*" Bill read a first time; to be printed, and read a second time on Wednesday next.
  5. His Excellency the Governor laid upon the Table, "*A Bill for apprenticing the Children of the Male and Female Orphan Schools in the Colony of New South Wales.*" Bill read a first time; to be printed, and read a second time on Wednesday next.
  6. His Excellency the Governor laid upon the Table, "*A Bill to amend an Act of the Governor and Council, intituled, 'An Act for instituting Courts of General and Quarter Sessions in New South Wales.'*" Bill read a first time; to be printed, and read a second time on Thursday next.
  7. His Excellency the Governor laid upon the Table, "*A Bill for adopting and applying a certain Act of Parliament for rendering a Written Memorandum necessary to the validity of certain Promises and Engagements.*" Bill read a first time; to be printed, and read a second time on Thursday next.
  8. His Excellency the Governor laid upon the Table, "*An Abstract of the Revenue of the Colony of New South Wales, (exclusively of the Revenue arising from Crown Lands,) and of its appropriation, for the year 1833.*" To be printed.
  9. His Excellency the Governor laid upon the Table, "*A Report of the Mission to the Aborigines of New Holland,*" dated the 14th December, 1833. To be printed.
- Council adjourned at half-past one o'clock, until Wednesday next, at twelve o'clock.

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### ORDERS OF THE DAY.

WEDNESDAY, JUNE 4.

1. Interest Bill; second reading.
2. Marriage Bill; second reading.
3. Orphan Apprenticing Bill; second reading.

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THURSDAY, JUNE 5.

1. Quarter Sessions Amendment Bill; second reading.
2. Written Engagement Bill; second reading.

E. DEAS THOMSON, *Clerk of the Council.*



## REVENUE arising from Crown Lands) and of its APPROPRIATION, for the YEAR 1833.

DISBURSEMENTS.	Salaries and Allowances.	Contingencies.	Amount under each Head.	TOTAL.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
<b>CIVIL.</b>				
His Excellency the Governor . . . . .	5,000 0 0	.	5,000 0 0	
Private Secretary and Establishment . . . . .	331 18 9	2 8 6	334 7 3	
Executive and Legislative Councils . . . . .	789 18 2½	16 13 4	806 11 6½	
Colonial Secretary's Department . . . . .	4,918 11 11	46 14 3	4,965 6 2	
Surveyor General { Survey Department . . . . .	8,618 8 3	3,547 5 9½	12,165 14 0½	
{ Road Branch . . . . .	3,884 7 11	5,411 3 7	9,295 11 6	
{ Colonial Architect's Branch . . . . .	712 15 0	275 19 1	988 14 1	
Commissioners for determining on Grants of Land, from 1st November . . . . .	30 16 1½	.	30 16 1½	
Board for the Assignment of Servants . . . . .	248 5 10	.	248 5 10	
Colonial Treasurer's Department . . . . .	1,295 12 6	.	1,295 12 6	
Auditor General's Department . . . . .	1,394 11 7	0 18 0	1,395 9 7	
Department of the Customs . . . . .	4,931 7 9	933 11 9½	5,864 19 6½	
Department of Internal Revenue . . . . .	985 12 6	343 19 1	1,329 11 7	
Post Office Establishment . . . . .	898 11 10	1,072 15 3½	1,971 7 1½	
Department of the Surveyor of Distilleries . . . . .	450 0 0	.	450 0 0	
Inspector of Slaughter Houses, and Cattle slaughtered . . . . .	196 19 10	30 1 0	227 0 10	
Mineral Surveyor's Department . . . . .	623 8 9	1,078 8 11½	1,701 17 8¼	
Colonial Botanist's Department . . . . .	303 5 1	500 2 4	803 7 5	
Government Domain, Parramatta . . . . .	90 5 4	403 10 10	493 16 2	
Harbour Master's Department. { Sydney . . . . .	500 0 0	209 3 1½	709 3 1½	
{ Port Macquarie . . . . .	127 17 6	55 7 2½	183 4 8½	
{ Light House, South Head . . . . .	80 0 0	142 2 0½	222 2 0½	
{ Beacon at Newcastle . . . . .	.	67 18 6	67 18 6	
{ Telegraph Stations . . . . .	55 14 9	162 4 1½	217 18 10¼	
British Resident at New Zealand . . . . .	413 1 4	.	413 1 4	
Pensions paid in the Colony . . . . .	1,169 15 0	.	1,169 15 0	
Pensions payable in England . . . . .	.	.	.	
Colonial Agent . . . . .	.	.	.	
	38,051 5 9	14,300 6 10		52,351 12 7
<b>JUDICIAL.</b>				
Judges of the Supreme Court . . . . .	5,000 0 0	359 17 0	5,359 17 0	
Crown Law Officers, and Supreme Court Office . . . . .	4,960 9 0	103 18 9	5,064 7 9	
Quarter Sessions, and Clerk of the Peace . . . . .	900 0 0	370 7 2	1,270 7 2	
Courts of Requests . . . . .	2,164 13 6	409 17 5	2,574 10 11	
Sheriff's Department . . . . .	1,806 18 9	.	1,806 18 9	
Coroners . . . . .	340 0 0	499 7 3	839 7 3	
	15,172 1 3	1,743 7 7		16,915 8 10
<b>CLERGY AND SCHOOLS.</b>				
Advances to the Trustees of the Clergy and School Lands . . . . .	.	.	8,720 0 0	
Episcopal Church Establishment, from 1st August . . . . .	3,950 7 2	1,090 13 11½	5,041 1 11½	
Episcopal School ditto ditto . . . . .	1,093 10 0½	547 1 3½	1,640 11 4¼	
Presbyterian Clergy . . . . .	550 0 0	.	550 0 0	
Roman Catholic Clergy . . . . .	513 3 4½	18 14 5¼	531 17 10¼	
Roman Catholic Schools . . . . .	65 7 9	261 2 3	326 10 0	
	6,172 8 4	1,917 12 0		16,810 0 4
<b>MILITARY.</b>				
His Excellency the Governor's Body Guard . . . . .	110 7 9	273 18 5½	384 6 21½	
Superintendent of Ordnance Stores . . . . .	100 0 0	.	100 0 0	
Commandant of the Military District, { Parramatta . . . . .	45 7 6	.	45 7 6	
{ Bathurst . . . . .	45 12 6	.	45 12 6	
	301 7 9	273 18 5½		575 6 21½
			Amount carried forward.....£	86,652 7 11½

*ABSTRACT, continued.*

RECEIPTS.	TOTALS.
<p style="text-align: right;"><i>Amount brought forward.....£</i></p>	<p>138,719 4 1</p>
<p style="text-align: right;"><i>Amount carried forward.....£</i></p>	<p>138,719 4 1</p>

ABSTRACT, continued.

DISBURSEMENTS.		Amount under each Head.	TOTALS.	
Amount brought forward		.	86,652 7 11½	
MISCELLANEOUS.		£ s. d.		
Colonial Secretary.	Allowance to the Honorable Alex. M'Leay, in fulfilment of an Agreement with the Secretary of State	750 0 0		
Housekeeper of the Public Offices in Macquarie-street, Sydney		25 0 0		
Customs.	Drawbacks	176 6 4	2,460 16 0	
	Duty on Spirits issued to Troops, refunded	2,269 8 6		
	Other Duties, and Wharfage, returned	15 1 2		
Internal Revenue.	Revenue refunded	2 18 2		
Supreme Court.	Allowances to Witnesses for Travelling and Attendance	1,998 1 6	2,647 8 10	
	Allowances to Officers for serving as Jurors	417 15 0		
	Allowances to Special Jurors	53 10 8		
	Allowances to Common Jurors	135 0 8		
	Law Expenses on Special Prosecutions for Perjury.	43 1 0		
Quarter Sessions.	Allowances to Witnesses for Travelling and attendance	261 12 5	1,383 6 10½	
	Allowances to Officers for serving as Jurors	383 5 0		
	Allowances to Common Jurors	48 6 0		
	Allowances to Officers for Travelling Expenses	690 3 5½		
PUBLIC BUILDINGS.				
Surveyor General's Department.	To complete the Payment of the Contract for erecting the South-west Market-shed, Sydney	938 6 10	2,205 0 2	
	Full Amount of the Contract for erecting the North-west, ditto	1,266 13 4		
	In Payment of the Contract for completing the Roof and Flooring of the Roman Catholic Chapel, Sydney	340 0 0		
	Land in Parramatta for the Site of the King's School	300 0 0		
	Erecting a Pound at Campbell Town	10 0 0		
	Erecting a Post Office at Goulburn	5 0 0		
	Additions, Alterations, and Repairs to Government Houses, Courts of Justice, and other Colonial Public Buildings	652 6 1½		
	ROADS, BRIDGES, AND STREETS,			
	Iron and Brass Work for 6 Cranes and 2 Winches	110 0 0	231 6 5½	
	Iron, Tar, and Pitch, for Bridges	97 16 5½		
	Bricks and Lime for Drains	23 10 0		
	Materials, Painting and Fixing 362 Boards, with the Names of the several Streets in Sydney	63 5 9		
	Fencing Woolloomoolloo Road and Sydney Common	72 4 0		
	Land in Sydney surrendered to Government for the Prolongation of Jamison-street	60 0 0		
	Breakwater at Newcastle	99 0 7		
	Forty Coffins supplied on the Requisition of the Coroner	18 0 0		
	Police.	Amount of Publicans' Licenses for the Year commenced the 1st July, 1833, paid to the Deputy Commissary General, agreeably to Act of Council, No. 8, of the 22nd August, 1833; in reimbursement of a portion of the Police Expenses, defrayed by him	9,037 10 0	9,050 0 0
Amount paid for 50 Brass Badges for licensed Boatmen and Porters, pursuant to Act of Council, No. 7, of 6th August, 1833		12 10 0		
Stationery and Bookbinding for the several Colonial Departments	597 0 5			
Printing, including Gazettes and Almanacks for ditto	548 17 0			
Furniture and Repairs of ditto for the several Colonial Departments	465 8 2½			
Fuel and Light for the several Colonial Public Offices, including conveyance of the same.	127 6 7½			
Lighting 102 Public Lamps in the Streets of Sydney	275 8 6			
Amount paid for Copies and Models of the Standard Weights and Measures, and Carriage of the same to the several Country Districts, pursuant to Act of Council, No. 4, of the 24th August, 1832	323 11 6			
CENSUS. Remuneration to Clerks, and Persons employed in collecting the Returns of the Population under Act of Council, No. 2, of the 9th July, 1833	360 2 6			
Expenses of subjecting the Ship <i>Prince Regent</i> to the performance of Quarantine at Spring Cove, pursuant to Act of Council, No. 1, dated 28th July, 1832	72 15 0			
Compensation to the Owner of the <i>Governor Bourke</i> , for loss of Freight and Time while in search of the Horse-boat <i>Experiment</i>	20 0 0			
Carried forward.....£		23,166 2 8		
Amount carried forward.....£			86,652 7 11½	

*ABSTRACT Continued.*

RECEIPTS.	TOTALS.
<p style="text-align: right;"><i>Amount brought forward.</i> . . . . . £</p> <p style="text-align: right;">BALANCE as per ABSTRACT for the YEAR 1833. . . . . £</p>	<p style="text-align: right;">138,719 4 1</p> <p style="text-align: right;">9,000 0 0</p>
<p>TOTAL. . . . .</p>	<p>£ 147,719 4 1</p>

## ABSTRACT, continued.

DISBURSEMENTS.		Amount under each Head.	TOTALS.
<i>Amount brought forward.</i>		.	86,652 7 11½
<b>MISCELLANEOUS—Continued.</b>			
<i>Brought forward.</i>		£ 23,166 2 8	
Aborigines ..	In part of the Sum of £500, voted towards the Mission to the Aborigines for the Year 1833	350 0 0	} 690 13 1
	Donations of Provisions, Blankets, and Clothing to Aborigines	340 13 1	
New Zealand.	Material for Building a House at New Zealand for the British Resident, including Freight of the same; pursuant to Instructions from the Right Honorable the Secretary of State for the Colonies	350 16 10½	} 561 7 4½
	Cost of 15 Suits of Clothing and other Articles for Chiefs and Natives, including the Freight of the same	171 18 0	
	Cost of a Boat, Mast, and Yards, &c. complete for the use of the Resident	30 0 0	
	Cost of an Escutcheon, and Seal for ditto	8 12 6	
Amount of Arrears for the Service of the Year 1832, and previous Years		{ Salaries £ 118 7 8 Contingencies 785 19 1½ }	{ 904 6 9½ }
		£	111,974 17 10½
Amount paid the Trustees of the Scots' Church, to complete the Loan of £3,500, towards the Erection of the Australian College			2,000 0 0
Reimbursement of the Salary Saving Fund, which had accrued from the Moiety of Half-Salary to M. C. Cotton, Esquire, Collector of Customs, while absent on Leave; it having been decided by His Majesty's Government, that the Salaries of Officers of Customs are not subject to stoppage, when so absent			312 10 0
<i>Amount of Sums Appropriated by the Legislative Council remaining to be Expended and Charged, viz:—</i>			
VOTED FOR 1832.			
For bringing out to the Colony Female Farm Servants, Mechanics, and Labourers		4,795 15 3½	
Constructing a New Market and Market-house, Sydney		1,019 19 10	
For the Erection of a Parsonage at Goulburn		500 0 0	
For the Erection of School-houses at Appin and Menangle Ford		169 15 0	
Towards completing the Roman Catholic Chapel, Sydney		120 0 0	
Cost of Stationery provided in England by the Colonial Agent		768 8 3	
Colonial Agent's Salary for 1832		400 0 0	
Pensions payable in England		811 5 0	
BALANCE of Vote of Credit for 1832		256 5 9½	
		£8,841 9 2½	
VOTED FOR 1833.			
Building Bowler's (now Lansdowne) Bridge		1,083 5 1	
Constructing a Bridge at Monangle Ford		1,200 0 0	
For the Corn and Hay Market, Sydney		712 13 2	
Towards the completion of the Breakwater, Newcastle		400 19 5	
Building Chapels at Bathurst, Goulburn, and Patrick's Plains.		500 0 0	
Building the King's School, Parramatta		1,200 0 0	
In aid of the Mission to the Aborigines		83 6 8	
Cost of Stationery purchased in England by the Colonial Agent		602 19 7	
Colonial Agent's Salary for 1833		400 0 0	
Pensions payable in England		720 0 0	
BALANCE of Vote of Credit for 1833		1,152 13 0	
		£8,055 16 11	
			16,897 6 1½
<b>TOTAL CHARGE</b>			£ 181,184 14 0
<b>BALANCE available for future disposal</b>			£ 16,534 10 1
<b>TOTAL</b>			£ 147,719 4 1

*REPORT of the Mission to the Aborigines of New Holland.—  
Station; Wellington Valley.*

The Missionaries, Rev. Messrs. Watson and Handt, with their wives, arrived at Wellington Valley on the 3rd October, 1832, accompanied by eight Natives who had joined them on the road. A few days after their arrival they were visited by more than sixty Natives, many of whom were wild, and had come from 50 to 70 miles distance. They were supplied with food, a small quantity of tobacco, and a few pipes. They were then interrogated as to their knowledge of who had made them; the sun; trees; &c. Of this they appeared to be entirely ignorant; nor had they the least idea of a Supreme Being, of the immortality of the soul, or of a future state of existence. They were then informed that the Missionaries had been sent by the King of England to teach them the great truths of religion, and to make them acquainted with arts and civilization; they answered to these things, "budgery, budgery," (good, good.) They did not remain many days, but have since paid several visits to the Mission. The Missionaries very speedily discovered that the Natives had been prejudiced against them by the stockmen in the neighbourhood, who told them that the men would be yoked and made to work as bullocks, and the children would be sent to Sydney and put in prison. A school was established at the commencement of the Mission, and has been continued. Here from twelve to twenty children have been under instruction at one time; some have occasionally left, and others have supplied their place. These have been taught to read and spell, and have been regularly instructed in the principles of the Christian religion. It has not been discovered that these children and youths are in any degree inferior in intellect, or ability to learn, to those of civilized countries. They learn their lessons, hymns, prayers, &c., as readily as children in general in an English school. That some moral reformation has been produced by the labors of the Missionaries among these degraded and unlettered tribes, is evident from this one circumstance, viz:—That swearing in the English language, which is generally prevalent, is never practised in the hearing of the Missionaries by any Native who has occasionally been at the station. Instances have occurred of the Mission boys correcting adult Natives for swearing, even at the expense of a good beating for their friendly admonition. Some time ago a Native youth, who was so deeply diseased as to render his recovery exceedingly doubtful, came to Mr. Watson for medical aid; he was at the time a notorious swearer; after being, at the Establishment for some time he recovered, and returned to his brethren forty miles distant. Shortly after his return, an English stockman swore at an unruly cow, in the hearing of the Native youth, who reproved him, and said it was "no good to swear." He was asked why? He replied, "because you will not go to Heaven if you swear." He was then asked who told him so? He answered, "good deal Mr. Watson talk that way, and good many books he have too, which talk that way all about." The Englishman acknowledged that it was very wrong to swear, and he would try to do so no more.

The demoralization and degradation of the women have perhaps no parallel among savage nations; for sad as is the state of the female generally under such circumstances, these seem degraded below the lowest of the low. They are commonly betrothed in their earliest infancy, and are not unfrequently taken soon after by their husbands. Then, too often, all moral restraint and honorable affection are cast away, and adultery in the most frightful latitude is permitted, both with the Aboriginal youths and European adults; and in the huts of the latter they are very commonly compelled to reside for a considerable time; but when with their husbands they usually have to hunt for their own food, and even for their husbands, and in their journeys they have to carry what they may desire to take from one place to another, and even the weapons of the husband. And it may be added, that they are often made the unwilling victims of their husbands' indolence, and the licentiousness of the Europeans. Indeed the idleness of both sexes, and their willingness to receive either food or other articles without any labor, has led to a dreadful increase of their native habits of immorality; as the Europeans participate in them, who are ready to use threats, or even violence, when they find opposition to their vicious inclinations. The cruelty of some of these stockmen to the Natives of both sexes it is to be greatly feared will ultimately lead to revenge on the part of the natives, and the result may be the murder of any or of every white man they meet with. Common as female prostitution is here, the Missionaries are happy to say, that one female who has been under religious instruction at the Mission House, has since that been known repeatedly to repel the solicitations of white men, and has told them as a reason for her conduct, that "God would see them," and that, "God who sit down in Heaven would be angry." That the children instructed at the Mission House believe the fundamental doctrines of the Christian religion, is evident from the very interesting questions which they are constantly in the practice of asking. In the month of April, 1833, Mrs. Watson rescued a half-caste infant from immediate death. Its unnatural mother had so treated it as to impress her own mind that it was already dead, and her female companion was preparing its grave, when Mrs. Watson discovered them. By the attention paid to it it revived and lived for three weeks, when the effects of its parents unnatural conduct at its birth produced a disease which terminated its earthly existence. On this occasion the Native children at the Mission House were deeply affected, and asked "is baby in Heaven now? Has Jesus Christ taken it? Is it a little angel?" There is abundant proof that some of the children who have left the Establishment, and gone into the bush for a season, have both repeated their prayers at night, and said grace before they partook of the opossum or wild cabbage.

Besides those who are under regular instructions, there are generally several others, youths and adults, at the Mission House. Their number is very fluctuating, and their stay very variable; sometimes twenty or thirty will remain for a fortnight, and then take their departure. In a day or two some of them, perhaps all, will return, and remain for a short time;



time; but the very most of them attend morning and evening worship in the family, and at the Church on Sundays. We have had several visits from large numbers of Natives, and have made several tours into the bush. It is a remarkable circumstance that the Natives have no desire to emulate white men except in their vices. It is only by kind treatment, and trifling rewards, that even the young are brought to attend to their lessons. Were their desire to learn equal to their abilities, they would soon make great proficiency. After the experience of every act of kindness for twelve months, it is a lamentable fact, that the Natives, even in this neighbourhood, are afraid that the Missionaries have some evil intentions towards them. It is rather surprising that they will believe what the stockmen say, rather than be convinced of the purity of the intentions of the Missionaries, when they have received so many acts of kindness from the latter.

The expenditure of the Mission, has during this, its first year, been unavoidably heavy; and indeed it must continue to be so, if as has been the case during the past year, all the supplies needed for the Establishment in future, have to be procured in Sydney, or at Bathurst, or indeed, if they will have to be purchased at all. The Missionaries, aware of this, have availed themselves of the facilities afforded them by the generous act of His Excellency the Governor, in assigning a certain portion of land at Wellington Valley for the use of the Mission. Accordingly, in the month of July last, twenty acres of wheat were sown, which, however, from the unparalleled dryness of the season has all perished. About ten acres of maize corn has since been planted, and is in a promising state. When there has been raised at Wellington Valley a sufficient number of stock, and grain enough to warrant such a procedure, the Missionaries think it highly desirable to form a station amongst the wild black Natives, where they have not been corrupted by intercourse with Europeans. Such a station might be very conveniently supplied from Wellington Valley, where Missionary efforts will still be in operation, and as diligently attended to, as at present.

A Vocabulary of the language is in a state of preparation.

(Signed)

{ WILLIAM WATSON,  
J. C. S. HANDT.

Mission House, Wellington Valley,  
14th December, 1833.

#### No. 4.

WEDNESDAY, 4 June, 1834.

1. Council met pursuant to adjournment, His Excellency the Governor took the Chair, and laid upon the Table "A Bill for regulating the Slaughtering of Cattle." Bill read a first time; to be printed, and read a second time on Tuesday next.
2. His Excellency the Governor laid upon the Table;
  - (1.) "A Numerical Return of the Police Force of New South Wales, with the Annual Charge for the same, in the Years 1829 to 1833, inclusive."
  - (2.) "A Numerical Return of the Police Force in Sydney, in the Years 1829 to 1833, inclusive."
 To be printed.
3. His Excellency the Governor laid upon the Table "A List of the Ships which have visited the Bay of Islands, New Zealand, during the Year 1833, with a summary."—To be printed.
4. His Excellency the Governor laid upon the Table, a communication from His Honor Mr. Justice Burton, dated the 2nd instant, on the subject of the Interest Bill.—To be printed.
5. Interest Bill committed.  
Motion made and question put, That the Bill be referred to a Sub-Committee.—Passed without a division.

#### SUB-COMMITTEE APPOINTED.

The Chief Justice,  
The Collector of Customs, | Mr. Campbell,  
Mr. Jones, | Mr. McArthur.

Motion made and question put, That the communication of Mr. Justice Burton relative to the Bill, be referred to the Sub-Committee.—Passed without a division.

6. Marriage Bill committed.  
Motion made and question put, That the Bill be referred to a Sub-Committee.—Passed without a division.

#### SUB-COMMITTEE APPOINTED.

Lieutenant-Colonel Snodgrass,  
The Attorney General, | Mr. Blaxland,  
Mr. Berry, | Mr. Bell.

7. Orphan Apprenticing Bill; second reading deferred until  
Council adjourned at two o'clock until to-morrow at twelve

#### ORDERS OF THE DAY, THURSDAY, JUNE 5.

1. Orphan Apprenticing Bill; second reading.
2. Quarter Sessions Amendment Bill; second reading.
3. Written Engagement Bill; second reading.

#### TUESDAY, JUNE 10.

1. Slaughtering Bill; second reading.

E. DEAS THOMSON, Clerk of the Council.

## NEW SOUTH WALES.

*RETURN of the Gross Numbers of Police, Magistrates, Constables, and Scourgers, with the annual charge for the same, in the Years 1829, 1830, 1831, 1832, and 1833.*

YEAR.	SITUATION.	NUMBER.	AMOUNT.
1829	{ Police Magistrates. . . . .	11	£ s. d. 2765 0 0
	{ Constables* . . . . .	292	13954 16 3
			16719 16 3
1830	{ Police Magistrates. . . . .	10	2510 12 6
	{ Constables* . . . . .	290	13578 17 7
			16089 10 1
1831	{ Police Magistrates. . . . .	11	2750 0 0
	{ Constables* . . . . .	213	9949 10 2
			12699 10 2
1832	{ Police Magistrates. . . . .	12	2874 10 0
	{ Constables* . . . . .	234	10314 19 6
			13189 9 6
1833	{ Police Magistrates. . . . .	14	3215 0 0
	{ Constables. . . . .	235	10598 18 10
	{ Scourgers . . . . .	18	497 6 3
			14311 5 1

\* Including Scourgers.

Colonial Secretary's Office,  
2nd June, 1834.

ALEXANDER McLEAY:

RETURN

**RETURN of the Gross Numbers of Police Magistrates, and Constables,  
in Sydney, with the annual charge for the same, in the Years 1829,  
1830, 1831, 1832, and 1833.**

YEAR.	SITUATION.	NUMBER.	AMOUNT.
1829	{ Police Magistrate Chief, and Assistant Chief Constables Constabulary .	1	£ 600 0 0
		75	250 0 0 4089 10 5
			4939 10 5
1830	{ Police Magistrate Chief, and Assistant Chief Constables Constabulary .	1	600 0 0
		77	250 0 0 4212 14 2
			5062 14 2
1831	{ Police Magistrates . Chief, and Assistant Chief Constables Constabulary .	2	950 0 0
		77	250 0 0 4191 8 2
			5391 8 2
1832	{ Police Magistrates . Chief, and Assistant Chief Constables Constabulary .	2	950 0 0
		78	250 0 0 4211 3 9
			5411 3 9
1833	{ Police Magistrates . Chief, and Assistant Chief Constables Constabulary .	3	987 10 0
		95	275 0 0 4385 8 6
			5647 18 6

Colonial Secretary's Office,  
2nd June, 1834.

ALEXANDER M'LEAY.

A LIST OF ALL THE SHIPPING WHICH HAVE VISITED THE BAY

DATE OF ARRIVAL.	WHENCE.	NAME OF SHIP.	NAME OF MASTER.	COUNTRY TO WHICH BELONGING.
1833.				
4 Jan. ....	Sperm Fishery.	Conway	Renwick	Great Britain, London
6 " .....	Ditto	Sisters	Duko	New South Wales
11 " .....	Sydney.	Alexander	Green	Great Britain, Liverpool
20 " .....	Sperm Fishery.	Achilles	Hunter	Ditto, London
23 " .....	Ditto	Harvest	Pollard	America
28 " .....	Sydney.	Fortitude	Clendon	Owner settled at New Zealand
2 Feb. ....	Wangara, New Zealand	Alexander	Green	Great Britain, Liverpool
7 " .....	Sperm Fishery.	Sir Charles Price	Lee	Ditto, London
" .....	Ditto	Jane	Watson	New South Wales
9 " .....	Ditto	Venus	Harvey	Great Britain, Liverpool
" .....	Sydney.	Elizabeth	Doual	New South Wales
15 " .....	Sperm Fishery.	Admiral Cockburn	Hingston	Great Britain
17 " .....	.....	Ulites	Hunter	Tahiti
26 " .....	Sperm Fishery.	Toward Castle	Brind	Great Britain, London
20 " .....	Ditto	Vigilant	Swain	Ditto, ditto
26 " .....	.....	Brothers	Towns	Ditto
27 " .....	.....	City of Edinburgh	Wade	Great Britain
" .....	Sydney.	Liverpool	Buckle	New South Wales
5 March ...	Sperm Fishery.	Elizabeth	Deanes	Great Britain
2 " .....	Ditto	Genii	Wells	New South Wales
9 " .....	Ditto	Deveron	Curry	Van Diemen's Land
11 " .....	Ditto	Thetis	Apsey	Great Britain
12 " .....	Ditto	Ann	Christie	Ditto
14 " .....	Ditto	Elizabeth	Black	Ditto
17 " .....	Ditto	Pocklington	Webster	New South Wales
18 " .....	Ditto	Eliza Frances	Lawson	Great Britain
" .....	Ditto	Caroline	Tregartha.	Van Diemen's Land
21 " .....	Ditto	Elizabeth	Fowler	New South Wales
25 " .....	Ditto	Wanstead	M'Culloch	Great Britain
" .....	Ditto	Governor Halket	Boulgor	New South Wales
" .....	America	Spy (schooner)	Knight	America
" .....	Sperm Fishery.	Achilles	Hunter	Great Britain
26 " .....	Ditto	Loane	Lewis	America
28 " .....	Ditto	Wolf	Lewis	New South Wales
" .....	Ditto	Caroline	Blenkensop	Ditto
30 " .....	Ditto	William Stoveld	Davidson	Ditto
31 " .....	Ditto	Woodlark	Grimes	Ditto
2 April.....	Ditto	Tigress	Barber	Ditto
" .....	Sydney.	Fortitude	Woods	New Zealand
11 " .....	Ditto	Byron	Burrell	New South Wales
12 " .....	Sperm Fishery.	Elizabeth	Black	Great Britain
23 " .....	Ditto	Harvest	Pollard	America
5 May .....	Sydney.	H. M. S. Imogene	Blackwood	
9 " .....	Hobart Town	Boe	Cuthbert	New South Wales
22 " .....	Sydney.	New Zealander	Cole	Ditto
1 June .....	.....	Tranmere	Smith	Ditto
2 " .....	Norfolk Island	Governor Phillips	Lewis	His Majesty's Colonial Brig, New South W
4 " .....	Sydney.	Clyde	Ireland	Great Britain
18 " .....	Sperm Fishery.	Lindsays	Lovett	Van Diemen's Land
14 " .....	Sydney.	William	Bogg	Great Britain
20 " .....	South Coast of New Zealand	Byron	Burriel	New South Wales
30 " .....	Sydney.	Admiral Gifford	Owen	Ditto
" .....	.....	Tranmere	Smith	Ditto
1 July .....	London.	Marquis of Lansdown	Plant	Great Britain
" .....	South Sea Islands	Spy	Knight	America
29 " .....	Sperm Fishery.	William	Chamberlain	Van Diemen's Land
5 Aug. ....	Sydney.	Nereus	Butcher	New South Wales
12 " .....	Hobart Town	Isabella	Kinghorpe.	Government Colonial Vessel, Van Diemen's
23 " .....	Sperm Fishery.	Cadmus	Taber	America
" .....	Sydney.	Fortitude	Woods	New Zealand
28 " .....	Sperm Fishery.	Tigress	Barber	New South Wales
29 " .....	Ditto	Harmony	Swindles	Ditto
16 Sep. ....	London	Sarah and Elizabeth.	Swain	Great Britain
17 " .....	Sperm Fishery.	Harvest	Pollard	America
25 " .....	Salem, America	Eliza	Winn	America
1 Oct. ....	River Thames, New Zealand	Surry	Veal	New South Wales
10 " .....	Sperm Fishery.	Toward Castle	Brind	Great Britain
" .....	Ditto	Warren	Mayhew	America
11 " .....	Ditto	Cape Packet	Hindson	New South Wales
13 " .....	Ditto	Vigilant	Swain	Great Britain
19 " .....	Sydney.	Ulites	Hunter	Tahiti
20 " .....	Hokianga, New Zealand	Tranmere	Smith	New South Wales
24 " .....	America	Montano	Edwards	America
27 " .....	South Coast of New Zealand	Admiral Gifford	Owen	New South Wales
5 Nov. ....	Sperm Fishery.	Eliza Frances	Lawson	Great Britain
" .....	Ditto	Montano	Edwards	America
" .....	Ditto	Walmer	Robins	Great Britain
9 " .....	.....	Farewell	Read	New South Wales
18 " .....	Sydney	Buffalo	Sauller	His Majesty's Store Ship
" .....	Ditto	Fortitude	Woods	New Zealand
23 " .....	Ditto	Blackbird	James	New South Wales
28 " .....	Sperm Fishery.	Cadmus	Taber	America
29 " .....	Ditto	Chieftain	Howey	Great Britain
2 Dec. ....	Ditto	Mary	Dugburgh.	New South Wales
3 " .....	Ditto	Gladstones	Brown	Great Britain
12 " .....	Ditto	Harriet	Irving	New South Wales
18 " .....	South Sea Islands	Eliza	Winn	America
20 " .....	Sperm Fishery.	Lean	Lewis	Ditto
31 " .....	Sydney.	Children	Baroche	Great Britain

SUMMARY.

One British Ship of War.....	1
One ditto Government Store Ship.....	1
Two Colonial Government Brigs.....	2
British Whaling Ships.....	23
British Merchant Ships.....	6
New South Wales Whaling Ships.....	16
Van Diemen's Land Whaling Ships.....	4
New South Wales Trading Vessels.....	19
<b>Total British, and British Colonial Vessels. ....</b>	<b>72</b>

LANDS, NEW ZEALAND, DURING THE YEAR 1833; WITH A SUMMARY.

CARGO.	DATE OF DEPARTURE.	OBJECTS OF VOYAGE, &c.
50 Barrels Oil	27 Jan. ....	To refresh, &c.
00 " "	28 " .....	Ditto.
Merchandise .	17 " .....	Sailed to Wangaroa, for timber.
50 Barrels Oil	25 " .....	To obtain boats and men.
00 " "	7 Feb. ....	To repair loss of top-masts.
Merchandise	12 " .....	
potatoes, &c.	5 " .....	For the Bay of Plenty, to the southward, with natives.
00 Barrels Oil	10 March ...	Refreshment.
00 " "	19 Feb. ....	Ditto.
00 " "	13 March ...	Ditto, and repairs.
Merchandise	17 Feb. ....	To repair, being leaky.
00 Barrels Oil	22 " .....	Water, &c.
Merchandise	28 " .....	Trading.
00 Barrels Oil	30 April .....	Repairs, refit, and refreshments.
00 " "	22 March ...	Water, &c.
Merchandise	28 Feb. ....	Water and potatoes; on her voyage to London.
Merchandise	4 March ...	Water and potatoes.
Merchandise	8 " .....	Trading.
00 Barrels Oil	31 " .....	To refit and refresh.
00 " "	17 " .....	To change crew and obtain provisions.
00 " "	30 " .....	To refit and procure refreshments.
00 " "	8 April .....	For water, &c.
00 " "	.....	Ditto.
00 " "	28 March ...	To procure refreshments.
00 " "	9 April .....	To repair mast and procure refreshments.
00 " "	27 March ...	To procure refreshments.
00 " "	12 April .....	To refit and procure refreshments.
00 " "	5 " .....	Ditto ditto.
00 " "	8 June .....	For new masts and other repairs.
00 " "	21 April .....	To procure refreshments.
Merchandise .	" " .....	To refit and procure refreshments.
00 Barrels Oil	19 " .....	To procure refreshments. Lost a boat and crew.
00 " "	14 " .....	Ditto ditto.
00 " "	11 " .....	Ditto ditto.
75 Tons Sperm Oil, 100 Black do	7 " .....	To refit.
00 Barrels Oil	11 " .....	To procure casks.
00 " "	16 " .....	To procure refreshments.
00 " "	18 " .....	To refit and refresh.
Merchandise .	13 " .....	Trader to Sydney and Van Diemen's Land.
Merchandise	23 " .....	Trade in flax, &c.
00 Barrels Oil	26 " .....	Crew in a state of disaffection, from the master having left some of his men on the coast to the southward.
00 " "	5 May .....	Water, &c.
Merchandise .	19 " .....	With British Resident.
Merchandise for the British Resident	16 " .....	On a trading voyage.
Merchandise and ballast	7 June .....	Ditto ditto.
Merchandise .	" " .....	Ditto ditto.
Merchandise .	19 " .....	In pursuit of runaways from Norfolk Island.
00 Barrels Oil	8 " .....	To stop a leak (on her voyage to Liverpool.)
Merchandise .	7 July .....	To procure water and refreshments.
New Zealand Flax.	17 June .....	To stop a leak; on her voyage to England.
Merchandise .	29 July .....	On her return to Sydney.
Merchandise .	16 " .....	To collect flax.
Merchandise	13 " .....	For orders; on a trading voyage.
Merchandise	" " .....	To procure refreshments; for the sperm fishery.
Merchandise	16 Aug. ....	To refit and dry her cargo.
Merchandise	8 " .....	To refit and procure water.
Merchandise	28 " .....	Trading voyage.
Merchandise	22 " .....	In pursuit of a vessel carried off by convicts.
00 Barrels Oil	18 Sep. ....	To procure refreshments.
Merchandise .	28 Aug. ....	Trading voyage.
00 Barrels Oil	25 Sep. ....	To procure boats and water.
00 " "	16 Oct. ....	To repair and procure refreshments.
Merchandise	1 " .....	To procure water; for the sperm fishery.
Merchandise	7 " .....	Ditto.
Merchandise	20 " .....	South Sea Islands Trade.
Merchandise	4 " .....	On her voyage to Sydney.
00 Barrels Oil	31 " .....	To procure refreshments.
00 " "	" " .....	Ditto, and repairs.
00 " "	25 " .....	To refit try-pots.
00 " "	30 " .....	To procure water and refreshments.
Merchandise .	19 " .....	Trading voyage.
Merchandise	29 " .....	For orders.
00 Barrels Oil	31 " .....	To procure refreshments; for the sperm fishery.
New Zealand Flax	" " .....	On her voyage to Sydney.
00 Barrels Oil	28 Dec. ....	To procure a new mast, and other repairs.
00 " "	6 Nov .....	To recover a boat with which a party of her crew had absconded; in which object she succeeded.
00 " "	4 Dec. ....	To procure water and refreshments.
Merchandise .	22 " .....	Coasting trade.
Merchandise	27 " .....	For information.
Merchandise .	2-10 Dec. ...	With a party of Missionaries for the Thames.
Merchandise	29 Nov. ....	South Sea Islands Trade.
00 Barrels Oil	10 Dec. ....	To procure water.
00 " "	20 " .....	To procure refreshments.
00 " "	" " .....	To procure a new mast, and refreshments.
00 " "	28 " .....	To procure water and refreshments.
00 " "	17 " .....	Ditto and Nautical Almanac.
Merchandise .	January 1834.	South Sea Island Trade.
00 Barrels Oil	.....	To refit and procure water.
Merchandise .	2 Jan. ....	To procure water; on her voyage to England.

SUMMARY.

American Whaling Ships.....	11
American Trading Ships .....	4
Tahitian Trading Vessels.....	2
<hr/>	
Total American, and other Foreign Ships.....	17
<hr/>	
Total Number of Ships .....	89

N.B.—The same Vessels visiting the Bay of Islands more than once within the year, are numbered as distinct Vessels on each visit.

JAMES BUSBY,  
British Resident at New Zealand.

*COPY of a Letter from His Honor Mr. Justice Burton, to His Excellency the Governor, relative to the Interest Bill.*

*Sydney, New South Wales,  
2nd June, 1834.*

SIR,

Having observed that the provisions of a Bill laid by your Excellency before the Legislative Council "For removing Doubts respecting the Rate of Interest which may be recovered in any action or suit in any Court of this Colony," are repugnant to the laws of England, and inasmuch as if that Bill should pass into a law, I shall deem it to be my duty, under the Statute 9 Geo. IV., c. 83, sec. 22, to represent such repugnancy to your Excellency, I conceive it to be more respectful and convenient that I should at once put your Excellency into possession of my opinion on the subject, and the grounds of it, than to delay doing so until the Bill may have been adopted by the Council; I have the honor, therefore, to state, that I am of opinion:—

First.—That the provisions of the proposed Bill, by limiting the rate of interest which may be recovered in the Courts of Law and Equity in this Colony, to the rate of eight per cent., would appear to authorise by necessary inference, the recovery of interest to that extent; and are in so far repugnant to the Statute of 12 Anno, stat. 2, c. 16, whereby it is enacted, "that no person shall take directly or indirectly, for loan of any monies, wares, merchandise, or other commodities whatsoever, above the value of five pounds, for the forbearance of one hundred pounds for a year, and so after that rate for a greater or lesser sum, or for a longer or shorter time."

Secondly.—I am of opinion, that the provisions of the proposed Bill are repugnant to the statute 9 Geo. IV., c. 83, upon the following grounds:—

- (1.) That the Statute 12 Anno, stat. 2, c. 16, above referred to, was a Statute "in force within the Realm of England" at the time of the passing of the Statute 9 Geo. IV., c. 83.
- (2.) That by the 24th section of the last mentioned Statute, it is enacted, "that all laws and statutes in force within the Realm of England, at the time of the passing of that Act (not being inconsistent therewith, or with any Charter or Letters Patent, or Order in Council, which may be issued in pursuance thereof,) shall be applied in the administration of Justice in the Courts of New South Wales and Van Diemon's Land respectively, so far as the same can be applied, within the said Colonies."
- (3.) That I am not aware of any reason why the Statute 12 Anno, stat. 2, c. 16, could not, at the time of the passing of the Statute 9 Geo. IV., c. 83, or at this time, be applied within the Colony of New South Wales—and the preamble of the Bill states no such reason. And the object of the proposed Bill is to prevent the application of that Statute in the administration of Justice in this Colony.

Thirdly.—I am of opinion, that if the law of England upon the subject of legal interest is not the law of the Colony, then there is here no law upon this subject; and that (apart from considerations of fraud), every person has a right to demand and recover in the Courts of Law and Equity in this Colony, any rate of interest which he has contracted for; and that the Bill whereby, *without fixing any legal limitation to the rate of interest*, it is proposed to be enacted "that no person shall upon any contract whatever, which hath been, or shall be made in the Colony of New South Wales or its Dependencies, recover in any action, suit, or other proceeding at Law or in Equity, in any Court, above the value of eight pounds for the forbearance of one hundred pounds for a year, and so after that rate for a greater or lesser sum, or for a longer or shorter term," is repugnant to the laws of England; on the grounds that it is a denial of right and justice, which is contrary to the express provision of Magna Charta, c. 29; and is also contrary to the 24th sec. of the Statute 9 Geo. IV., c. 83, before referred to, whereby (amongst others) the Statute of Magna Charta is declared to be a law of this Colony.

I have however further to state, that, notwithstanding what I cannot but consider to be the plain and obvious words and meaning of the Stat. 9 Geo. IV., c. 83, sec. 24; notwithstanding that no local law has been subsequently passed in this Colony making or establishing any limitation or modification of the law of England respecting the legal rate of interest for money, (except in the case of the "Savings' Bank of New South Wales," the Trustees of which are, by the Act of the Governor and Council, 2 Wil. IV., No. 13, authorised to discount bills of exchange and promissory notes at a rate of interest *not less than £8 per cent.*); and that subsequently to the period when the Stat. 9 Geo. IV., c. 83, became in force in this Colony up to the month of June, 1833, there had been no adjudication or decision of the Supreme Court as to the application of the said law in the Colony, yet it appears to have been taken as by common consent that the Usury Laws of England did not apply to this Colony; and in accordance with that view, it had been the practice of the Supreme Court, when interest was demanded for the detention of any debt due on bond, bill of exchange, or promissory note, to allow interest in the assessment of damages at and after the rate of £8 per cent. per annum, and the same upon a reference to the Master, to compute principal and interest upon bills in equity for the foreclosure of mortgages. Only two instances however of the latter took place within seventeen years prior to June 1833, for a reason which will be immediately obvious to your Excellency, viz., the facility which existed of obtaining execution without such computation, upon a judgment confessed by the debtor for principal and interest, and entered up against him in the Supreme Court under a warrant of attorney. In consequence of the provisions of the Stat. 54 Geo. III., c. 15, s. 4, subjecting real property to sale under process of the Court in execution for any debt, in like manner as personal property, it

it became the practice with creditors to require confession of a judgment, either as a collateral security together with a mortgage of real property, or, as in many instances, to take that security instead of a mortgage; and no one conceiving himself bound, or being considered to be bound, by any limitation in his demand for interest, if the law of England were not the law of the Colony, every rate of interest varying from *five to thirty pounds per cent.* has been taken, and recovered under process of the Supreme Court, sued out in execution and payment of such judgments and mortgages; a system which has continued to this time, as will appear from the "Memorandum of Judgments entered up on Warrants of Attorney, from the first Term of the Year 1828, to the first Term of the Year 1834, both inclusive," and from the "Memorandum of Mortgages registered in the Office of the Supreme Court, from the 1st January, 1828, to the 1st of June 1834," which I have annexed for your Excellency's information.

Out of Court, Banks have been established and openly conducted, by associations of monied men, with the knowledge and concurrence of Government, professedly discounting at and after the rate of ten per cent. per annum; with these establishments, however, every limit to the rate of interest which is demanded and taken in society appears to end. The Records of Judgments, and Memorials of Mortgages registered in the Supreme Court, will *occasionally* (but not always on account of the interest, for *obvious reasons*, being added to the principal, and not expressed in the judgment or memorial,) shew the rates of interest which have been, and continue to be taken upon landed security; the limit which exists where the borrower has only personal security to give, is probably only measured by the urgency of his need. It has, however, appeared before me in evidence, upon trials in the Supreme Court, and to these facts I deem it right, at present, to confine my statement, in one case, that interest after the rate of 45 per cent. was given and taken upon the discounting a bill of exchange for £38, which had between four and five months to run; that in another case £1 per week was taken for a loan of £15; that in another £1 was taken for discounting a promissory note for £7, which had fourteen days to run; in another that £3 were taken for discounting a promissory note for £5, payable in two months; and £1 for the loan of fifteen shillings for four or five days; and that "it is a common thing in this country for poor people to give ten shillings a week for the loan of £2."

These instances may afford some clue to what exists in society, and to the consequences which may result from it, when I also inform your Excellency, that it appeared in evidence in the cases above referred to, that although the first mentioned rate of interest, 45 per cent. was taken by a merchant in Sydney, yet the holders of tickets-of-leave, and persons whose sentences have newly expired, are the usual lenders upon such terms as above to the poor.

I can entertain no doubt, that the provisions of the proposed Bill have been framed with a full knowledge of the existence in this Colony of a system of oppressive exaction on the part of money-lenders, of which the instances I have noticed afford but a faint example; that they have also been framed with a full knowledge of the late decision of the Supreme Court, pronounced in the case of *Macdonald v. Levy*, on the 8th of June, 1833, which may be briefly stated as having been to the effect "that the Usury Laws of England are not applicable to this Colony;" from which decision I dissented at the time, and the grounds of my dissent your Excellency will find stated in a report of the case contained in the *Sydney Gazette* newspapers of the 11th, 13th, and 15th of June, 1833, which are annexed hereto, and which, some typographical errors excepted, corrected in the copies annexed, is a fair report of the judgment of the Court.

Neither can I doubt that the provisions of the proposed Bill have been framed upon a persuasion, that the non-existence of a legal limitation to the rate of interest which may be taken for the loan or forbearance of money is an evil, and with a desire of repressing that evil. But my sense of duty towards the public, and towards your Excellency, will not permit me to conceal my conviction, that it will be ineffectual for that purpose, because the Bill contains no limitation to the rate of interest which may be contracted for and taken upon the loan or forbearance of money in this Colony, and provides no penalty for taking interest to any amount; but only limits the amount which may be recovered in any action, suit, or other proceeding at Law or in Equity; the consequence of which will be, that so long as the lender upon excessive usury can keep his demand for interest beyond the amount specified in the Bill, out of Court, he may exact and take any amount of interest precisely as at present; it will only be when his claim shall be brought into Court that the interest to be there recovered by him will be limited to eight per cent.; and a most obvious mode of evading any such check upon the rate of interest contracted for, will continue to be practised, (for it now exists) viz., by deducting before hand the interest from the sum lent; so that if the lender should have occasion to sue his debtor, it will only be for the principal, together with interest from the time of its becoming due, and not during the period for which it was lent; whilst the instances, already very numerous, as will appear by a reference to the annexures hereto, of adding the interest to the principal in the cases of mortgages, whereby the amount of interest taken is concealed, will be increased; and it will only be when a bill of foreclosure shall be filed by the creditor, or the debtor shall be sued at Law or in Equity, that he will have an opportunity afforded him, by the very expensive process of a suit in equity, of limiting his creditor in the amount of interest to be recovered by him. The use of the warrant of attorney and judgment confessed as a security in cases of mortgage, will alone, if it should continue, afford in such instances, but only in these, a means to the debtor of obtaining equitable relief without the process of a suit in equity, inasmuch as it is in the power of the Supreme Court to make such regulations respecting those modes of security as will enable it to do justice in a summary manner, and it cannot be doubted that such regulations would be made. The effect however would very probably be the disuse of that system of security, and that the debtor would be left in all cases where the interest has not been deducted before hand, to his suit in equity for relief, and where it has been so deducted he would be without relief altogether.

.. I have not taken upon myself to point out all the modes which ingenuity will readily devise to render the provisions of the proposed Bill wholly ineffectual in restraining the taking of excessive usury in this Colony; but I trust that I have shewn enough to justify me in forming the opinion, that if such be the intention of the Legislature, it will not be effected by the Bill now before the Council.

I do not presume to offer any opinion as to what should be the legal limitation to the rate of interest which may be taken for the use of money in this Colony. Neither as to how far; under the 24th section of the Stat. 9 Geo. IV., c. 83, which authorises your Excellency "as often as any doubt shall arise as to the application of any of the Laws or Statutes of England in this Colony, by and with the advice of the Legislative Council, by Ordinance to declare, whether such Laws or Statutes shall be deemed to extend thereto, and to be in force within the same, or to make and establish such limitations and modifications of any such Laws and Statutes within the said Colony as may be deemed expedient in that behalf," your Excellency should be advised to depart from the law of England beyond the actual necessity arising from the different circumstances of the two countries; but I conceive it to be my duty to state to your Excellency, that doubts having arisen respecting the application of the Statute 12 Anne, to this Colony, and which are by no means removed by the judgement of the Supreme Court, inasmuch as that decision, or any other to the same effect, may be hereafter reversed in appeal before His Majesty in His Privy Council, whenever any party to a suit shall be sufficiently interested in the question, to bring it in appeal—and as I still retain my opinion that the Statute of Queen Anne, is the law of this Colony, although until the judgement of the Supreme Court to the contrary shall be reversed by a competent jurisdiction, I, as a Judge of that Court, consider myself bound to abide by its decision—that I am of opinion, it is expedient and necessary for the Legislature of this Colony to interfere, and to declare the law upon the subject, and to restrain the taking of excessive interest; and that such can only be done effectually by first fixing a legal limitation to the rate of interest, and then preventing the taking of illegal interests by some such provisions as the wisdom of the law of England has devised for the purpose. Such limitation and provisions to take effect from a certain date, up to which time *all prior existing contracts might be, and ought* (considering the circumstances under which they have been made,) in justice to be confirmed.

I have the honor to be,

Sir,

Your Excellency's obedient Servant,

W. W. BURTON,

One of the Judges of the Supreme Court.



*MEMORANDUM of Judgments entered up on Warrants of Attorney, from the 1st Term, 1828, to the 1st Term, 1834, both inclusive.*

YEAR.	PER CENT.							NO RATE PARTICULARLY EXPRESSED.	WITH COLONIAL INTEREST.	WITH LEGAL INTEREST.	NO INTEREST.	NUMBER OF FOREGOING CASES IN WHICH NO EXECUTION WAS ISSUED.
	£8	£10	£12	£12½	£13	£15	£20					
1828	25	20	.....	1	.....	1	2	12	.....	1	75	9
1829	16	46	1	.....	1	1	1	17	2	3	85	30
1830	5	44	1	.....	.....	2	1	19	.....	2	102	16
1831	9	32	1	.....	.....	2	5	16	1	.....	99	16
1832	.....	12	1	1	.....	5	2	6	.....	2	42	7
1833	.....	11	2	1	.....	4	.....	10	.....	.....	49	9
1834	.....	2	.....	.....	.....	.....	.....	2	.....	.....	8	3
TOTALS...	55	167	6	3	1	15	11	82	3	8	460	90

*MEMORANDUM of Mortgages Registered in the Supreme Court of New South Wales, from 1st January, 1828, to 1st June, 1834.*

YEAR..	PER CENT.																				No particular Rate expressed.	With legal Interest.	No Interest.	With Colonial Interest.	No clause of Redemption inserted.
	£5	£7½	£8	£10	£11	£12	£12½	£13	£13½	£14	£15	£16	£17	£17½	£18	£20	£22	£24	£25	£30					
1828	..	..	13	17	..	1	..	..	..	..	1	..	..	..	..	3	..	..	..	..	4	1	6	1	24
1829	1	..	6	23	..	..	..	..	..	..	4	..	..	1	..	14	..	..	1	..	6	..	15	1	51
1830	..	..	4	48	..	3	6	..	..	..	23	1	..	2	1	24	..	..	1	..	28	..	26	..	46
1831	..	1	..	38	..	6	4	..	..	..	21	1	..	2	..	10	..	..	..	1	26	1	11	1	85
1832	1	..	..	30	1	6	13	1	..	..	17	3	3	..	..	18	1	..	..	..	49	..	21	..	69
1833	..	..	9	62	..	14	20	..	1	1	21	1	1	..	..	5	..	1	..	..	49	..	13	..	85
1834	..	..	2	32	..	..	1	1	..	..	9	..	..	..	..	1	..	..	..	..	30	..	18	..	15
TOTALS...	2	1	34	250	1	30	44	2	1	1	96	6	4	5	1	84	1	1	2	1	192	2	110	3	375

*Supreme Court, Saturday, 8th June, 1843.—(In Banco.)*

MACDONALD v. LEVY.

In this case, which was an action on a promissory note, a question arose as to what was the legal rate of interest in this Colony—whether, in fact, the usury laws applied here. At the trial, before Mr. Justice Burton, the point was reserved, and subsequently argued before the full Court. Their Honors took time to consider, and this morning, at the sitting of the Court, stated that they were prepared to give judgment in the case.

Mr. Justice Burton.—In this case two questions are presented for the consideration of the Court; 1st. Whether there be in this Colony any legal limitation to the rate of interest which may be taken for the forbearance of money; and if so, then, 2nd. What is that limitation?

The question arises upon a point reserved on a trial before me and two Assessors on the 8th March last, of an action on a promissory note, upon which Mr. Francis Stephen, the Attorney for the plaintiff, asked for a verdict with interest at eight per cent. from the time the note became due. I directed the Assessors to give a verdict for the plaintiff in the amount of the promissory note with lawful interest thereon, informing Mr. Stephen that he should move the Court to ascertain what is lawful interest upon such an instrument in this Colony.

On the 6th of April Mr. Francis Stephen moved the Court accordingly; but to be allowed to calculate the interest at the rate of ten per cent., as being the interest taken by the several Banks, and by usage and custom in this Colony; and it was argued by him and by Mr. Norton, briefly, that the law of England, as to the rate of legal interest, does not apply to this Colony. And the Statute 3 Geo. IV., c. 47, concerning mortgages executed in Great Britain for securing a greater amount of interest than is legal in England, was referred to, which makes legal such mortgages; as shewing that the Colonies are empowered to make their own laws on this subject.

It was further argued that part of an Act may apply and part not; that the rate of interest is local, and depends on the custom of the Colony, and in this view the Statute would then stand a blank as to the rate of interest in the Colony, and the Court may yet hold that the Usury Laws apply so far as to restrict the taking more than the rate allowed by custom, but that the rate of interest does not apply. And reference was made to the Savings' Bank Act, which authorises that Bank to take not less than eight per cent. interest, as shewing the opinion of the Local Legislature.

It was argued on the other side by Mr. Keith, for the defendant, that five per cent. is the lawful interest in this Colony; that the constitution of this Colony and its laws are founded on the Statute 9 Geo. IV., c. 83; that the Legislative Council might have enacted that ten per cent. should be legal, or eight per cent., as by the Laws of some West Indian Islands, or six per cent., as in Canada; but not having done so, he referred to section twenty-four of that Statute, whereby it is enacted, that all Laws and Statutes of England in force at the time of passing that Act, shall be applied in the Administration of Justice, so far as they can be applied; as shewing that the Law of England on this subject is the law of this Colony, if it can be applied; and the simple question was, can the Usury Laws of England be applied to this Colony? That as to the rate of interest, that allowed by the Statute is the only rate which this Court can allow; that the Savings' Bank Act, authorising a greater rate of interest in the particular case of that Establishment, shewed that the Legislature did not consider it applicable to all cases.

I have approached the consideration of this subject, I will not say reluctantly, because it is my duty, but under many inducements, arising from the knowledge that my humble opinion is opposed to that of both my learned brothers—perhaps to that of many members of the legal profession—and certainly to the desires of many persons of great influence in this place, not to approach it at all; but I can suffer neither the one or other of these considerations to move me from the path of duty which my station in this Court, as one of the Judges appointed under the provision of the Stat. 9 Geo. IV., c. 83, has imposed upon me. Early upon my arrival in this Colony, I witnessed the uncertainty which prevails upon the subject of the legal interest of money; the looseness of practice at least, if not inadvertence to the true principles upon which it is founded. I saw no particular rate of interest respected or adhered to even in this Court, but the actions were brought and judgments entered, upon instruments bearing various, and some exorbitant rates of interest, and without objection. In one case a warrant of attorney appeared which was passed for a debt upon which twenty-five per cent., and in another bond upon which ten per cent. was reserved; in another, fifteen; whilst out of doors, twelve and eleven and a-half per cent. were offered by public advertisement for loans of money; and it was proved before me in one case, that forty-five per cent. had been taken for a discount, and the Records of the different Registry Offices of this Court, although they do not shew the whole truth, yet shew that the most exorbitant and ruinous interest is exacted by the lenders of money. I received no answer to my enquiries which could satisfy me that such a state of things was according to Law, and I thought it contrary to my duty to suffer it to continue. If there be no legal limitation to the rate of interest, then what every man contracts for is that which he has a right to claim in a Court of Law and a Court of Equity; for that is then legal interest. It is only in certain cases, and between particular persons, as Trustee and *cestui que* trust, Executor and next of kin, and the like, that a Court of Equity upon an account gives usually a lower rate than legal interest where none has been stipulated for, and none made out of the fund; but in no case can a Court of Law—and a Court of Law in this Colony is by the Statutes now in force, and by the special provisions of the Rules of Court, kept as distinct in its functions from the Court of Equity in this Colony, as those Courts in England. It is not competent for a Court of Law to act upon principles of supposed Equity; and it is not the province of a Jury of Assessors in such a Court to say what is or what is not a reasonable rate of interest, whether there has been a specific agree-

ment

ment for interest or not; but it is the province of the Court alone to determine what is the legal interest; that is a question of Law expressly left to the Court by the Statute under which justice is now administered; and if there be no limitation, the Court is bound by Law to give that which is contracted for; if there be, then the Court is bound to give that alone.

It has been stated by the Attorney for the plaintiff in this cause, that the Court itself when the question has been left to its decision, (as for interest due on a mortgage,) has uniformly decided not to allow more than eight per cent., although the mortgage perhaps was given as a security for as much as twenty per cent.

I am, however, informed by the Registrar of the Court, that he knows of no instance of a bill for foreclosure upon a mortgage being filed; and by the oldest officer of the Court, Mr. Gurner, the Chief Clerk, I am informed that it is not the practice to take an account of interest upon mortgages, unless a bill of foreclosure is filed; and he only recollects two references on bills of foreclosure during the seventeen years he has been an officer of the late Supreme Court, and of the present Court, whilst by a reference to the records in the Sheriff's Office I have found, that during the years 1829 and 1830 alone, there were one thousand and nineteen writs of execution executed; how large a proportion of these were upon real property, will appear from a comparison with the number of mortgages to which I shall presently refer.

The fact is, that upon every mortgage actually executed, a warrant of attorney is taken as a collateral security, the mortgaged property is taken in execution for the principal, with all the accumulations of enormous interest, sold by the Sheriff, that being the most prompt means by which the creditor can obtain satisfaction, as it is the most ruinous in the world for the debtor.

As to the argument which has been advanced by the attorney for the plaintiff, that before any Legislature existed in the Colony, a rate of interest of eight per cent., prevailed by common consent of custom, I must observe, that to the legality of a custom, there are several requisites in which this, if it even existed, is entirely wanting:—First, That it has been so long used, that the memory of man runneth not to the contrary; so that if any one can show the beginning of it, it is no good custom; for which reason no custom can prevail against an express Act of Parliament, since the Statute itself is a proof of a time when such custom did not exist.

The settlement of this Colony was within time of legal memory; the Statute of Queen Anne was then in force here, and the beginning of the usage, (for it cannot be called a custom,) was, as I shall presently show, on the 14th July, 1804, having had its origin in a publication of that date made by Governor King; and the first adjudication of interest thereon by the then Court of Civil Judicature, appears by the Records in the Office of the Supreme Court, to have been on the 13th of August, 1810; in the case of Jenkins v. Kelly. A custom must also be uniform and consistent, and binding upon all, and not left to the option of every man, whether he will use it or not.

Immemorial usage is the proper evidence of custom; and if the usage be uniform and consistent, it proves it; otherwise, the contrary. In the present case, the publication of Governor King, to which I shall presently refer, will show how little uniformity and consistency prevailed before the 14th July, 1804. The records of this Court will show how little there has been, either before or since that period; and will further show, that every man has been left to his own option, whether he will use it or not. On the 11th of April, 1811, in the case of Loane v. Collins, the Court of Civil Judicature gave judgment for plaintiff, on a bond with interest at twelve per cent.

On the 2nd February, 1813, in Broughton v. Feen, the Court gave judgment on a bill of exchange for £550, with interest at eight per cent., and on the same day in the case of Riley v. Kable, for twelve per cent. upon two promissory notes.

In the year 1829, out of one hundred and nineteen cases in which judgments have been entered up by writ of the Court, and subject to its process of execution, not being the whole number, but taken indifferently out of each Term, there have been cases in which no rate of interest is expressed in the instrument, (the interest being probably added to the principal) seventy-five; at eight per cent thirteen; at ten per cent, twenty-nine; at twelve per cent, one; at thirteen per cent, one.

In the year 1830, out of one hundred and twenty-two cases taken in like manner; there have been cases in which no rate of interest is expressed, eighty-six; at eight per cent., two; at ten per cent., thirty-one; at twelve per cent., one; at fifteen per cent., two.

[His Honor here read a statement of the number of warrants of attorney, and a memorandum of mortgages registered between the years 1829 and 1833, on which the rate of interest varied from five to thirty per cent.]

I am therefore of opinion, that there is no foundation for the argument advanced by the attorney for the plaintiff, of custom, usage, or common consent. I will next enquire, whether there be any other foundation for this difference between the practice of this Colony and the law of England? I found, on examining the Records of the former Courts of Civil Judicature, deposited in the Supreme Court, an entry of the 13th August, 1810; to the following effect:—

“ 13 AUGUST, 1810:

“ Robert Jenkins, Esq., v. William Kelly.—Action for £100; with interest, at Colonial rate, due for money lent and advanced by plaintiff to defendant. Defendant admits the same, and that he agreed to pay eight per cent interest, from the 2nd December, 1809.—By Governor King's regulation eight per cent. per annum was allowed as interest.—Verdict taken by consent.—Damages, £105 12s. and costs.”

And on the 22nd January, 1811, an entry to the following effect:—

“ 22 JANUARY, 1811.

“ John M'Arthur, v. Henry Kable.—Action on a bill of exchange, drawn by defendant, dated Sydney, Port Jackson, 23rd March, 1809, upon Messrs. Plummer, Bashaw, and Plummer,

Plummer, London, directing them at ninety days sight, to pay the sum of £100 sterling to plaintiff, or his order, drawing the bill, presentment for acceptance and payment; and non-payment and protest admitted. The disputed point was the rate of interest, the Court referring to a Government Order of July 14, 1804, and to their former judgments, allowed eight per cent. interest."

A manuscript of the Government Order referred to is still extant at the Colonial Office, with a copy of which I have been furnished, it is as follows:—

"Whereas much litigation and many vexatious suits at law, have repeatedly occurred for want of an established and fixed rate of interest on monies and other claims within the Territory and its Dependencies. It is hereby ordained, that no persons do directly or indirectly, for bills, bonds, or contracts (to be made after the publication of this ordinance) take for the loan or use of money, or any other commodities, above the value of eight pounds sterling, for the loan or forbearance of one hundred pounds sterling, or the value thereof for one year, and so proportionably for a greater or less sum; any custom or usage to the contrary notwithstanding."

"And if any person or persons whatsoever, do, or shall (after the publication of this ordinance), receive or take more than eight pounds per cent. per annum, on any bill, bond, or contract as aforesaid, upon conviction thereof, they will be subject to the penalty of the laws of England respecting usury, which is a forfeiture of treble the value, to be appropriated to such public fund or purpose, as the Governor may direct."

First—That it shows how great laxity existed in Court and out of Court at that day, and how little uniformity and consistency of usage.—Second, That the Governor does not affect to repeal the English law.—Third, That Governor King had no Legislative authority, enabling him to repeal an English Act of Parliament.—Fourth, That how little it was regarded as a law even prior to the passing of that Act, the Records of the then existing Courts have sufficiently shewn.—Fifth, After the passing of the Stat. 9 Geo. IV., c. 83, there can be no pretence for the existence in this Colony of any law contrary to the law of England, not passed by the legislative authority erected in the Colony by virtue either of the Stat. 4 Geo. IV., c. 96, or Stat. 9 Geo. IV., c. 83. As to the argument used by the attorney for the plaintiff, arising from the supposed authority given by the local legislature, to the taking of interest beyond even eight per cent. as is done in a particular instance in the Savings' Bank Act, 2nd W. IV., No. 13, sec. 5, and adverting to that clause, I find that it is made lawful for the Vice President or other Trustees attending at such General Meeting as is there mentioned, out of the balance in the hands of the Treasurer, to discount at a rate of interest not less than eight per cent. per annum, bills of exchange or promissory notes of an amount, not exceeding £500, &c. The only remarks I will make on this Act are:—First, That it only applies, and is only intended to apply to the particular case of the Savings' Bank, and cannot be applied to any other.—Second, That had I been a Judge of this Court at the time it was proposed to the Legislature, I should have found it to be my duty in pursuance of the 22nd sect. of the Statute, 9 Geo. IV., c. 83, to transmit to His Excellency the Governor, a representation that the said clause is repugnant to the laws of England. Having thus examined the arguments which have been adduced to prove that the law of England respecting the interest of money does not apply to this Colony, I will now state the reasons which have induced me to form an opinion that it does. It is well known that the first settlement in this Colony took place in the year 1788, and that His Majesty having been empowered by the Statute 24 Geo. III., c. 56, to appoint some place beyond the sea for the transportation of offenders from Great Britain, and having appointed the eastern coast of New Holland for that purpose, was further empowered by Statute 27 Geo. III., c. 2, to erect a Court of Criminal Jurisdiction for the trial and punishment of offenders, in a more summary way than was used within the Realm according to its known and established laws, and also that His Majesty did by his Letters Patent, dated 2nd April, 1787, appoint not only that there should be within this Colony, a Court to be called a Court of Criminal Jurisdiction, but by virtue of His Majesty's Royal Prerogative, it was also appointed that there should be a Court of Civil Jurisdiction. As to the forms and manner of proceeding in these Courts, they varied from the usual course of the Courts in England, but immediately upon their erection, the law to be administered by them (except as altered by the Statute) would be the laws of England. For although in the one Court its judgments would be chiefly passed, perhaps, upon such as had no civil rights remaining to them, having for the most part been attainted felons, yet there were those who accompanied them as guards, or as settlers, and their issue, and the issue of even those attainted felons, whose civil rights were entire, and who might claim to have those rights enforced, except so far as they had been altered by the Act of Parliament. To these the Law of England, as far as it was immediately applicable, was their right, and its various provisions, from their advancement as a Colony and increasing numbers and increasing transactions with each other, became daily more and more applicable.

I take it to be clear law, without the aid of an Act of Parliament to make it such, that if an uninhabited country (as this at the time of its first settlement must be considered to have been, for the wandering tribes of its natives, living without certain habitation, and without laws, were never in the situation of a conquered people, or this Colony (that of a ceded country;) if such a country be discovered and planted by English subjects, all the English laws then in being which are applicable to their situation, and the condition of an infant colony, are immediately their birthright, and as their applicability arises from their improving condition, come daily into force. They are not in the situation of persons who go to settle in a conquered country, where laws have pre-existed, and which continue to exist until changed by lawful authority. If they have not the Law of England for their guidance, they have none. In this manner the Statute of 12th Anne, s. 12, c. 16, which was passed in the year 1713 for fixing the rate of five per cent. in England, was a law of this Colony at its first establishment, and was applicable the moment one person became a

lender, and another a borrower. The precise reason why, in certain other colonial possessions of the Crown, which have been referred to for a contrary conclusion, a different rate of interest exists by law, is that which causes the Statute of Queen Anne to apply to this Colony; it is that those Colonies were settled before that Statute was passed; and when the rate of interest was regulated by a previous Statute, allowing a greater rate of interest; and that those Colonies possessed legislative bodies of their own before the Statute of Queen Anne was passed; and, after that period, Laws passed in England do not bind these Colonies, unless they are specially named. The history of Ireland affords an illustration of this principle. Ireland having been conquered by King Henry II., King John, in the 12th year of his Reign, ordained that Ireland should be governed by the laws of England; but, as it still remained a distinct dominion, and had parliaments of its own, no Acts of Parliament since the 12th year of King John's Reign extended to that kingdom, unless it was specially named or included under general words, as "within any of the King's Dominions;" and by another law called Poyning's Law, passed in the 10th Henry VII., it was enacted, That all Acts of Parliament before made in England shall be in force in Ireland, by the same rule that the laws passed between the 12th of King John, and the 10th Henry VII., were not binding in Ireland. Those passed subsequently to the 10th Henry VII., and consequently all the Usury Laws, beginning with the 37th Henry VIII, (Ireland not being expressly mentioned in them, or included under general words), are not in force there, and the rate of interest in Ireland is different from that in England, being six per cent.

Referring to the history of the colonial possessions of the Crown, in which a different rate of interest prevails, it will be found to exist upon the same rule. Thus Jamaica was captured in the time of the Commonwealth in 1655, and continued under military government until the time of the Restoration of King Charles the Second, who, on the 13th February, 1661, granted a free constitution to the colonists, including the power of making their own laws, which is the reason that the Statute of 12th Charles II., c. 13, by which the English rate of interest was fixed at six per cent, but not that of 12th Anne, by which it was fixed at five, applied to the island; and by an Act of the Local Legislature of Jamaica, 33 Charles II., c. 19, the rate of interest was fixed at ten per cent, and was subsequently reduced by the same authority to six per cent. The Island of Barbadoes was settled by letters patent, and a power was given to the colonists to make laws on the 2nd June, 1627, which affords a reason why the Statutes of Charles II., and of Queen Anne, subsequently passed, did not apply to that island, but the Statute of 21 James I., c. 17, by which legal interest was limited to eight per cent. In the ceded colonies, as Trinidad, Berbice, Demarara, St. Lucie, the Cape of Good Hope, and Mauritius, a different rate of interest prevails, because those countries, at the time of their cession, possessed laws which continued until changed by the Imperial Parliament, or by the authority of His Majesty. It was because that in these various possessions of the British Crown (but especially Ireland and the West Indies), a rate of interest legally existed different from that which in the year 1774, came to exist in England, that the Statute 13 Geo. III., c. 79, explained by 1 and 2 Geo. IV., c. 51, was passed to enable securities by way of mortgages, to be executed in England upon property situated in those countries, provided the rate of interest should not exceed six per cent; most of the local legislatures of those colonies having at that period reduced, or in consequence of that Statute they did afterwards reduce their local interest to that rate: but this Statute by no means warrants the argument which was raised upon it by the plaintiff's attorney, that it authorises the existence of a rate of interest in this Colony different from that in England: no different rate of interest having ever existed here previously to the settlement of the Colony by British subjects; and where the Law of England on this subject did not then apply, there was no law. The only principle upon which the criminal laws of England, as to the definition and punishment of offences comprised in statutes, as well as of the same Reign as the Statute of Queen Anne, as of many reigns prior and subsequent to that Statute, but passed previous to the establishment of the Colony, could be administered here upon its first settlement, or any other English law, upon which there never was a doubt, is precisely the same upon which the Statute 12th Anne, became the law of this Colony; and there is no reason for the one of those Statutes being law which is not equally applicable to the Statute of 12th Anne. The Letters Patent of His Majesty King George III., dated 2nd April, 27th year of His Majesty's Reign, first establishing a Court of Civil Judicature in this Colony, prescribes indeed a form of proceeding, which it was His Majesty's prerogative to do; but as to the laws to be administered, ordains, directs, and authorises "the said Court "to give judgment and sentence according to justice and right," which, it is remarkable, are the very terms used in Magna Charta, being only expressed in English instead of Latin—

*"Nulli negabimus aut differemus rectum vel justitiam."*

His Majesty did not affect to prescribe in any other terms what laws should be administered: it was not in His Royal Prerogative to change the laws, but only in the power of the Parliament. The Letters Patent of His Majesty, dated 4th February, 1814, repealed the former Letters Patent, and erected three Courts of Civil Judicature, viz:—The Governor's Court, and the Supreme Court, for this Colony, and the Lieutenant-Governor's Court for Van Diemen's Land. The first is directed and authorised "to give judgment and sentence according to justice and right;" the second "to give judgment and sentence according to law and equity;" and the third, which was for Van Diemen's Land, in the terms of the Governor's Court, "to give judgment and sentence according to justice and right."

It appears by the Report of the Commissioner of Inquiry, on the Judicial Establishments of this Colony, ordered by the House of Commons, to be printed, on the 21st February, 1823, that a difficulty had been expressed by Mr. Judge Advocate Wyld, as to the applicability here of English Statutes passed in England since the 27 Geo. III. By the Statute 4 Geo. IV., c. 96, the constitution of the several Courts was changed, but the duty to administer the Laws of England, in all matters coming before them, is plainly expressed in almost

almost every clause; and by section 24, His Majesty was empowered to erect a Legislative body in the Colony, to make Laws and Ordinances, so as they should not be repugnant to the Law of England, but consistent with such Law, as far as the circumstances of the said Colony will admit. By the 9. Geo. IV., c. 83, further alterations were made in the constitution of the Courts of the Colony, but as if to put an end to the difficulties which had been felt as to the application of Laws passed in England since the establishment of the Colony; and as if to put an end to all the irregularities, which, for want of a Legislative body pre-existing in the Colony, had crept into practice; as also to put an end to every supposed usage contrary to the Law of England which had crept into practice, the Commissioner referring in his Report, which was before Parliament, to many such, by that Statute, section 24, "It is enacted, that all Laws and Statutes in force within the Realm of England, at the time of the passing of that Act, not being inconsistent therewith, or with any Charter or Letters Patent, or Orders in Council, which may be issued in pursuance thereof, shall be applied in the Administration of Justice in the Courts of New South Wales and Van Diemen's Land respectively, so far as the same can be applied within the said Colonies."

I look upon this clause as the great charter of the Colony, at once yielding to the Colonists all that by the common Law, or by the liberal, and enlightened, and accumulated wisdom of our ancestors, has been provided for the protection of life, liberty, and property, and for regulating the transactions of men with each other. All becomes by virtue of it "the justice and right" which the Judges are sworn to do to all the King's subjects, and which it is expressly provided in one of the clauses of Magna Charta (itself under this provision the Law of the Colony) shall never be denied or delayed.

"*Nulli negabimus aut differemus rectum vel justitiam.*"

My construction of the 24th clause is, that only one point is left by it to the determination of the Court, viz., can the Law which a party insists upon, be applied in this Colony or not? Does there exist any legal bar to its being applied? If it can be applied, if there be no legal bar, it is his right, and ought to be enforced. There is no expression, as there might have been if such were the intention of the Legislature, authorising the Judges to apply the laws of England or not, as they may Judge them to be convenient or expedient in the particular condition of the country at any particular time; there is no power given to them to dispense with any Law of England which can be applied. To judge of the expediency or convenience of any Law is immediately afterwards in the same clause confided to a different and more proper authority in the following words:—

"As often as any doubt shall arise as to the application of any such Laws or Statutes in the said Colonies respectively, it shall be lawful for the Governors of the said Colonies respectively, by and with the advice of the Legislative Councils of the said Colonies respectively, by Ordinances to be by them for that purpose made, to declare whether such Laws or Statutes shall be deemed to extend to such Colonies, and to be in force within the same, or to make and establish such limitations and modifications of any such Laws and Statutes within the said Colonies respectively, as may be deemed expedient in that behalf."

The powder of the Judges is only "to adjudge and decide as to the application" (i. e. whether they can be applied) "of any such Laws or Statutes in the said Colonies," and not to make and establish any limitations or modifications therein. The view which I take of my duty as a Judge deciding upon any Law, is, that I am bound to decide "according to Law," and this, whether in the particular point it may be favorable to the subject, or restrictive, or may only concern private transactions: I have no power to bend the Law; transactions in society must be adapted to the law; it is not in Judges, but in Legislatures to adapt the Law to the state of society: the law is a main pillar of the Constitution, not to be removed, or bent, or deformed, according to the particular views of Judges; but only by the authority of Parliament. With me, therefore, arguments of expediency have no avail; if an expedient be necessary, a remedy is necessary, and that only lies with the Legislature, and I have always thought that there has been too great a proneness in Courts to resort to the use of expedients to prevent the execution of what they may consider a hard Law, which has grown up to be an evil. For a suitor who has Law on his side has been sent out of Court with a loss, because, in the Judge's consideration, or that of a jury, perhaps the Law is a hard one. A new code becomes established not to be found recorded amongst the common or Statute Law, resting only in the breasts of Judges, varying as they vary, and frequently varying as one and the same person varies in his views and opinions: a code which none knows how to obey, which is made *ex post facto*, and only serves as a trap for litigation, and as a reproach upon the uncertainty of the law; whereas if the Law were to be administered as it is, its inadequacies, its inconveniences, its hardships, if any, which are concealed and glossed over by expedients, would be apparent from being felt, and the Legislature would be called upon to provide a remedy. These are the considerations which have led me, not here alone, but elsewhere, to refuse to depart from the line of my duty which is *jus dicere*, and not *jus facere*. It is a good maxim in our Law for the avoiding of uncertainties, *stare decisis*, but it is a still better, *stare legibus*. If the argument of expediency, however, were legitimate in the present case, I am most clearly of opinion that it is all in favour of the Law of England respecting usury being applied and adhered to, in this Colony. The increasing disorder which has occurred since it was departed from, shews this to be the case.

The enormous and ruinous change of property which occurred in this Colony in the years 1829 and 1830, and still continue in a less degree, and a reference to the Records in the Office of the Supreme Court of warrants of attorney and memorials of mortgages which I have already made, justify to my own mind at least, my opinion as applied to this Colony. For these reasons, therefore, I am of opinion:—First, That there is in this Colony a legal limitation to the rate of interest which may be taken for the forbearance of money:—Secondly, That that limitation is such as is imposed by the Law of England, and is £5 per cent. Therefore

Therefore that the plaintiff should be allowed to enter up judgment for interest at the rate of £5 per cent. and no more.

The Chief Justice then delivered his opinion to the following effect:—I regret at all times to entertain any difference of opinion with either of my respected brethren on the Bench; and the more especially in a case of such great importance to this community, that it would have been desirable the Law should be removed from all doubt, and declared by the unanimous opinion of the Court. The question is, whether the Usury Laws of England apply to this Colony, a question which has never been formally raised in this Court before, nor received, that I am aware, the solemn decision of the Judges. It has, however, been the settled practice at *Nisi prius*, by all of the Judges who have hitherto sat on this Bench, to allow interest at the rate of eight per cent., where five per cent. would have been the rate allowed in England; and the practice necessarily involves the conclusion, that we all hold the Statute of Queen Anna, the Act by which the rate of interest is limited to five per cent. in England, not to be in force in this Colony. It shall be my endeavour, on the present occasion, to shew that this conclusion was right in principle, that the practice of the Court has been correct, and that the Laws of England for regulating the interest of money are not applicable to the condition of this Colony, and therefore not in force. Before I proceed to examine the principle upon which my own judgment has been formed, I must anticipate an argument which is frequently urged upon the Court, and which appears to me to be founded on a mis-construction of the 24th section of the New South Wales Act, (9 Geo. IV., c. 83.) That clause has been read as if it were an enactment peculiar in its provisions to this Colony, and introductory of a new principle of Colonial Law. It will be found, however, that it is neither peculiar nor new; it is, on the contrary, affirmative of the Law as it stood before, as it is laid down by the oldest text writers on the subject, and confirmed by a long and uninterrupted current of legal authorities. To read this clause rightly, we must look first at the Law as it stood exactly at the time of passing the Act, and then at the provisions of the Act itself, and by comparing the one with the other, it will be seen at once that all that Parliament had in view was to fix the time at which English Laws in general should cease to bind this Colony, and to enable the Local Legislature, in cases of doubt, to declare whether any particular Statute should apply or not. The oldest authority which I can find extant upon this point, is a determination of the Lords of the Privy Council upon an appeal from Barbadoes, whether the Statute of frauds (29 Charles II.) extended to that island. This decision was referred to by Sir Joseph Jekyll, Master of the Rolls, in 1772, and is shortly reported in 2 P. Wms. 75, as follows:—

“If there be a new and uninhabited country found out by English subjects, as the law is the birth-right of every subject, so, wherever they go they carry their laws with them, and therefore such new found country, is to be governed by the laws of England; though after such country is inhabited by the English, Acts of Parliament made in England, without naming the foreign populations, will not bind them.”

Taking this to be the text law upon the subject—and it is reported to be so laid down by the Lords of the Privy Council, who are the Judges in the last resort upon appeal from the Plantations, and stand in the same relation to the Colonial Courts as the House of Lords does to the superior Courts of Law in England,—it will be seen that the point of time when a Colony was first inhabited is a necessary preliminary to the correct application of the rule, and that this point must frequently be vague and uncertain, and hence arose the necessity of some legal enactment to fix the point of time with more precision. But there occurs another and a more important point. Does the subject settling in a new place necessarily carry with him all the laws of his country, whether such laws may be suitable to his altered position or not? Sir William Blackstone, in commenting upon the resolution of the Lords of the Council, expounds it in the following clear and comprehensive terms:—

“But this must be understood with very many, and very great restrictions; such colonists carry with them only so much of the English law as is applicable to their own situation, and the condition of an infant Colony; such, for instance, as the general rules of inheritance, and of protection from personal injuries. The artificial distinctions and refinements incident to the property of a great and commercial people—the Laws of Police and Revenue—the mode of maintenance for the Established Clergy—and a multitude of other provisions, are neither necessary nor convenient for them, and therefore not in force. What shall be admitted, and what rejected, at what time, and under what restrictions, must, in case of dispute, be decided in the first instance, by their own provincial judicature.”—(Bl. Com. vol. I., p. 107.)

This passage in the Commentaries is considered to be a sound exposition of the text by all the writers on Colonial law; and is received as authority in our Courts. It is cited with approbation by Sir William Grant, in a recent case which arose upon the extension of the Statute of Mortmain (9 Geo. II., c. 1.) to the island of Grenada, who said,—“It is undoubtedly true, that all the laws of England are not, and cannot possibly be in force in that or any other Colony.”—(Attorney General v. Stewart, 2 Merivale 159.) In Chalmer's Collection of Opinions upon points of jurisprudence concerning the Colonies (vol. I., 198. 220.) I find the opinions of the most eminent lawyers in accordance with the law as laid down by Blackstone. Sir Robert Henley and Mr. Yorke, Attorney and Solicitor General in the year 1757, in answer to a question put to them by the Committee of the Council for the Plantations, how far the Statute for counterfeiting foreign coins was in force in Nova Scotia, state their opinion as follows:—“We are of opinion that the proposition adopted by the Judges there, that the inhabitants of the Colonies carry with them the Statute laws of this Realm, is not true as a general proposition, but depends upon circumstances, the effect of their charter, usage, and Acts of their Legislature; and it would be both inconvenient and dangerous to take it in so large an extent.” Sir Phillip Yorke and Sir Clement Wearg had, in the year 1724, expressed their opinion to the same effect. Upon a similar question referred



referred to them, as to what English laws were to be considered in force in Jamaica, they replied, "such Acts of Parliament as have been made in England to bind the Plantations in general, or Jamaica in particular, and also such parts of the Common or Statute Law of England as have by long usage, and general acquiescence, been received and acted under there, though without any particular law of the country for that purpose, are to be considered as in force." Lord Mansfield, in delivering the opinion of the Court of Kings' Bench, in the celebrated case of Campbell and Hall, is reported to have referred to this last opinion of the Crown lawyers in the following words:—"A maxim of constitutional law, declared by two such men in modern times, as Sir Phillip Yorke and Sir Clement Wearg, will require some authorities to shake." I might multiply great names in support of the principle I contend for, but those which I have cited will be sufficient to prove the existence of the principle itself, and the certainty with which it has been preserved and applied. From these authorities I collect the true principles upon which the Laws of England should be extended to the Colonies, to be as follows:—

- (1.) Statutes passed after the settling of a new Colony, do not bind such Colony, unless they are extended to the Colonies at large, or such Colony in particular.
- (2.) Of the Statutes which were passed before the settling of the new Colony, only such extend to it, as are suited to the condition of the Colony.
- (3.) In all cases of doubt, the applicability of any particular Statute must be determined, in the first instance, by the local Courts.

Now, carrying these plain principles with us to the consideration of the 24th section of the New South Wales Act, it will at once appear that they are all embodied in that clause, and that the two other provisions which are added to them were intended to give them more complete effect; viz., by fixing the exact time, after which English Acts of Parliament should no longer bind this Colony; and enabling the Legislative Council to remove any doubts as to the applicability of any Statute, by declaring whether such Statute did or did not extend to the Colony, or under what limitations or modifications it should extend, reserving it still, as the duty of the Judges, in the meantime, to declare the Law. The terms of the Act, the anticipation of doubts which might arise, all clearly show that Parliament never intended to broad-cast, as it were, the whole body of English Laws upon this Colony, without reference to its condition or circumstances, or considering whether such Laws were applicable or otherwise. Surely something more is required of the Court, some higher obligation of intellectual duty is imposed on us, than simply to say whether there be a physical possibility of applying a Law or not within the Colony. What, I would ask, is there in the peculiar constitution of this infant Colony, which requires a different principle to be observed in the application of the Laws of England, from that which has been observed in applying the same Laws to every other Colony? We are all placed in the same relative position, having the same rights and obligations, and the same common dependency upon the parent country. If it were both "inconvenient and dangerous" to extend all the Laws of England to the elder Colonies, how does it become less so in this? The only legitimate object of all laws, is to provide for the protection and necessary wants of mankind—beyond this every Law is unnecessary—and, in proportion as it is inapplicable, it becomes a useless burthen. Of all evils upon society, I know of none more to be deprecated, than to be governed by unsuitable Laws—they interfere with the daily habits and pursuits of mankind—they are opposed to their feeling and opinions, and carry in them all the consequences of oppression. If we, the Judges, are merely to declare whether the Laws of England can be applied or not, what is there to prevent the application of a "multitude" of provisions, as Blackstone expresses it, which hitherto no one has dreamed of extending to this Colony—the Law of Marriage—the Laws of Tithes, with their particular exemptions—the Poor Laws—the Excise Laws—the particular rule prohibiting two persons (being in partnership) from underwriting the same policy? I know of no argument against the application of these Laws, except that they have never been used in this Colony, and that reason concurs with circumstances, in declaring that they are inapplicable to the condition of an infant establishment. Perhaps it will be urged that there is a want of the necessary machinery to execute such Laws, and therefore they are not in force. But this argument will fail when it is considered that in some of those I have enumerated there is machinery enough to admit at least of a partial application; and in many others, which are in fact administered within the Colony, there is a defect of the necessary machinery, as it exists in England. We have, for example, no Sheriff's or County Court, notwithstanding which the remedy by replevin is as frequently resorted to in this Colony, as if such Court were in full operation. I might quote other instances, but they are unnecessary; the distinction of such Laws as do, and such as do not, require the particular machinery created by the Statute which creates the Law to carry them into effect, will be found to be neither a safe nor unerring standard. The first, and leading principle should be, whether such Laws are applicable in their nature and object, to the state and condition of the Colonists. I am fully aware, that in the adoption of this criterion, I shall be met by a strong argument, of the inevitable uncertainty which must remain as to what Laws may or may not, *a priori*, be held to apply; a difficulty which many vain attempts have been made to remove, and which must continue until the Legislature shall, by some positive code, embody the whole of the Common and Statute Law of England, which it may intend to apply to the Colony in the mean time. I venture to affirm, in full confidence of the result, that it will be found impossible, by any general clause, so to frame any general rule, as to decide, as by a scale, upon the applicability of any English Law; or to place the principle upon a better foundation than it rests on at present. In the absence of any positive code, or statutory declaration of the Law upon the point under consideration, it appears to me that I am bound to regard it in the same point of view, as if I had been called upon to decide it in any other Colony; or, as I think it would have been decided by the King's superior Courts in England, if it had arisen incidentally before them. Assuming then the true point of enquiry

to be, whether the Statute of Anne, limiting the legal rate of interest to five per cent. per annum, is applicable to the condition and circumstances of this Colony, I shall proceed to examine it, for the sake of order, under two general heads; first, as to the nature and object of the Statute itself; and secondly, as to the usage of this Colony, and the analagous practice of the other Plantations.

Among the Laws enumerated by Sir William Blackstone as not applying to the condition of an infant Colony, are "the Laws of Police and Revenue, especially such as are enforced by penalties." This general distinction appears to have been adopted by the Master of the Rolls in deciding against the application of the Statute of Mortmain in the Island of Grenada. "Whether the Statute be in force in this Island, will, as it seems to me," says he, "depend on this consideration, whether it be a Law of local policy, adapted solely to the country in which it was made, or a general regulation of property, equally applicable to any country in which property is governed by English Law. I conceive that the object of the Statute of Mortmain is wholly political—that it grew out of local circumstances, and was meant to have merely a local operation. The thing to be prevented was a mischief existing in England, and it was by the quality and extent of the mischief, as it there existed, that the property of legislative interference upon the subject was to be determined." (*Attorney General v. Stewart*, 2 Meriv. 160.) Upon the same general ground, the Court of King's Bench, in the case of *Rex v. Vaughan* (4 Burn. 2,500), held that the Statutes 12 Ric. II., c. 2, and 5 and 6 Ed. VI., c. 16. against bribery in the office of sale offices, did not extend to the Island of Jamaica. "These Statutes being positive regulations of police, not adapted to the circumstances of a new Colony, and therefore no part of that law of England which every Colony, from necessity, is supposed to carry with them at their plantation." Adopting the distinction here drawn by the Judges in England, between such laws as are of a general and fundamental kind, upon which the constitutional government and social rights of the community depend, and such as are of a political and local nature, calculated to suit the exigencies of particular times and places, and admitting of a deviation without affecting the general Laws of the Empire; and applying this distinction to the case under consideration, it appears to me that the laws for regulating the interest of money in England, were never intended by the Legislature that made them, to extend beyond the meridian of England; that Usury Laws are properly laws of police, suited only to local circumstances, varying in their provisions with time and place, and not alike, I believe, at this present moment in any two of all the numerous possessions of the British Crown. In England, in the reign of Henry VIII., the rate of interest was regulated at ten per cent.; in the reign of His Successor it was made unlawful to receive any interest at all. A Statute of Elizabeth restored the law as it stood under Henry the Eighth. In the succeeding reigns of James the First and Charles the Second, the legal rate of interest was reduced, first to eight, and afterwards to six per cent.; and in the 12th year of Anne (Statute 2, c. 16) it was finally reduced to five per cent., as it now stands. In Ireland the rate of interest is higher than it is in England at the present time. In the American Colonies, the rate of interest has varied at different times from ten to six per cent.; and in the East Indies it was fixed by Act of Parliament, at twelve per cent.; yet all these several rates of interest have been recognised by the Courts of Law in England, and although a doubt had been raised how far contracts made in England did not fall within the express words of the Statute of Anne, so as to render any contract at a higher rate of interest than is thereby prohibited, void, yet that doubt was removed by the 14th Geo. III., c. 79, and such contracts were expressly protected. There never was a doubt, but that they were at all times legal, and might be enforced in the Colony where they were made. There is an opinion ascribed to Pomberton, in arguing the case *Blankard v. Galdy* (4 Mod. 222), that the Statute of Anne did not apply to Jamaica; but I rest no argument upon that dictum; my own opinion is formed upon the clear principles laid down by Lord Mansfield and Sir William Grant, in determining whether a particular Statute applies to the Colonies; upon the universal precedent of every Colony under the Crown; and upon the invariable usage of this Colony since its first settlement. I think I understood a part of my brother Burton's argument to be, that the American Colonies were settled at different periods of time, and that they took with them the rate of interest in force in England at the date of their respective settlements. Assuming the fact to be so, it does not appear to me to alter the case. If the Statute of James, limiting the interest of money at eight per cent., were in force when Jamaica was first admitted to the privilege of an English Colony, it became the Law of Jamaica, and could not afterwards be repealed or altered by the Legislature of that Island. Yet my learned brother admits, that by an Act of the Assembly, passed after the settlement of that Colony, the rate of interest was fixed at ten per cent. By His Majesty's Proclamation in 1763, the Island of Grenada was declared to be an English Colony, and admitted to a full participation of all the rights and privileges which were enjoyed by the other American Colonies; and consequently, the common law of England, with all the modifications, additions, and restrictions, from time to time engrafted upon it by Statute, became the Law of that newly established Colony, subject only to the consideration, how far they were applicable to the conditions of the inhabitants. If the Statute of Anne were a necessary part of the English Law, then it was as fully in force in Grenada, as if it had been expressly named in the Statute, and the legal rate of interest was, and could only be, five per cent. Yet we find that the Assembly of that Island, shortly after it was established, fixed the local rate of interest at six per cent. In the East Indies, where His Majesty's subjects are governed by the general Laws of England, it was never supposed that the Usury Laws were in force. Indian interest, as it is called in the books, was always allowed upon Indian dealings. The case of *Ekins v. East India Company* is in point. (1 P. Wms. 396.) That case was decided in the year 1717, and it was referred to the Master, by the Chancellor, to compute interest according to the rate allowed in India at that time. It is indeed true, that the rate of Indian interest was afterwards fixed by Act of Parliament, (13 Geo. III., c. 63), at twelve per cent.; but the terms of the Act imply that there was

was no legal prohibition to taking that, or any higher rate of interest in India before. And yet what sound distinction can be drawn between the commercial dealings and money transactions of His Majesty's subjects in India, and in New South Wales, so as to support an argument in favour of the application of the Usury Laws to the one, and not the other? In principle I see no difference between them. It will not be contended that India is a foreign country, governed by the laws of the *Gentoo*, the *Hindoo*, or the *Mussulman*—these Laws cannot apply to the contracts and dealings between His Majesty's subjects in India; they are governed by the Laws of England, in the same manner as we are, that is, so far as such Laws are adapted to their local circumstances; and if the Statute for regulating the interest of money, be a necessary and inseparable part of those Laws, then was it as binding upon British subjects in India, before the Statute, as it is upon the inhabitants of New South Wales, at the present day.

But there is another objection which it appears to me, in the absence of all others, would be very strong against the introduction of the Statute of Anne into this Colony,—it has never been used by the inhabitants, nor enforced by the Courts; and it has been the invariable practice to allow a higher rate of interest than is allowed by the English Act. That usage generally, in the Colonies, is respected, it will not be necessary for me to contend, after the opinions of the eminent persons I have cited. If it were, the Statute 25 Geo. II., c. 6, would fully bear out the position. That Act was passed to remove certain doubts which had been raised as to the execution of wills under the Statute 29 Charles II., usually called the Statute of frauds, and as this latter Statute was in force in some of the Colonies, and not in others, it became necessary to extend and confine the provisions of the amending Act, to such of the Colonies as had received and acted under the Statute of frauds. The Act of Geo. II., therefore, recites the partial adoption of the Act of Charles II., and enacts that its own provisions should “extend to such of the Colonies where the Statute of Charles II. was by an Act of Assembly made, or by usage received as law.” This recognition by Parliament of the force and effect of local usage in determining the application of any particular Statute to the Colonies, is too strong to be overthrown; it was used advisedly, and upon an occasion when the applicability of a Statute was the subject of enactment; it amounts, therefore, to a parliamentary declaration of the Law, and it is in perfect accordance with the opinion, and almost expressed in the language, used by the Crown lawyers in 1724, which I have already referred to. There is a wide difference between the usage here mentioned, and the particular customs which have been alluded to by my brother Burton, and which require, in order to entitle them to legal force, that they should have existed beyond the time of legal memory. Such customs are in their nature partial usages, confined to particular places, as distinct from the country at large, and are a departure from the general Law; they require, therefore, to be proved before they can be admitted; and are never extended beyond their local limits, or precise practice. The usage I contend for, is not the custom of any particular place—it is the *non-usus* of an English Statute, by the whole of the inhabitants of the Colony, since its settlement—of a Statute confined in practice to the limits of England, and not observed in any other part of the British Empire.

Upon every view of the case, therefore, I am of opinion, that the Statute of Anne forms no part of the received Law of this Colony; that it is wholly inapplicable to its condition, and is therefore not in force. In coming to this conclusion, it is satisfactory to me to find that the principles of Law are not in variance with the rules of Equity, or opposed to the interests of the Colony. The adoption of the opposite conclusion, had it unfortunately been the opinion of the Court, must have led to the most embarrassing results—results which it would be, perhaps, impossible to calculate in the extent of confusion and mischief that might have ensued. What would be the probable consequence of this Court holding that all contracts for receiving a higher rate of interest than five per cent. were usurious, and therefore void? The Banks must immediately close—confidence would be at an end—the dishonest debtor would avail himself of the decision of this Court to avoid payment of his just demands. It is true that the Legislature is at hand to remedy the mischief; but before I could consent to make this Court the medium of so devastating a decision, as to call upon the Legislature to apply a retrospective and wholesale remedy, I must first satisfy myself that such is the stern and inveterate decree of the Law; that the obligation imposed upon me by positive Law is too clear to be misconceived, and too strong to be evaded; and that I have no discretion but to say *ita lex scripta est*. Let me not, however, be mistaken; the Laws of England are our birth-right, where they apply to our condition, and can be administered to us with advantage; but where they are inapplicable, they are not in force; and where they are silent, then there is no Law, unless established by the general consent and usage of the Colony at large, or the Local Legislature; both being alike subordinate to the great and sovereign principle, that our local Laws and usages must be reasonable in themselves, and not repugnant to the general Laws of the Parent Country.

Upon the second question, which arises out of the first, viz:—whether, assuming that the Usury Laws do not apply to this Colony, the Court will enforce any rate of interest whatever, that may be agreed upon between the parties. It is not necessary in this case that we should decide that point solemnly; but, as at present advised, I see no reason why Judges and Jurys should not continue to apply the same considerations to all cases of this kind as they have done heretofore, and to give such interest, by way of damages, as they think reasonable, and according to the usage of the place—a usage which is presumed to be in the knowledge of all the parties, and to enter into and form an implied portion of their contracts. For this course of proceeding it would not be difficult to find ancient precedents, if it were necessary to justify it by authority. But I apprehend that we are not bound to give any solemn opinion upon the abstract question, whether there is any legal limit to the rate of interest which may be recovered, besides the convention of the parties; and I see no sufficient reason to disturb the practice which has hitherto prevailed at *Nisi Prius*. Should such a question be raised of sufficient

sufficient magnitude to require a complete and final adjustment, I apprehend that the Legislature alone possesses the power of fixing the rate at which interest in all cases may be demanded, and enforcing it by penal consequences.

In conclusion, I must repeat my regret at being compelled to differ from my brother Burton, for whose opinion, in this case, I entertain so much respect, that to dissent from his judgment is to raise a doubt of the correctness of my own. I fully appreciate the value of the researches he has made, and the alarming facts he has brought to light. He has, I think, established a sufficient case to call for the interference of the Legislature.

Mr. Justice Dowling.—I entirely agree in the opinion delivered by the Chief Justice; and, after the elaborate view which His Honor has taken of the subject, I do not think it necessary to go very minutely into the grounds of my concurrence. The substantial question involved in this case is, whether the English Statutes of Usury can now be enforced in this Colony, by operation of the 24th section of the New South Wales Act, 9 Geo. IV., c. 83, which enacts, "That all Laws and Statutes in force within the realm of England, at the time of the passing of this Act, shall be applied in the administration of justice in the Courts of New South Wales, so far as the same can be applied within the said Colony."

This is the first time, I believe, that the question of the applicability of the English Usury Laws to this Colony has been formally raised, since its foundation. I have made diligent enquiry to ascertain whether it has ever been a subject of discussion, and it seems to have been taken for granted, by the Local Government, by the authorities, and by the inhabitants, that those laws, though part of the Statute Law of England, do not extend to this Colony, notwithstanding it had been originally settled by Englishmen. By a Government Order, issued on the 14th July, 1804, (now nearly thirty years since), after reciting, that enormous interest had been theretofore exacted, the rate of interest was limited to eight per cent, under pain of subjecting the parties taking a larger rate, to the penalties of the Statute of 12 Anne. This, as far as it goes, though not a legislative declaration upon the subject, shows, as a matter of practice, that the Local Government, as it then existed, did not recognise but disclaim these laws as applicable to the Colony. From that time until the present, the rate of interest has fluctuated, and has generally been matter of contract between the parties, but almost always exceeding five per cent. Since the Statute 4 Geo. IV., c. 96, New South Wales has had a Local Legislature of its own, and the only instance in which the Legislature has legislated upon the subject of interest, has been by the late Ordinance for establishing a Savings Bank, by which the trustees are empowered to lend money at interest, not less than eight per cent. As far as the sense of the local Legislature can be collected upon such a subject, by a solitary enactment, this goes to show that they did not consider the English Usury Laws applicable to the Colony. In 1828, when I became a Judge in this Colony, I found that eight per cent was regarded by my brother Judges, by the professors of the law, by the assessors and magistracy, by the whole mercantile body, and indeed by universal assent, as the just and reasonable rate of interest payable for money lent on securities. I certainly do not know of any other foundation for this rate of interest, than the common assent of the whole community, that such was the fair value of the use of money in the Colony; and I take it that the common assent of those who are to be affected by a practice or usage, though opposed to the express terms of an English Act of Parliament relating to the local police of the mother country, must be regarded of some validity with us, in determining the present question. Until the present occasion, this rate of interest has been allowed by the Judges, assessors, and juries, as the just rate of interest. On some occasions lately, parties have even gone the length of demanding ten per cent, on the ground that this was the common rate of interest received by bankers and merchants on discount transactions; but I believe the Court has in no instance allowed more than eight per cent to be taken, unless there was an express contract to the contrary. Although it has thus been considered that the Usury Laws of England do not apply to this Colony, yet the Court has never yet held that the spirit of those laws is not in full operation in the administration of its equitable jurisdiction. Where fraud, collusion, or circumvention, has been used in taking advantage of a needy borrower, the Court has invariably afforded relief against usury, in the odious sense in which that offence is treated in the Statutes of Usury. However tacitly the Usury Laws of England may have hitherto been disregarded, I think my learned brother Burton, who has conscientious doubts upon the subject of letting a matter of so much importance rest upon so very precarious and uncertain a footing as *non-usset*, or rather disregard of the Statutes of England, is by no means to be discommended for suggesting the necessity of having this matter duly considered. This is certainly not the time nor place to enter into any consideration of the policy of those Statutes; but I may be permitted to observe, as matter of history, that very able and enlightened men in the mother country have questioned their policy, as they regard the commercial enterprise of Great Britain. The simple question for our determination is, whether they can now, for the first time, be put into operation, without the help of the Local Legislature? There is no doubt that the words of the New South Wales Act, 9 Geo. IV., c. 83, s. 24, are very strong. The laws of England in force at the date of that Act, "shall be applied in the administration of justice, so far as the same can be applied within the Colony." I, however, agree with the Chief Justice in his exposition of this section. I do not regard it as a positive mandatory obligation, that all the laws of England shall be applied in the Colony, because by possibility they may be enforced. If we were to read the Act of Parliament so, we might be compelled to impart and act upon laws, wholly inapplicable to the state of society in this infant settlement, although we were possessed of the machinery proper for carrying them into operation. It would be no difficult matter to recite numerous Acts of Parliament passed before the 9 Geo. IV., c. 83, which could by possibility be put in force in this Colony, though highly detrimental, and wholly unsuited to the wants and condition of the community. As a general proposition therefore, it is not quite correct, that because an English Statute can be applied to the Colony, it must be applied. Who is to determine the applicability of the law? Parliament has made provision

provision for this, by enacting in the same section that, "it shall be the duty of the Supreme Court as often as any doubts shall arise upon the trial of any information or action, or upon any other proceeding before them, to adjudge and decide as to the application of any such Laws or Statutes in the said Colony." By what test are the Judges to perform this duty? Surely by their local and judicial knowledge of the actual state of the country in which they are called upon to administer justice; I admit that in this the Judges have a very wide discretion vested in them; but this like all other discretionary functions, is to be exercised, not wildly, and without rule, but upon a sound and deliberate consideration of the whole subject, with reference to the actual state of the Colony. I certainly am not prepared to say that the Usury Laws are such as cannot be applied in the administration of justice in this Colony. I know of no local obstacle, or want of machinery, in the way of their administration. As a matter of fact, they have never yet been administered in, or been deemed applicable to the Colony. Their non-applicability, rests upon one unbroken course of disetude since 1787, when the first English fleet arrived. The learning upon the subject of usages and customs, applies only where there are no written laws to guide a Court of Justice. If the actual rate of interest payable in this Colony were to depend upon usage and custom, it is clear that it could not stand, because the rate has been perpetually varying according to the actual value of money, from the fluctuations of the market and local circumstances. I rely not upon the usage as to the rate of interest, to shew the inapplicability of these Laws, but upon the universal assent to their inapplicability, manifested by acts and declarations of the Local Government; testified by decisions of the Courts of Justice, silently allowed by the Local Legislature since the Colony has had a Legislative Council (except in the confirmatory instance of the Savings' Bank Act), and practically acknowledged by the mercantile and agricultural interest of the community. Are these considerations to be disregarded in determining the present question? The point therefore, for us now to adjudge (as in duty bound by law) is, whether after the lapse of forty-five years (i. e. from the formation of the Colony) during which thousands upon thousands of pounds have been invested upon securities, bearing more than five per cent. interest, and when at this moment all pecuniary binding transactions in this Colony are not regulated by the Usury Laws, but by the supposed fair, marketable value of money—we can hold that those Laws must be applied. It appears to me, that in the due exercise of the powers delegated to the Judges of this Court, we cannot, with reference to the past and present condition of the Colony upon this subject, hold the Usury Laws to be applicable. To do so, would be productive of great individual hardship and injustice, for if the Usury Laws have been always applicable to this Colony, every money transaction in which more than five per cent. has been stipulated for forbearance, must be set aside, and the usurers subjected to the most grievous penalties, the public credit of the Colony must be shaken to its foundation, and the most irreparable injury produced. If this determination shall have the effect of calling the attention of the Local Legislature to the subject, and of suggesting to them the expediency of exercising the powers vested in them by the New South Wales Act, "to declare whether these Laws shall be deemed to extend to the Colony, and to be in force therein, or to make and establish such limitations and modifications of those Laws as may be deemed expedient in that behalf," this Court will have done all that can be required of it by the provisions of the Act of Parliament. On the whole of this case, I am of opinion that the plaintiff is entitled to calculate interest, on the promissory note in question, at and after the rate which Assessors and Jurors have been in the habit of hitherto allowing in this Court in like cases;—namely, eight per cent.

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### No. 5.

THURSDAY, 5 JUNE, 1834.

1. Council met pursuant to adjournment, His Excellency the Governor in the Chair. Quarter Sessions Amendment Bill; read a second time; to be read a third time on Friday, the 13th instant.
2. Written Engagement Bill; read a second time; to be read a third time on Friday, the 13th instant.
3. Orphan Apprenticing Bill; read a second time; committed and amended; and further consideration deferred until Tuesday next.  
Council adjourned at three o'clock, until Tuesday next, at twelve o'clock.

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### ORDERS OF THE DAY.

TUESDAY, JUNE 10.

1. Slaughtering Bill; second reading.
2. Orphan Apprenticing Bill; further consideration.

FRIDAY, JUNE 13.

1. Quarter Sessions Amendment Bill; third reading.
2. Written Engagement Bill; third reading.

E. DEAS THOMSON, *Clerk of the Council.*

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No. 6,

## No. 6.

TUESDAY, 10 JUNE, 1834.

1. Council met pursuant to adjournment, His Excellency the Governor in the Chair. Marriage Bill—Colonel Snodgrass, as Chairman, brought up the Report of the Sub-Committee. Report received. Bill to be re-printed, with amendments proposed by the Committee, and read a second time on Tuesday, the 17th instant.
2. Interest Bill—His Honor the Chief Justice, as Chairman of the Sub-Committee, reported progress.
3. Slaughtering Bill; second reading deferred until to-morrow.
4. Orphan Apprenticing Bill; further consideration deferred until to-morrow. Council adjourned at two o'clock, until to-morrow, at twelve o'clock.

## ORDERS OF THE DAY.

WEDNESDAY, JUNE 11.

1. Slaughtering Bill; second reading.
2. Orphan Apprenticing Bill; further consideration.

FRIDAY, JUNE 13.

1. Quarter Sessions Amendment Bill; third reading.
2. Written Engagement Bill; third reading.

TUESDAY, JUNE 17.

1. Marriage Bill; second reading.

E. DEAS THOMSON, *Clerk of the Council.*

## No. 7.

WEDNESDAY, 11 JUNE, 1834.

1. Council met pursuant to adjournment, His Excellency the Governor in the Chair.— Slaughtering Bill read a second time, committed and amended; to be fairly transcribed, and carried to the Governor by Colonel Snodgrass, and the Collector of Customs.
2. His Excellency the Governor laid upon the Table, "*A Bill to enable the Proprietors of the 'Australian Subscription Library and Reading Room,' to sue and be sued in the name of their Secretary, and for other purposes.*" The notification of the intention to apply for this Bill, having been affixed on the doors of St. Philip's and St. James's Churches, Sydney, on three successive Sundays, proved by the respective clerks thereof. Bill read a first time; to be printed.
3. Orphan Apprenticing Bill; further consideration deferred until to-morrow. Council adjourned at four o'clock, until to-morrow, at twelve o'clock.

## ORDERS OF THE DAY.

THURSDAY, JUNE 12.

1. Orphan Apprenticing Bill; further consideration.

FRIDAY, JUNE 13.

1. Quarter Sessions Amendment Bill; third reading.
2. Written Engagement Bill; third reading.

TUESDAY, JUNE 17.

1. Marriage Bill; second reading.

E. DEAS THOMSON, *Clerk of the Council.*

## No. 8.

THURSDAY, 12 JUNE, 1834.

1. Council met pursuant to adjournment, His Excellency the Governor in the Chair. Interest Bill; His Honor the Chief Justice, as Chairman, brought up the Report of the Sub-Committee. Report received, and to be printed.
2. Orphan Apprenticing Bill re-committed, and further amended; to be re-printed with amendments, and further considered on Wednesday next. Council adjourned at two o'clock, until to-morrow at twelve o'clock.

ORDERS

## ORDERS OF THE DAY.

FRIDAY, JUNE 13.

1. Quarter Sessions Amendment Bill ; third reading.
2. Written Engagement Bill ; third reading.

TUESDAY, JUNE 17.

1. Marriage Bill ; second reading.

WEDNESDAY, JUNE 18.

1. Orphan Apprenticing Bill ; further consideration.

E. DEAS THOMSON, *Clerk of the Council.*


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*REPORT from Sub-Committee on the Interest Bill, with the Minutes of Evidence.*

To His Excellency the GOVERNOR, and the Honorable the Members of the LEGISLATIVE COUNCIL.

The Committee appointed for considering the proposed Bill for regulating the Interest of Money, have the honor to report, for the information of your Excellency and your Honorable Council, that they have duly considered the several Documents referred to them, and have examined some of the most respectable and intelligent Inhabitants representing the Monied, Commercial, and Landed interests of the Colony, relative to the subject of the proposed Law, and the following points appear to be generally agreed upon, namely :—

That the application of the Statutes against Usury, or the introduction of any system of Usury Laws, would be attended with a great degree of present mischief, and be highly injurious to the future interest and prosperity of the Colony.

That in cases where no Rate of Interest has been agreed upon between the parties to any contract for the loan or forbearance of money, it would be expedient to fix some rate, by Law, for the guidance of the Courts.

But great difference of opinion appears to prevail as to the expediency or propriety of passing a Law for restraining parties from agreeing for any rate of interest on the loan of money, which with reference to their own concerns they might deem proper, or for preventing the lender from recovering any such rate in a Court of Justice.

All, however, agree in opinion that if it be the wisdom of your Excellency in Council, to impose any restraint upon the rate of interest upon the loan or forbearance of money, it should not be enforced by any penal provision, excepting that the lender should not be able to recover more than the legal or established rate of interest in the Courts, leaving the contract between the parties, in all other respects, undisturbed by the Law.

Under the state of facts disclosed in the Documents referred to your Committee, and with a due regard to the opinion of the Public, as represented and expressed by the Gentlemen who have been examined before them, they would respectfully suggest to your Excellency and Honorable Council, the expediency of introducing into the proposed Bill, a clause declaring the Usury Laws and Statutes of England, not to have been, and not to be, in force in the Colony of New South Wales, in like manner as the same have been so declared by the Legislature of Van Diemen's Land.

Your Committee beg leave to lay before your Excellency and Honorable Council, the several Documents, and all the Evidence taken before them, which they have appended to this their Report.

12th June, 1834.

FRANCIS FORBES,  
Chairman.

ANNO UNDECIMO.

GEORGII IV. REGIS.

(No. 6.)

*An Act to prevent Doubts as to the Application of the Statutes of Usury.*

**W**HEREAS it is expedient to prevent doubts as to the application of the Statutes of Usury within this Colony : Be it therefore declared and enacted, by His Excellency Colonel GEORGE ARTHUR, Lieutenant Governor of the Island of Van Diemen's Land and its Dependencies, with the advice of the Legislative Council, That the Laws or Statutes relating to Usury, or any provisions thereof, which were in force in England on the twenty-fifth day of July, One thousand eight hundred and twenty-eight, do not extend, nor have extended to this Colony, and shall severally be deemed and taken not to have been, or to be at any time in force within the same.

Preamble.

Usury Acts not to be in force.

GEORGE ARTHUR.

*Passed the Legislative Council, this twenty-fourth day of April, One thousand eight hundred and thirty.*

W. T. PARRAMORE,  
*Clerk of the Council.*

MINUTES

## MINUTES OF EVIDENCE.

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## THURSDAY, 5 JUNE, 1834.

## HIS HONOR THE CHIEF JUSTICE IN THE CHAIR.

- A. B. Spark, Esq.  
5 June, 1834,
- A. B. Spark, Esquire, Director of the Bank of Australia, called in and examined:—
1. Is it in your opinion desirable to have any law to regulate the interest of money? Only so far as no previous agreement may exist between the parties.
  2. What would you consider a fair rate of interest? The current rate of the Colony, which is ten per cent.
  3. Do you think that any other Law than this would be inexpedient? I do.
  4. Have you considered what would be the effect of declaring the Usury Laws of England to be in force in this Colony? The effect on the whole would, in my opinion, be detrimental; it would tend to embarrass individual speculation—to check the influx of capital, and consequently to retard the progress of the Colony.
  5. Do you apply that observation to fixing the rate of interest at five per cent., or to any rate of interest enforced by penalties? I would apply it to any rate of interest, especially under ten per cent, which I consider a natural, not a forced interest. Reducing the rate of interest below this, would have a tendency to discourage the introduction of foreign capital.
  6. Have you any idea of the outstanding Bills, Bonds, &c., upon which interest is received above five per cent? It is very large; but I have not the means of ascertaining the amount. The interest ranges from ten to twenty per cent.
  7. Would you confine the rate of interest to ten per cent? No; I would leave it open.
  8. How long has ten per cent. been the current rate? About five or six years; previously to that, eight per cent. was the current rate for a short time, and prior to that, ten per cent.
  9. Are you not aware, that in many instances extortionate interest has been charged; amounting in some cases, to fifteen, twenty, and even thirty per cent? Yes.
  10. Do you think that it would be well to place some limit to the rate of interest? No, I do not; the evil will cure itself; the high rate of interest in the Colony causes the importation of capital, and the rate of interest in the course of time, will thus naturally fall.
  11. Are you a Director of the Bank of Australia? I am.
  12. What is the subscribed capital to that Bank? About £45,000.
  13. Have you limited your capital to that amount? If it were the positive wish of the Proprietors that a greater amount should be paid up, we should not object, but that amount is found sufficient at present.
  14. Is your's professedly merely a discounting establishment, or does it also lend money to the landed interest on mortgage? We are professedly a discounting establishment.
  15. In order to be able to charge ten per cent. discount, you have a certain subscribed capital, and will not allow a greater amount to be paid up? We have a sufficient shew of Bills every week to the extent of our capital and no more; we generally discount all the good Bills presented.
  16. What is the rate of dividend you pay annually upon your stock? About eighteen per cent.
  17. What do you reserve for a sinking fund beyond this? One fifth of the net profits.
  18. What is the average amount of your weekly discounts? About £10,000.
  19. Do you discount Bills at a longer date than three months? We do not.
  20. Do you think, that if there were an increased capital, and you were to discount to a larger amount, and at a lower rate of interest, it would not be beneficial to the commercial and landed interests of the Colony? I do not think that we could, with safety, discount more than we do; and I am of opinion that they can very well afford to pay ten per cent.
  21. What portion of the productive part of the community can best afford to pay ten per cent.; the commercial or landed interest? I think the commercial.
  22. If the rate of interest were fixed at ten per cent. would it, in your opinion, have the effect of benefitting the agricultural interest? Not on the whole; I think many would be unable to borrow money at all, at that rate.
  23. Why do you think so? Land is not very willingly taken on mortgage; there is a strong objection to it, except at a higher rate of interest.



24. Do you think that the agricultural interest can borrow money at ten per cent. for the improvement of their properties, and pay that interest over and above a fair profit for their labor? Not generally; but it may be done by industrious people. A. B. Spark,  
Esq.
25. You have stated that the high rate of interest in this Colony has a tendency to introduce a large amount of foreign capital—do you know of any large amount having been sent here for the purpose of being invested at interest only? I do not know of any large amount having been sent out to the country for that purpose; but I am aware that a considerable amount has been retained in the country, and invested on mortgage at interest, in Bank Stock, &c. 5 June, 1834.
26. Do the Banks of Australia and New South Wales furnish, generally, the only loans of capital to the landed and commercial interests? There are three other Institutions, besides men of large capital, who discount Bills.
27. To what extent do these Institutions discount weekly? I have no means of knowing.

**FRIDAY, 6 JUNE, 1834.**

James Norton, Esquire, Solicitor of the Supreme Court, and Director of the Bank of Australia, called in, and examined:—

J. Norton,  
Esq.

1. Are you extensively acquainted with the money dealings of this Colony, both commercial and landed? I am. 6 June, 1834.
2. Do you think that any law is desirable to fix the rate of interest? Only so far as relates to contracts where no rate of interest has been specified.
3. At what would you fix that rate? After a great deal of consideration I should be disposed to say at ten per cent. At the same time I am of opinion that that rate may be much too high in a few years, and perhaps in less than a year.
4. In all cases where there had been a stipulated rate of interest, would you allow the lender to receive that rate? I would.
5. What would be the effect, in your opinion, if the Usury Laws of England were declared to be in force? I am of opinion that it would tend to keep up the interest of money. The fixing a low rate of interest would prevent the introduction of foreign capital, and thus reduce the amount below the demand.
6. Does it come within your professional knowledge, in money transactions, in this Colony, that more than five per cent. has been given? About fifteen per cent. was the average rate given about five years ago. I should say that eleven per cent. is the average now given. This reduction has, I consider, been in a great measure effected by the introduction of foreign capital.
7. Are you aware that the Usury Laws have not been in force, and that by a late decision of the Supreme Court they are held not to be applicable? I am.
8. Supposing that that decision should be reversed by the King in Council, what would be the effect upon the Contracts and Assurances in existence in this Colony? I should say the most violent and mischievous convulsion; I believe quite ruinous.
9. What would be its future consequences? I believe that many persons who now lend their capital both advantageously to themselves and the borrower, would enter into speculations dangerous to themselves and mischievous to the community, and that intelligent and highly qualified persons who now speculate advantageously with the capital of others, would be incapable of pursuing their usual avocations.
10. Have you much to do in your professional character with the money transactions of the Colony? I have.
11. What amount, annually, may be said to be invested in mortgage on landed or household security? I am not prepared to say, but the amount is very large.
12. What is the average rate of interest on such security? I think about eleven per cent. at this time.
13. Do you know whether there is much money at this time in the hands of private individuals for investment in this way? I should think about £10,000.
14. At what rate of interest? Not under ten per cent. I do not think persons could live upon a capital in this Colony at a rate lower than ten per cent., that would in England support him at five per cent.
15. Is there at present much demand among the Agricultural interest for money? I think not; very little comparatively.
16. To what do you attribute this? To the increase generally in the price of Agricultural produce. There is at present a general desire in England to invest money at interest in this Colony, in consequence of the high rate of interest, which is controlled only by the difficulty of ascertaining the nature of the security to be given.
17. What is the subscribed capital of the Bank of Australia? Something less than £50,000 has been paid up.
18. Do you limit it to that amount, by preventing the Proprietors from paying up a greater amount upon their Shares? We do at present.
19. What reason have you for so limiting the capital? We find that the sum paid up is sufficient for the purposes of the Bank. An increase of capital would have the effect of lowering the profits of the Bank, without any corresponding advantage.

Thomas Walker, Esquire, Director of the Bank of Australia, called in, and examined:—

T. Walker,  
Esq.

1. Do you think it expedient to fix the rate of interest in any cases? Only for the government of the Court, where no rate had been agreed for, between litigants. 6 June, 1834.
2. In cases where there is an agreement, should the rate be enforced without limitation? I am of opinion that it should, supposing that no fraud or other legal objection is found to exist in the contract.

T. Walker,  
Esq.  
6 June, 1834.

3. In cases where no agreement has been made, what rate would you propose? Ten per cent., which I consider the lowest rate now taken in the Colony; there is a great demand for money at that rate.
4. Then you think that no other law on the subject is necessary? It does not at present occur to me that any other on the subject is necessary.
5. Have you much experience of mortgages and bonds in the Colony? I have.
6. What is the rate generally taken on such security? The prevailing rate is ten per cent., but from that, even up to fifteen per cent. is given, according to the goodness of the security. I consider ten per cent. as the lowest rate for the best security.
7. Can you form any idea what may be the usual returns of money vested in the Agricultural Stock of the Colony? My personal acquaintance with Agricultural pursuits being but limited, I am unable to give a very definite answer to this question, and it is obvious to me, that returns from capital employed in Agriculture in this Colony depend on a great variety of contingencies, and must vary exceedingly with different individuals, even when engaged in precisely the same branches; but the best mode of ascertaining such returns is the demand of the Agriculturists for loans. I do observe that they borrow money, and are able not only to pay interest at ten and twelve per cent., but to refund the amount borrowed. I am indeed convinced that many Agriculturists resident on their farms in the interior, would benefit themselves in obtaining loans of money even at these high rates of interest, for the purpose of purchasing "stock," more especially sheep; they would thus be able to derive more extensive advantage from their possessions.
8. What would be the effect of a law limiting the rate of interest in all cases to eight per cent.? In my opinion much evil, and I cannot discover any benefit; the passing of such a law would clearly not make money more plentiful or cheaper, and the value of money being at present greater than eight per cent., none would be lent at that rate, and borrowers would have to give, or promise a higher rate. The honorable would fulfil such engagements, but the dishonest might not, and they could not be compelled, so that the law would be of benefit only to the unworthy. Besides, such a law would be extremely unjust towards those who have subsisting contracts at higher rates. The lender would be debarred from recovering the rate promised for the use of that capital which the borrower had enjoyed, and by which he had benefited, and under these circumstances the probability is, that the capital so situated would be withdrawn, to the great injury, if not ruin, of the borrower. It would also be injurious as tending to prevent the introduction of foreign capital into the Colony, and of thus perpetuating high rates of interest. The borrowers would eventually be the greatest sufferers. The high rate of interest hitherto prevailing has induced many Capitalists in England to send out money for investment at interest here.
9. What would be the effect of declaring the Usury Laws of England to be in force in this Colony? The greatest confusion and fraud. They would be evaded in every possible way. Another effect would be, that money now lent at a higher rate than they sanction would be recalled, to the ruin in many cases of the borrowers.

P. De Mestre, Prosper De Mestre, Esquire, Director of the Bank of New South Wales, called in, and examined:—

6 June, 1846.

1. Do you think that it is expedient to regulate the rate of interest? I do, in all cases before the Court.
2. Supposing that a rate of interest has been agreed upon between parties, should that rate be enforced? I do not think so; but that there should be a standard rate for all cases. My reason is, that the rate being unlimited, the borrower is induced in some cases to sacrifice his credit by a high rate, to the loss of his other creditors.
3. What rate of interest do you think ought to be fixed as the standard? I think eight per cent. high enough; but not above ten per cent.
4. Do you think that eight or ten per cent. would be a rate which would induce the introduction of foreign capital? I do; but I do not consider that the introduction of foreign capital is of great benefit, as the profits go out of the Colony; ten per cent. would no doubt induce the introduction of foreign capital.
5. Supposing you fixed the rate of interest at ten per cent. would you enforce that rate by penalties?—No: I would only allow the lender to recover his principal, and the legal rate of interest; but would not disturb payments made at whatever rate.
6. Do you consider that this should have reference to former contracts? Certainly not.

W. C. Wentworth, Esq. W. C. Wentworth, Esquire, Barrister at Law, and Director of the Bank of New South Wales, called in, and examined:—

6 June, 1846.

1. Do you think it would be beneficial in any case to fix a rate of interest? I think it would be, in a new country like this, where capital is scarce, and there are not those masses of money that are to be found in other countries.
2. Would you fix a rate in all cases whatsoever, or confine it to cases where no rate has been specified? I would put a limit to the rate of interest in all cases; but I consider the rate of eight per cent. as proposed in the Bill, too low. I have known so many cases of extortion in this Colony, that I certainly am disposed to fix a rate. It is different from old countries where capital is abundant.
3. What general rate of interest would you fix?—In all cases where interest is to be enforced in a Court of Justice, I think that ten per cent. is a fair rate; and beyond which parties should

should not be allowed to recover. I think money is worth that rate at present. Where parties agree for a higher rate of interest, and the borrower pays it, I would allow him, or his representatives, at any time within six years from the date of the transaction to recover back from the lender the surplus above legal interest, but would not allow it to be recovered back from his representatives, because this might lead to false claims and perjuries in support of them, which they (the representatives) might have no means of rebutting. I think this much of penal liability (if it may be so termed) would not increase the difficulties of the borrower, and would prove a salutary check on the usurious propensities of the lender. Further than this, in the way of penal visitation, I certainly would not go.

4. Are you aware that it has been held by the Supreme Court that the Usury Laws of England do not apply in this Colony? I am.

5. And that this decision may be reversed by the King in Council? Yes.

6. What would be the effect of reversing that decision? The effect would be most ruinous; it would change most of the property in the country.

7. What would be the effect of fixing a low rate of interest upon the introduction of foreign capital? I think that fixing the rate at ten per cent. would not discourage its introduction, though it is the impression in England that a higher rate can be obtained in this Colony. A Legislative enactment, fixing the rate of interest would be beneficial, as affording a guarantee for its recovery to that extent. It would act as a Legislative declaration that money was worth that rate of interest, and could be recovered in the Courts. It would at once remove doubts, and give a public pledge of security to such extent.

8. Does it come within your knowledge that money borrowed at ten per cent. may be profitably employed in Agriculture or Commerce? I am of opinion that it may be so employed in Agricultural pursuits. I allude more particularly to "Grazing." There are an infinite number of ways in which money borrowed at ten per cent. may be profitably employed. I consider money well worth ten per cent.

9. Has much foreign capital been introduced into this Colony? I am not aware of any very large amount; more has been sent to Van Diemen's Land, where the rate of interest has been exorbitantly high. It has fallen there lately to about twelve and a half per cent. I have heard of one person introducing £40,000, and finding some difficulty in investing it, at interest at twelve and a half per cent.

William Lithgow, Esquire, Director of the Bank of New South Wales, called in, and examined:— W. Lithgow, Esq.

1. In your opinion would it be expedient to have any law for regulating the rate of interest? I think it would, when not fixed by previous agreement.

2. What rate would you fix? Eight per cent. when no specific rate is stipulated, as at present understood; but sanctioning any higher rate specifically agreed for, within the range of the usual fluctuations of the market rate, up to a maximum which it might, perhaps, be advisable to fix, beyond which the party lending should not be entitled to recover; upon the same principle as gambling debts.

3. What should you propose as the maximum rate? Within the last eight years the market rate of interest on fair security has varied from eight to twelve per cent. I think twelve per cent. would be a proper maximum.

4. Would you enforce such a law by penalties? I would confine the penalty to the non-liability to recover interest beyond the maximum.

5. What do you consider would be the effect of fixing a low rate of interest upon the introduction of foreign capital? It would discourage the influx of capital. A law to restrain interest to a rate below the real value of the use of money would further be quite inoperative. It would give rise to subterfuge and evasion; and give a distorted and fictitious colouring to almost every loan transaction.

#### MONDAY, 9 JUNE, 1834.

Robert Campbell, junior, Esquire, Director of the Bank of Australia, called in, and examined:— R. Campbell, junior, Esq.

1. Would it be expedient to have any law to regulate the interest of money? I think it would.

2. Should that law extend to all cases where interest is taken, or be confined to those where no specific agreement has been made between parties? I think that in all cases the rate of interest to be recovered in Court should be restrained. I would adopt the proposed Law of Council, limiting the rate to eight per cent.

3. If parties agreed for a higher rate, and paid it, would you allow them to recover back the surplus above legal interest? I think not, unless in very exorbitant cases.

4. Do you think eight per cent. should be established as the legal rate? Yes; without a penalty. If a higher rate be established, a penalty should be attached; but I am not prepared to say that the penalties of the Usury Laws of England should be enforced by any Court here.

5. What penalty would you propose? I am not prepared to say how far the penalties should go.

6. What would be the effect of putting a limit of the rate of interest upon the introduction of foreign capital? I do not think that fixing the rate at eight per cent. would prevent its introduction.

7. Do you know of any foreign capital having been sent to this Colony for investment at interest? I am not aware of any capital having been sent to this country on account of the high rate of interest, but I have known money to be left here to be invested at eight per cent.

William

W. C. Westworth, Esq.  
6 June, 1834.

6 June, 1834.

9 June, 1834.

W. Dawes,  
Esq.

9 June, 1834.

William Dawes, Esquire, Director of the Bank of Australia, called in, and examined:—

1. Do you think it would be expedient to have any law to regulate the interest of money? I do.
2. Would you fix it in all cases, or only in such as the parties have not agreed upon a rate? In all cases, provided the rate were fixed at not less than ten per cent. It should not be legal to take more than ten per cent.
3. If parties were to agree upon a higher rate of interest, would you annul the contract? Not unless it exceeded fifteen per cent.
4. Would you enforce this by penalties? No; I would merely rescind the contract for the surplus, and allow the lender to recover legal interest for his money at the rate of ten per cent.
5. Are you against any penalties beyond that? I am.
6. Does it come within your own personal knowledge that the high rate of interest now prevailing has induced foreign parties to invest their money here? I know three instances in which this has been done, and the parties have lent their money at ten per cent.
7. Do you think that fixing the rate lower than ten per cent. would have a tendency to check this? I have no doubt it would.
8. Do you think money fairly worth ten per cent? I do.
9. Do you think this arises from the scarcity of money, or from the means of employing it? I think from both causes; the borrower can afford to pay that rate for it. I think that a law is required to stop the extortionate rate of interest in many cases, but if parties chose to stipulate for a higher rate of interest, and paid it, I would not disturb the contract. I would not, however, allow a higher rate than ten per cent, to be recovered in Court.

T. U. Ryder, Thomas Urmsom Ryder, Esquire, Director of the Bank of Australia, called in, and examined:—

Esq.  
9 June, 1834.

1. Do you think it would be expedient to have any law to fix the rate of interest? No; I would leave it in its present state to regulate itself.
2. What would you do in dispute cases in the Courts of Justice? I would allow the current rate in the Colony at the time of the contract.
3. How would you discover that current rate? By the discounts of the banks, and the custom among merchants.
4. What do you consider the present rate? Ten per cent. Exorbitant interest is often taken, and if a law could be made for such cases, so as to prevent interest being taken above a certain amount, it might be useful; but I would confine the law to exorbitant cases, such as twenty-five per cent. I would allow parties to recover fifteen per cent. in Court, if the agreement was for that rate. I know of money being lent in 1828 on *bona fide* security at an interest of twenty-five per cent. and producing ruin to the borrower; and I am of opinion, that it is scarcely possible for capital to be obtained, profitably at least to the borrower, at similar rates, for in a few instances, in my opinion, can difficulties or embarrassment be overcome under a weight of interest or taxation of this magnitude.
5. Do you know of any instances of foreign capital having been introduced into this Colony in consequence of the high rate of interest? I have.
6. What would be the effect of lowering it? I think it would prevent the introduction of foreign capital; that is, if the rate were fixed below what we have been accustomed to, namely, ten per cent.

R. Wardell, Robert Wardell, Esquire, L. L. D., Barrister at Law, and Director of the Bank of New South Wales, called in, and examined:—

Esq.  
9 June, 1834.

1. Do you think it would be expedient to have any law at all to regulate the rate of interest in any cases? I do not. I think such a law would be intended to meet a case in which no relief could really be given; it would be intended to prevent outrageous interest being taken. The usurer will have his usury. He would extort the more for his risk by legal impediments. A law limiting the rate of interest would create a risk where no risk previously existed, and would, therefore, tend to increase an evil, rather than to mitigate it. In England the usurer always exacts a sum of money in proportion to the risk he incurs on account of the existence of the Usury Laws. Besides, affixing a value to money is reducing to one level the credit of every one—the man of good credit and the man of bad credit—and the result at any rate would be to shut out the latter from the possibility of borrowing money, unless he submitted to the usurer's terms. I think also the consequence would be to increase litigation, as many cases would be contested on account of a law to regulate the rate of interest, which otherwise would not find their way into Court; and these would not be the cases of the honest debtor, but of the dishonest one seeking the opportunity of relieving himself from his obligations. In this country many transactions, I may say all of them, have been carried into effect with reference to the rates of interest at which it was understood money might be lawfully lent. Real estates have been converted into money with the view of obtaining ten per cent. from persons of good credit. This is one of the numerous instances in which the individual would find the value of his capital at once lowered, and lowered in proportion to the limitation of interest by law below ten per cent. These are in some measure particular reasons for deprecating interference with transactions of this nature. But as a general reason, I conceive it to be most objectional to interfere with money transactions. I would leave money to find its own level. Nothing finds its level more readily, and with greater certainty, than money. Whether the rate of interest be high on account of a greater risk existing here than elsewhere, or on account of the means of employing money to advantage being unusually numerous; or from the state of society—no matter. Abridged funds will be enlarged by mercantile speculation. There must necessarily be an influx of capital

capital where money is wanted. Settling a rate of interest, and at a low rate, would evidently prevent improvement in this country, because money would not find its way so freely into it. The Courts here, too, have taken upon themselves a certain responsibility. I would be disposed to leave them with that responsibility. In cases of contract, they have interposed. They have disallowed what has appeared extortionate interest. Clearly where there is no contract, they have the power to award that amount of interest which meets the justice of the case before them. If it is resolved that it is expedient to fix a rate of interest, I should say that rate which has been most in vogue, most recognised and acknowledged in all transactions of fair dealing, should be taken as the safest criterion—namely, ten per cent. I would say as far as I have heard the opinions of the greatest borrowers, that ten per cent. is generally considered sufficiently great, though sufficiently low. The respectable, and the greatest borrowers are perfectly satisfied with that rate—and they find that paying ten per cent. enables them to realise a liberal return for money borrowed. I have sometimes heard it said that the rate of interest, sanctioned by custom, is higher here than the legal rate is in any other of the Colonies. There is also a feeling of risk which enters more or less into all transactions, and to a greater extent than is experienced in long established societies. There is more personal anxiety, and a necessity for personal attention, on account of the greater difficulty of dependence on Agencies in so distant a Colony. Also speaking with reference to my own personal experience, these are circumstances weighing so with me, that I should be induced as a Proprietor of Bank Stock to reduce one half the amount I possess, if the interest were fixed by law at a lower rate than ten per cent.; the *ex post facto* effect of a law regulating the rate of interest would seriously affect all persons, opening a source for gains and losses which could not rationally have been calculated on.

2. You are aware of a decision of the Supreme Court, that the Usury Laws of England are not applicable, and that this decision may be reversed by the King in Council; what in your opinion would be the effect of reversing that decision? Most destructive.—It would introduce total confusion, whether the penal consequences provided by the Usury Laws attached or not; I beg further to suggest, that the numerous sales of property which took place some few years ago under writs of execution, were not attributable in any wise to the circumstance of money having been lent at an exorbitant rate of interest, for persons purchased stock on credit, expecting to realise fifty per cent. on their purchases, so as to enable them to pay from ten to thirty per cent. for their credit. They however lost seventy and eighty per cent. by the fall of prices of stock. Had they borrowed the money without interest, or promised nothing for their credit, they could not have repaid the capital, and the very same writs of execution must have been issued, and with the same result, the ruin of the purchasers.

TUESDAY, 10 JUNE, 1834.

F. W. Unwin, Esquire, Solicitor, called in and examined:—

F. W. Unwin,  
Esq.

10 June, 1834.

1. Do you consider it expedient to have any law to regulate the interest of money? I certainly do, in all cases, whether the parties had entered into any agreement to fix the rate or not.
2. At what rate would you fix it? At eight per cent. I have looked over the list of mortgages made out by myself, amounting to about £120,000, and I find that scarcely more than one in seven has been redeemed. It is clear therefore that the mortgages have been unable to support the present rate of interest. I have drawn about two hundred mortgages, and the average rate of interest has been about twelve per cent. The first two years I was in this Colony, namely, in 1827 and 1828, there was a floating impression that no more than eight per cent. could be recovered, and no more was consequently taken upon mortgages. But when it was known that the Usury Laws did not apply, the interest immediately rose. I consider that the previous opinion, that only eight per cent. could be recovered, acted as a salutary check, and kept down the rate of interest.
3. What do you consider as the fair value of money at present? I think that money can be let out on good security in Sydney at twelve per cent.
4. Do you think that that would leave a profit to the borrower? No; I think it would be much better for the borrower to sell his property at once. I should say that eight per cent. is as much as the borrower could afford to pay, so as to leave a profit to himself, but I think money well worth that.
5. Supposing that the law fixed the rate of interest at eight per cent. would you enforce that rate by penalties? No; I would merely prevent the lender from recovering more than the legal rate, and I would enable the borrower to recover back any surplus, otherwise in all discount transactions the law would be nugatory. I would leave the contract valid in all other respects. I think that such a law would not touch *bond fide* transactions in trade, but would only operate for the protection of the needy borrower.
6. What would be the effect if the Usury Laws of England were declared to be in force in this Colony? A very pernicious effect. If the forfeitures were sued for, I think it would ruin the Colony.
7. Were the two hundred mortgages you mention as having drawn, mostly on town or country properties? Mostly on town properties, particularly of late years. My impression is, that not more than one in twenty of the country mortgages have been redeemed.
8. Do you think that fixing the rate of interest so low as eight per cent. would have the effect of preventing the introduction of foreign capital? On the contrary; I think it would give a stability to foreign investments.

WEDNESDAY,

WEDNESDAY, 11 JUNE, 1834.

A. Berry,  
Esq.

11 June, 1834.

Alexander Berry, Esq., Member of the Legislative Council, called in and examined:—

1. Are you a considerable landed proprietor in this Colony? I am.
2. Do you think it would be expedient to have a law to regulate the interest of money in any cases whatever? It might be convenient to define it in certain cases where there is no agreement between parties, but I think people should be left free to make their own bargains. I consider money the same as any other commodity.
3. How would you determine the rate of interest in disputed cases before the Court, where no specific agreement has been made? I consider that the customary rates of discount at the Banks of New South Wales and Australia would be a fair criterion.
4. You would not then fix the rate permanently? I would not; if the rate were to be fixed at the present day, I should say ten per cent. leaving it to be altered afterwards as circumstances should vary. I have no doubt that the introduction of foreign capital would have a tendency to reduce the rate of interest. The rate however depends more on the profits of capital, and means of employing it, than on the quantity of money in the market—and therefore the introduction of capital would not lower the rate of interest until it was so plentiful as to lower the rate of profit.
5. Suppose the rate of interest were fixed at eight per cent. do you think it would prevent or encourage the introduction of capital? I think that fixing it at eight per cent. would not prevent its introduction, because this is much above the customary rate of England; but I think it would increase the rate to be charged by the borrower to the lender by increasing his risk, and by compelling him to do a discreditable thing by lending his money above the legal rate. It is evident that the higher the rate of interest, the greater will be the encouragement to the introduction of foreign capital.
6. How would this affect the landed proprietor? I do not think the landed proprietor would be able to borrow on more advantageous terms by fixing the rate of interest at eight per cent. So long as the fixed rate was lower than the natural or market rate, the law would be inoperative, whilst the borrower would have to pay an increased rate in proportion to the additional risk the lender would incur by its evasion. I do not consider that at present agriculturists can afford to pay a higher rate than eight per cent; but if they borrow at all, they must be content to pay the same interest as the mercantile body. Is it equitable to fix the profit on money more than on any other property? If the legislature were to fix the price of land in Sydney, or the rent of houses, it would be cried out against as a most unjustifiable interference. Would it be less unjustifiable to interfere with the rate at which the money that built the houses has been lent?

R. Jones,  
Esq.

11 June, 1834.

Richard Jones, Esquire, Member of the Legislative Council, and President of the Bank of New South Wales, called in and examined:—

1. Are you a considerable proprietor of land and stock in this Colony? I am.
2. Do you think it would be expedient to have a law to regulate the rate of interest in any cases? I would fix it upon all unspecified transactions at eight per cent per annum. In specified cases, I would leave the parties to fix their own rates. I would not interfere with them, but I would not allow the lender to recover more than eight per cent in a court of justice.
3. Supposing the borrower had actually paid, would you allow him to recover back the surplus above legal interest? No: I should not.
4. What do you think would be the effect of fixing the rate of interest, upon the introduction of foreign capital? I do not think that it would have any material effect. I am not aware of foreign capital to any extent being sent here for investment at interest; what comes, is for investment in the banks; very little is invested in bonds or mortgages. I know the opinions of some monied men in London; they do not think that the high rate of interest in this Colony is an adequate inducement to trust their capital so far off, there being so many contingencies upon the proper investment of money and the conduct of agents; and having no voice, or means of ascertaining the nature of the security upon which their property is lent, the moment they part with their money it becomes a matter of uncertainty with them whether they will ever get it again.
5. Does it come within your knowledge that the high rates of interest in this Colony have been productive of great ruin? From my experience both as a merchant and as a landed proprietor, I am of opinion, that nothing but ruin can result to persons who borrow money at high rates of interest—the profits of neither trade, nor agriculture, nor grazing, would pay them.

H. H. Mac-  
arthur, Esq.

11 June, 1834.

Hannibal Hawkins Macarthur, Esquire, Member of the Legislative Council, and Chairman of the Bank of Australia, called in and examined:—

1. Are you an extensive landed and stock proprietor? I am.
2. Do you consider that it would be expedient to have any law to regulate the interest of money in any cases? I think it would be desirable to have a law to regulate the rate of interest, in cases where no rate is fixed or expressed in the contract.
3. What do you think should be the rate in such cases? I think at present ten per cent, which I consider the value of money now.
4. What would you do in cases where parties agreed upon a higher rate? I have some difficulty in answering that question: I would not encourage the high rate at which interest has been taken, namely, twenty and twenty-five per cent; and yet I feel the difficulty of interfering.
5. Is it your opinion that penal laws tend to increase the risk, and consequently the rate

rate of interest? It is. I think that limiting the rate to ten per cent. would drive borrowers to expedients, which would have the effect of increasing the rate at which they could obtain accommodation. I have heard of transactions at twelve and a half per cent. and believe them to have been advantageous to the borrower. I think the rate of interest should be left to regulate itself, and the law confined to those cases only where no agreement specifying a rate is made.

6. What do you consider would be the effect of fixing a low rate of interest, upon the introduction of foreign capital? I think that fixing the rate lower than ten per cent. would have a tendency to check its introduction, while fixing that rate in all cases in which the rate was not expressed, would encourage it.

John Blaxland, Esquire, Member of the Legislative Council, called in and examined:—

1. Are you a very large Landed Proprietor? I am; I possess nearly 25,000 acres.
2. Do you consider it expedient to have any law to regulate the interest of money in this Colony? I think that there should be a standard in disputed cases in Courts of Justice; but in cases of bargain, I would leave parties to settle their own rate.
3. What would you fix as the standard rate? Eight per cent. If the parties agreed to pay a higher rate, and afterwards came to the Court to contest it, I would leave it at the standard or legal rate. I would not otherwise interfere with private bargains.—I would not disturb the contract; but I would not allow more than the standard rate to be recovered in a Court of Justice.
4. Would you allow parties who have paid more than legal interest to recover back the surplus? I would not.
5. What do you consider a man engaged in the ordinary affairs of husbandry can afford to pay as interest? I do not think he can afford to pay more than eight per cent.

J. Blaxland,  
Esq.

11 June, 1834.

Robert Campbell, Junior, Esquire, Director of the Bank of New South Wales, called in and examined:—

1. Do you consider it expedient that the interest of money in this Colony should be regulated by law? I do.
2. In cases where there is no agreement, should the rate be enforced without limitation? Certainly not.
3. In cases where there is an agreement what rate would you propose? Ten per cent., as long as the demand for money keeps as it is now.
4. What do you consider the rate of interest now current in the Colony? Ten per cent.
5. What would be the effect of fixing a low rate of interest upon the introduction of foreign capital? I am not aware of much foreign capital coming into the country for investment by way of loan, but if much were to come in, interest must necessarily fall.
6. What would be the effect of declaring the Usury Laws of England to be in force in this Colony? Very ruinous to all engagements previously made in money transactions, as well as to the general interest of the country.

R. Campbell,  
Junr., Esq.

11 June, 1834.

THURSDAY, 12 JUNE, 1834.

J. B. Montefiore, Esquire, called in and examined:—

1. Do you think it expedient to have a law to regulate the interest of money in any cases whatever? I do not.
2. How is the rate of interest to be determined in disputed cases before the Court, where no rate is specified? By the current rate of the day when lent, which is universally known.
3. What would be the effect of fixing a legal rate of interest upon the introduction of foreign capital? I think that passing a law would have the effect of preventing respectable emigration; every day money is flowing into the country from the high rate of interest here, and the superabundant capital at home, where only four per cent. can be obtained. I consider the effect of fixing or lowering the rate of interest would exclude the capitalist, and injure the poor man, the borrower; because the introduction of money will lower the rate of interest. In a commercial point of view, the rate of interest is a barometer of the prosperity of every country in the world; if you lower the rate of interest, you exclude so much capital; the consequence of which is, you cramp commercial enterprise, which in itself is an injury to the Colony. Money will always regulate its own value. I know money is lent at fifteen and twenty per cent. but I am sure that in most of such cases the capital will be lost. It is the high rate of interest now prevailing here, which brings money into the Colony. I do not think that fixing a rate, even at ten per cent. would be advisable, because there will always be a fixed rate in fair transactions—a self-created and self-regulated interest, as is the case now, namely, ten per cent., which is what I should term the legitimate interest of New South Wales at the present time. I think the introduction of a large amount of capital would bring down the rate of interest to eight and seven and a half per cent. I know many transactions in which money is now offering for several years at eight per cent. I expect the introduction of about a quarter of a million of money within twelve months from this time. This will no doubt bring down the interest of money, but it will enchain the value of every thing else.

J. B. Montefiore,  
Esq.

12 June, 1834.

J. B. Montefiore, Esq.  
12 June, 1834.

4. Have you any further observations to offer? I have; which I wish to be considered as generally embodying my ideas on the subject. If a law should be passed, I view it in the following manner:—First, an injury to the Colony at large; as it is a well known fact, that the knowledge in the mother country of the high rate of interest is the cause of the large sums flowing hither; the result of which will be in a few years (should population and commercial enterprise keep pace with it), that money from an excess of importation will be cheap, and then a new field opened to the persevering and industrious colonist. From the high rate goods have sold at for some years past, an excess of importation of every article of necessity and luxury is hourly taking place. What is the result? The colonist has it in his power to purchase at a very low rate, arising from a strong competition. Again,—This country is singularly situated in its financial operations—not as countries on the continent of Europe—its transactions are *purely local*. I mean, capital *once* brought here can never be withdrawn, and as the probability is that our exports will exceed our imports, the greater the introduction of capital, (even if the foreigner, that is, the capitalist in Great Britain, should reap the interest,) the greater will be the tendency to preserve the balance of trade between the two countries; the importation of goods can never have that effect if they exceeded the exports ten-fold; consumption cannot be forced, but money can always find a source for its employment. As I have before said, pass a law to restrict the rate of interest, and you at once destroy the stamina of this Colony, for the equilibrium of trade in England, (which country is the main spring of Europe,) is preserved by its various exchanges, as it is indeed all over the world, from the exports and imports of bullion and coin. Secondly, if a law should be passed, it is certain to be evaded, which, in my humble opinion, would open a door to an increase of crime in a Colony so peculiarly populated as this. Thirdly,—From threatening the capitalist in England with a limited *legal* rate, a blow is aimed at respectable emigration, an evil upon which it is unnecessary to comment.

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No. 9.

FRIDAY, 13 JUNE, 1834.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and laid upon the Table "*A Bill to facilitate the Apprehension of Transported Felons, and Offenders illegally at large, and of Persons found with Arms, and suspected to be Robbers.*" Bill read a first time; to be printed, and referred to a Sub-Committee.

SUB-COMMITTEE APPOINTED.

The Chief Justice,

Lieut.-Colonel Snodgrass,

Mr. Macarthur,

Mr. Blaxland,

Mr. Bell.

2. His Excellency the Governor laid upon the Table "*A Return of Lands granted to the late Church and School Corporation, distinguishing those subsequently sold,*" to be printed.
  3. His Excellency the Governor laid upon the Table:—
    - (1). "*An Abstract of the Estimated Expenditure of the Colonial Government for the Year 1835.*"
    - (2). "*Minutes explanatory of the several heads of Expenditure, and of Ways and Means, as Estimated for the Year 1835;*" to be printed.
  4. Quarter Sessions Amendment Bill; read a third time and passed.
  5. Written Engagement Bill; read a third time and passed.
- Council adjourned at two o'clock, until Tuesday next at twelve o'clock.

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ORDERS OF THE DAY.

TUESDAY, JUNE 17.

1. Marriage Bill; second reading.

WEDNESDAY, JUNE 18.

1. Orphan Apprenticing Bill; further consideration.

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NOTICE OF MOTION.

WEDNESDAY, JUNE 25.

Colonial Secretary—Consideration of the Estimates for 1835.

E. DEAS THOMSON, *Clerk of the Council.*

RETURN



*RETURN of LANDS granted to the late Church and School Corporation ; distinguishing those subsequently sold.*

COUNTY.	PARISH OR DISTRICT.	GRANTED.			SOLD.			
		Acres.	Roods.	Perches.	Acres.	Roods.	Perches.	
Cumberland ...	Sydney, Barrack Lane ...	...	...	24	...	...	...	
	Ditto, Harrington-street...	...	...	19	...	...	...	
	Ditto, Prince-street ...	...	...	30	...	...	...	
	Botany ... ..	4,175	...	...	...	...	...	
	Gordon ... ..	60	...	...	...	...	...	
	Saint John ... ..	600	...	...	...	...	...	
	Castle-hill and South Colah ...	200	...	...	...	...	...	
	Prospect ... ..	830	...	...	...	...	...	
	Rooty Hill ... ..	8,138	2	16	...	...	...	
	Saint Luke ... ..	1,945	...	...	...	...	...	
	Saint Peter ... ..	100	...	...	...	...	...	
Camden ... ..	Kurrajong ... ..	2	...	...	...	...	...	
	Kurrajong ... ..	9,063	...	...	...	...	...	
Saint Vincent ...	Boyle, Percy, and Bruce ...	42,467	...	...	...	...	...	
	Apsley ... ..	15,464	...	...	...	...	...	
Bathurst ... ..	Oakley ... ..	17,600	...	...	...	...	...	
	Pousonby ... ..	17,640	...	...	...	...	...	
	Calvert, Beaufort, Errol, } Belubula, and Lindesay }	85,388	...	...	...	...	...	
	White Rock ... ..	...	...	2	...	...	...	
	Bathurst ... ..	180	...	...	...	...	...	
	Marwood and Sedgfield... ..	2,230	...	...	2,230	...	...	
	Seaham ... ..	4,298	...	...	2,562	...	...	
	Sedgfield ... ..	2,429	...	...	...	...	...	
	Stanhope and Wolflingham ...	1,908	...	...	...	...	...	
	Wolflingham ... ..	2,256	...	...	...	...	...	
Durham ... ..	Ravensworth and Vane ... ..	2,552	...	...	...	...	...	
	Liddell ... ..	2,560	...	...	...	...	...	
	Auckland ... ..	2,600	...	...	...	...	...	
	Uffington ... ..	4,250	...	...	...	...	...	
	Butterwick ... ..	2,710	...	...	...	...	...	
	Middlehope ... ..	1,560	...	...	...	...	...	
	Wittingham ... ..	2,560	...	...	1,230	...	...	
	Gosforth ... ..	2,322	...	...	...	...	...	
	Branxton ... ..	2,128	...	...	...	...	...	
	Belford ... ..	2,040	...	...	...	...	...	
Northumberland	Ovingham ... ..	3,840	...	...	...	...	...	
	Lemington ... ..	2,314	...	...	...	...	...	
	Warkworth ... ..	2,472	...	...	...	...	...	
	Crosby, Fitzroy, Verulam, } Faulkland, Trevor, Thala- } ba, Horton, Karuah, Wil- } met, and Tarrean ... ..	168,000	...	...	640	...	...	
	Cumberland ...	Sydney ... ..	2	2	...	2	2	...
		Parramatta ... ..	60	...	...	...	...	...
Cabramatta ... ..		12,900	...	...	8,122	...	...	
Roxburgh ... ..	Bathurst... ..	1,000	...	...	...	...	...	
	Petersham, St. Philip, Sydney.	440	...	...	343	2	34	
Cumberland ...	Saint James, Sydney ... ..	451	...	...	451	...	...	
	Saint John, Parramatta ... ..	400	...	...	...	...	...	
	Saint Luke, Liverpool ... ..	430	...	...	412	...	...	
	Saint Peter, Campbelltown ...	400	...	...	...	...	...	
	Saint Matthew, Windsor ... ..	400	...	...	...	...	...	
Castlereagh ... ..	400	...	...	...	...	...		
TOTAL... ..		435,765	2	11	15,993	0	34	

SUMMARY OF THE FOREGOING.

Amount of Land granted ... ..	a.	r.	p.
Ditto, ditto, since sold ... ..	435,765	2	11
	15,993	0	34
Remaining unsold and reverted to the Crown ...	419,772	1	17

HENRY FISHER,  
Agent for the Church and School Estates.

NEW SOUTH WALES.

*ABSTRACT of the Estimated Expenditure of the Colonial Government, for the Year 1835.*

No.		SALARIES.		CONTINGENCIES.		TOTALS.	
		£	s. d.	£	s. d.	£	s. d.
I.	HIS EXCELLENCY THE GOVERNOR, AND JUDGES	10,000	0 0	...	...	10,000	0 0
II.	CIVIL ESTABLISHMENT .....	20,870	17 6	5,322	5 9	26,193	3 3
III.	SURVEY AND PUBLIC WORKS .....	12,497	0 10	16,959	7 8	29,456	8 6
IV.	JUDICIAL ESTABLISHMENT .....	10,387	17 6	5,478	0 0	15,865	17 6
V.	CLERGY AND SCHOOLS .....	12,728	6 9	9,669	0 0	22,397	6 9
VI.	MILITARY ESTABLISHMENT .....	314	8 9	348	15 0	663	3 9
VII.	PENSIONS .....	1,431	10 0	...	...	1,431	10 0
VIII.	MISCELLANEOUS SERVICES .....	...	...	26,783	6 8	26,783	6 8
		68,230	1 4	64,560	15 1		
<b>TOTAL ESTIMATED EXPENDITURE .....</b>						<b>£ 132,790</b>	<b>16 5</b>

*Amounting in all to one hundred and thirty-two thousand, seven hundred and ninety Pounds, sixteen shillings, and five pence.*

Sydney, 12th June, 1834.

ALEXANDER McLEAY,  
Colonial Secretary.



## ESTIMATE, continued.

CIVIL ESTABLISHMENT, CONTINUED.	SALARIES.		CONTINGENCIES.		TOTALS.	
	£	s. d.	£	s. d.	£	s. d.
<i>Brought forward</i> . . . . .	£	6,268 10 10		591 12 6	6,860	3 4
<b>COMMISSIONERS FOR DETERMINING ON CLAIMS TO GRANTS OF LAND.</b>						
The Three Commissioners . . . . .		1,620 0 0				
Secretary . . . . .		150 0 0				
Allowance to Secretary for an Office and a Messenger . . . . .		80 0 0				
		1,850 0 0				
<i>Petty Expenses</i> . . . . .				4 0 0	1,854	0 0
<b>BOARD FOR THE ASSIGNMENT OF SERVANTS.</b>						
Clerk . . . . .		150 0 0				
Messenger at 1s. 5d. per diem . . . . .		25 17 1				
		175 17 1			175	17 1
<b>COLONIAL TREASURY.</b>						
Treasurer . . . . .		1,000 0 0				
Clerk . . . . .		250 0 0				
Messenger and Office keeper at 2s. 6d. per diem . . . . .		45 12 6				
		1,295 12 6				
<i>Petty Expenses</i> . . . . .				5 0 0	1,300	12 6
<b>AUDIT OFFICE.</b>						
Auditor General . . . . .		650 0 0				
Chief Clerk . . . . .		250 0 0				
Clerks—one at £170, one at £160, and one at £100 per annum . . . . .		430 0 0				
Extra Clerks—one at 3s., and two at 1s. 9d. each per diem . . . . .		118 12 6				
Messenger at 1s. 9d. per diem . . . . .		31 18 9				
		1,480 11 3				
<i>Cases for Transmitting Accounts, and Petty Expenses.</i> . . . .				6 0 0	1,486	11 3
<b>CUSTOMS.</b>						
Collector . . . . .		1,000 0 0				
Comptroller . . . . .		600 0 0				
Four Clerks—one at £300, one at £250, one at £200, and one at £180 per annum . . . . .		930 0 0				
Three Landing Waiters at Sydney—one at £300, and two at £250 per annum . . . . .		800 0 0				
One Landing Waiter at Newcastle . . . . .		200 0 0				
One Coasting Waiter at Botany Bay . . . . .		150 0 0				
Locker . . . . .		200 0 0				
Four Tide Waiters—two at £150, and two at £100 per annum . . . . .		500 0 0				
Housekeeper . . . . .		20 0 0				
Two Messengers at 1s. 9d. each per diem . . . . .		63 17 6				
Revenue Cutter <i>Prince George</i> —viz., Commander at 7s. 3d., Chief Mate at 3s. 8d., Second Mate at 3s. 4d., Boatswain at 2s., five Seamen at 1s. 10d. each, and a Boy at 10d per diem . . . . .		479 1 3				
Custom House Boat—Coxswain at 1s., and seven Boatmen at 8d. each per diem . . . . .		103 8 4				
<i>Amount carried forward</i> . . . . .	£	5,046 7 1				
<i>Carried forward</i> . . . . .	£	11,070 11 8		606 12 6	11,677	4 2

## ESTIMATE continued.

CIVIL ESTABLISHMENT CONTINUED.	SALARIES.			CONTINGENCIES.			TOTALS.		
	£	s.	d.	£	s.	d.	£	s.	d.
<i>Brought forward</i>	11,070	11	8	606	12	6	11,677	4	2
<b>CUSTOMS CONTINUED.</b>									
<i>Amount brought forward</i>	5,046	7	1						
<i>Hire of extra Tide Waiters</i>				310	0	0			
<i>Table Money to the three Officers of the Revenue Cutter, at 1s. 6d. each per diem</i>				82	2	6			
<i>Rations to Crews of Revenue Cutter and Customs Boat</i>				273	15	0			
<i>Clothing for Boat's Crew</i>				100	0	0			
<i>Hire of a Boat at Newcastle</i>				25	0	0			
<i>Rent of Custom House</i>				250	0	0			
<i>Stores, Utensils, and Repairs to Revenue Cutter and Boats</i>				150	0	0			
<i>Postage, and incidental Expenses</i>				20	0	0			
				1,210	17	6			
<b>INTERNAL REVENUE.</b>									
Collector	500	0	0						
Chief Clerk	200	0	0						
Two Clerks—ono at £150, and ono at £120 per annum.	270	0	0						
Extra Clerks—Ono at 3s. 9d., and ono at 2s. 6d. per diem.	114	1	3						
Messenger, at 2s. 6d. per diem	45	12	0						
	1,129	13	0						
<i>Postage</i>				120	0	0			
<i>Auctioneers' Commission</i>				180	0	0			
<i>Travelling Expenses</i>				10	0	0			
<i>Incidental Expenses</i>				14	0	0			
				324	0	0			
<b>POST OFFICE.</b>									
Principal Postmaster	400	0	0						
Accountant	200	0	0						
Inland Letter Clerk	150	0	0						
One Clerk, and one Letter Sorter, at £100 each per annum	200	0	0						
Letter Carriers—ono at £60, ono at £55, and ono at £50 per annum	165	0	0						
Officekeeper, at 1s. 3d. per diem	22	16	3						
	1,137	16	3						
<i>Commission to Deputy Postmasters</i>				300	0	0			
<i>Conveyance of Inland Mails</i>				1,190	0	0			
<i>Conveyances of Coast Mails</i>				100	0	0			
<i>Allowances to Pilots for Landing the Mails</i>				20	0	0			
<i>Allowances to Masters of Vessels for Conveyance of Letters to and from Foreign Ports</i>				100	0	0			
<i>Uniforms for Letter Carriers</i>				20	0	0			
<i>Mail Boxes and Bags, Brass Plates, Stumps, &amp;c.</i>				30	0	0			
				1,760	0	0			
<b>COLONIAL DISTILLERIES.</b>									
Surveyor	300	0	0						
<b>INSPECTORS OF SLAUGHTER HOUSES AND OF CATTLE INTENDED FOR SLAUGHTER.</b>									
Inspector at Sydney	160	0	0						
<i>Allowance in lieu of a Horse</i>				40	0	0			
Inspector at Parramatta, { Authorized to retain the Fees col- } Inspector at Liverpool, { lected by each . . . . . }									
<i>Carried forward</i>	18,844	8	9	3,941	10	0	22,785	18	9

## ESTIMATE continued.

CIVIL ESTABLISHMENT CONTINUED.	SALARIES.			CONTINGENCIES.			TOTALS.		
	£	s.	d.	£	s.	d.	£	s.	d.
<i>Brought forward.</i>	18,844	8	9	3,941	10	0	22,785	18	9
<b>COLONIAL BOTANIST.</b>									
Colonial Botanist	200	0	0						
Assistant Superintendent	80	0	0						
Overseer and Gatekeeper, at 8d. each per diem	24	6	8						
	304 6 8								
<i>Two Collectors of Specimens in the Interior, at £10 each per annum</i>				32	0	0			
<i>Rations and Clothing to 36 Prisoners of the Crown, and 3 Apprentices, at 6d. each per diem</i>				355	17	6			
<i>Forage and Farriery for 3 Cart Horses</i>				39	17	9			
<i>Tools, Implements, and Incidental Expenses</i>				90	0	0			
				517 15 3					
							822	1	11
<b>HARBOUR MASTER.</b>									
Harbour Master, Sydney	500	0	0						
Superintendent of Light House, South Head	80	0	0						
Four Telegraph Masters, at £12 each per annum	48	0	0						
Harbour Master, Port Macquarie	75	0	0						
Two Boatmen at ditto—ono at 1s. 9d., and ono at 8d. per diem	44	2	1						
Pilot at Newcastle	50	0	0						
	797 2 1								
<i>Rations and Clothing to 13 Boatmen, at 10d. each per diem</i>				197	14	2			
LIGHT HOUSE—Oil, Cotton Wick, &c.	90	0	0						
<i>Rations and Clothing to 4 Men, at 10d. each per diem</i>	60	16	8						
<i>Forage, &amp;c., for one Horse, at 1s. 8d. per diem</i>	30	8	4						
				181	5	0			
<i>Coals for the Beacon at Newcastle</i>				62	8	0			
<i>Rations and Clothing to ten Men, employed at the Telegraphs, at 8d. each per diem</i>				121	13	4			
<i>Repairs of Boats, and Incidental Expenses</i>				100	0	6			
				663 0 6					
							1,400	3	7
<b>HOUSEKEEPER.</b>									
Of the Public Offices, Macquarie-street, Sydney	25	0	0				25	0	0
<b>AGENTS AND RESIDENTS ABROAD.</b>									
Colonial Agent in London	400	0	0						
British Resident at New Zealand	500	0	0						
	900 0 0								
<i>Donations of Provisions and Clothing to New Zealand Chiefs and Natives</i>				200	0	0			
							1,100	0	0
<b>ESTIMATED CHARGE of the CIVIL ESTABLISHMENT</b>	20,870	17	6	5,322	5	9	26,193	3	3

## ESTIMATE continued.

DEPARTMENTS OF SURVEY AND PUBLIC WORKS.	SALARIES.			CONTINGENCIES.			TOTALS.		
	£	s.	d.	£	s.	d.	£	s.	d.
<b>III.—DEPARTMENTS OF SURVEY AND PUBLIC WORKS.</b>									
<b>SURVEYOR GENERAL.</b>									
<b>SURVEY BRANCH.</b>									
Surveyor General . . . . .	1,000	0	0						
Deputy Surveyor General . . . . .	650	0	0						
Two Surveyors—one at £400, and one at £325 per annum . . . . .	725	0	0						
Twelve Assistant Surveyors—six at £300, one at £295, one at £290, one at £275, one at £270, and two at £200 per annum . . . . .	3,330	0	0						
Four Draftsmen—one at £192 10s., one at £187 10s., one at £180, and one at £170 per annum . . . . .	730	0	0						
Five Clerks—one at £225, one at £150, two at £120, and one at £100 per annum . . . . .	715	0	0						
Two Messengers—one at 2s. 6d., and one at 1s. 9d. per diem . . . . .	77	11	3						
Nine Overseers of Surveying Parties, at 8d. each per diem . . . . .	109	10	0						
	<b>7,337</b>	<b>1</b>	<b>3</b>						
<i>Two Temporary Clerks, at £100 per annum each . . . . .</i>				200	0	0			
<i>Forage Allowance to fourteen Surveyors and Assistant Surveyors, at 2s. 6d. each, per diem . . . . .</i>				638	15	0			
<i>Rations to fourteen Surveyors, Assistant Surveyors, and Draftsmen, when in the Field, at 9d. each per diem . . . . .</i>				191	12	6			
<i>Rations and Clothing to one hundred Prisoners of the Crown, at £16 each, per annum . . . . .</i>				1,600	0	0			
<i>Surveying Instruments and Equipments to fourteen Surveyors and Assistant Surveyors, at £60 each, per annum . . . . .</i>				840	0	0			
<i>Purchase of Draught Oxen, to replace casualties . . . . .</i>				50	0	0			
<i>Cost of Forage for six Pack Horses . . . . .</i>				150	0	0			
<i>Ditto for Draught Oxen . . . . .</i>				350	0	0			
<i>Incidental Expenses . . . . .</i>				30	0	0			
				<b>4,050</b>	<b>7</b>	<b>6</b>			
							11,387	8	9
<b>ROAD BRANCH.</b>									
Four Assistant Surveyors—one at £300, two at £280, and one at £275 per annum . . . . .	1,135	0	0						
One Superintendent of Bridges . . . . .	120	0	0						
One Assistant ditto . . . . .	80	0	0						
Two Clerks—one at £120, and one at £80 per annum . . . . .	200	0	0						
Storekeeper . . . . .	110	0	0						
Three Inspectors of Gangs, at 4s. 6d. each per diem . . . . .	246	7	6						
Overseer of Stock, Sydney, at 2s. per diem . . . . .	36	10	0						
Eighty-six Overseers—five at 3s., forty at 2s., five at 1s. 6d., and thirty-six at 1s. each per diem . . . . .	2,527	12	6						
Five Clerks (Bond)—one at 1s., and four at 8d. each per diem . . . . .	66	18	4						
	<b>4,522</b>	<b>8</b>	<b>4</b>						
<i>Forage Allowance for two Horses to the Surveyor General, and for one each to four Assistant Surveyors, at 2s. 6d. each per diem . . . . .</i>				273	15	0			
<i>Ditto to Superintendent of Bridges, and to one Sub-Inspector, at 2s. each per diem . . . . .</i>				73	0	0			
<i>Forage for forty horses, at 1s. 6d. each per diem . . . . .</i>				1,095	0	0			
<i>Ditto for three hundred Oxen, at 6d. each per diem . . . . .</i>				2,737	10	0			
<i>Cost of twenty horses, at £20 each . . . . .</i>				400	0	0			
<i>Ditto of two hundred Oxen, at £5 each . . . . .</i>				1,000	0	0			
<i>Gunpowder for Blasting, 15,000 lbs., at 1s. 6d. . . . .</i>				1,125	0	0			
<i>Carts, Tools, Stores, and Incidental Expenses . . . . .</i>				3,600	0	0			
<i>Amount of the Contract for keeping in repair the Road from Parramatta to Emu Ford . . . . .</i>				999	0	0			
				<b>11,303</b>	<b>5</b>	<b>0</b>	<b>15,825</b>	<b>13</b>	<b>4</b>
<i>Carried forward . . . . .</i>	<b>£11,859</b>	<b>9</b>	<b>7</b>	<b>15,353</b>	<b>12</b>	<b>6</b>	<b>27,213</b>	<b>2</b>	<b>1</b>

## ESTIMATE continued.

DEPARTMENTS OF SURVEY AND PUBLIC WORKS CONTINUED.	SALARIES.			CONTINGENCIES.			TOTALS.		
	£	s.	d.	£	s.	d.	£	s.	d.
<i>Brought forward.</i>	11,859	9	7	15,353	12	6	27,213	2	1
MINERAL SURVEYOR.									
Mineral Surveyor	300	0	0						
Principal Overseer	200	0	0						
Two Overseers—one at £60 per annum, and one at 2s. 3d. per diem	101	1	3						
Two ditto (Prisoners of the Crown) at 8d. each per diem	24	6	8						
Clerk (ditto) at 8d. per diem	12	3	4						
	637	11	3						
<i>Rations and Clothing to one hundred Men, employed on the Aqueduct for supplying Sydney with water, at 7½ each per diem</i>				1,140	12	6			
<i>Gunpowder for Blasting, Coals, Timber, and other Stores, Tools, Implements, &amp;c.</i>				465	2	8			
				1,605	15	2	2,243	6	5
ESTIMATED CHARGE of the DEPARTMENTS OF SURVEY AND PUBLIC WORKS	12,497	0	10	16,959	7	8	29,456	8	6
IV.—JUDICIAL.									
SUPREME COURT.									
Registrar	800	0	0						
Chief Clerk	450	0	0						
Four Clerks—one at £300, one at £160, one at £130, and one at £90 per annum	680	0	0						
Crier	50	0	0						
Courtkeeper	35	0	0						
Three Tipstiffs, at 2s. 3d each per diem	123	3	9						
Messenger, at 1s. 9d. per diem	31	18	9						
	2,170	2	6						
<i>Allowances to Witnesses for Travelling and Attendance</i>				2,000	0	0			
<i>Allowances to Military Jurors</i>				420	0	0			
<i>Allowances to Civil Jurors</i>				190	0	0			
				2,610	0	0			
LAW OFFICERS OF THE CROWN.									
Attorney General	1,200	0	0						
Clerk to ditto	150	0	0						
Messenger to ditto, at 1s. 9d. per diem	31	18	9						
Solicitor General	800	0	0						
Clerk to ditto	120	0	0						
Messenger to ditto at 1s. 9d. per diem	31	18	9						
Crown Solicitor	500	0	0						
	2,833	17	6						
COURTS OF REQUESTS.									
Commissioner	800	0	0						
Ten Registrars—one at £320, three at £80 each, one at £70, one at £40, three at £30, and one at £20 per annum	780	0	0						
Two clerks—one at £120, and one at £60 per annum	180	0	0						
Eleven bailiffs—two at £75 each, four at £50 each, one at £30, three at £25 each, and one at £15 per annum	470	0	0						
Crier	25	0	0						
Messenger at 1s. 9d. per diem	31	18	9						
<i>Amount carried forward.</i>	£ 2,286	18	9						
<i>Carried forward.</i>	£ 7,290	18	9	2,610	0	0	7,614	0	0





ESTIMATE continued.

CLERGY AND SCHOOLS.	SALARIES.			CONTINGENCIES.			TOTALS.		
V.—CLERGY AND SCHOOLS.	£	s.	d.	£	s.	d.	£	s.	d.
<b>EPISCOPALIAN CLERGY.</b>									
The Venerable and Honorable the Archdeacon . . . . .	2,000	0	0						
Sixteen Chaplains—one at £560, two at £460, two at £350, ten at £250, and one at £200 per annum . . . . .	4,880	0	0						
One Catechist . . . . .	182	10	0						
Salaries of Clerks, Musicians, Pew-openers, and other Church Officers . . . . .	790	0	0						
Allowance to the Chaplain for officiating at Sackville Reach . . . . .	45	0	0						
Salary to the Rev. L. E. Threlkeld, employed on the civilization of the Aborigines, at Lake Macquarie . . . . .	150	0	0						
	8,047	10	0						
<i>Forage Allowance to Eleven Chaplains and one Catechist, at 2s. 6d. each per diem . . . . .</i>				547	10	0			
<i>Allowance for the maintenance of twenty-four Glebe servants at 9d. each per diem . . . . .</i>				328	10	0			
<i>Ditto for maintaining two Boatmen on the River Hawkesbury . . . . .</i>				40	0	0			
<i>Ditto for the maintenance of four Convicts in the employ of the Rev. L. E. Threlkeld . . . . .</i>				36	0	0			
<i>Travelling Expenses of Clergymen on duty . . . . .</i>				260	0	0			
<i>Rent of eight Parsonages . . . . .</i>				520	0	0			
<i>Rent of a House for Catechist . . . . .</i>				50	0	0			
<i>Rent of three Chapels in the Districts of Cook, South Creek, and Menangle . . . . .</i>				70	0	0			
<i>Incidental Parochial Expenses . . . . .</i>				250	0	0			
<i>Enclosing Burial Grounds and Glebes, and incidental Repairs of Churches, Places of Worship, and Parsonages . . . . .</i>				600	0	0			
				2,702	0	0			
<b>EPISCOPALIAN SCHOOL ESTABLISHMENT.</b>									
<b>KING'S SCHOOL.</b>									
Salary of the Master at Parramatta . . . . .	100	0	0						
<i>Allowance to the Master for a house for accommodation of Boarders . . . . .</i>				105	0	0			
							205	0	0
<b>PAROCHIAL SCHOOLS.</b>									
Salaries of thirty-six Masters and twenty-five Mistresses . . . . .	1,600	0	0						
<i>Allowance of one Halfpenny per diem for each Scholar, when the Parents are unable to pay for Instruction . . . . .</i>				450	0	0			
<i>Rent of School Houses . . . . .</i>				270	0	0			
<i>Books and Incidental Expenses . . . . .</i>				100	0	0			
<i>Repairs of School Houses . . . . .</i>				300	0	0			
				1,120	0	0			
<b>MALE ORPHAN SCHOOL (160 BOYS.)</b>									
Master . . . . .	150	0	0						
Surgeon . . . . .	100	0	0						
Storekeeper, Monitors, and Servants—twelve in number . . . . .	185	5	0						
	435	5	0						
<i>Food, Clothing, and Bedding . . . . .</i>				1,524	0	0			
<i>Household and Miscellaneous Expenses . . . . .</i>				176	0	0			
				1,700	0	0	2,135	5	0
<i>Carried forward . . . . .</i>	£10,182	15	0	5,627	0	0	15,809	15	0

## ESTIMATE continued.

CLERGY AND SCHOOL ESTATES, CONTINUED	SALARIES.			CONTINGENCIES.			TOTALS.		
	£	s.	d.	£	s.	d.	£	s.	d.
<i>Brought forward</i>	10,182	15	0	5,627	0	0	15,809	15	0
<b>FEMALE ORPHAN SCHOOL (174 GIRLS.)</b>									
Matron	130	0	0						
Surgeon	100	0	0						
Superintendent	80	0	0						
Teacher, Monitresses, and Servants—twenty in number	117	3	0						
	427	3	0						
<i>Food, Clothing, and Bedding</i>				1,300	0	0			
<i>Repairs to Buildings</i>				240	0	0			
<i>Household and Miscellaneous Expenses</i>				150	0	0			
				1,690	0	0			
							2,117	3	0
<b>MANAGEMENT OF THE CHURCH AND SCHOOL ESTATES.</b>									
Agent	150	0	0						
Overseers of Flocks and Herds	50	0	0						
	200	0	0						
<i>Commission to the Agent of 5 per cent. on the amount of his Collections</i>				150	0	0			
<i>Auctioneer's Commission on Sales</i>				20	0	0			
<i>Rations and Clothing for eighteen Shepherds, Stockmen, and Laborers</i>				297	0	0			
<i>Carriage and Package of Wool</i>				25	0	0			
<i>Removing Live Stock</i>				15	0	0			
<i>A new Wool Barn, Stock Yards, Huts for Men, &amp;c.</i>				100	0	0			
<i>Other Incidental Expenses of Stock Establishment</i>				45	0	0			
				652	0	0			
							852	0	0
Clerk to the Archdeacon	150	0	0				150	0	0
<b>PRESBYTERIAN CLERGY.</b>									
Four Ministers of the Established Church of Scotland	600	0	0						
<i>Towards Building an additional Church in Sydney, a Sum equal to that raised by Subscription, but not exceeding</i>				500	0	0			
							1,100	0	0
<b>ROMAN CATHOLIC CLERGY AND SCHOOLS.</b>									
Vicar General	200	0	0						
Six Roman Catholic Chaplains	900	0	0						
Five Grave-diggers, at 9d. each per diem	68	8	9						
	1,168	8	9						
<i>Allowances for Travelling to Clergymen on Public Duty</i>				100	0	0			
<i>Towards completing the Plastering and Ceiling of the Roman Catholic Chapel, Sydney, a Sum equal to that raised by Subscriptions, but not exceeding</i>				300	0	0			
<i>Roman Catholic Schools</i>				800	0	0			
				1,200	0	0			
							2,368	8	9
<b>ESTIMATED CHARGE of the CLERGY AND SCHOOL ESTABLISHMENT</b>	12,728	6	9	9,667	0	0	22,397	6	9

## ESTIMATE continued.

MILITARY.	SALARIES.		CONTINGENCIES.		TOTALS.	
VI.—MILITARY.	£	s. d.	£	s. d.	£	s. d.
Superintendent of Ordnance Stores, and Dawes Battery.	100	0 0				
Assistant to ditto, at 6d. per diem	9	2 0				
Forage Allowance to the Commandants at Parramatta and Bathurst, at 2s. 6d. each per diem	91	5 0				
Extra Pay of the Mounted Orderlies—one Sergeant at 1s. 6d., one Corporal at 1s., and five Troopers at 9d. each per diem	114	1 3				
	314	8 9				
<i>Clothing for ditto</i>			70	0 0		
<i>Forage and Farriery for nine Horses, at 1s. 8d. each per diem</i>			273	15 0		
<i>Incidental Expenses</i>			5	0 0		
			348	15 0		
ESTIMATED CHARGE of the MILITARY ESTABLISHMENT	314	8 9	348	15 0	663	3 9
VII.—PENSIONS.						
PAYABLE IN ENGLAND.						
Mrs. Macquarie, Widow of Governor Macquarie	400	0 0				
Mrs. Cobb (late Mrs. Bent), Widow of Judge Advocate Bent	200	0 0				
Mrs. Lewin, Widow of Coroner Lewin	50	0 0				
Mrs. Jamison, Widow of Surgeon Jamison	40	0 0				
Mrs. Thompson, Widow of Surgeon Thompson	30	0 0				
	720	0 0				
PAYABLE IN THE COLONY.						
Mrs. King, Widow of Governor King	200	0 0				
Mrs. Mileham, Widow of Surgeon Mileham	100	0 0				
Mr. William Harper, late Assistant Surveyor	109	10 0				
Mr. John Redman, late Gaoler at Sydney	70	0 0				
Mr. John Tucker, late Commissariat Storekeeper	50	0 0				
Mr. John Gowen, ditto	50	0 0				
Mr. Thomas Taber, Senior, late Master of the Public School, and Clerk of St. Philip's Church, Sydney	70	0 0				
Mr. John Pendergrass, late Town Crier	12	0 0				
Mr. Joseph Harpur, late Master of the Public School, Windsor	50	0 0				
	711	10 0				
ESTIMATED CHARGE OF PENSIONS					1,431	10 0
VIII.—MISCELLANEOUS SERVICES.						
The several Public Offices.	{	Stationery, Printing, Bookbinding, Gazettes, and Almanacks, for the several Colonial Departments		1,800	0 0	
		Fuel and Light for ditto		135	0 0	
Customs.	{	Drawbacks on the Re-exportation of Foreign Goods, and Duties returned	250	0 0	2,750	0 0
		Restitution of Duty, on Spirits issued to Troops in the Interior, by the several Contractors	2,500	0 0		
Australian Museum.	{	Towards the Support of the Institution		200	0 0	
Aborigines.	{	In aid of the Mission to the Aborigines by the Church Missionary Society	500	0 0	1,300	0 0
		Donations of Provisions, Clothing, Blankets, &c.	800	0 0		
Carried forward				£ 6,185	0 0	

ESTIMATE continued.

MISCELLANEOUS SERVICES, CONTINUED.						TOTALS.		
						£	s.	d.
<i>Brought forward</i>						6,185	0	0
Public Works.	Casual Repairs to Government Houses, Courts of Justice, and other Colonial Public Buildings	1,200	0	0				
	Furniture, for Government Houses and Public Offices	600	0	0				
	Lighting 104 Lamps in the Streets of Sydney, at 2d. each Lamp per night	316	6	8				
	For improving the Boat Harbour at Wollongong	895	0	0				
	To cover the Stream near the Cattle Market, Sydney, in order to enlarge the space near the Market House	300	0	0				
	To erect the Sydney Toll House and Gate, near the Boundary Stone on the Parramatta Road	390	0	0				
	To erect a Toll House on Vinegar Hill, on the Windsor Road, and one at Cowpasture Bridge	500	0	0				
	To form a Public Walk on Hyde Park, and make two additional Entrances from thence to the outer Government Domain	1,292	0	0				
	To defray the Expense of procuring the Services of a Civil Engineer in the Colony	1,000	0	0				
							6,493	6
Towards the Expense of the Police Establishment of the Colony						12,000	0	0
For Firemen to work the Engines, when required						105	0	0
To meet unforeseen Expenses, on occasions of emergency, to be hereafter accounted for						2,000	0	0
ESTIMATED CHARGE FOR MISCELLANEOUS SERVICES						26,783	6	8
TOTAL ESTIMATED EXPENDITURE						£ 132,790	16	5

*SUPPLEMENTARY Estimate of the Probable Expenses, for the undermentioned Services, forming a Charge on the Treasury of New South Wales, for the Year 1834.*

			TOTALS.		
			£	s.	d.
To complete the four Sheds in the Sydney Market Place	1,969	14 2	3,104	15	6
To enclose the Stalls at the rear	662	0 0			
To divide the Stalls	123	4 0			
Iron Gates to the four Sheds	199	4 4			
1,808 feet of Curb-stone, round the whole area	150	10 0			
Bridge over Duck Creek, to replace that burnt			500	0	0
Payment to Contractor for keeping in repair the line of Road from Pitt-row, Parramatta, to Emu Ferry, and making one-third thereof anew, for the year 1834.			999	0	0
Payment to the several Contractors for clearing the new line of Road through the District of Hunter's River.			2,118	4	6
Additional Sum required for a Court House, Berrima			1,568	0	0
In aid of the erection of a Gaol at Berrima			2,000	0	0
Repairs and alterations to the Supreme Court House			500	0	0
Payments to Commissioners of Grants, and Secretary's and Office Charges, for the year 1834			2,800	0	0
Firemen, at £105 per annum, for six months			52	10	0
TOTAL AMOUNT			£ 13,642	10	0

*Amounting in all to thirteen thousand, six hundred and forty-two Pounds, ten Shillings.*

Sydney, 12th June, 1834.

ALEXANDER M'LEAY,  
Colonial Secretary.

*MINUTE of His Excellency the Governor to the Legislative Council, explanatory of the several Heads of Expenditure, and of Ways and Means, as estimated for the Year 1835.*

In laying the Estimate of Revenue and Expenditure for the Year 1835, before the Council, it will be convenient to offer some explanatory remarks upon the several items. The sum proposed to be expended in the next, is of larger amount than that appropriated for the present year; the increasing Revenues of the Colony justifying the expenditure of larger sums upon Public Buildings, Roads, and Bridges, than have hitherto been applied to these purposes. Without neglecting all due economy, it seems advisable to profit by the opportunity for executing in this new Country some of those public works which tend to the improvement, comfort, and security of the Inhabitants, and accomplish the most beneficial purposes of Society. Accordingly, several sums are charged on account of Churches and Schools, either erecting by the voluntary association of Individuals, or proposed to be erected solely at the public expense. The amount of the Contingent Expenditure of the Road Branch of the Surveyor General's Department, and the Miscellaneous Estimates, which include Court Houses and other Public Buildings, are taken higher than on former occasions, and a larger sum is proposed in aid of the Police.

In the Civil Establishment of the Colony, the charge for Salaries is, with the exception of that for the Commissioners of Grants, which will be in a great degree covered by the amount of fees to be received, nearly the same as in the last Estimates laid before the Council. In the Customs there is a small augmentation of expense occasioned by the Establishment of the Revenue Cutter. In the Post Office it has been found necessary to raise the Salaries of the Clerks and Letter-carriers, who, from increased business, are obliged to give more close and laborious attendance. In the Harbour Master's Department an addition is made by the appointment of a Pilot for Newcastle, with a small salary, the trade of that port not being, as yet, sufficient to remunerate a Pilot by the legal charges for pilotage.

In the Estimates of Contingent Charges, that for the Surveyor General's Department is, as has been stated, higher than usual. The Survey Branch requires to be supplied with fresh horses and oxen, and with other equipments. The expenditure of this Branch has for some years been a heavy charge on the Treasury, caused in a great degree by the unconnected manner in which Settlers have made their selections, thereby occasioning in the Survey Department great consumption of time and means in travelling over extensive Districts to measure each separate location. This source of expense still continues, as the lands for purchase are selected in various parts of the Colony, and are all required to be measured before they are put up to auction, in order that the proper descriptions may be furnished for the Deeds of Grant which are required to be delivered to the purchasers within one month after the sale. Whilst these laborious measurements have been carrying on, the general survey of the Colony, requiring the employment of several intelligent Surveyors, has also been in progress. An elaborate delineation of the whole extent allotted to the location of Settlers, divided into nineteen Counties, and handsomely engraved, has been at length effected, and sent home for the approval of His Majesty's Government, preparatory to publication.

The expense of the Road Branch for 1835, is calculated upon a scale considerably larger than heretofore. The augmentation has been rendered necessary by the increased number of prisoners in irons kept to labor within the Colony under sentence of the Colonial Courts, instead of being sent as formerly for short periods to penal settlements. This description of forced labor is becoming more efficient than formerly, and the gangs are superintended with increased vigilance under the direction of the Principal Superintendent of Convicts. In the last year but twenty-five men from this large body of prisoners effected their escape, of whom twenty-three were retaken. The number of prisoners of this sort is further augmented by the late arrangements of His Majesty's Government. Criminals sentenced to transportation in the United Kingdom are now divided into three classes. In the first are those who are sent out for the usual servitude by assignment; in the second are convicts sentenced to be worked in irons for certain fixed periods of their transportation; whilst those of the third class are at once sent to Norfolk Island or Moreton Bay. It has been found necessary to estimate for the overseers and tools which will probably be required for the second class of prisoners coming from the United Kingdom, as well as for the ironed-gangs under colonial sentence.

In this branch of the Surveyor General's Department the charge for the Road Parties still continues. It has not been found possible to obtain contracts generally for the repair of roads on terms which it would be proper to accept. One contract has alone been made, and that at so high a rate as to be defensible only on the ground that it was expedient to make some present sacrifice of money to introduce a practice which may hereafter be advantageous to the public. A contract for clearing and stumping the road from Maitland to the Upper Hunter has been made on better terms. The charges for such part of both these contracts as will require to be paid in the present year, are put into a Supplementary Estimate. The estimate for the contingent expenditure of the Road Branch for 1835 is taken higher by about £9,000 than the estimate for 1834.

The contingent-charge for the Post Office is likewise increased. It has been thought right to encourage the conveyance of the Mails in wheel carriages, as offering at the same time to the Colonists a convenient means of intercourse between Sydney and the distant Districts. The prospective advantage of this intercourse has been more considered than the present necessity for such a conveyance of the Mails.

The estimate for the Contingent Charges of the Judicial Establishment was taken too low for the present year. The expenses of Military and Civil Jurors and of Witnesses, are estimated at about £2,200 more for the next year. The salaries for the Judicial Department are nearly the same.

In the Clergy and School Establishment, there is an apparent increase of expense in the charge for the Orphan Schools arising from the following circumstance:—These Schools from the commencement of the year have been rationed by contract instead of being supplied by the flocks and herds of the Corporation as heretofore. The present mode of obtaining supplies has been thought the most suitable to a public establishment under the charge of the Government, and the expense is thereby ascertained. There is also an apparent increase of expense in the charge for managing the Church and School Estates, though the amount of salaries paid to persons employed in the management is much reduced. This apparent increase is occasioned by the contingent charges attending the care of the flocks and herds grazed on those Estates, and the bringing their produce to Sydney for sale, being now brought forward in the estimates, whilst heretofore, those charges were deducted from the gross amount of sales, and the net profits only credited. The gross amount of sales will now be credited to the Treasury in account, and this sum, together with the rent of the lands leased, and the payments accruing upon sales effected by the late Corporation, will form a considerable item in the Ways and Means for the year. It has been thought prudent to continue for some time longer the depasturing of flocks and herds upon the best of the Church and School Estates, but as soon as it shall be practicable to let the lands to advantage, the stock will be sold off, and the Charge for management reduced to a per-centage on the collection of rent.

There has been a reduction in the Church Establishment of two Catechists during the last and present year, the place of one being lately supplied by the appointment of an Assistant Chaplain, at the same rate of salary as the Catechist, of £182 10s. for this year. It is proposed at the commencement of the next, to make the annual stipend £200. The substitution of Chaplains for Catechists has been found expedient, as however intelligent and zealous the latter may have been, and however exemplary in life and manners, they appear not to have obtained the same attention in their districts as is usually paid to an ordained Minister. The Chaplain last appointed, is placed at Maitland, where the services of a Minister of the Church of England have been much desired. An addition to the Primary Schools under the Superintendence of the Church of England, is proposed by the Establishment of one at Penrith, for which many of the Inhabitants of that neighbourhood had applied to Government. It is proposed to grant an aid of £500 towards the erection of the New Scots Church, and the Establishment of the School which is to be attached to it. The same sum as that voted last year, is proposed for the Roman Catholic Schools, and a further aid of £300 towards the completion of the Chapel at Hyde Park, on an equal sum being raised by private subscription.

In the Miscellaneous Estimate there are some items which may require explanation.

The sum proposed for improving Wollongong Harbour is to be mostly expended in erecting a small breakwater, to enable boats, and possibly at no very distant period, a steam vessel, to lie at anchor in safety. It is proposed also to run a road from one end of the Illawarra District to the other, to enable the farmers to bring their produce with greater facility to the coast, to be embarked for Sydney.

The proposed Expenditure at Hyde Park, has for its chief object, the formation of a commodious public walk, for the use of the inhabitants of Sydney who may frequent it for air and exercise. These improvements will tend to give an air of comfort and elegance to a spot now appearing waste and neglected.

Amongst the contemplated improvements which were brought under the notice of the Council last year, perhaps, the most important is, the project for surrounding the Head of Sydney Cove with a Circular Wharf, run out into deep water. A Committee of the Council was appointed to consider the subject, during the last Session, and some evidence was taken. But it seems to be admitted, that neither this work nor others of a character equally useful, are likely to be executed without the services of a skilful Civil Engineer. No person of this description has, as yet, established himself in the Colony, and it is proposed to accelerate such an acquisition by offering a salary, for a period of five years certain, to a competent person of this class. The expense of the first year, will probably reach £1,000, but it is imagined, that an Engineer of some reputation, may be obtained at a salary of £800, with a daily allowance for travelling when ordered on such duty. The sum of £1,000 is estimated for this service, for the year 1835.

The attention of Council has been drawn upon a former occasion to the proposed increase of the sum to be appropriated in aid of the Police of the Colony. It is taken in the Estimate at about £3,000 more than the sum paid over to the Military Chest for the same service in the last year. It will be proper to apply some part of this grant to provide additional Superintendents for the Ironed-gangs, whose numbers are likely to increase from the causes before stated.

The charge for constructing the Tunnel to bring water to Sydney, has been placed according to former practice as an expense in the Mineral Surveyor's Department. In this work it is proper to observe that but very inconsiderable progress has been made since the last sitting of Council, when it was reported on by a Committee. Some of the measures recommended by that Committee were immediately adopted by Government, but without a successful result. The rate at which the work proceeded was early in this year found to be so very tardy, that it was thought necessary to direct a change in the management by placing an efficient overseer on the strength of the department without any additional expense to the public, a reduction equal to his salary having been made in that of the Superintendent. The work has since proceeded with better effect, but it is one to the successful completion of which the Government looks forward with some anxiety. To give professional advice and assistance in the prosecution of this work, and in the further extension of the Breakwater at Newcastle, as well as in the construction of that proposed for Wollongong, the presence in the Colony of a skilful Civil Engineer is much required.

Having thus adverted to those items in the Estimates for 1835 which seemed to require

require observation, the whole charge for the year may be stated to amount to £132,790 16s. 5d. placed under the following heads:—

Governor and Judges .....	10,000	0	0
Civil Establishment .....	26,193	3	3
Departments of Survey and Public Works.	29,456	8	6
Judicial Establishments .....	15,865	17	6
Clergy and Schools.....	22,397	6	9
Military Establishments .....	663	3	9
Pensions .....	1,431	10	0
Miscellaneous .....	26,783	6	8
<b>TOTAL.....</b>	<b>£132,790</b>	<b>16</b>	<b>5</b>

The Ways and Means to meet this charge are as follows:—

	£	s.	d.
Customs Duty on Spirits .....	100,000	0	0
Duty on Tobacco .....	10,000	0	0
<i>Ad Valorem</i> Duty .....	4,000	0	0
Miscellaneous .....	2,500	0	0
Tolls, Ferries, and Market Dues .....	2,800	0	0
Licenses for Retail of Spirits .....	9,060	0	0
Auction Duties .....	1,500	0	0
Duties on Colonial Spirits.....	1,000	0	0
Fees collected in Public Offices .....	7,000	0	0
Post Office .....	2,800	0	0
Miscellaneous .....	500	0	0
Unexpended Balances of Sums appropriated by the Legislative Council in the years 1832 and 1833 .....	6,204	14	1
<b>TOTAL.....</b>	<b>£147,344</b>	<b>14</b>	<b>1</b>

The balance returned at the foot of the Abstract of Revenue and Expenditure for the last year has not been taken in aid of the Ways and Means for 1835, as a considerable part will be absorbed by the charge of the Supplementary Estimate. It may be proper to explain that the unexpended balances consist of certain sums not now required for the services for which they were appropriated, of which a Return is to be found in the Abstract of Revenue and Expenditure for the year 1833 laid on your table. The sums now proposed to be made available to the services of the year 1835, are as follows:—

VOTED FOR 1832.

Balance of Charge for bringing out Emigrants.	4,795	15	3½
Vote of Credit .....	256	5	9½

VOTED FOR 1833.

Vote of Credit.....	1,162	13	0
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**TOTAL.....£6,204 14 1**

There results from a comparison of the estimated charge with the estimated Ways and Means for the year 1835, a balance in favor of the Treasury, amounting to £14,553 17s. 8d., to which may be added any Balance of Revenue over Expenditure accruing in the present year.

To provide funds for completing some of the public works estimated for in the last and preceding year, it has been found necessary to prepare a Supplementary Estimate. The sum granted for the erection of the Market Sheds in Sydney, has been found insufficient. These Buildings are nearly finished, having been erected by contract, at an expense of £4,969 14s. 2d. To render them more complete and convenient for the Public, by partly enclosing the stalls in the rear, and by placing iron gates to each building, and a curb-stone round the whole, a further expenditure of about £1,100 will be required. The whole expense will thus amount to about £6,000, for which a very considerable return will be obtained by letting the Stalls.

No Contract for building, at Berrima, a Court-House sufficient for holding Circuit Courts for the Southern Districts of the Colony, could be obtained for the sum voted last year. The lowest Tender is £2,568. The sum of £1,568 in addition to that granted last year, is therefore placed on the Supplementary Estimate, as the work may, if commenced immediately, be completed in this year, or before the usual time for the sitting of Council in the next. For Bathurst Court-House no Tenders whatever have been offered. The erection of a Gaol at Berrima, capable of containing offenders committed from the Southern Districts for trial by the Circuit Court or Quarter Sessions being indispensable, Tenders have been called for by the Board Superintending the Buildings, forming a charge upon the Military Chest. It is proposed to erect there a substantial Gaol upon the radiating system of inspection now generally adopted in Europe, with means of classification and suitable solitary cells. The expense of such a Building will be considerable, and as it is intended to be of a permanent construction,

and



and solidly built of the fine stone which is to be found on the spot, it is proposed to grant a sum of £2,000 in aid of this Building.

A Contract having been made for keeping in repair and making anew in three years, the road from Pitt-rov, Parramatta, to Emu Ferry, at the annual expense of £999, it has been placed for this year, on the Supplementary Estimate. The terms of the Contract are high, and were accepted for the reasons already stated. The Contracts for clearing and stumping the road from Maitland to the Upper Hunter, amounting to £2,118 4s. 6d., are placed on the same Estimate, as it is expected they will be executed with dispatch. Upon this Estimate also are placed sums for restoring a bridge lately burnt on the road from Sydney to Parramatta, and for repairs and alterations in the Supreme Court-House, both services being of an urgent nature; as also sums for payments required in the current year, and not previously provided for. The charge of this Supplementary Estimate, amounting to £19,642 10s., will be defrayed from the unappropriated balance of the last year, which is returned in the Abstract, at £16,534 10s. 1d.

An account will be laid on the Table, shewing the appropriation of the balance of £36,584 16s. 4½d. remaining in the Treasury on the 31st December, 1831, and set aside for the purpose of discharging the claims of the Military Chest on the Colonial Treasury for the four years previous. These claims are now nearly adjusted, and an Act appropriating the sum above mentioned, will be brought before Council.

It is proper before concluding this Minute to advert to a Petition lately laid before Council, and agreed to at a Public Meeting held in Sydney, in the last year, praying for a reduction in several branches of the Public Expenditure. It would have been highly satisfactory to this Government if, consistently with a due regard to an efficient discharge of duties in which the community are interested, it might have been found possible to reduce the expense of the Colonial Establishments. The Council cannot render any more gratifying service to the Government than by taking this subject into their most attentive consideration, and by proposing any reductions calculated to lessen expense, without impairing that efficiency which in a new country, rapidly increasing in numbers and wealth, is required for the public benefit in all the Departments of Government.

The Protests entered on the Minutes by a Member of Council, against the payment to the Colonial Secretary of £750 a-year from the Colonial Fund, in addition to his salary as Secretary, and against the appointment of a Resident at New Zealand, have been laid before His Majesty's Government. In reference to the first, the Secretary of State expresses his apprehension that it will not be possible, for the reasons which are stated by Lord Goderich, in his Despatch of the 29th September, 1831, formerly laid before Council, to discontinue the payment, but has directed the Colonial Fund to be relieved from the charge, by transferring it to that derived from the Droits of the Crown. In regard to the Protest against the appointment of a Resident at New Zealand, the Secretary of State observes, that it was made at the request of Merchants connected with New South Wales, as well as upon the suggestion of the late Governor, and as such an appointment appears as necessary for the protection of the trade which is carried on between New South Wales and those Islands, as for the interests of the Europeans who have established themselves there, he cannot acquiesce in the soundness of the objections which have been urged against it, or rather against the salary of £500 which has been assigned by His Majesty's Government to the Officer who has been selected for the situation in question.

“RICHARD BOURKE.”

June 13, 1834.

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## No. 10.

TUESDAY, 17 JUNE, 1834.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Marriage Bill read a second time; committed and amended; to be fairly transcribed and carried to the Governor by the Chief Justice and Colonel Snodgrass. Council adjourned at four o'clock, until to-morrow at twelve o'clock.

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## ORDERS OF THE DAY.

WEDNESDAY, JUNE 18.

1. Orphan Apprenticing Bill; further consideration.

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## NOTICE OF MOTION.

WEDNESDAY, JUNE 25.

- 1 Colonial Secretary—Consideration of the Estimates for 1835.

E. DEAS THOMSON, Clerk of the Council.

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No. 11.

## No. 11.

WEDNESDAY, 18 JUNE, 1834.

1. Council met pursuant to adjournment, His Excellency the Governor in the Chair. Apprenticing Bill; re-committed and further amended; to be fairly transcribed and carried to the Governor by the Attorney General and Collector of Customs. Council adjourned at three o'clock, until Wednesday, the 25th instant, at twelve o'clock.

## NOTICE OF MOTION.

WEDNESDAY, JUNE 25.

1. Colonial Secretary—Consideration of the Estimates for 1835.

E. DEAS THOMSON, *Clerk of the Council.*

## No. 12.

WEDNESDAY, 25 JUNE, 1834.

1. Council met pursuant to adjournment, His Excellency the Governor in the Chair. Australian Subscription Library Bill; to be referred to a Sub-Committee.

## SUB-COMMITTEE APPOINTED:—

THE ATTORNEY GENERAL,		MR. JONES,
THE COLLECTOR OF CUSTOMS,		MR. BERRY.
THE AUDITOR GENERAL,		

2. His Excellency the Governor laid upon the Table, a Letter from His Honor the Chief Justice, recommending on the part of their Honors the Judges of the Supreme Court, the renewal of the Insolvent Bill.  
His Excellency the Governor laid upon the Table, "A Bill to revise and continue for a limited time, an Act of the Governor in Council, passed in the second year of the Reign of His present Majesty, intituled, 'An Act for the relief of Debtors in execution for debts which they are unable to pay.'" Bill read a first time; to be printed, and read a second time on Thursday, July the 3rd.
3. His Excellency the Governor laid upon the Table, a Circular Letter addressed to, and the opinions of, the Magistrates of the Colony as to the expediency of passing an Act to regulate Hawkers and Pedlars.  
His Excellency the Governor laid upon the Table, "A Bill for licensing and regulating Hawkers and Pedlars." Bill read a first time; to be printed, and read a second time on Thursday, July the 3rd.
4. Consideration of the Estimates for 1835, deferred until Tuesday next. Council adjourned at two o'clock, until Tuesday next at twelve o'clock.

## ORDERS OF THE DAY.

TUESDAY, JULY 1.

1. Consideration of the Estimates for 1835.

THURSDAY, JULY 3.

1. Insolvent renewal Bill; second reading.
2. Hawkers and Pedlars Bill; second reading.

E. DEAS THOMSON, *Clerk of the Council.*

## No. 13.

TUESDAY, 1 JULY, 1834.

1. Council met pursuant to adjournment, His Excellency the Governor in the Chair. His Excellency the Governor laid upon the Table, a Letter from the Commissioners for determining upon Claims to Grants of Land, and enclosed Returns of Memorials filed in their Office.

2.

2. Motion made and question put, that the Estimates of Expenditure for 1835, be now considered in Committee.—*Passed without a division.*
- (1.) Resolved—That a sum not exceeding £930 7s. 1d. be appropriated to defray the expenses of the Establishment of His Excellency the Governor for the year 1835.
- (2.) Resolved—That a sum not exceeding £806 2s. 6d. be appropriated to defray the expense of the Department of the Executive and Legislative Councils for the year 1835.
- (3.) Resolved—That a sum not exceeding £4,406 11s. 3d. be appropriated to defray the expense of the Department of the Colonial Secretary for the year 1835.
- (4.) Resolved—That a sum not exceeding £717 2s. 6d. be appropriated to defray the expense of the Colonial Architect's Department for the year 1835.
- Motion made and question put, that the consideration of the Estimated Expense of the Commissioners for determining on Claims to Grants of Land, be deferred until Tuesday the 8th instant.—*Passed without a division.*
- (5.) Resolved—That a sum not exceeding £175 17s. 1d. be appropriated to defray the expense of the Board for the Assignment of Servants for the year 1835.
- (6.) Resolved—That a sum not exceeding £1,300 12s. 6d. be appropriated to defray the expense of the Colonial Treasurer's Department for the year 1835.
- (7.) Resolved—That a sum not exceeding £1,486 11s. 3d. be appropriated to defray the expense of the Auditor General's Department for the year 1835.
- (8.) Resolved—That a sum not exceeding £6,257 4s. 7d. be appropriated to defray the expense of the Department of Customs for the year 1835.
- (9.) Resolved—That a sum not exceeding £1,453 13s. 9d. be appropriated to defray the expense of the Department of the Collector of Internal Revenue for the year 1835.
- (10.) Resolved—That a sum not exceeding £2,897 16s. 3d. be appropriated to defray the expense of the Post Office Department for the year 1835.
- (11.) Resolved—That a sum not exceeding £300 be appropriated to defray the expense of the Surveyor of Colonial Distilleries for the year 1835.
- (12.) Resolved—That a sum not exceeding £200 be appropriated to defray the expense of Inspectors of Slaughter Houses for the year 1835.
- (13.) Resolved—That a sum not exceeding £822 1s. 11d. be appropriated to defray the expense of the Colonial Botanist's Department for the year 1835.
- (14.) Resolved—That a sum not exceeding £1,460 2s. 7d. be appropriated to defray the expense of the Harbour Master's Department for the year 1835.
- (15.) Resolved—That a sum not exceeding £25 be appropriated to defray the expense of the Housekeeper of the Public Offices for the year 1835.
- Motion made and question put, that the consideration of the estimated expense of the Colonial Agent be deferred until Tuesday next.—*Passed without a division.*
- (16.) Resolved—That a sum not exceeding £700 be appropriated to defray the expense of the British Resident at New Zealand, and of Donations of Provisions and Clothing to New Zealand Chiefs and Natives.
- Further consideration of Estimates deferred until to-morrow.  
Council adjourned at half-past two o'clock, until to-morrow, at twelve o'clock.

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ORDERS OF THE DAY.

WEDNESDAY, JULY 2.

1. Further consideration of Estimates for 1835.

THURSDAY, JULY 3.

1. Insolvent Renewal Bill; second reading.
2. Hawkers and Pedlers Bill; second reading.

TUESDAY, JULY 8.

1. Consideration of Estimate for Commissioners of Claims.
2. Consideration of Estimate for Colonial Agent in London.

E. DEAS THOMSON, *Clerk of the Council.*

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No. 14.

WEDNESDAY, 2 JULY, 1834.

1. Council met pursuant to adjournment, His Excellency the Governor in the Chair. Bushranging Bill; His Honor the Chief Justice as Chairman brought up the Report of the Sub-Committee; Report received and to be printed. Bill as amended, to be considered on Wednesday, July the 9th.
2. Estimates for 1835, further considered in Committee.  
Motion made and question put, that His Excellency the Governor be respectfully requested to lay before the Council, a Return of the number of Grants of Land (exclusive of

of Town Allotments) ordered and not cancelled for want of selection, which have been measured during the period, from the 1st July, 1831, to the 30th June, 1834, and the number of such Grants which still remain to be measured.

(1.) Resolved—That a sum not exceeding £11,397 8s. 9d. be appropriated to defray the expense of the Survey Branch of the Surveyor General's Department for the year 1835.

(2.) Resolved—That a sum not exceeding £15,825 13s. 4d. be appropriated to defray the expense of the Road Branch of the Surveyor General's Department for the year 1835.

(3.) Resolved—That a sum not exceeding £2,243 6s. 5d. be appropriated to defray the expense of the Mineral Surveyor's Department for the year 1835.

(4.) Resolved—That a sum not exceeding £4,780 2s. 6d. be appropriated to defray the expense of the Supreme Court for the year 1835.

(5.) Resolved—That a sum not exceeding £2,833 17s. 6d. be appropriated to defray the expense of the Law Officers of the Crown for the year 1835.

(6.) Resolved—That a sum not exceeding £2,716 18s. 9d. be appropriated to defray the expense of the Courts of Requests for the year 1835.

(7.) Resolved—That a sum not exceeding £2,751 be appropriated to defray the expense of the Courts of Quarter Sessions for the year 1835.

Consideration of the estimated expense of the Sheriff's Department deferred until Tuesday next.

(8.) Resolved That a sum not exceeding £872 be appropriated to defray the expense of Coroners and Inquests for the year 1835.

Further consideration of Estimates deferred until to-morrow.

Council adjourned at half-past three o'clock, until to-morrow at twelve o'clock.

#### ORDERS OF THE DAY.

THURSDAY, JULY 3.

1. Insolvent Renewal Bill; second reading.
2. Hawkers and Pedlars Bill; second reading.
3. Further consideration of Estimates for 1835.

TUESDAY, JULY 8.

1. Consideration of Estimate for Commissioners of Claims.
2. Consideration of Estimate for Colonial Agent in London.
3. Consideration of Estimate for Sheriff's Department.

WEDNESDAY, JULY 9.

1. Bushranging Bill; further consideration.

E. DEAS THOMSON, *Clerk of the Council.*

2 July, 1834.

#### *REPORT of the Sub-Committee on the Bushranging Bill.*

We have the honor to report for the information of your Excellency, and your Honorable Council, that we have carefully examined and considered the several provisions of the Bill to facilitate the apprehension of Transported Felons and Offenders, and Persons suspected to be Robbers; and we have been induced to recommend the alterations which will be found in the annexed copy of the Bill. The only material alterations which we have suggested, are upon the first and fifth clauses. In the first, we would suggest that the power of apprehending Transported Felons and Offenders unlawfully at large, should be given to all free persons whatever, although such persons should not be employed in, or belong to the Police of the Colony. In the fifth clause we have proposed to adhere to the Provisions of the Act of the Legislature now in force, and to omit so much of the clause under consideration as requires that the information should be on oath, before the Magistrate can grant a Warrant, and that every house or tenement should be mentioned before it can be lawfully entered and searched for the discovery and apprehension of Transported Felons and Offenders unlawfully at large.

In suggesting the above alterations, we have been guided by the almost unanimous opinion of the Magistrates of the Colony in favor of the beneficial operation of the Act of the Legislature, without any recorded case of abuse or injustice, arising out of it—by our own experience of the comparative tranquillity and personal security which immediately followed its first enactment, and which, with but little exception, have been preserved by its continuance—and by our apprehension, that any material alteration in the Act, would essentially impair its efficacy. While it is generally admitted, therefore, that the immunity from those

acts

acts of outrage which had become so frequent and alarming among the more desperate of the Prison Population, and which rendered such a measure as the Act in question expedient and necessary, has been in a great measure attributable to the operation of its provisions; it is also to be borne in mind, that since the period of its becoming law, namely—in April 1830, no less than 11,997 male convicts have arrived in this Colony; and it having been determined by His Majesty's Government, not only to continue New South Wales as a place to which Convicts shall in future be transported, but to render the punishment of such as have been guilty of crimes of an aggravated character more exemplary, by placing them on the roads to be worked in irons, it becomes the more necessary to provide efficient regulations of Police for their control, and for the protection of His Majesty's free subjects.

In considering the first provision of the Bill, it occurred to us that in altering it from its original form as it now stands in the Act of the Legislature, some misapprehension may arise as to one Convict apprehending another whom he knows to be unlawfully at large; and in order to prevent such a misapprehension, and to promote the objects of the Bill, we would respectfully suggest, that His Excellency the Governor be requested to re-publish so much of the orders of the Government as hold out the promise of Reward to such Convicts as shall apprehend others unlawfully at large.

FRANCIS FORBES,  
*Chairman of the Committee.*

2 July, 1834.

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No. 15.

THURSDAY, 3 JULY, 1834.

1. Council met pursuant to adjournment, His Excellency the Governor in the Chair. Insolvent Renewal Bill; read a second time; to be read a third time on Tuesday next.
  2. Hawkers and Pedlars Bill; read a second time, committed and amended; to be fairly transcribed, and presented to the Governor by the Attorney and Auditor General.
  3. Estimates for the year 1835, further considered in Committee.
    - (1.) Resolved—That a sum not exceeding £10,749 10s. be appropriated to defray the expense of the Episcopalian Clergy and Churches for the year 1835.
    - (2.) Resolved—That a sum not exceeding £205 be appropriated to defray the expense of the King's School, Parramatta, for the year 1835.
    - (3.) Resolved—That a sum not exceeding £2,720 be appropriated to defray the expense of the Parochial Schools for the year 1835.
    - (4.) Resolved—That a sum not exceeding £2,135 5s. 0d. be appropriated to defray the expense of the Male Orphan School for the year 1835.
    - (5.) Resolved—That a sum not exceeding £2,117 3s. 0d. be appropriated to defray the expense of the Female Orphan School for the year 1835.
    - (6.) Resolved—That a sum not exceeding £852 be appropriated to defray the expense of the Management of the Church and School Estates for the year 1835.
    - (7.) Resolved—That a sum not exceeding £150 be appropriated to defray the salary of the Clerk to the Archdeacon for the year 1835.
    - (8.) Resolved—That a sum not exceeding £1,100 be appropriated to defray the expense of the Presbyterian Clergy for the year 1835, and towards the erection of an additional Church.
    - (9.) Resolved—That a sum not exceeding £2,368 8s. 9d. be appropriated to defray the expense of the Roman Catholic Clergy and Schools for the year 1835.
    - (10.) Resolved that a sum not exceeding £663 3s. 9d. be appropriated to defray the expense of the Military Establishment of the Colony for the year 1835.
    - (11.) Resolved—That a sum not exceeding £1,431 10s. be appropriated to defray the expense of Pensions chargeable upon the Funds of the Colony for the year 1835.
- Further consideration of Estimates deferred until to-morrow.  
Council adjourned at four o'clock, until to-morrow at twelve o'clock.

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ORDERS OF THE DAY.

FRIDAY, JULY 4.

1. Further consideration of Estimates for 1835.

TUESDAY, JULY 8.

1. Consideration of Estimate for Commissioners of Claims.
2. Consideration of Estimate for Colonial Agent in London.
3. Consideration of Estimate for Sheriff's Department.
4. Insolvent Renewal Bill; third reading.

WEDNESDAY, JULY 9.

1. Bushranging Bill; further consideration.

E. DEAS THOMSON, *Clerk of the Council.*

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No. 16.

FRIDAY, 4 JULY, 1834.

1. Council met pursuant to adjournment, His Excellency the Governor in the Chair. Slaughtering Bill; read a third time and passed.
  2. Marriage Bill; read a third time and passed.
  3. Orphan Apprenticing Bill; read a third time and passed.
  4. Australian Subscription Library Bill. The Attorney General as Chairman, brought up the Report of the Sub-Committee; Report received, and to lie on the table; Bill to be read a second time on Wednesday next.
  5. Estimates for the year 1835, further considered in Committee.
    - (1.) Resolved—That a sum not exceeding £1,800, be appropriated to defray the expense of Stationery, Printing, Bookbinding, Gazettes, and Almanacks for the several Public Offices, for the year 1835.
    - (2.) Resolved—That a sum not exceeding £135, be appropriated to defray the expense of fuel and light for the several Public Offices, for the year 1835.
    - (3.) Resolved—That a sum not exceeding £2,750, be appropriated to meet drawbacks on the re-exportation of Foreign Goods, and duties returned, and the restitution of duty on spirits issued to troops in the interior by the several Contractors, for the year 1835.
    - (4.) Resolved—That a sum not exceeding £200, be appropriated to defray the expense of the Australian Museum, for the year 1835.
    - (5.) Resolved—That a sum not exceeding £1,300, be appropriated in aid of the Mission to the Aborigines by the Church Missionary Society, and to defray the expense of Donations of provisions, clothing, and blankets to the Aborigines, for the year 1835.
    - (6.) Resolved—That a sum not exceeding £1,200, be appropriated to defray the expense of casual repairs to Government Houses, Courts of Justice, and other Colonial Public Buildings, for the year 1835.
    - (7.) Resolved—That a sum not exceeding £600, be appropriated to defray the expense of furniture for Government Houses and Public Offices, for the year 1835.
    - (8.) Resolved—That a sum not exceeding £316 6s. 8d., be appropriated to defray the expense of lighting the streets of Sydney, for the year 1835.
    - (9.) Resolved—That a sum not exceeding £895, be appropriated to defray the expense of improving the Boat Harbour at Wollongong.
    - (10.) Resolved—That a sum not exceeding £300, be appropriated to defray the expense of covering the stream near the Cattle Market, Sydney, in order to enlarge the space near the Market-house.
    - (11.) Resolved—That a sum not exceeding £390, be appropriated to defray the expense of erecting the Sydney Toll-house and Gate near the Boundary Stone, on the Parramatta Road.
    - (12.) Resolved—That a sum not exceeding £500, be appropriated to defray the expense of erecting Toll-houses on Vinegar Hill, on the Windsor Road, and at the Cowpasture Bridge.
    - (13.) Resolved—That a sum not exceeding £1,000, be appropriated to defray the expense of procuring the Services of a Civil Engineer in the Colony.
    - (14.) Resolved—That a sum not exceeding £12,000, be appropriated towards defraying the expense of the Police Establishment of the Colony, for the year 1835.
    - (15.) Resolved—That a sum not exceeding £106, be appropriated to defray the expense of Firemen, for the year 1835.
    - (16.) Resolved—That a sum not exceeding £2,000, be appropriated to meet unforeseen expenses on occasions of emergency, for the year 1835.
- Further consideration of Estimates for the year 1835, deferred until Tuesday next.  
Council adjourned at half-past three o'clock, until Tuesday next at twelve o'clock.

## ORDERS OF THE DAY.

TUESDAY, JULY 8.

1. Consideration of Estimate for Commissioners of Claims.
2. Consideration of Estimate for Colonial Agent in London.
3. Consideration of Estimate for Sheriff's Department.
4. Insolvent Renewal Bill: third reading.
5. Further consideration of Estimates for 1835.

WEDNESDAY, JULY 9.

1. Bushranging Bill; further consideration.
2. Australian Subscription Library Bill; second reading.

E. DEAS THOMSON, *Clerk of the Council.*

## No. 17.

TUESDAY, 8 JULY, 1834.

1. Council met pursuant to adjournment, His Excellency the Governor in the Chair. Estimate for Commissioners of Claims, considered in Committee. Motion made and question put, That His Excellency the Governor be most respectfully requested to lay a Bill before this Honorable Council, to amend the Act of the Governor and Council, 4 William IV. No. 9, appointing the Commissioners for determining on Claims to Grants of Land, by reducing the fees to be paid to the Commissioners on their final Reports, and in a corresponding degree, those to be paid by persons making application to the Commissioners for Grants, and by persons making opposition thereto. *Passed without a division.* Motion made and question put, That Colonel Snodgrass and Mr. McArthur be authorised to wait upon His Excellency the Governor to communicate the above resolution. *Passed without a division.* (1.) Resolved—That a sum not exceeding £1,000, be appropriated to defray the expense of the Board of Commissioners for determining upon Claims to Grants of Land, for the year 1835.
2. Estimate for Colonial Agent in London, considered in Committee. His Excellency the Governor laid upon the Table a Despatch from the Right Honorable the Secretary of State for the Colonies, dated the 31st May, 1833, relative to the consolidation of the Colonial Agencies. To be printed. (2.) Resolved—That a sum not exceeding £400, be appropriated to defray the salary of the Colonial Agent in London.
3. Estimate for Sheriff's Department, considered in Committee. (3.) Resolved—That a sum not exceeding £1,911 18s. 9d., be appropriated to defray the expense of the Sheriff's Department for the year 1835.
4. Supplementary Estimate for the year 1834, considered in Committee. (4.) Resolved—That a sum not exceeding £3,104 15s. 6d., be appropriated to defray the expense of completing the four sheds in the Sydney Market-place, and of placing a curb-stone round the whole area. (5.) Resolved—That a sum not exceeding £500, be appropriated to defray the expense of erecting a bridge over Duck River to replace that burnt. (6.) Resolved—That a sum not exceeding £999, be appropriated to meet the payments to the Contractor for keeping in repair the line of road from Pitt Row, Parramatta, to Emu Ferry, and making one-third thereof anew, for the year 1834. (7.) Resolved—That a sum not exceeding £2,118 4s. 6d., be appropriated to meet the payments to the Contractors for clearing the new line of Road, through the District of Hunter's River. (8.) Resolved—That an additional sum not exceeding £1,568, be appropriated to defray the expense of erecting a Court-house at Berrima. (9.) Resolved—That a sum not exceeding £2,000, be appropriated to defray the expense of erecting a Gaol at Berrima. (10.) Resolved—That a sum not exceeding £500, be appropriated to defray the expense of repairs and alterations to the Supreme Court-house, Sydney. (11.) Resolved—That a sum not exceeding £2,400, be appropriated to defray the expense of the Board of Commissioners for determining on Claims to Grants of Land, for the year 1834. (12.) Resolved—That a sum not exceeding £52 10s., be appropriated to defray the expense of Firemen, for the year 1834.
5. Estimates for the year 1835, further considered in Committee. (13.) Resolved—That a sum not exceeding £1,292, be appropriated to defray the expense of forming a public walk on Hyde Park, and of making two additional entrances from thence to the outer Government Domain.
6. Insolvent Renewal Bill; read a third time, and *passed.* Council adjourned at three o'clock, until to-morrow, at twelve o'clock.

## ORDERS OF THE DAY.

WEDNESDAY, JULY 9.

1. *Bushranging Bill*; further consideration.
2. *Australian Subscription Library Bill*; second reading.

E. DEAS THOMSON, *Clerk of the Council.*

## No. 18.

WEDNESDAY, 9 JULY, 1834.

1. Council met pursuant to adjournment, His Excellency the Governor in the Chair. Colonel Snodgrass and Mr. Macarthur reported that they had waited upon and communicated to His Excellency the Governor, the Resolution of Council of the 8th instant, relative to the reduction of the fees to be paid under the Act appointing the Commissioners for determining on Claims to Grants of Land; and that His Excellency had been

been pleased to express his intention of acceding to the request of Council as expressed in the Resolution.

2. His Excellency the Governor laid upon the Table, a Despatch from the Right Honorable the Secretary of State, dated the 13th February, 1834, stating the amount payable from the Colony of New South Wales to the Colonial Agent General, at £250 per annum. To be printed.
  3. Bushranging Bill; further consideration deferred until to-morrow.
  4. Australian Subscription Library Bill; read a second time; to be read a third time on Thursday, the 17th instant.
- Council adjourned at two o'clock, until to-morrow at twelve o'clock.

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ORDERS OF THE DAY.

THURSDAY, JULY 10.

1. Bushranging Bill; further consideration.

THURSDAY, JULY 17.

1. Australian Subscription Library Bill; third reading.

E. DEAS THOMSON, *Clerk of the Council.*

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*DESPATCHES of the Right Honorable the Secretary of State relative to the Consolidation of the Colonial Agencies.*

(No. 12.)

*Downing-street, 31st May, 1833.*

SIR,

His Majesty's Government having thought proper to consolidate the several Agencies of the Crown Colonies, I have to acquaint you that Mr. George Baillie and Mr. Edward Barnard have been appointed Joint Agents General, and have opened, respectively, Public Accounts at the Bank of England.

Each of these Gentlemen is entrusted with the charge of a distinct Class of Colonies, and under this arrangement the Agency of the Australian Colonies will still be carried on by Mr. Barnard, whose Office is at No. 2, Parliament-street.

To this Gentleman, therefore, you will continue to make all such remittances as may be found requisite for the service he will have to perform.

It is not in my power at the present moment to apprise you of the extent of the pecuniary contributions which this measure will call for from the several Colonies concerned in it.

The arrangement is considered as having taken effect from the 1st of April last.

I have the honor to be,

Sir,

Your obedient humble Servant,

(Signed)

E. G. STANLEY.

MAJOR GENERAL BOURKE,  
&c., &c., &c.

(No. 62.)

*Downing-street, 13th February, 1834.*

SIR,

With reference to my Despatch of the 31st May last year, apprising you of the consolidation of the several Agencies of the Crown Colonies, and of the appointment of two Joint Colonial Agents General, I have now to inform you, that an annual contribution of two hundred and fifty pounds will be required from New South Wales, for the purpose of carrying on the Service in question.

This contribution must commence from the 1st of April last year, being the day on which the Agents General entered on their new Functions.

I have the honor to be,

Sir,

Your most obedient humble Servant,

(Signed)

E. G. STANLEY.

MAJOR GENERAL BOURKE,  
&c., &c., &c.



## No. 19.

THURSDAY, 10TH JULY, 1834.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and laid upon the Table, "A Bill to amend an Act, intituled, 'An Act for appointing "and empowering Commissioners to hear and determine upon Claims to Grants of "Land under the Great Seal of the Colony of New South Wales.'" Bill read a first time; to be printed, and read a second time on Tuesday next.
2. His Excellency the Governor laid upon the Table, "A Statement of all Sums paid into "the Colonial Treasury by the Secretary to the Commissioners for determining upon "Claims to Grants of Land, up to the 30th June, 1834," amounting to £1,095 5s. 0d. To be printed.
3. His Excellency the Governor laid upon the Table, "A Bill for applying certain Sums "arising from the Revenue receivable in New South Wales to the Service thereof, for the "year One thousand eight hundred and thirty-five, and for further appropriating the "said Revenue." Bill read a first time; to be printed, and read a second time on Tuesday next.
4. His Excellency the Governor laid upon the Table, "A Bill to amend an Act, intituled, "An Act to establish a Savings' Bank in New South Wales, and to provide for the "management thereof, and for the security of Deposits therein." Bill read a first time; to be read a second time on Wednesday next.
5. Bushranging Bill, read a second time; committed and amended; to be fairly transcribed, and presented to the Governor by Colonel Snodgrass and Mr. Macarthur.  
Council adjourned at two o'clock, until Tuesday next, at twelve o'clock.

## ORDERS OF THE DAY.

TUESDAY, JULY 15.

1. Commissioners Claims Amendment Bill; second reading.
2. Appropriation Bill; second reading.

WEDNESDAY, JULY 16.

1. Savings' Bank amendment Bill; second reading.

THURSDAY, JULY 17.

1. Australian Subscription Library Bill; third reading.

E. DEAS THOMSON, *Clerk of the Council.*

*STATEMENT of all Sums paid into the Colonial Treasury, by the Secretary to the Commissioners for determining upon Claims to Grants of Land, up to the 30th June, 1834.*

DATE RECEIVED.	PARTICULARS.	AMOUNT.
		£ s. d.
1833.		
31 December .....	Cash .....	3 3 0
1834.		
31 January .....	ditto .....	33 1 0
28 February .....	ditto .....	50 0 6
31 March .....	ditto .....	115 17 6
30 April .....	ditto .....	180 4 6
31 May .....	ditto .....	689 9 6
30 June .....	ditto .....	23 9 0
	TOTAL.....£	1,095 5 0

Amounting to One Thousand and Ninety-five Pounds, five Shillings.

(Signed)

C. D. RIDDELL,

*Colonial Treasurer.*

Treasury, 2nd July, 1834.

TUESDAY, 15 JULY, 1834.

1. Council met pursuant to adjournment. His Excellency the Governor took the Chair, and laid upon the table, "An account of the whole charge for Magistrates, Officers, Men, and Horses of the Civil and Military Police of New South Wales for the years 1829 to 1833 inclusive. To be printed.
  2. His Excellency the Governor laid upon the table, "A Return of the number of Grants of Land (exclusive of Town Allotments) ordered, and not cancelled for want of selection, which have been measured during the period from the 1st July, 1831 to the 30th June, 1834, and the number of such Grants which still remain to be measured. To be printed.
  3. His Excellency the Governor laid upon the table, "A Bill for adopting and applying certain Acts of Parliament passed in the eleventh year of the Reign of His late Majesty, and first year of the Reign of His present Majesty, and in the first and second years of the Reign of His present Majesty, respectively, in the Administration of Justice in New South Wales, in like manner as other Laws of England are applied therein." Bill read a first time; to be printed, and read a second time on Friday next.
  4. Appropriation Bill, read a second time; to be read a third time on Friday next.
  5. Commissioners Claims Bill, read a second time, and committed; to be read a third time on Friday next.
- Council adjourned at three o'clock, until Friday next at twelve o'clock.

## ORDERS OF THE DAY.

FRIDAY, JULY 18.

1. Savings' Bank amendment Bill; second reading.
2. Australian Subscription Library Bill; third reading.
3. Appropriation Bill; third reading.
4. Commissioners Claims Amendment Bill; third reading.
5. English Acts Adoption Bill; second reading.

E. DEAN THOMSON, Clerk of the Council.

*ACCOUNT of the whole Charge for Magistrates, Officers, Men, and Horses, of the Civil and Military Police of New South Wales, defrayed from the Military Chest for the Years 1829, 1830, 1831, 1832, and 1833, inclusive; with the sums paid in each Year from the Colonial Treasury, in aid of that Service.*

## PAID FROM THE MILITARY CHEST:—

	£	s.	d.
Total Charge of the Police for 1829 .....	21,632	3	5½
Ditto .....1830 .....	22,436	17	10
Ditto .....1831 .....	22,247	1	7½
Ditto .....1832 .....	22,836	5	1
Ditto .....1833 .....	23,460	15	10
Total.....	112,613	3	9¾

## PAID IN PART OF THE ABOVE SUM FROM THE COLONIAL TREASURY:—

1831.

	£	s.	d.
August 25—By Cash, per Licenses.....	6,400	0	0
December 22—do. do. ....	150	0	0

1832.

July 30— do. do. ....	7,710	0	0
December 13—do. do. ....	75	0	0

1833.

August 28— do. Vote of Council .....	9,037	10	0
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Total..... 23,372 10 0

JAMES LAIDLEY, Dep. Com. Gen.

Commissariat Office,  
Sydney, 8 July, 1834.

RETURN

*RETURN of the Number of Grants of Land (exclusive of Town Allotments) ordered and not cancelled for want of Selection, which have been measured during the period from the 1st July, 1831, to the 30th June, 1834, and the Number of such Grants which still remain to be measured.*

Number of Grants measured from 1st July, 1831, to 30th June, 1834.	Number of Acres.	Number of Grants remaining to be measured, 30th June, 1834.
..... 1,033 .....	..... 1,229,444 .....	.....
Total contents of Grants previously measured .....	..... 2,207,403 .....	.....
Total contents of Grants still unmeasured, 30th June, 1834 ..	..... 81,253 .....	..... 73 .....
Total contents of Lands alienated.	..... <u>3,518,100</u> .....	..... <u>73</u> .....

T. L. MITCHELL,  
Surveyor General.

Surveyor General's Office,  
8th July, 1834.

No. 21.

FRIDAY, 18 JULY, 1834.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and laid upon the Table, "A Bill for regulating the affairs of the late Corporation of the Trustees of the Clergy and School Lands, and to secure to the purchasers their titles to certain Lands purchased by them from the said Corporation." Bill read a first time; to be printed, and read a second time on Friday next.
2. Interest Bill; to be read a second time on Friday next.
3. Australian Subscription Library Bill; third reading deferred until Friday next.
4. Appropriation Bill; read a third time, and passed.

Protest—I hereby protest against the amount of the salary of the Honorable the Colonial Secretary, viz., £2,000, inasmuch as I am of opinion that the sum of £1,500 would be a full remuneration for the services required of that Officer; an opinion in which I am supported by the Report of the Royal Commission deputed to examine the affairs of this Colony.

I Protest against the amount of the salary of the Colonial Treasurer, viz., 1,000, on the grounds:—

(1.) That the duties of that office demand little talent or acquirement of any kind, or application.

(2.) Because I am of opinion that the office itself might be dispensed with altogether, by the public monies being deposited in the Colonial Banks; security being taken for the same.

I Protest against the salary, viz., £500, of the British Resident in New Zealand; also against the additional expenses, viz., £200, attached to that appointment:—

(1.) On the grounds stated in my protest of last year.

(2.) On a conviction derived from the best information I have been able to obtain since that period, of the utter inutility of that office, particularly as at present constituted.

I Protest against the sum of £11,387 8s. 9d., proposed for the Departments of Survey and Public Works being paid out of the Revenues of the Colony:—

(1.) Because this expense is incurred solely in creating a branch of the Colonial Revenue, the account of which in the last and present Estimates has been omitted.

(2.) Because, I have been given to understand that this Branch of Revenue is to be expended in other purposes than those to which, in my opinion, it ought to be applied.

(3.) Because His Majesty the present King, in his Speech of 2 November, 1830, was pleased most graciously to renounce all claim to any such Revenues or Droits, in the following express terms, viz:—"I place without reserve at your disposal my interest in the Hereditary Revenues, and in those funds which may be derived from Droits of the Crown, or Admiralty, from the West India Duties, or from any Casual Revenues, either in my Foreign Possessions, or in the United Kingdoms. In surrendering to you my interests, which had in former settlements of the Civil List been reserved to the Crown, I rejoice in the opportunity of evincing my entire reliance on your dutiful attachment, and my confidence that you will cheerfully provide all that may be necessary for the support of the Civil Government, and the honor and dignity of my Crown."

(4.)

(4.) Because a Civil List and Expenditure altogether disproportioned to the numbers of the free Inhabitants of the Colony, and occasioned mainly by its convict population and establishments, which should be a charge exclusively on the Revenue of the Mother Country, are defrayed principally out of that portion of the Revenue of the Colony not classed as Droits of the Crown.

(5.) Because the Colony, supporting a convict population of about twenty thousand souls, free from all expense to the Mother Country, and having saved that country some millions, in this way, since its foundation, has a paramount claim that this and every Branch of the Revenue should be confined to the internal improvements of the country, and not be thus diverted into foreign channels—a Revenue the very collecting of which is paid for by the Colony.

(6.) Because any other appropriation of the Colonial Revenue than for local purposes, is in violation of a recent pledge of the Home Government, that it should be devoted to the purposes of emigration—because this pledge is the basis of that general philosophical principle and plan of colonization, which has been laid down for all the Colonies, and because it was the assumed inviolability of this pledge alone, which reconciled any class of His Majesty's subjects here, to a departure from the ancient system of bestowing free grants upon emigrants, in proportion to their capital; under which system these Colonies have grown and flourished from their earliest date.

I hereby Protest against the amount of the salary, viz., £2,000, of the Honorable and Venerable the Archdeacon, being of opinion, that it should not exceed the sum of £1,000 annually; and further, I am of opinion, that in the event of the services of that gentleman being required by the Colonists of Van Diemen's Land, a part of such salary, proportionate to the period of time such services may be required, should be defrayed by that Colony.

And I request, that the several grounds of my dissent from the Estimates may be recorded on the Minutes of the Council, and that an extract Copy of such Minutes may be transmitted, together with a copy of the Estimates, to the Right Honorable the Secretary of State for the Colonies, for the consideration of His Majesty's Government.

18 July, 1834.

(Signed)

JOHN BLAXLAND.

5. Commissioners Claims amendment Bill; read a third time, and passed.
  6. English Acts Adoption Bill; read a second time; to be read a third time on Friday next.
- Council adjourned at three o'clock, until Friday next, at twelve o'clock.

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#### ORDERS OF THE DAY.

FRIDAY, JULY 25.

1. Church Lands Bill; second reading.
2. Interest Bill; second reading.
3. Australian Subscription Library Bill; third reading.
4. English Acts adoption Bill; third reading.

E. DEAS THOMSON, *Clerk of the Council.*

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#### No. 22.

FRIDAY, 25 JULY, 1834.

1. Council met pursuant to adjournment. His Excellency the Governor took the Chair, and laid upon the table, "A Bill to amend an Act, intituled, 'An Act for protecting the Crown Lands of this Colony from encroachment, intrusion, and trespass.'" Bill read a first time; to be printed, and read a second time on Tuesday next.
  2. His Excellency the Governor laid upon the table, "A Bill for protecting Public Wharfs, Piers, Quays, and Jetties." Bill read a first time; to be printed, and read a second time on Tuesday next.
  3. Hawkers and Pedlars Bill; presented by the Governor as amended; read a third time and passed.
  4. Church Lands Bill; read a second time, committed and amended; to be fairly transcribed and presented to the Governor by the Attorney and Auditor General.
  5. Interest Bill; read a second time, committed and amended. To be re-printed with the amendments, and re-committed on Wednesday next.
  6. Australian Subscription Library Bill; third reading deferred until Tuesday next.
  7. English Acts Adoption Bill; read a third time and passed.
- Council adjourned at five o'clock, until Tuesday next at twelve o'clock.

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ORDERS

## ORDERS OF THE DAY.

TUESDAY, JULY 29.

1. Crown Lands Protection Amendment Bill; second reading.
2. Jetty Bill; second reading.
3. Australian Subscription Library Bill; third reading.

WEDNESDAY, JULY 30.

1. Interest Bill; re-committal.

E. DEAS THOMSON, *Clerk of the Council.*

## No. 23.

TUESDAY, 29 JULY, 1834.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Crown Lands Protection Amendment Bill; read a second time; to be read a third time on Tuesday next.
2. Jetty Bill; read a second time; to be read a third time on Tuesday next.
3. Australian Subscription Library Bill; read a third time and passed.  
Council adjourned at two o'clock, until to-morrow at twelve o'clock.

## ORDERS OF THE DAY.

WEDNESDAY, JULY 30.

1. Interest Bill; re-committal.

TUESDAY, AUGUST 5.

1. Crown Lands Protection Amendment Bill; third reading.
2. Jetty Bill; third reading.

E. DEAS THOMSON, *Clerk of the Council.*

## No. 24.

WEDNESDAY, 30 JULY, 1834.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and laid upon the table, "A Bill to repeal 'An Act to establish a Savings' Bank in New South Wales, and to provide for the management thereof, and for the security of 'Deposits therein,' and to re-enact the said Act, and to amend and extend the provisions thereof." Bill read a first time; to be printed, and read a second time on Tuesday next.
2. His Excellency the Governor laid upon the table, "A Bill to repeal certain Acts relating to the Revenue of Customs in New South Wales, and to provide for the general regulation thereof." Bill read a first time; to be printed, and read a second time on Tuesday next.
3. His Excellency the Governor laid upon the table:—
  - (1.) An account of expenses defrayed from the Military Chest for salaries, provisions, clothing, fuel, light, stores and miscellaneous articles, supplied to the several Colonial Departments, from the 25th December, 1827, to the 24th December, 1828.
  - (2.) An account of expenses defrayed from the Military Chest for salaries, provisions, clothing, fuel, light, stores and miscellaneous articles, supplied to the several Colonial Departments, from the 25th December, 1828, to the 24th December, 1829.
  - (3.) An account of expenses defrayed from the Military Chest for salaries, provisions, clothing, fuel, light, stores and miscellaneous articles, supplied to the several Colonial Departments, from the 25th December, 1829, to the 24th December, 1830.
  - (4.) An account of expenses defrayed from the Military Chest for provisions, clothing, storage, fuel, light, stores and miscellaneous articles, supplied to the several Colonial Departments, from 25th December, 1830, to 31st December, 1831.
 Sub-Committee appointed to examine and report upon the same:—

COLONEL SNODGRASS:—

THE COLLECTOR OF CUSTOMS,  
MR. JONES,MR. BERRY,  
MR. BLAXLAND.

4. His Excellency the Governor laid upon the table, "A Bill for applying certain sums in liquidation of the amount due to His Majesty's Commissariat Department, on account of the Services of New South Wales, for the Years One thousand eight hundred and twenty-seven, to One thousand eight hundred and thirty-one inclusive." Bill read a first time; to be printed, and read a second time on Tuesday next.
5. Interest Bill; re-committed; to be fairly transcribed and presented to the Governor by the Chief Justice and the Attorney General.  
Council adjourned at two o'clock, until Tuesday next at twelve o'clock.

ORDERS

## ORDERS OF THE DAY.

TUESDAY, AUGUST 5.

1. Crown Lands Protection Amendment Bill ; third reading.
2. Jetty Bill ; third reading.
3. Savings' Bank Amendment Bill ; second reading.
4. Customs Bill ; second reading.
5. Commissariat Claims Bill ; second reading.

E. DEAS THOMSON, *Clerk of the Council.*


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 No. 25.

TUESDAY, 5 AUGUST, 1834.

1. Council met pursuant to adjournment ; His Excellency the Governor in the Chair. Bushranging Bill ; presented by the Governor as amended, read a third time and passed.
  2. Interest Bill ; presented by the Governor as amended, read a third time and passed.
  3. Church Lands Bill ; presented by the Governor as amended, read a third time and passed.
  4. Crown Lands Protection amendment Bill ; read a third time and passed.
  5. Jetty Bill ; read a third time and passed.
  6. Colonel Snodgrass as Chairman brought up the Report of the Sub-Committee on Commissariat Claims. Report received and to lie on the Table.
  7. Commissariat Claims Bill ; second reading deferred until to-morrow.
  8. Savings' Bank amendment Bill ; read a second time, committed and amended ; to be further considered to-morrow.
  9. Customs Bill ; second reading deferred until to-morrow.
- Council adjourned at four o'clock, until to-morrow at twelve o'clock.

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 ORDERS OF THE DAY.

WEDNESDAY, AUGUST 6.

1. Commissariat Claims Bill ; second reading.
2. Savings' Bank Amendment Bill ; further consideration.
3. Customs Bill ; second reading.

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 NOTICE OF MOTION.

WEDNESDAY, AUGUST 6.

The Colonial Secretary—That a sum not exceeding £2,067 7s. 3d. be appropriated out of the balance remaining in the hands of the Colonial Treasurer on the 31st December, 1831, to pay to the Commissariat the amount of accounts for provisions, clothing, fuel, light, stores, and miscellaneous articles supplied to the several Colonial Departments from the 25th December, 1827, to the 31st December, 1831.

E. DEAS THOMSON, *Clerk of the Council.*


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 No. 26.

## No. 26.

WEDNESDAY, 6 AUGUST, 1834.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair and laid upon the table:—
    - (1.) An account of expenses defrayed from the Military Chest for stationery, tools, stores, and other articles supplied to the several Colonial Departments from the 25th December, 1828, to the 24th December, 1829.
    - (2.) An Account of expenses defrayed from the Military Chest for provisions, forage, fuel, and light, supplied to the same from the 25th December, 1829, to the 24th December, 1830.
    - (3.) An account of expenses defrayed from the Military Chest for stationery, stores, and miscellaneous articles supplied to the same from the 25th December, 1829, to the 24th December, 1830.
    - (4.) An account of expenses defrayed from the Military Chest for provisions, forage, fuel, and light, supplied to the same from the 25th December, 1830, to the 31st December, 1831.
    - (5.) An account of expenses defrayed from the Military Chest for stationery, stores, and miscellaneous articles supplied to the same from the 24th December, 1830, to the 31st December, 1831.
 Accounts referred to Sub-Committee on Commissariat Claims, with instructions to examine and report upon the same.
  2. Commissariat Claims Bill; second reading deferred until to-morrow.
  3. Savings' Bank Amendment Bill; further consideration deferred until Tuesday next.
  4. Customs Bill; read a second time, committed and amended; to be further considered to-morrow.
- Council adjourned at four o'clock, until to-morrow at twelve o'clock

## ORDERS OF THE DAY.

THURSDAY, AUGUST 7.

1. Commissariat Claims Bill; second reading.
2. Customs Bill; further consideration.

TUESDAY, AUGUST 12.

1. Savings' Bank Amendment Bill; further consideration.

## NOTICE OF MOTION.

FRIDAY, AUGUST 8.

The Colonial Secretary.—That a sum not exceeding £2,067 7s. 3d. be appropriated out of the balance remaining in the hands of the Colonial Treasurer on the 31st December 1831, to pay to the Commissariat the amount of accounts for provisions, clothing, fuel, light, stores, and miscellaneous articles supplied to the several Colonial Departments from the 25th December, 1827, to the 31st December 1831.

E. DEAS THOMSON, *Clerk of the Council.*

## No. 27.

THURSDAY, 7 AUGUST, 1834.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Customs Bill; further considered and amended. To be again considered on Tuesday next.
2. Colonel Snodgrass as Chairman, brought up a further report from the Sub-Committee on Commissariat Claims. Report received, and to lie on the table.
3. Commissariat Claims Bill; second reading deferred until to-morrow. Council adjourned at four o'clock, until to-morrow at twelve o'clock.\*

## ORDERS OF THE DAY.

FRIDAY, AUGUST 8.

1. Commissariat Claims Bill; second reading.

TUESDAY, AUGUST 12.

1. Savings' Bank Amendment Bill; further consideration.
2. Customs Bill; further consideration.

## NOTICE

\*Memo. :—In consequence of the indisposition of the Governor, His Excellency adjourned the Meeting to Friday, the 15th August instant.

## NOTICE OF MOTION.

FRIDAY, AUGUST 8.

The Colonial Secretary.—That a sum not exceeding £2,067 7s. 3d. be appropriated out of the balance remaining in the hands of the Colonial Treasurer on the 31st December 1831, to pay to the Commissariat the amount of accounts for provisions, clothing, fuel, light, stores, and miscellaneous articles supplied to the several Colonial Departments from the 25th December, 1827, to the 31st December, 1831.

E. DEAS THOMSON, *Clerk of the Council.*

## No. 28.

FRIDAY, 15 AUGUST, 1834.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Resolved—That a sum not exceeding £2067 7s. 3d., be appropriated out of the balance remaining in the hands of the Colonial Treasurer, on the 31st December, 1831, to pay to the Commissariat the balance of accounts for provisions, clothing, fuel, light, stores, and miscellaneous articles, supplied to the several Colonial Departments from the 25th December, 1827, to the 31st December, 1831.
  2. Commissariat Claims Bill; read a second time; to be read a third time on Friday next.
  3. Savings' Bank Amendment Bill; re-committed and further amended; to be fairly transcribed and presented to the Governor by the Collector of Customs and Mr. Campbell.
  4. Customs Bill; re-committed and further amended; to be fairly transcribed and presented to the Governor by the Collector of Customs and Auditor General.
- Council adjourned at two o'clock, until Friday next at twelve o'clock.

## ORDER OF THE DAY.

FRIDAY, AUGUST 22.

1. Commissariat Claims Bill; third reading.

E. DEAS THOMSON, *Clerk of the Council.*

## No. 29.

FRIDAY, 22 AUGUST, 1834.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Commissariat Claims Bill; read a third time and passed.
2. Customs Bill; presented by the Governor as amended; read a third time and passed.
3. His Excellency the Governor laid upon the table a Letter from His Honor Mr. Justice Burton, representing the repugnancy to the Statute, 9 Geo. IV., cap. 83, and to the Laws of England, of the following Acts passed on the 5th instant, viz:—

5 William IV.

No. 9. "An Act to facilitate the apprehension of Transported Felons and Offenders illegally at large, and of Persons found with Arms and suspected to be Robbers."

No. 10. "An Act for removing doubts respecting the application to New South Wales of the Laws and Statutes of England, relating to Usury, and to limit and define the rate of Interest which may be recovered in cases where it hath not been previously agreed on between the parties."

To be brought under the review of the Council on Tuesday next.

4. His Excellency the Governor informed the Council, that on Wednesday next he would lay before them a Statement of the Sums assessed by Juries and Arbitrators on the Claims of the Proprietors of Land on the Surry Hills, in compensation for damages to their property in the case of opening certain lines of streets under the provisions of the 4th Gul. IV., No. 11.

Council adjourned at three o'clock until Tuesday next at twelve o'clock.

## ORDERS OF THE DAY.

TUESDAY, AUGUST, 26.

1. Judge Burton's Representation as to the Bushranging and Interest Acts.

WEDNESDAY, AUGUST 27.

1. Street Compensation Claims.

E. DEAS THOMSON, *Clerk of the Council.*

No. 30.



## No. 30.

TUESDAY, 26 AUGUST, 1834.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and laid upon the table, a Letter from His Honor Mr. Justice Burton, stating the grounds of his opinion, that certain provisions of the Act of the Governor and Council, 5 William IV., No. 9, intituled, "*An Act to facilitate the apprehension of Transported Felons and Offenders illegally at large, and of persons found with Arms, and suspected to be Robbers,*" are repugnant to laws of England. Resolved unanimously, upon a review of such representation, and of the said Law or Ordinance, that Council do adhere to the same.
2. His Excellency the Governor laid upon the table, a Letter from His Honor Mr. Justice Burton, stating the grounds of his opinion, that the provisions of the Act of the Governor and Council, 5 Wil. IV., No. 10, intituled, "*An Act for removing doubts respecting the application to New South Wales of the Laws and Statutes of England relating to Usury, and to limit and define the rate of Interest which may be recovered in cases where it hath not been previously agreed on between the parties.*" Resolved unanimously, upon a review of such representation, and of the said Law or Ordinance, that Council do adhere to the same. Council adjourned at three o'clock until to-morrow at twelve o'clock.\*

## ORDERS OF THE DAY.

WEDNESDAY, AUGUST 27.

1. Street Compensation Claims.

E. DEAS THOMSON, *Clerk of the Council.*

## No. 31.

THURSDAY, 28 AUGUST, 1834.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Savings' Bank amendment Bill; presented by the Governor as amended; read a third time, and *passed*.
2. His Excellency the Governor laid upon the Table a Minute, accompanied by several documents, explanatory of the claims to compensation for land required for opening the intended Streets upon the Surrey Hills. Sub-Committee appointed to examine and Report upon the same:—

THE CHIEF JUSTICE,  
LIEUT.-COLONEL SNODGRASS,  
MR. BERRY,

MR. BLAXLAND,  
MR. MACARTHUR.

Motion made and question put, That the Governor's Minute be printed, and referred, together with the other documents relative to these claims, to the Sub-Committee. *Passed without a division.*

Council adjourned at two o'clock, until Wednesday next, at twelve o'clock.

E. DEAS THOMSON, *Clerk of the Council.*

*MINUTE of His Excellency the Governor to the Legislative Council, relative to claims to compensation for land required for the formation of new lines of Streets on the Surrey Hills.*

The Act of the Governor and Council, 4 William IV., No. 11, intituled, "*An Act for making and improving the Roads throughout the Colony of New South Wales, and for opening and improving the Streets in the Towns thereof,*" having provided that "no warrant shall be issued for the payment of money in compensation for damages to property through which Roads or Streets are to be carried, unless with the advice and consent of the Legislative Council of the said Colony," a Return is now laid before the Council, shewing the amount and particulars of sums assessed by Juries and Arbitrators as compensation for land proposed to be taken for the formation of new lines of Streets on the Surrey Hills.

The following are the circumstances under which it was thought proper by the Governor and Executive Council, to notify the opening of the Streets in question:—It was represented by the Surveyor-General that in 1830, a portion of Land on the most remote part of the Surrey Hills was sold in small allotments for Building, and averaged at the rate of £50 per acre. A sale of another portion of the Surrey Hills Estate was some time afterwards advertised by Captain Brooks, and the Surveyor-General having previously seen the necessity for

\* MEMO:—Council did not meet on 27th instant, through absence of some of the Members.

for endeavouring to establish some uniformity of plan for the extension of Buildings over ground the most eligible for the enlargement of Sydney, prepared a general plan of that ground which he submitted to the Governor on the 6th June, 1831. In this design he studied chiefly to preserve uniformity with the present plan of Sydney, and to take up, where the ground was uneven, the most favourable parts of slopes for general lines of Streets. Captain Brooks was prevailed on to adopt this plan in the Sale of his Property, and Land was granted to him elsewhere of equal extent to that taken up by Streets. The production of the general plan at that Sale was stated to have much increased the value of the Land, which was then sold at from £200 to £300 per acre, it being understood that Government would open the Streets according to that plan. The Surveyor-General, however, stated that other Proprietors on the Surrey Hills had not followed the example of Captain Brooks, and that Sales had taken place in 1833, of small allotments for Cottages on the very ground intended for Streets. On this account he urged the necessity of immediately obtaining the ground required for the completion of the plan, by putting into operation the provisions of the Act of the Governor and Council, 4 William IV., No. 11. He added that in his opinion the Surrey Hills, not only offered the most eligible situation for the extension of Sydney, but that in which the desired object could be accomplished at the least expense, the ground being less improved, and consequently less valuable than any other adjacent to the Town. The value of Land on the Surrey Hills was, however, rapidly increasing, that sold by Captain Brooks at £300 per acre, having since sold at £800, and the Allotments near Campbell-street at the rate of £1,600 per acre. He stated further, that capacious Sewers and Drains being essential to the health of every large Town, these cannot be advantageously or cheaply constructed, unless the Streets are levelled and opened before the Buildings are erected. This has become apparent in those parts of Sydney, where Buildings having been prematurely established, without due regard to the proper level of Streets, it has not hitherto been possible to construct such Drains and Sewers as are required for the health and cleanliness of the Town, and in order that some substantial Sewers may hereafter be constructed, it has been found necessary to attempt to level those Streets under very disadvantageous circumstances.

The Governor and Executive Council having inspected the Map laid before them by the Surveyor-General, and coinciding with him in opinion that it was desirable to open those lines of Streets without further delay, the notices required by the Act were published in the *Government Gazette* on the 24th December last. Some misapprehension of the course to be pursued by claimants for compensation (the Act being then for the first time called into operation) led to an informality on their part in making the required applications, either in the manner, or at the time, prescribed in the Act; but upon a representation that ignorance of the proper proceeding under a novel enactment had caused the error, the first Claims were admitted to a hearing. Subsequently, other Claims have been brought forward upon similar grounds, but there being now less excuse for the omission of the Claimants by reason of the greater notoriety which has been given to the provisions of the Act, and as their admission would add to the charge on the Public, it has not been thought proper to refer their Claims for adjudication without the advice of the Council. The rate at which compensation has been awarded has much exceeded that upon which an estimate of the probable Expense of opening these lines was made. In these awards the additional value which the several properties intended for Buildings will acquire by the formation of connected lines of Streets passing through them, and the construction of a level way along their front, does not appear to have been sufficiently considered. A value so great as, in the opinion of many experienced persons, to exceed that of the land required from the proprietors. In order that a proper notion might be formed of the value of the improvement to be effected by the opening and levelling of the Streets, an Ironed Gaug was placed on one of the principal lines formerly given up by Captain Brooks, where considerable difficulty in forming the Street was to be overcome. It was the intention of Government to proceed in the same way with the whole line, if the required Land could be obtained at a moderate cost. The sums, however, now assessed to Claimants appear by the Return to amount to £2,276 14s. 9d. If subsequent Claims be admitted and assessed upon similar terms, the additional Expense will amount to at least £6,000, making a total Expense far beyond the estimate of Government. In order, however, that a question affecting the salubrity and convenience of what will hereafter form an important part of the Town of Sydney may be duly considered, I propose to appoint a Sub-Committee to examine and report upon the projected formation of these lines of Streets, both with reference to their general utility, and to the Expense to the Public at which the object may be accomplished. To the Committee will be referred the Claims just mentioned, and all other documents connected with the subject, and such additional evidence may be taken as shall seem necessary.

“ RICHARD BOURKE.”

August 28th, 1834.

No. 32.

WEDNESDAY, 3 SEPTEMBER, 1834.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Colonel Snodgrass, in the absence of His Honor the Chief Justice, brought up the Report of the Committee appointed to consider the claims to compensation for land required for the formation of new lines of streets on the Surrey Hills. Report having been received, and taken into consideration, His Excellency the Governor informed the Council, that having fully explained in the Minute of the 28th ultimo, the circumstances under which

it had been proposed to provide for the extension of the town of Sydney, by regular and connected streets on the Surrey Hills, and finding that the report of the Sub-Committee was opposed to any charge on the Public Treasury, for the payment of compensation to those proprietors through whose lands the proposed streets were to pass, and that the Council coincided in the opinion expressed by the Committee, His Excellency would not now bring before them any proposition for the payment of the several sums specified in the return laid on the table on the 28th ultimo.

His Excellency further stated, that Notices under the 4th William IV; No. 11, for widening George-street, having been published, he would bring the subject under the notice of Council on the 1st October next.

Motion made and question put, that the Report of the Committee be printed. *Passed without a division.*

2. His Excellency the Governor laid upon the table "*A Bill for enabling the Missionaries of the people called Methodists, to sell the Land and Chapel belonging to them in Macquarie-street, Sydney and to purchase other Land and build a new Chapel thereon.*" The notice of the intention to apply for this Bill having been affixed on the doors of St. Philip's and St. James's Churches, Sydney, proved by the respective Clerks thereof. Bill read a first time; to be printed, and referred to a Sub-Committee.

Sub-Committee appointed:—

THE COLONIAL SECRETARY,

THE COLLECTOR OF CUSTOMS,  
MR. CAMPBELL,

MR. BERRY,  
MR. JONES.

Council adjourned at two o'clock until Wednesday, the 1st October.

#### ORDER OF THE DAY.

WEDNESDAY, OCTOBER 1.

1. Claims for improvement of George-street.

E. DEAS THOMSON, *Clerk of the Council.*

#### STREET COMPENSATION CLAIMS.

#### *REPORT of the Committee on the projected formation of Lines of Streets on the Surrey Hills.*

The Committee appointed for examining and reporting upon the projected formation of lines of Streets on the Surrey Hills, with reference to their general utility, and the expense to the Public at which the object may be accomplished, have the honor to report to your Excellency and Honorable Council, that they have considered the Plan, and examined the several Documents referred to them, and they are of opinion that the proposed lines of Streets, however desirable for uniformity, and the future convenience of the Inhabitants of the Surrey Hills, when the Town shall have extended in that direction, cannot be regarded in the light of such public Streets or thoroughfares through the town of Sydney which connect it, as the great Shipping Port, with the other parts of the Colony, so as to form a fair ground of Claim for Compensation from the Colonists at large, for any Land which may be required for the purpose of forming such Streets. It occurs to your Committee, that the true basis of Public Compensation should be general utility; and regarding the contemplated Improvements at the Surrey Hills in this light, the Committee cannot see in what manner the Inhabitants of the Colony generally are interested in extending the Town of Sydney in that direction. It appears to your Committee, that the Land on the Surrey Hills derives its high-value entirely from its contiguity to the Town of Sydney, and the opportunity which is afforded to the Proprietors of the Land of disposing of their Ground for Building; as this can only be accomplished by forming convenient Streets communicating with the Streets of Sydney, it seems unreasonable that the Public should be called upon to reimburse the Proprietors for Improvements which give the present very high, and indeed, comparatively speaking, the only value to their Land. If the principle of Public Compensation be carried to this extent, your Committee cannot see any sound reason why it should not extend to all other Lands contiguous to the Town of Sydney, as well as to all other Towns in the Colony, the Inhabitants whereof contribute their due proportion to the Revenues of the Colony. Upon general principles therefore, your Committee are of opinion that the proposed Compensation to the Proprietors of the Surrey Hills, from the Colonial Revenue, is objectionable, as the great part of the Proprietors are most extensively to be benefitted by the opening of the Streets for which the Compensation is demanded.

It further appears to your Committee, that if the proposed Plan were adopted, and the ground purchased for the Streets to be vested in the Public, the measure would be incomplete for all the purposes which appear to have been intended; because there would be no obligation on the Proprietors to build their Houses within their limits on any given Plan; and although it may be reasonably supposed that the Proprietors, with a view to their own interests,

interests, would conform to the lines of Streets as laid down in the Plan, it may be presumed with equal reason, that the same views to their own interests would suggest to them the expediency of laying out their Grounds in Building Allotments, in the manner best calculated to secure the same ends which have been proposed by the Surveyor General, as the basis of his Plan for the Streets.

In concluding this Report, your Committee would beg leave to add, that if it should appear that any particular portion of the Ground required for Public Streets should be so situated, that without it the majority of the Proprietors could not accomplish the object of having wide, cleanly, and uniform Streets; and the taking it for such purpose would be attended with individual sacrifice, without a proportionate advantage, it is the opinion of your Committee, that in such case some mode of Compensation should be provided.

For F. FORBES,

*Chief Justice and Chairman.*

(Signed)

K. SNODGRASS.

### No. 33.

WEDNESDAY, 1 OCTOBER, 1834.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Wesleyan Chapel Bill; the Colonial Secretary as Chairman, brought up the Report of the Sub-Committee; Report received, and to lie on the table. Bill read a second time; to be read a third time on Tuesday next.
2. Committee appointed to take into consideration and report upon certain claims for compensation by the proprietors of land in George-street, Sydney, and upon such other matters connected with the alignment of the Sydney streets as shall be referred to them:—

LIEUTENANT-COLONEL SNODGRASS,

THE COLONIAL SECRETARY,  
MR. BERRY,

MR. JONES,  
MR. M'ARTHUR.

Council adjourned at two o'clock, until Tuesday next at twelve o'clock.

### ORDER OF THE DAY.

TUESDAY, OCTOBER 7.

1. Wesleyan Chapel Bill; third reading.

E. DEAS THOMSON, *Clerk of the Council.*

### No. 34.

TUESDAY, 7 OCTOBER, 1834.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Wesleyan Chapel Bill; read a third time and passed.
2. Colonel Snodgrass, as Chairman, brought up the Report of the Committee on Claims for compensation for Land required for the improvement of George-street, Sydney. Report received and to be printed.  
Council adjourned at two o'clock, until Thursday next at twelve o'clock.\*

### NOTICE OF MOTION.

THURSDAY, OCTOBER 9.

The Colonial Secretary.—That a sum not exceeding £202 5s. 0d. be appropriated and paid out of the Vote of Credit for the year 1834, to defray the amount of compensation awarded for damages incurred by the removal of certain Buildings in George-street, Sydney, about to be taken down, in order to widen the footway of the said Street.

E. DEAS THOMSON, *Clerk of the Council.*

STREET

\* Memo:—Council did not meet on Thursday, the 9th instant, in consequence of the indisposition of some of the Members.

## STREET COMPENSATION CLAIMS.

*REPORT of the Committee on Claims for Compensation in George-street.*

Your Committee have the honor to Report to your Excellency and Honourable Council that they have carefully considered the several Claims for Compensation for Land required for the improvement of George-street, Sydney, which have been referred to them, and were attended by the Collector of Internal Revenue, and Town Surveyor, who respectively explained the nature of each Claim, the tenure under which the property is held, and the grounds upon which Compensation is required; and a Copy of their evidence is appended to this Report.

From the evidence of the Latter Gentleman it will be perceived, that even if the present Claims were satisfied, which so far as they have been already investigated would involve an expense of nearly Seven hundred pounds, the question of encroachment upon the approved line in parts not hitherto notified, would not by any means be set at rest; several of the Proprietors who have built on the approved line, and thrown all in advance thereof in the public street, having expressed their determination to resume the portion thus dedicated to the Public, and to claim Compensation for its surrender; if any be given to the present Claimants; and your Committee can see no just grounds why their compliance with the regulations of the Government, for the general convenience, should now preclude them from a similar advantage to that claimed by others who have refused this compliance. Upon general principles, therefore your Committee cannot now recommend any Compensation to be given for the Land required for improving the public streets; but in the event of parties being actually put to expense by the removal of Buildings, so as to bring the same within the approved line, they see no objection to Compensation being given to such extent. With this view they have to suggest for the consideration of the Council, that the claim of Mr. Martin Gill for the removal of his shop, and the loss he will sustain by the interruption of his Business, amounting to Two hundred and two pounds five shillings, as settled by arbitration, may be defrayed out of the Revenues of the Colony; as they deem the Street now under consideration; to be such a public thoroughfare, as to come under the rule suggested by the Committee on the projected formation of lines of Streets on the Surrey Hills, as stated in their Report of the 3rd ultimo.

With respect to any general measure for insuring uniformity and regularity in the Streets, the only one which has occurred to your Committee is to fix in each Street a minimum width beyond which no proprietor should be allowed to build. There are abundant precedents for the principle of this proposal both in this Colony, and in England. By the provisions of the General Turnpike Act, 59 Geo. III, c. 135, no person is permitted to build within 45 feet of the centre of any Turnpike Road or Highway, within three miles of any Town; and there seems, therefore, no good reason why this principle in a modified form should not be extended prospectively to Buildings in Streets; and if adopted all Buildings which are now erected beyond the approved line, should not be allowed to be rebuilt except according to the same.

By the Proclamation issued by His Excellency Governor Darling, bearing date the 8th day of June, 1829, it was ordained that a Grant in fee simple should be issued to every person who was bona fide in possession by Lease from the Government (whether such Lease had then expired or not) or by mere right of occupancy, of any allotment of Land in the Town of Sydney not then alienated by the Crown, or reserved for Public purposes, and subject to the same Quit-rent and other conditions of every kind laid down for general adoption in the order of the Government, dated 29th May, 1829, or such modifications of the same as might be in force at the time of issuing each of the said Grants.

By reference to the 6th Section of that order it will be perceived that the Government reserved the power of resuming any part or the whole of the Land if required at any time for Public purposes, on giving 12 Months notice, and paying for the fee simple and the Buildings at a valuation to be fixed by arbitration; but by the 8th Section the Grantee is required to observe the general regulations for the order and regularity of Towns, contained in the Government order of the 27th May, 1829, and such others as might be deemed expedient from time to time. By the 3rd Section of the latter order the width to be reserved for main Streets was to be one hundred feet, consisting of eighty feet carriage way, and a footpath on each side of ten feet. In cross or inferior Streets the width was to be eighty-four feet, that is a carriage way of sixty-six feet and a footpath on each side of nine feet; within these limits no steps or projections of any kind were allowed. By the 4th Section the distance from the footpath in every Street at which all persons were required to Build was fourteen feet; and the open space thus left was to be appropriated to an open verandah or such plantation as might be desired.

It will be perceived, therefore, that there is ample power reserved of making such modifications of the several Government regulations for the improvement of the Streets, as may from time to time be deemed expedient for Public convenience; and in order to ensure in future greater regularity in their alignment of the Streets, and to afford facility to the Inhabitants in ascertaining the correct lines, your Committee recommend that curb stones should, without delay, be laid down at the Public expense along the exterior lines of the foot-paths of all the Streets throughout the Town of Sydney, so as to define the extrême width of the carriage ways.

Your Committee, in conclusion, beg leave to suggest that many advantages would arise to the community at large were your Excellency to cause the various Government orders, under which allotments in Sydney are held, to be consolidated into a Bill, and brought before the Council, in order to prevent present and future encroachments on the general lines of the Streets.

K. SNODGRASS, Chairman.

Council Chamber,  
7th October, 1834.

TUESDAY, 14 OCTOBER, 1834.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and laid upon the table, "*A Bill to amend an Act, intituled, 'An Act for instituting and regulating Courts of General Quarter Sessions in New South Wales.'*" Bill read a first time; to be printed and read a second time on Tuesday next.
2. His Excellency the Governor laid upon the table the following Minutes, which was read:—
 

"I have to lay before the Council a Copy of a Communication received from the Deputy Commissary General, representing the small amount of treasure remaining in his hands for the discharge of the military and convict expenditure in the Colony. The Council are aware that the Military Chest has been hitherto principally supplied by means of Bills drawn upon His Majesty's Treasury in London, for which cash has been received here. The demand for those Bills has been for some time decreasing, owing to the augmentation in quantity and value of Colonial Exports, a circumstance, of which due notice has been given to His Majesty's Government, and in consequence, specie to the amount of £32,000 has been transferred to this Colony within the last eighteen months, and the remittance of another sum of £15,000 has been announced. A further supply may be expected in reply to the several applications which have been made on the subject. The Deputy Commissary General now represents that the Military Chest is nearly exhausted, whilst the demand for Bills has ceased for the present, and is not expected to revive during the season for shipping wool for England; and he requests that some arrangement may be made to enable him to carry on the Public Service during the temporary deficiency of specie in the Military Chest.

"To effect this object without the inconvenience and loss that would arise from attempting to procure money for Bills not now required in the market, and at the same time to put into circulation an increased quantity of specie, I recommend to the Council, to appropriate a part of the balance now in the Colonial Treasury to be issued from time to time by the Government to the Commissariat in exchange for Treasury Bills drawn at par. These Bills will remain in the Treasury until taken up by remittances in specie from His Majesty's Government, or otherwise liquidated without loss to the Colony.

"A temporary arrangement of this kind can be effected without inconvenience, as from the prosperous state of the Revenue, a larger balance has accumulated in the Treasury than may be wanted for some time for the purposes of public works, the completion of which cannot be advantageously accelerated beyond a certain point in a new country, where an adequate supply of mechanical skill and labor is still deficient. The balance in the Treasury, arising from the Duties of Customs, and other sources of Revenue, distinct from the income of Crown Lands, amounted on the 30th ultimo to £72,352 17s. 6½d. From this balance the sum of forty or fifty thousand pounds, if required, may be issued without inconvenience.

"At the same period the Balance in the Treasury, arising from the Income of Crown Lands, amounting to £35,051 3s. 5½d. to which is to be added the sum of £10,000, issued on loan to the Military Chest, on a former occasion, when the Deputy Commissary General had failed in procuring specie from the same causes as those which he has now represented. It is not deemed advisable to make any further loan from this Balance, as the Secretary of State for the Colonies has notified the intention of His Majesty's Government to send to New South Wales, in the course of the present year, a considerable body of Emigrants, for whose passage the sum of £20,000, to be paid in advances and bounties, will probably be required. It is also probable that, in consequence of a statement of the balance, and of the estimated income derivable from the Crown Lands in future years, lately made from hence to the Secretary of State, the number of Emigrants to be forwarded may be considerably increased."

"RICHARD BOURKE."

"14th October, 1834."
3. His Excellency laid upon the table, "*A Statement of the Balance in the Colonial Treasury of New South Wales, on the 30th September, 1834.*" To be printed, together with the Letter of the Deputy Commissary General referred to in His Excellency's Minute.
4. His Excellency laid upon the table, "*A Bill for appropriating the sum of Fifty Thousand Pounds as a temporary loan to enable His Majesty's Commissariat Department to carry on the Military and Convict Services of New South Wales.*" Bill read a first time; to be printed, and read a second time on Tuesday next.
5. Resolved—That a sum not exceeding £202 5s. 0d. be appropriated and paid out of the Vote of Credit for the year 1834, to defray the amount of compensation awarded for damages incurred by the removal of certain buildings in George-street, Sydney, about to be taken down, in order to widen the footway of the said street. Council adjourned at three o'clock, until Tuesday next at twelve o'clock.

## ORDERS OF THE DAY.

TUESDAY, OCTOBER 21.

1. Quarter Sessions Amendment Bill; second reading.
2. Commissariat Loan Bill; second reading.

E. DEAS THOMSON, Clerk of the Council.

STATEMENT

*STATEMENT of the balance in the Colonial Treasury of New South  
Wales, on the 30th September, 1834.*

## BALANCE ON REVENUE ARISING

From Crown Lands .....	£35,051	3	5½
From Customs and other sources .....	72,352	17	6¼
TOTAL BALANCE.....	£107,404	0	11¾

WILLIAM LITHGOW,  
AUDITOR GENERAL.

*Audit Office, Sydney, 9th October, 1834.*

## COMMISSARIAT LOAN.

*LETTER from the Deputy Commissary General to the Assistant  
Military Secretary.*

*Commissariat Office, Sydney,  
10 October, 1834.*

(No. 150.)

SIR,

The Amount of Treasure in the Banks to defray the Public Expenditure of this Department, being now reduced to about £4,600 in British Silver Money, I beg to bring the circumstance thus early under the notice of His Excellency the Major-General Commanding, in order that he may make such timely arrangements as he may deem necessary for placing means at my disposal to carry on the Public Service, when the above-named Sum is expended.

For some time past, I have been successful in recruiting the Military Chest by the brisk demand there has been for Bills on the Treasury Board for remittances to China and the Mauritius; that has, however, ceased for the present, and the approaching Wool Shipping Season, which enables the Merchant to effect his Remittances in kind, lead me to apprehend that there will be little or no demand for my Bills until after the close of it.

I have the honor to be,

Sir,

Your obedient humble Servant,

JAMES LAIDLEY;

Deputy Commissary General.

No. 36.

TUESDAY, 21 OCTOBER, 1834.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and laid upon the Table, "A Bill for better regulating the Alignment of Streets in the Town of Sydney." Bill read a first time; to be printed, and read a second time on Saturday next.
2. His Excellency the Governor laid upon the Table, "A Bill to make perpetual an Act, intitled, 'An Act for preventing the extension of the infectious disease, commonly called the Scab in Sheep or Lambs, in the Colony of New South Wales.'" Bill read a first time; to be printed, and read a second time on Saturday next.
3. Quarter Sessions amendment Bill; read a second time; to be read a third time on Saturday next.
4. Commissariat Loan Bill; read a second time; to be read a third time on Saturday next. Council adjourned at two o'clock, until Saturday next, at twelve o'clock.

ORDERS

## ORDERS OF THE DAY.

SATURDAY, OCTOBER 25.

1. Street Bill ; second reading.
2. Sheep Bill ; second reading.
3. Quarter Sessions amendment Bill ; third reading.
4. Commissariat Loan Bill ; third reading.

E. DEAS THOMSON, *Clerk of the Council.*

No. 37.

SATURDAY, 25 OCTOBER 1834.

1. Council met pursuant to adjournment; His Honor the Chief Justice in the Chair.  
A Letter from the Governor was read, intimating that His Excellency was prevented from attending the Council by indisposition, and requesting His Honor the Chief Justice to officiate as President, under the provisions of the 9th George IV. cap 83.
  2. Street Bill ; read a second time, committed and amended ; to be fairly transcribed and presented to His Excellency the Governor, by Colonel Snodgrass and the Attorney General.
  3. Sheep Bill ; read a second time ; to be read a third time on Tuesday next.
  4. Quarter Sessions Amendment Bill ; read a third time and passed.
  5. Commissariat Loan Bill ; read a third time and passed.
- Council adjourned at three o'clock until Tuesday next at twelve o'clock.

## ORDER OF THE DAY.

TUESDAY, OCTOBER 26.

1. Sheep Bill ; third reading.

E. DEAS THOMSON, *Clerk of the Council.*

No. 38.

TUESDAY, 26 OCTOBER, 1834.

1. Council met pursuant to adjournment ; His Honor the Chief Justice in the Chair.  
Sheep Bill ; read a third time and passed.
2. Street Bill ; transmitted by the Governor as amended ; read a third time and passed.  
Council adjourned at two o'clock, *sine die*.

E. DEAS THOMSON, *Clerk of the Council.*