

Sessional Papers

1858.

Legislative Assembly.
NEW SOUTH WALES.

No. 1.

WEEKLY REPORT OF DIVISIONS
IN
COMMITTEE OF THE WHOLE HOUSE.

(EXTRACTED FROM THE MINUTES.)

SESSION (2) OF 1858.

TUESDAY, 14 DECEMBER, 1858.

No. 1.

SUPPLY.—ESTIMATES FOR 1859.

(Schedule C—Public Worship.)

Question proposed,—That there be granted to Her Majesty, a sum not exceeding £14,025, in the year 1859, to meet necessary additional expenditure under Schedule (C) to Schedule (1) of the Act of the Imperial Parliament, 18 and 19 Vict., Cap. 54. (Mr. Cowper.)

Afterwards proposed,—That the consideration of this Estimate be postponed. (Mr. Forster.)

Afterwards proposed,—That there be granted a sum not exceeding £7,012 10s. for this service (being less than the Original Estimate by one-half.) (Mr. Plunkett.)

Afterwards proposed,—That there be granted one shilling only for this service. (Mr. Piddington.)

The Question, for the postponement, having been put and negatived,—

Question put,—That there be granted One Shilling only for this service.

Committee divided.

Ayes, 13.

Mr. Forster,
Mr. Williamson,
Mr. Richardson,
Mr. Gordon,
Mr. Marks,
Mr. Weckes,
Mr. Flood,
Mr. Piddington,
Mr. Oakes,
Mr. Rotton,
Mr. Dickson,
Mr. Jones, } Tellers.
Mr. Denichy, }

Noes, 12.

Mr. Cowper,
Mr. Robertson,
Mr. Hart,
Mr. G. Macleay,
Mr. R. Tooth,
Mr. Smith,
Mr. Egan,
Mr. Thornton,
Mr. Paterson,
Mr. Will,
Mr. Dalley, } Tellers.
Mr. Plunkett, }

No. 2.

(His Excellency the Governor General.)

Question proposed,—That there be granted to Her Majesty, a sum not exceeding £2,023, to defray the salaries and contingencies of His Excellency the Governor General's Establishment, for the year 1859. (Mr. Cowper.)

Motion made and Question put,—That there be granted a sum not exceeding £1,523, for this service, (being less than the Original Estimate by £500, the amount proposed for "Travelling Expenses of His Excellency the Governor General.") (Mr. Piddington.)

Committee divided.

<p>Ayes, 14.</p> <p>Mr. Weekes, Mr. Jones, Mr. Marks, Mr. Piddington, Mr. Richardson, Mr. Thornton, Mr. Williamson, Mr. Dickson, Mr. Flood, Mr. Forster, Dr. Aldcorn, Mr. Rotton, Mr. Gordon, Mr. Plunkett, } Tellers.</p>	<p>Noes, 10</p> <p>Mr. Cowper, Mr. Dalley, Mr. Robertson, Mr. Wild, Mr. Hodgson, Mr. R. Tooth, Mr. Oakes, Mr. Paterson, Mr. Smith, } Tellers. Mr. Hay, }</p>
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No. 3.

(Executive Council.)

Question proposed,—That there be granted to Her Majesty, a sum not exceeding £1,162, to defray the salaries and contingencies of the Executive Council Establishment, for the year 1859. (Mr. Cowper.)

A Question having been put and negatived,—That there be granted a sum not exceeding £862 for this Service, (being less than the Original Estimate by the proposed salary of £300 for 1 Clerk.) (Mr. Piddington.)—

And the designation of the proposed "Clerk" at £150 having been by consent altered to "Extra Clerk employed temporarily." (Mr. Cowper.)

Motion made, and Question put,—That there be granted a sum not exceeding £1,012 for this Service, (being less than the Original Estimate by the proposed salary of £150 for 1 extra Clerk employed temporarily.) (Mr. Piddington.)

Committee divided.

<p>Ayes, 7.</p> <p>Mr. Richardson, Mr. Piddington, Mr. Forster, Mr. Flood, Mr. Thornton, Mr. Weekes, Mr. Dickson, } Tellers.</p>	<p>Noes, 16.</p> <p>Mr. Cowper, Mr. Dalley, Mr. Robertson, Dr. Aldcorn, Mr. Faucett, Mr. Rotton, Mr. Egan, Mr. G. Macleay, Mr. Oakes, Mr. Denichy, Mr. Jones, Mr. Paterson, Mr. Smith, Mr. Plunkett, Mr. Gordon, Mr. Hay, } Tellers.</p>
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Whereupon, Original Question put and Carried.

1858.

Legislative Assembly.
NEW SOUTH WALES.

No. 2.

WEEKLY REPORT OF DIVISIONS

IN

COMMITTEE OF THE WHOLE HOUSE.

(EXTRACTED FROM THE MINUTES.)

SESSION (2) OF 1858.

TUESDAY, 21 DECEMBER, 1858.

No. 1.

SUPPLY.—ESTIMATES FOR 1859.

(Legislative Council.)

Question proposed,—That there be granted to Her Majesty a sum not exceeding £1,200, to defray the salary of the President, for the year 1859. (*Mr. Cowper.*)
Afterwards proposed and negatived,—That there be granted one shilling only for this service. (*Mr. Hart.*)

Motion made and Question put,—That there be granted a sum not exceeding £600 for this service, (being less than the Original Estimate by one-half.) (*Mr. Forster.*)

Committee divided.

Ayes, 6.

Mr. Forster,
Mr. Deniehy,
Mr. Byrnes,
Mr. Dickson,
Mr. Hart,
Mr. Williamson, } Tellers.

Noes, 22.

Mr. Cowper,
Mr. Dalley,
Dr. Aldcorn,
Mr. Owen,
Mr. Wild,
Mr. Rotton,
Mr. Richardson,
Mr. Faucett,
Mr. Paterson,
Mr. Thornton,
Mr. Gordon,
Mr. Taylor,
Mr. Hodgson,
Mr. Hay,
Mr. Flood,
Mr. Piddington,
Mr. Smith,
Mr. Suttor,
Mr. Plunkett,
Mr. J. Campbell,
Mr. Jamison, } Tellers.
Mr. Donaldson, }

No. 2.

Original Question stated.

Motion made and Question put,—That there be granted a sum not exceeding £1,000 for this service, (being £200 less than the Original Estimate.) (*Mr. Piddington.*)

Committee divided.

Ayes, 13.

Mr. Deniehy,
Mr. Byrnes,
Mr. Williamson,
Mr. Thornton,
Mr. Piddington,
Mr. J. Campbell,
Dr. Aldcorn,
Mr. Dickson,
Mr. Gordon,
Mr. Richardson,
Mr. Flood,
Mr. Hart, } Tellers.
Mr. Forster, }

Noes, 15.

Mr. Cowper,
Mr. Dalley,
Mr. Donaldson,
Mr. Wild,
Mr. Jamison,
Mr. Rotton,
Mr. Taylor,
Mr. Hodgson,
Mr. Paterson,
Mr. Hay,
Mr. Smith,
Mr. Suttor,
Mr. Faucett,
Mr. Owen, } Tellers.
Mr. Plunkett, }

Original Question put and carried.

22—A

No. 3.

No. 3.

Question proposed,—That there be granted to Her Majesty a sum not exceeding £500, to defray the salary of the Clerk Assistant, for the year 1859. (*Mr. Cowper.*)

Motion made and Question put,—That there be granted a sum not exceeding £400, for this service, (being £100 less than the Original Estimate.) (*Mr. Byrnes.*)

Committee divided.

Ayes, 12.

Mr. J. Campbell,
Dr. Aldcorn,
Mr. Richardson,
Mr. Piddington,
Mr. Paterson,
Mr. Dickson,
Mr. Rotton,
Mr. Flood,
Mr. Forster,
Mr. Jenkins,
Mr. Byrnes,
Mr. Thornton, } Tellers.

Noes, 16.

Mr. Cowper,
Mr. Dalley,
Mr. Owen,
Mr. Williamson,
Mr. Taylor,
Mr. Gordon,
Mr. Hodgson,
Mr. Faucett,
Mr. Robertson,
Mr. Jamison,
Mr. Donaldson,
Mr. Hay,
Mr. Smith,
Mr. Suttor,
Mr. Wild,
Mr. Plunkett, } Tellers.

Original Question put and carried.

No. 4.

Question proposed,—That there be granted to Her Majesty a sum not exceeding £400, to defray the salary of the First Clerk, for the year 1859. (*Mr. Cowper.*)

Motion made and Question put,—That there be granted a sum not exceeding £300 for this service (being £100 less than the Original Estimate.) (*Mr. Byrnes.*)

Committee divided.

Ayes, 11.

Mr. J. Campbell,
Dr. Aldcorn,
Mr. Richardson,
Mr. Byrnes,
Mr. Dickson,
Mr. Forster,
Mr. Jenkins,
Mr. Rotton,
Mr. Deniehy,
Mr. Thornton, } Tellers.
Mr. Flood,

Noes, 18.

Mr. Cowper,
Mr. Dalley,
Mr. Owen,
Mr. Taylor,
Mr. Gordon,
Mr. Faucett,
Mr. Hodgson,
Mr. Piddington,
Mr. Robertson,
Mr. Jamison,
Mr. Paterson,
Mr. Donaldson,
Mr. Hay,
Mr. Smith,
Mr. Suttor,
Mr. Plunkett,
Mr. Williamson, } Tellers.
Mr. Wild,

Original Question put and carried.

No. 5.

Question proposed,—That there be granted to Her Majesty a sum not exceeding £300, to defray the salary of the Second Clerk, for the year 1859. (*Mr. Cowper.*)

Motion made and Question put,—That there be granted a sum not exceeding £250 for this service, (being £50 less than the Original Estimate.) (*Mr. Byrnes.*)

Committee divided.

Ayes, 11.

Mr. J. Campbell,
Dr. Aldcorn,
Mr. Hart,
Mr. Deniehy,
Mr. Flood,
Mr. Dickson,
Mr. Richardson,
Mr. Forster,
Mr. Rotton,
Mr. Byrnes, } Tellers.
Mr. Thornton,

Noes, 19.

Mr. Cowper,
Mr. Dalley,
Mr. Williamson,
Mr. Taylor,
Mr. Gordon,
Mr. Faucett,
Mr. Hodgson,
Mr. Robertson,
Mr. Jenkins,
Mr. Piddington,
Mr. Wild,
Mr. Jamison,
Mr. Paterson,
Mr. Donaldson,
Mr. Hay,
Mr. Smith,
Mr. Suttor,
Mr. Owen,
Mr. Plunkett, } Tellers.

Original Question put and carried.

No. 6.

No. 6.

Question proposed,—That there be granted to Her Majesty a sum not exceeding £400, to defray the salary of the Usher of the Black Rod, for the year 1859. (*Mr. Cowper.*)

Motion made and Question put,—That there be granted a sum not exceeding £350 for this service (being £50 less than the Original Estimate.) (*Mr. Hart.*)

Committee divided.

Ayes, 10.

Mr. J. Campbell,
Dr. Alcorn,
Mr. Flood,
Mr. Richardson,
Mr. Forster,
Mr. Rotton,
Mr. Hart,
Mr. Deniehy,
Mr. Dickson, } Tellers.
Mr. Thornton, }

Noes, 19.

Mr. Cowper,
Mr. Plunkett,
Mr. Sutor,
Mr. Smith,
Mr. Hay,
Mr. Donaldson,
Mr. Paterson,
Mr. Gordon,
Mr. Dalley,
Mr. Owen,
Mr. Faucett,
Mr. Jamison,
Mr. Wild,
Mr. Piddington,
Mr. Jenkins,
Mr. Byrnes,
Mr. Hodgson,
Mr. Taylor, } Tellers.
Mr. Williamson, }

Original Question put and carried.

No. 7.

(Legislative Assembly.)

Question proposed,—That there be granted to Her Majesty a sum not exceeding £6,440, to defray the salaries of the Legislative Assembly Establishment, for the year 1859. (*Mr. Cowper.*)

Motion made and Question put,—That there be granted a sum not exceeding £5,840 for this service, (being less than the Original Estimate by £600, *i. e.*, a reduction to that extent on the salary of £1,200 proposed for the Speaker.) (*Mr. Forster.*)

Committee divided.

Ayes, 3.

Mr. J. Campbell,
Mr. Williamson, } Tellers.
Mr. Forster, }

Noes, 23.

Mr. Cowper,
Mr. Robertson,
Mr. Dalley,
Mr. Hart,
Mr. Owen,
Mr. Piddington,
Mr. Wild,
Mr. Hodgson,
Mr. Jamison,
Mr. Paterson,
Mr. Jenkins,
Mr. Taylor,
Mr. Flood,
Mr. Gordon,
Mr. Faucett,
Mr. Plunkett,
Mr. Smith,
Mr. Hay,
Mr. Donaldson,
Mr. Rotton,
Mr. W. B. Tooth,
Mr. Byrnes, } Tellers.
Mr. Deniehy, }

Original Question put and carried.

WEDNESDAY, 22 DECEMBER, 1858.

No. 8.

(Government Resident, Port Curtis.)

Question proposed,—That there be granted to Her Majesty, in the year 1859, a sum not exceeding £730, to defray the salary and contingencies of the establishment of a Government Resident at Port Curtis. (*Mr. Cowper.*)

Motion made and Question put,—That there be granted a sum not exceeding £580 for this service, (being less than the Original Estimate by £150, *i. e.*, a reduction to that extent on the proposed salary.) (*Mr. Hay.*)

Committee

Committee divided.

Ayes, 8.

Mr. Piddington,
Mr. Donaldson,
Mr. Jenkins,
Mr. Forster,
Dr. Aldcorn,
Mr. Dickson,
Mr. Jones, } Tellers.
Mr. Hay, }

Noes, 23.

Mr. Cowper,
Mr. Robertson,
Mr. Dalley,
Mr. Denichy,
Mr. Smith,
Mr. Flood,
Mr. Thornton,
Mr. Hart,
Mr. White,
Mr. Weekes,
Mr. Taylor,
Mr. Paterson,
Mr. Hodgson,
Mr. Gordon,
Mr. Rotton,
Mr. Richardson,
Mr. Jamison,
Mr. Owen,
Mr. Plunkett,
Mr. Byrnes,
Mr. J. Campbell,
Mr. Egan, } Tellers.
Mr. Wild, }

No. 9.

Original Question put.

Committee divided.

Ayes, 24.

Mr. Cowper,
Mr. Robertson,
Mr. Dalley,
Mr. Denichy,
Mr. Hart,
Mr. Gordon,
Mr. Richardson,
Mr. Smith,
Mr. Thornton,
Mr. Jamison,
Mr. Taylor,
Mr. Weekes,
Mr. Wild,
Mr. White,
Mr. Hodgson,
Mr. Paterson,
Mr. Flood,
Mr. Rotton,
Dr. Aldcorn,
Mr. J. Campbell,
Mr. Byrnes,
Mr. Plunkett,
Mr. Owen, } Tellers.
Mr. Egan, }

Noes, 7.

Mr. Donaldson,
Mr. Piddington,
Mr. Forster,
Mr. Jenkins,
Mr. Dickson,
Mr. Jones, } Tellers.
Mr. Hay, }

No. 10.

(Registrar General.)

Question proposed,—That there be granted to Her Majesty a sum not exceeding £700, to defray the salary of the Registrar General, for the year 1859. (*Mr. Cowper.*)

Motion made and Question put,—That there be granted a sum not exceeding £575 for this service, (being £125 less than the Original Estimate.) (*Mr. Piddington.*)

Committee divided.

Ayes, 4.

Mr. Piddington,
Mr. Byrnes,
Mr. Dalley, } Tellers.
Mr. Denichy, }

Noes, 24.

Mr. Cowper,
Mr. Robertson,
Mr. Owen,
Mr. Faucett,
Mr. Wild,
Mr. White,
Mr. W. B. Footh,
Mr. Weekes,
Mr. Thornton,
Mr. Paterson,
Mr. Williamson,
Mr. Taylor,
Mr. Rotton,
Mr. Jamison,
Mr. Richardson,
Mr. G. Macleay,
Mr. Jones,
Mr. Forster,
Mr. Jenkins,
Mr. Plunkett,
Mr. Smith,
Mr. J. Campbell,
Mr. Hay, } Tellers.
Mr. Hodgson, }

Original Question put and carried.

No. 11.

No. 10.

Question proposed,—That there be granted to Her Majesty a sum not exceeding £6,075, to defray the remainder of salaries and the contingencies of the Registrar General's Establishment, for the year 1859. (*Mr. Cowper.*)

Motion made and Question put,—That there be granted a sum not exceeding £5,660 for this service, (being less than the Original Estimate by £415,—*i. e.*, £35 off the salary of the Chief Clerk; the sum of £230 proposed for the salary of a Clerk, and marked *; and £150 off the allowances to District Registrars.) (*Mr. Rotton.*)

Committee divided.

Ayes, 5.

Mr. J. Campbell,
Mr. Byrnes,
Mr. Rotton,
Mr. Piddington, } Tellers.
Mr. Denichy, }

Noes, 18.

Mr. Cowper,
Mr. Robertson,
Mr. Dalley,
Mr. White,
Mr. Thornton,
Mr. Williamson,
Mr. W. B. Tooth,
Mr. Paterson,
Mr. Taylor,
Mr. Weckes,
Mr. Jamison,
Mr. Richardson,
Mr. Jones,
Mr. Forster,
Mr. Jenkins,
Mr. Plunkett,
Mr. Smith, } Tellers.
Mr. Hay, }

Original Question put and carried.

1859.

Legislative Assembly.

NEW SOUTH WALES.

No. 3.

WEEKLY REPORT OF DIVISIONS

IN

COMMITTEE OF THE WHOLE HOUSE.

(EXTRACTED FROM THE MINUTES.)

SESSION OF 1858-9.

WEDNESDAY, 5 JANUARY, 1859.

No. 1.

SUPPLY—ESTIMATES FOR 1859.

RE-CONSIDERATION OF *Schedule C—Public Worship,*

Under Instructions from the House, as contained in a series of Resolutions passed on the 4th instant. (See Votes and Proceedings, No. 11), viz.:*—

- “(1.) That the Resolution adopted by this House on the 15th of December last, to the effect that there be granted to Her Majesty a sum not exceeding One Shilling in the year 1859, to meet necessary additional expenditure under Schedule C of the Act of the Imperial Parliament 18 and 19 Vic., cap. 54, be rescinded.
- “(2.) That it be an instruction to the Committee to re-consider, before proceeding to any other business, that portion of the Message of His Excellency the Governor General by which the House was recommended to provide the sum of £14,025 to meet such additional expenditure.
- “(3.) And that it be a further instruction to the Committee to consider separately, and on its own peculiar circumstances, the Item of £200 for the salary of a Jewish Minister.”

Question proposed,—That, of this estimate for £14,025, the sum of £13,825 (being the whole amount exclusive of £200 proposed, as the salary of a Jewish Minister) be withdrawn. (Mr. Cowper.)

Point of Order reported.

Committee resumed.

Question put.

Committee

* These Resolutions having been rescinded by the House on 6th instant—(see Votes and Proceedings, No. 13)—the Vote of the Committee, founded upon them, for £200 for a Jewish Minister, (see No. 3 of this Report,) is inoperative, and therefore not reported to the House.

Committee divided.

Ayes, 18.

Mr. Cowper,
Mr. Robertson,
Mr. Dalley,
Mr. Owen,
Mr. Richardson,
Mr. Weekes,
Mr. Williamson,
Mr. Hart,
Mr. Gordon,
Mr. Scott,
Mr. Piddington,
Mr. Dickson,
Mr. Flood,
Mr. Forster,
Mr. J. Campbell,
Mr. Rotton,
Mr. Jones, } Tellers.
Mr. Denichy, }

Noes, 20.

Mr. Smith,
Mr. Faucett,
Mr. Hodgson,
Mr. Lloyd,
Mr. Thornton,
Mr. Lord,
Mr. Egan,
Mr. W. Macleay,
Mr. Martin,
Mr. W. B. Tooth,
Mr. R. Tooth,
Mr. Taylor,
Mr. Paterson,
Mr. Macarthur,
Mr. Wild,
Mr. Hay,
Mr. Jenkins,
Mr. Plunkett,
Mr. W. Macleay, } Tellers.
Mr. Donaldson, }

No. 2.

Motion made and Question put,—That the Chairman now leave the Chair, report progress, and ask leave to sit again at a later hour of the evening. (*Mr. Piddington.*)

Committee divided.

Ayes, 18.

Mr. Cowper,
Mr. Robertson,
Mr. Dalley,
Mr. Owen,
Mr. Rotton,
Mr. Richardson,
Mr. Weekes,
Mr. Williamson,
Mr. Piddington,
Mr. Hart,
Mr. Gordon,
Mr. Scott,
Mr. Dickson,
Mr. Flood,
Mr. J. Campbell,
Mr. Forster,
Mr. Jones, } Tellers.
Mr. Denichy, }

Noes, 20.

Mr. Donaldson,
Mr. G. Macleay,
Mr. Smith,
Mr. Faucett,
Mr. Hodgson,
Mr. Lloyd,
Mr. W. Macleay,
Mr. Wild,
Mr. Macarthur,
Mr. Hay,
Mr. Thornton,
Mr. Martin,
Mr. Lord,
Mr. Egan,
Mr. R. Tooth,
Mr. W. B. Tooth,
Mr. Taylor,
Mr. Paterson,
Mr. Jenkins, } Tellers.
Mr. Plunkett, }

No. 3.

Motion Made and Question put,—* That there be granted to Her Majesty a sum not exceeding Two Hundred Pounds, in the year 1859, to meet additional expenditure under Schedule (C.) to Schedule (1.) of the Act of the Imperial Parliament, 18 and 19 Vict., Cap. 54, being for the salary of a Jewish Minister. (*Mr. Cowper.*)

Committee divided.

Ayes, 21.

Mr. Cowper,
Mr. Robertson,
Mr. Dalley,
Mr. Faucett,
Mr. Jenkins,
Mr. Weekes,
Mr. Egan,
Mr. Plunkett,
Mr. Donaldson,
Mr. Scott,
Mr. Taylor,
Mr. Thornton,
Mr. Macarthur,
Mr. G. Macleay,
Mr. Paterson,
Mr. W. Macleay,
Mr. Martin,
Mr. W. B. Tooth,
Mr. Jones,
Mr. Owen, } Tellers.
Mr. Hart, }

Noes, 6.

Mr. Piddington,
Mr. Flood,
Mr. Forster,
Mr. Richardson,
Mr. Denichy, } Tellers.
Mr. Williamson, }

Point of Order Reported.

Committee resumed.

No. 4.

Motion made and Question put,—That the Chairman now leave the Chair, report progress, and ask leave to sit again to-morrow. (*Mr. Piddington.*)

Committee

Committee divided.

Ayes, 18.

Mr. Cowper,
Mr. Robertson,
Mr. Dalley,
Mr. Jones,
Mr. Richardson,
Mr. Owen,
Mr. Forster,
Mr. Williamson,
Mr. Weekes,
Mr. Piddington,
Mr. Denichy,
Mr. Flood,
Mr. Hart,
Mr. Dickson,
Mr. J. Campbell,
Mr. Scott,
Mr. Rotton, } Tellers.
Mr. Gordon, }

Noes, 19.

Mr. G. Macleay,
Mr. Smith,
Mr. Faucett,
Mr. Hodgson,
Mr. W. Macleay,
Mr. Egan,
Mr. Wild,
Mr. Hay,
Mr. Macarthur,
Mr. R. Tooth,
Mr. Jenkins,
Mr. Martin,
Mr. Lord,
Mr. Lloyd,
Mr. Taylor,
Mr. Paterson,
Mr. W. B. Tooth,
Mr. Plunkett, } Tellers.
Mr. Donaldson, }

No. 5.

Question proposed,—That the Chairman leave the Chair, and report to the Speaker that notwithstanding the instructions received by this Committee from the whole House to reconsider, before proceeding to any other business, that portion of the Message of His Excellency the Governor General by which the House was recommended to provide the sum of £14,025 to meet Additional Expenditure under Schedule (C), and in the face of the decision of the Speaker that the Government alone can make the necessary motion before this Committee, the Honorable the Colonial Secretary has declined to propose to this Committee the sum in question;—and ask leave to sit again at a later hour of the evening. (*Mr. Donaldson.*)

And the Committee having continued to sit till after Midnight,—

THURSDAY, 6 JANUARY, 1859. (A.M.)

Question put.

Committee divided.

Ayes, 20.

Mr. Faucett,
Mr. R. Tooth,
Mr. Smith,
Mr. Jenkins,
Mr. Thornton,
Mr. Lord,
Mr. Egan,
Mr. Paterson,
Mr. Martin,
Mr. Taylor,
Mr. W. B. Tooth,
Mr. Macarthur,
Mr. Wild,
Mr. W. Macleay,
Mr. Hay,
Mr. Donaldson,
Mr. Lloyd,
Mr. Plunkett,
Mr. G. Macleay, } Tellers.
Mr. Hodgson, }

Noes, 19.

Mr. Cowper,
Mr. Robertson,
Mr. Owen,
Mr. Dickson,
Mr. Dalley,
Mr. Jones,
Mr. Hart,
Mr. Weekes,
Mr. Scott,
Mr. Flood,
Mr. Richardson,
Mr. Rotton,
Mr. Gordon,
Mr. Williamson,
Mr. Forster,
Mr. Byrnes,
Mr. J. Campbell,
Mr. Piddington, } Tellers.
Mr. Denichy, }

THURSDAY, 6 JANUARY, 1859, P.M.

No. 6.

SUPPLY—VOTE OF CREDIT FOR JANUARY, 1859.

Question proposed,—That there be appropriated a sum not exceeding £78,000, to defray the expenses of the various Departments and Services of the Colony for the month of January, 1859, at the rates sanctioned for the year 1858; and a sum not exceeding £14,000 for the construction of Roads and Bridges, and Works and Buildings, during the same month. (*Mr. Cowper.*)

Motion made and Question put,—That the Chairman now leave the Chair, report progress, and ask leave to sit again on Tuesday next. (*Mr. Jenkins.*)

Committee

Committee divided.

Ayes, 18.

Mr. W. Maelcay,
Mr. Jenkins,
Mr. Smith,
Mr. W. B. Tooth,
Mr. Martin,
Mr. Taylor,
Mr. Donaldson,
Mr. Paterson,
Mr. Lloyd,
Mr. Hay,
Mr. Plunkett,
Mr. Egan, } Tellers.
Mr. Hodgson, }

Noes, 25.

Mr. Gowper,
Mr. R. Campbell,
Mr. Robertson,
Mr. Gordon,
Mr. Dalley,
Mr. Forster,
Mr. Marks,
Mr. Faucett,
Mr. Weckes,
Mr. Piddington,
Mr. Rotton,
Mr. Hart,
Mr. Flood,
Dr. Bowker,
Mr. Richardson,
Mr. Denichy,
Mr. Owen,
Mr. Jones,
Mr. Scott,
Mr. Byrnes,
Dr. Aldcorn,
Mr. Wild,
Mr. J. Campbell,
Mr. Williamson, } Tellers.
Mr. Dickson, }

Original Question put and carried.

1859.

Legislative Assembly.

NEW SOUTH WALES.

No. 4.

WEEKLY REPORT OF DIVISIONS

IN

COMMITTEE OF THE WHOLE HOUSE.

(EXTRACTED FROM THE MINUTES.)

SESSION OF 1858-9.

TUESDAY, 11 JANUARY, 1859.

No. 1.

SUPPLY—ESTIMATES FOR 1859.

(Water Police and Shipping Masters.)

Motion made and Question put,—That there be granted to Her Majesty in the year 1859, a sum not exceeding £2,155, to defray the salaries and contingencies of the Establishment of Water Police and Shipping Masters. *(Mr. Cowper)*

Committee divided.

Ayes, 28.

Mr. Cowper,
Mr. Marks,
Mr. Robertson,
Mr. R. Campbell,
Mr. Dalley,
Mr. Denichy,
Mr. Rotton,
Mr. Hart,
Mr. Owen,
Mr. Thornton,
Mr. Jenkins,
Mr. Piddington,
Mr. Forster,
Mr. W. Macleay,
Mr. Lloyd,
Mr. Taylor,
Mr. Jamison,
Mr. Hay,
Mr. R. Tooth,
Mr. Flood,
Mr. Wild,
Mr. Richardson,
Mr. Dickson,
Mr. J. Campbell,
Mr. Byrnes,
Mr. Donaldson,
Mr. Jones, } Tellers.
Mr. Wecke, }

Noes, 3.

Mr. Plunkett,
Mr. Faucett, } Tellers.
Mr. Hodgson, }

No. 2

No. 2.

(Gaols.)

Question proposed,—That there be granted to Her Majesty a sum not exceeding £7,155, to defray the salaries and contingencies of the Sydney Gaol Establishment, for the year 1859. (*Mr. Cowper.*)

Motion made and Question put,—That there be granted a sum not exceeding £6,915 for this service, (being a reduction on the Original Estimate of £240, the amount prepared as the salaries of a Chaplain, Church of England, and a Chaplain, Roman Catholic, at £120 each.) (*Mr. Forster.*)

Committee divided.

Ayes, 8.	Noes, 26.
Mr. Rotton,	Mr. Cowper,
Mr. Gordon,	Mr. Robertson,
Mr. Flood,	Mr. R. Campbell,
Mr. Richardson,	Mr. Hodgson,
Mr. Forster,	Mr. R. Tooth,
Mr. Marks,	Mr. W. Macleay,
Mr. Williamson,	Mr. Jones,
Mr. Owen,	Mr. Scott,
} Tellers.	Mr. Weckes,
	Mr. Thornton,
	Mr. Hay,
	Mr. Jenkins,
	Mr. Taylor,
	Mr. Jamison,
	Mr. W. B. Tooth,
	Mr. Denichy,
	Mr. Piddington,
	Mr. Hart,
	Mr. Wild,
	Mr. Donaldson,
	Dr. Aldcorn,
	Mr. Plunkett,
	Mr. Byrnes,
	Mr. J. Campbell,
	Mr. Egan,
	Mr. G. Macleay,
	} Tellers.

Original Question put and carried.

No. 3.

(Observatory.)

Question proposed,—That there be granted to Her Majesty a sum not exceeding £2,290, to defray the Salaries and Contingencies of the Observatory Establishment, for the year 1859. (*Mr. Cowper.*)

Motion made, and Question put,—That there be granted a sum not exceeding £1,990 for this service, (being a reduction on the Original Estimate of £300, the proposed salary of the Assistant.) (*Mr. Williamson.*)

Committee divided.

Ayes, 7.	Noes, 22.
Mr. Byrnes,	Mr. Cowper,
Mr. Forster,	Mr. R. Campbell,
Mr. Gordon,	Mr. Robertson,
Mr. Piddington,	Mr. Dalley,
Mr. Flood,	Mr. Thornton,
Mr. Williamson,	Mr. W. B. Tooth,
Mr. Jones,	Mr. R. Tooth,
} Tellers.	Mr. Rotton,
	Mr. Scott,
	Mr. Jamison,
	Mr. Hay,
	Mr. Taylor,
	Mr. Weckes,
	Mr. Richardson,
	Mr. Will.
	Mr. W. Macleay,
	Mr. Hodgson,
	Mr. Plunkett,
	Dr. Aldcorn,
	Mr. J. Campbell,
	Mr. Jenkins,
	Mr. Owen,
	} Tellers.

Original Question put and carried.

No. 4.

(Naval Allowance.)

Question proposed,—That there be granted to Her Majesty a sum not exceeding £5,988, to defray the Naval Allowance for the year 1859. (*Mr. Cowper.*)

Afterwards proposed and withdrawn:—That there be granted a sum not exceeding £3,205 for this service (being less than the Original Estimate by £2,783, the amount of the proposed allowance to Superior Officers including Warrant Officers.) (Mr. Weckes.)

Motion made and Question put,—That one shilling only be granted for this service. (*Mr. Flood.*)

Committee

Committee divided.

Ayes, 11.		Noes, 16.	
Mr. Owen,	} Tellers.	Mr. R. Campbell,	} Tellers.
Mr. Richardson,		Mr. Cowper,	
Mr. Forster,		Mr. Robertson,	
Mr. Williamson,		Mr. Dalley,	
Mr. Jones,		Mr. Thornton,	
Mr. Flood,		Mr. Hodgson,	
Mr. W. B. Tooth,		Mr. Taylor,	
Mr. Gordon,		Mr. Piddington,	
Mr. Byrnes,		Mr. Rotton,	
Mr. Weekes,		Mr. Scott,	
Mr. Plunkett,		Mr. Wild,	
	Mr. W. Macleay,		
	Mr. J. Campbell,		
	Mr. Hay,		
	Mr. Egan,		
	Mr. R. Tooth,		

No. 5.

Original Question stated.

Afterwards proposed,—That there be granted a sum not exceeding £3,675 for this service, (being less than the Original Estimate by £2,313, being for one ship only, and in accordance with the amount voted for 1858.) (*Mr. Jones.*)

Afterwards proposed,—That there be granted a sum not exceeding £5,965 for this service, (being less than the Original Estimate by £23, the proposed pay of a Chief Petty Officer for service on Garden Island.) (*Mr. R. Tooth.*)

Question put,—That there be granted a sum not exceeding £3,675 for this service.

Committee divided.

Ayes, 13.		Noes, 15.	
Mr. Jones,	} Tellers.	Mr. R. Campbell,	} Tellers.
Mr. Williamson,		Mr. Cowper,	
Mr. W. B. Tooth,		Mr. Robertson,	
Mr. Rotton,		Mr. Thornton,	
Mr. Owen,		Mr. G. Macleay,	
Mr. Piddington,		Mr. Hay,	
Mr. Gordon,		Mr. Taylor,	
Mr. Byrnes,		Mr. R. Tooth,	
Mr. Forster,		Mr. Scott,	
Mr. Richardson,		Mr. Wild,	
Mr. Plunkett,		Mr. W. Macleay,	
Mr. Flood,		Mr. J. Campbell,	
Mr. Weekes,		Mr. Hodgson,	
	Mr. Egan,		
	Mr. Donaldson,		

No. 6.

Question stated on the motion for £5,965.

Motion made and Question put,—That there be granted, in gross, a sum not exceeding £5,000 for this service, (being £988 less than the Original Estimate.) (*Mr. Jones.*)

Committee divided.

Ayes, 16.		Noes, 12.	
Mr. Byrnes,	} Tellers.	Mr. R. Campbell,	} Tellers.
Mr. Gordon,		Mr. Cowper,	
Mr. Williamson,		Mr. Robertson,	
Mr. W. B. Tooth,		Mr. Egan,	
Mr. Rotton,		Mr. G. Macleay,	
Mr. Donaldson,		Mr. R. Tooth,	
Mr. Hay,		Mr. J. Campbell,	
Mr. Taylor,		Mr. W. Macleay,	
Mr. Piddington,		Mr. Wild,	
Mr. Owen,		Mr. Scott,	
Mr. Flood,		Mr. Hodgson,	
Mr. Forster,		Mr. Thornton,	
Mr. Richardson,			
Mr. Plunkett,			
Mr. Jones,			
Mr. Weekes,			

THURSDAY, 12 JANUARY, 1859.

No. 7.

SUPPLY—ESTIMATES FOR 1859—continued.

(Law Officers of the Crown.)

Question proposed,—That there be granted to Her Majesty, a sum not exceeding £4,817, to defray the salaries and contingencies of the Establishment of the Law Officers of the Crown, for the year 1859. (*Mr. Dalley.*)

Afterwards proposed,—That there be granted a sum not exceeding £3,748 for this service, (being £1,069 less than the Original Estimate.) (*Mr. Hart.*)

Motion made and Question put,—That there be granted a sum not exceeding £3,548 for this service, (being £1,269 less than the Original Estimate.) (*Mr. Flood.*)

Committee

Committee divided.

Ayes, 6.

Mr. Weekes,
Mr. Denichy,
Mr. Egan,
Mr. Forster,
Mr. Flood,
Mr. Williamson, } Tellers.

Noes, 21.

Mr. Cowper,
Mr. Robertson,
Mr. R. Campbell,
Mr. Hodgson,
Mr. Dalley,
Mr. Rotton,
Mr. Hart,
Mr. Taylor,
Mr. Scott,
Mr. Byrnes,
Mr. Hay,
Mr. Jones,
Mr. Jamison,
Mr. Richardson,
Mr. Jenkins,
Mr. Plunkett,
Mr. J. Campbell,
Dr. Aldcorn,
Mr. Wild,
Mr. Owen, } Tellers.
Mr. Faucett, }

No. 8.

Question put,—That there be granted a sum not exceeding £3,748 for this service.

Committee divided.

Ayes, 7.*

Mr. Denichy,
Mr. Williamson,
Mr. Flood,
Mr. Weekes,
Mr. Egan,
Mr. Forster,
Mr. Byrnes,
Mr. Hart, } Tellers.

Noes, 19.

Mr. Cowper,
Mr. Robertson,
Mr. R. Campbell,
Mr. Dalley,
Mr. Rotton,
Mr. Taylor,
Mr. Wild,
Mr. Scott,
Mr. Hay,
Mr. Jones,
Mr. Jamison,
Mr. Richardson,
Dr. Aldcorn,
Mr. Jenkins,
Mr. Plunkett,
Mr. J. Campbell,
Mr. Owen,
Mr. Faucett, } Tellers.
Mr. Hodgson, }

No. 9.

Original Question stated.

Motion made and Question put,—That there be granted a sum not exceeding £4,002 for this service (being £815 less than the Original Estimate.) (*Mr. Rotton.*)

Committee divided.

Ayes, 9.

Mr. Hart,
Mr. Byrnes,
Mr. Flood,
Mr. Weekes,
Mr. Rotton,
Mr. Egan,
Mr. Forster,
Mr. Williamson, } Tellers.
Mr. Denichy, }

Noes, 17.

Mr. Cowper,
Mr. Robertson,
Mr. R. Campbell,
Mr. Dalley,
Mr. Faucett,
Mr. Owen,
Mr. J. Campbell,
Mr. Plunkett,
Mr. Jenkins,
Mr. Hodgson,
Mr. Richardson,
Mr. Jones,
Mr. Hay,
Mr. Scott,
Mr. Jamison,
Mr. Taylor, } Tellers.
Mr. Wild, }

No. 10.

Original Question stated.

Afterwards proposed,—That there be granted a sum not exceeding £4,617 for this service, (being less than the Original Estimate by £200, *i. e.*, a reduction to that extent on the proposed salary of the Parliamentary Draftsman.) (*Mr. Flood.*)Motion made, and Question put,—That there be granted a sum not exceeding £4,167 for this service, (being £650 less than the Original Estimate.) (*Mr. Rotton.*)

* So in Tellers' Lists.

Committee divided.

Ayes, 8.
 Mr. Byrnes,
 Mr. Rotton,
 Mr. Flood,
 Mr. Egan,
 Mr. Weckes,
 Mr. Forster,
 Mr. Hart,
 Mr. Deniehy, } Tellers.

Noes, 17.
 Mr. Cowper,
 Mr. Robertson,
 Mr. R. Campbell,
 Mr. Dalley,
 Mr. Faucett,
 Mr. Taylor,
 Mr. Jones,
 Mr. Hay,
 Mr. Scott,
 Mr. Jamison,
 Mr. Richardson,
 Mr. Jenkins,
 Mr. Plunkett,
 Mr. J. Campbell,
 Mr. Owen,
 Mr. Wild,
 Mr. Hodgson, } Tellers.

No. 11.

Motion made and Question put,—That there be granted a sum not exceeding £4,517 for this service, (being £300 less than the Original Estimate). (*Mr. Hart.*)

Committee divided.

Ayes, 7.
 Mr. Byrnes,
 Mr. Egan,
 Mr. Rotton,
 Mr. Flood,
 Mr. Forster,
 Mr. Deniehy, } Tellers.
 Mr. Hart.

Noes, 15.
 Mr. Cowper,
 Mr. R. Campbell,
 Mr. Robertson,
 Mr. Dalley,
 Mr. Hodgson,
 Mr. Taylor,
 Mr. J. Campbell,
 Mr. Plunkett,
 Mr. Richardson,
 Mr. Wild,
 Mr. Jones,
 Mr. Hay,
 Mr. Scott,
 Mr. Owen, } Tellers.
 Mr. Faucett,

No. 12.

Question put,—That there be granted a sum not exceeding £4,617 for this service.
 Committee divided.

Ayes, 4.
 Mr. Flood,
 Mr. Forster,
 Mr. Egan, } Tellers.
 Mr. Rotton,

Noes, 18.
 Mr. Robertson,
 Mr. Cowper,
 Mr. R. Campbell,
 Mr. Dalley,
 Mr. Hodgson,
 Mr. Faucett,
 Mr. Owen,
 Mr. J. Campbell,
 Mr. Plunkett,
 Mr. Deniehy,
 Mr. Richardson,
 Mr. Wild,
 Mr. Jones,
 Mr. Hay,
 Mr. Scott,
 Mr. Byrnes,
 Mr. Taylor, } Tellers.
 Mr. Hart.

No. 13.

Original Question stated.
 Motion made and Question put,—That there be granted a sum not exceeding £4,777 for this service (being less than the Original Estimate by £40, *i.e.*, a reduction to that extent on the salary of £315, proposed for the 2nd Clerk of the Civil Crown Solicitor.) (*Mr. Rotton.*)

Committee divided.

Ayes, 7.
 Mr. Rotton,
 Mr. Richardson,
 Mr. Byrnes,
 Mr. Scott,
 Mr. Forster,
 Mr. Deniehy, } Tellers.
 Mr. Hart,

Noes, 13.
 Mr. Cowper,
 Mr. R. Campbell,
 Mr. Robertson,
 Mr. Dalley,
 Mr. Hodgson,
 Mr. Owen,
 Mr. Taylor,
 Mr. Jenkins,
 Mr. Plunkett,
 Mr. J. Campbell,
 Sir Daniel Cooper,
 Mr. Wild, } Tellers.
 Mr. Faucett,

Original Question put and Carried.

1859.

Legislative Assembly.
NEW SOUTH WALES.

No. 5.

WEEKLY REPORT OF DIVISIONS
IN
COMMITTEE OF THE WHOLE HOUSE.

(EXTRACTED FROM THE MINUTES.)

SESSION OF 1858-9.

THURSDAY, 27 JANUARY, 1859.

No. 1.

SUPPLY—ESTIMATES FOR 1859.

(Moreton Bay Court.)

Question proposed,—That there be granted to Her Majesty, a sum not exceeding £3,117, to defray the Salaries and Contingencies of the Moreton Bay Court Establishment, for the year 1859. (Mr. Dalley.)

Afterwards proposed,—That there be granted a sum not exceeding £2,917, for this service (being less than the original Estimate by £200, the amount proposed as the salary of Registrar's Clerk.) (Mr. Richardson.)

Motion made and Question put,—That there be granted a sum not exceeding £2,467 for this service (being less than the original Estimate by £650, i. e., £200, the proposed salary of the Registrar's Clerk, and £450, the proposed salary of the District Sheriff.) (Mr. Hart.)

Committee divided.

Ayes, 3.

Mr. Forster,
Mr. Hart, } Tellers.
Mr. Denichy, }

Noes, 19.

Mr. Cowper,
Mr. R. Campbell,
Mr. Robertson,
Mr. Dalley,
Mr. Hay,
Mr. Jones,
Mr. Rotton,
Mr. Egan,
Mr. Murray,
Mr. Taylor,
Mr. Thornton,
Mr. Richardson,
Mr. Owen,
Mr. Hodgson,
Mr. J. Campbell,
Mr. Jenkins,
Mr. W. B. Tooth,
Mr. Faucett, } Tellers.
Mr. Plunkett, }

Question for £2,917 put and carried.

No. 2.

(Insolvent Court.)

Question proposed,—That there be granted to Her Majesty a sum not exceeding £1,283, to defray the Salaries and Contingencies of the Insolvent Court Establishment for the year 1859. (Mr. Dalley.)

Motion made and Question put,—That the Chairman now leave the Chair, report Progress, and ask leave to sit again to-morrow. (Mr. Forster.)

Committee divided.

And the Tellers reporting the numbers as follows:—

Ayes, 2.

Noes, 17.

Mr. Hart, } Tellers.
Mr. Forster, }

Mr. Cowper,
Mr. Dalley,
Mr. Robertson,
Mr. J. Campbell,
Mr. Faucett,
Mr. R. Campbell,
Mr. Hay,
Mr. Rotton,
Mr. Thornton,
Mr. W. B. Tooth,
Mr. Owen,
Mr. Egan,
Mr. Jenkins,
Mr. Plunkett,
Mr. Richardson,
Mr. Murray, } Tellers.
Mr. Hodgson, }

And it appearing by the said Report that there was not a Quorum present, the Chairman left the Chair to report the same to the House.

* * * * *

Committee resumed.

No further progress made.—Certain Resolutions of Supply reported. (Mr. Dalley.)



1859.

Legislative Assembly.
NEW SOUTH WALES.

No. 6.

WEEKLY REPORT OF DIVISIONS
IN
COMMITTEE OF THE WHOLE HOUSE.
(EXTRACTED FROM THE MINUTES.)

SESSION OF 1858-9.

TUESDAY, 1 FEBRUARY, 1859.

No. 1.

SUPPLY—ESTIMATES FOR 1859.

(Customs.)

Question proposed,—That there be granted to Her Majesty a sum not exceeding £24,334, to defray the Salaries and Contingencies of the Customs' Establishment for the year 1859. (*Mr. Cowper.*)

Motion made and Question put,—That the consideration of this Estimate be postponed. (*Mr. Flood.*)

Committee divided.

And the Tellers reporting the numbers as follows:—

Ayes, 9.

Mr. Hart,	
Mr. G. Macleay,	
Mr. Flood,	
Mr. Taylor,	
Mr. Forster,	
Mr. Piddington,	
Mr. Deniehy,	
Mr. Egan,	} Tellers.
Mr. Thornton,	

Noes, 10.

Mr. Cowper,	
Mr. Robertson,	
Mr. Dalley,	
Mr. Wild,	
Mr. Jones,	
Mr. Weekes,	
Mr. Plunkett,	
Mr. Murray,	
Mr. Rotton,	} Tellers.
Mr. Byrnes,	

And it appearing by the said report that there was not a quorum present;—
The Chairman left the Chair to report the same to the House.

No. 2.

Committee resumed.

Question for the postponement of the Customs' Estimate again put.

Committee divided.

And the Tellers reporting the numbers as follows:—

Ayes, 5.

Mr. G. Macleay,	
Mr. Piddington,	
Mr. Forster,	
Mr. Thornton,	} Tellers.
Mr. Hart,	

Noes, 12.

Mr. Cowper,	
Mr. Robertson,	
Mr. Dalley,	
Mr. Wild,	
Mr. Jones,	
Mr. Egan,	
Mr. Weekes,	
Mr. Murray,	
Mr. Plunkett,	
Sir Daniel Cooper,	
Mr. Rotton,	} Tellers.
Mr. Byrnes,	

And it appearing by the said report that there was not a quorum present;—
The Chairman left the Chair to report the same to the House.

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WEDNESDAY,

WEDNESDAY, 2 FEBRUARY, 1859.

No. 3.

SUPPLY—ESTIMATES FOR 1859—Continued.

(Customs—Continued.)

Question for the postponement of the Customs' Estimates again put.
Committee divided.

Ayes, 12.

Mr. G. Macleay,
Mr. Jenkins,
Mr. Donaldson,
Mr. Lloyd,
Mr. Taylor,
Mr. Hay,
Mr. Forster,
Mr. Flood,
Mr. W. Macleay,
Mr. Egan,
Mr. Piddington, } Tellers.
Mr. Thornton, }

Noes, 16.

Mr. Cowper,
Mr. Robertson,
Mr. Rotton,
Mr. Gordon,
Mr. Weekes,
Mr. Jamison,
Mr. Williamson,
Mr. Murray,
Mr. Richardson,
Mr. Wild,
Mr. Hodgson,
Mr. Byrnes,
Mr. J. Campbell,
Mr. Dalley,
Mr. Jones, } Tellers.
Mr. Dickson, }

* * * * *
Further consideration of Estimate postponed. (Mr. Cowper.)

No. 4.

(Colonial Distilleries.)

Question proposed,—That there be granted to Her Majesty a sum not exceeding £3,579, to defray the Salaries and Contingencies of the Colonial Distilleries' Establishment, for the year 1859. (Mr. Cowper.)

Afterwards proposed,—That there be granted a sum not exceeding £3,329 for this Service (being less than the Original Estimate by £250, i. e., a reduction to that extent on the proposed salary of the Chief Inspector and Accountant.) (Mr. Piddington.)

Motion made and Question put,—That the further consideration of this Estimate be postponed. (Mr. Forster.)

Committee divided.

Ayes, 6.

Mr. Flood,
Mr. Forster,
Mr. Egan,
Mr. Piddington,
Mr. Williamson, } Tellers.
Mr. Jones, }

Noes, 18.

Mr. Cowper,
Mr. Robertson,
Mr. Dickson,
Mr. Rotton,
Mr. Donaldson,
Mr. G. Macleay,
Mr. Thornton,
Mr. Taylor,
Mr. Deniehy,
Mr. Hart,
Mr. Weekes,
Mr. W. Macleay,
Mr. Gordon,
Mr. Jamison,
Mr. Murray,
Mr. J. Campbell,
Mr. Wild, } Tellers.
Mr. Plunkett, }

No. 5.

Afterwards proposed and Negatived,—That there be granted a sum not exceeding £3,079 for this service, (being less than the original Estimate by £500, the entire amount of the proposed salary of the Chief Inspector and Accountant.) (Mr. Forster.)

Motion made and Question put,—That there be granted a sum not exceeding £3,179 for this service, (being less than the original Estimate by £400, i. e., a reduction to that extent on the proposed salary of the Chief Inspector and Accountant.) (Mr. Forster.)

Committee divided.

Ayes, 6.

Mr. Flood,
Mr. Forster,
Mr. Williamson,
Mr. Egan,
Mr. Piddington, } Tellers.
Mr. Dickson, }

Noes, 17.

Mr. Cowper,
Mr. Robertson,
Mr. Donaldson,
Mr. Jones,
Mr. Macleay,
Mr. Weekes,
Mr. Hart,
Mr. Deniehy,
Mr. Jamison,
Mr. Taylor,
Mr. Thornton,
Mr. Gordon,
Mr. Murray,
Mr. Plunkett,
Mr. J. Campbell,
Mr. Wild, } Tellers.
Mr. Rotton, }

* So in Tellers' List.

No. 6.

No. 6.

Question put,—That there be granted a sum not exceeding £3,329 for this service.
Committee divided.

Ayes, 6.
Mr. Dickson,
Mr. Flood,
Mr. Forster,
Mr. Williamson,
Mr. Piddington, } Tellers.
Mr. Egan,

Noes, 19.
Mr. Cowper,
Mr. Robertson,
Mr. Botton,
Mr. Taylor,
Mr. Deniehy,
Mr. Hart,
Mr. Weckes,
Mr. W. Macleay,
Mr. Jamison,
Mr. G. Macleay,
Mr. Dalley,
Mr. Gordon,
Mr. Wild,
Mr. Murray,
Mr. Plunkett,
Mr. J. Campbell,
Mr. Jones,
Mr. Thornton, } Tellers.
Mr. Donaldson,

Original Question put and carried.

No. 7.

(*Sydney Branch of the Royal Mint.*)

Question proposed,—That there be granted to Her Majesty, a sum not exceeding £12,372, to defray the Salaries and Contingencies of the Establishment of the Sydney Branch of the Royal Mint, for the year 1859. (*Mr. Cowper.*)

Motion made and Question put,—That there be granted a sum not exceeding £10,718, for this Service, (being £1,654 less than the Original Estimate, and in accordance with the amount voted for 1858.) (*Mr. Williamson.*)

Division called for—but there being no Tellers for the "Ayes," no division could be had—and the Chairman declared the Question to have passed in the Negative.

Original Question stated.

Motion made and Question put, That there be granted a sum not exceeding £11,303 for this Service, (being less than the Original Estimate by £1,069—*i. e.*, an exclusion of the excess on the Vote for 1858, with the exception of £585, proposed as a bonus to the three superior mechanics, under the head "Contingencies.") (*Mr. Williamson.*)

Committee divided.

Ayes, 5.
Mr. Rotton,
Mr. Piddington,
Mr. Egan,
Mr. Forster, } Tellers.
Mr. Williamson.

Noes, 18.
Mr. Murray,
Mr. Cowper,
Mr. Robertson,
Mr. Jones,
Mr. Thornton,
Mr. Jamison,
Mr. Taylor,
Mr. Weckes,
Mr. Gordon,
Mr. Wild,
Mr. Hay,
Mr. G. Macleay,
Mr. W. Macleay,
Mr. Plunkett,
Mr. J. Campbell,
Mr. Dalley,
Mr. Hodgson, } Tellers.
Mr. Donaldson,

No. 8.

Original Question stated.

Motion made and Question put,—That there be granted a sum not exceeding £11,653 for this service (being £719 less than the Original Estimate.) (*Mr. Rotton.*)

Committee divided.

Ayes, 5.
Mr. Williamson,
Mr. Forster,
Mr. Hart,
Mr. Rotton, } Tellers.
Mr. Egan,

Noes, 18.
Mr. Murray,
Mr. Cowper,
Mr. Robertson,
Mr. Donaldson,
Mr. Jamison,
Mr. Thornton,
Mr. Taylor,
Mr. Weckes,
Mr. Gordon,
Mr. Wild,
Mr. Hay,
Mr. G. Macleay,
Mr. W. Macleay,
Mr. Plunkett,
Mr. J. Campbell,
Mr. Dalley,
Mr. Jones, } Tellers.
Mr. Hodgson,

Original Question put and carried.

THURSDAY

THURSDAY, 3 FEBRUARY, 1859.

No. 9.

SUPPLY—ESTIMATES FOR 1859—*continued.**(Steam Navigation and Pilot Board, &c.)*

Question proposed,—That there be granted to Her Majesty, in the year 1859, a sum not exceeding £3,502, to defray the Salaries and Contingencies of the Establishment of the Steam Navigation and Pilot Board, Harbor Masters and Deputy Harbor Masters. (*Mr. Cowper.*)

Another Question for a smaller sum having been proposed and withdrawn. (*Mr. Williamson.*)

Motion made and Question put,—That there be granted a sum not exceeding £3,102, for this Service, (being less than the Original Estimate by £400, *i. e.* £200 off the £300 proposed for Members of the Board; and the entire amount of £200 proposed for a Clerk to the Board.) (*Mr. Thornton.*)

Committee divided.

Ayes, 18.

Mr. Plunkett,
Mr. Byrnes,
Mr. Rotton,
Mr. Flood,
Mr. Denichy,
Mr. Richardson,
Mr. Egan,
Mr. Murray,
Mr. G. Macleay,
Mr. Piddington,
Mr. Hart,
Mr. Donaldson,
Mr. Jenkins,
Mr. Wild,
Mr. W. Macleay,
Mr. Forster,
Mr. Weekes, } Tellers.
Mr. Thornton, }

Noes, 5.

Mr. Cowper,
Mr. Robertson,
Mr. J. Campbell,
Mr. Gordon,
Mr. Williamson, } Tellers.

No. 10.

(Sea and River Pilots.)

Question proposed,—That there be granted to Her Majesty, in the year 1859, a sum not exceeding £7,974, to defray the expenses of the establishment of Sea and River Pilots. (*Mr. Cowper.*)

Motion made and Question put,—That there be granted a sum not exceeding £2,294 for this service (being less than the Original Estimate by £5,680, the amount proposed as remuneration to Pilots and Boats' Crews, Port Jackson.)

Committee divided.

Ayes, 11.

Mr. Wild,
Mr. Egan,
Mr. W. B. Tooth,
Mr. G. Macleay,
Mr. Faucett,
Mr. W. Macleay,
Mr. Piddington,
Mr. Forster,
Mr. Flood,
Mr. Murray, } Tellers.
Mr. Thornton, }

Noes, 11.

Mr. Cowper,
Mr. Robertson,
Mr. Gordon,
Mr. Rotton,
Mr. Weekes,
Mr. Richardson,
Mr. Byrnes,
Mr. J. Campbell,
Mr. Dalley,
Mr. Williamson, } Tellers.
Mr. Jones, }

The numbers being equal, the Chairman gave his vote with the Noes, and declared the Question to have passed in the *Negative.*

Original Question put and carried.

No. 11.

(Boatmen.)

Question proposed,—That there be granted to Her Majesty, in the year 1859, a sum not exceeding £6,968, to defray the expenses of the Establishment of Boatmen, (being less than the original Estimate by £308, *i. e.*, £108 proposed for Coxswain of Life Boat, Camp Cove; and £200 proposed for Bargemen for the service of His Excellency the Governor General.) (*Mr. Cowper.*)

Motion made and Question put,—That there be granted a sum not exceeding £6,828, for this service (being less than the Reduced Estimate by £140, the amount proposed for Carpenter, Newcastle.) (*Mr. Egan.*)

Committee

Committee divided.

Ayes, 6.

Mr. Rotton,
Mr. Piddington,
Mr. Jones,
Mr. Forster,
Mr. Egan,
Mr. Thornton, } Tellers.

Noes, 20.

Mr. Cowper,
Mr. Robertson,
Mr. Dalley,
Mr. Murray,
Mr. G. Macleay,
Mr. Taylor,
Mr. Denichy,
Mr. W. B. Tooth,
Mr. Weekes,
Mr. Gordon,
Mr. Flood,
Mr. Wild,
Mr. Hart,
Mr. Richardson,
Mr. Byrnes,
Mr. W. Macleay,
Mr. Plunkett,
Mr. J. Campbell,
Mr. Williamson, } Tellers.
Mr. Faucett,

Original Question put and carried.

No. 12.

(Contingencies—Harbors, &c. Department.)

Question proposed,—That there be granted to Her Majesty, in the year 1859, a sum not exceeding £855, to defray Contingencies connected with the Harbors Light Houses and Pilot Department. (*Mr. Cowper.*)

Motion made and Question put,—That there be granted a sum not exceeding £555 for this Service (being less than the Original Estimate by £300, i.e., a reduction to that extent on the £450 proposed for boats.) (*Mr. Egan.*)

Committee divided.

Ayes, 8.

Mr. Flood,
Mr. Egan,
Mr. W. Macleay,
Mr. Wild,
Mr. Faucett,
Mr. Forster,
Mr. Murray,
Mr. Thornton, } Tellers.

Noes, 15.

Mr. Cowper,
Mr. Robertson,
Mr. Taylor,
Mr. Rotton,
Mr. Denichy,
Mr. J. Campbell,
Mr. Byrnes,
Mr. Plunkett,
Mr. Richardson,
Mr. W. B. Tooth,
Mr. Gordon,
Mr. Dalley,
Mr. Jones,
Mr. Hart,
Mr. Williamson, } Tellers.

No. 13.

Original Question stated.

Motion made and Question put,—That there be granted a sum not exceeding £606 for this Service (being less than the Original Estimate by £250, i.e., a reduction to that extent on the £450 proposed for boats.) (*Mr. Egan.*)

Committee divided.

Ayes, 8.

Mr. Flood,
Mr. Egan,
Mr. W. Macleay,
Mr. Wild,
Mr. Plunkett,
Mr. Forster,
Mr. Murray,
Mr. Thornton, } Tellers.

Noes, 14.

Mr. Cowper,
Mr. Robertson,
Mr. Williamson,
Mr. Hart,
Mr. Rotton,
Mr. Denichy,
Mr. Gordon,
Mr. W. B. Tooth,
Mr. Dalley,
Mr. Jones,
Mr. Richardson,
Mr. J. Campbell,
Mr. Byrnes, } Tellers.
Mr. Taylor,

Original Question put and carried.

No. 14.

(The Secretary for Lands and Public Works.)

Question proposed,—That there be granted to Her Majesty, a sum not exceeding £5,995, to defray the Salaries and Contingencies of the Establishment of the Secretary for Lands and Public Works, for the year 1859. (*Mr. Cowper.*)

Motion made and Question put,—That there be granted a sum not exceeding £5,695 for this Service (being less than the Original Estimate by £300, i.e., a reduction to that extent on the Salary of the Secretary for Lands and Public Works.) (*Mr. Forster.*)

Committee divided.

Ayes, 2.

Mr. Williamson, }
Mr. Forster, } Tellers.

Noes, 22.

Mr. Cowper,
Mr. Dalley,
Mr. Egan,
Mr. Hart,
Mr. Taylor,
Mr. Rotton,
Mr. Deniehy,
Mr. Richardson,
Mr. G. Macleay,
Mr. Weekes,
Mr. Piddington,
Mr. Faucett,
Mr. Murray,
Mr. Flood,
Mr. Dalley,
Mr. Thornton,
Mr. W. Macleay,
Mr. Wild,
Mr. J. Campbell,
Mr. Byrnes,
Mr. W. B. Tooth, }
Mr. Gordon, } Tellers.

Original Question put and carried.

1859.

Legislative Assembly.

NEW SOUTH WALES.

No. 7.

WEEKLY REPORT OF DIVISIONS
IN
COMMITTEE OF THE WHOLE HOUSE.

(EXTRACTED FROM THE MINUTES.)

SESSION OF 1858-9.

THURSDAY, 10 FEBRUARY, 1859.

No. 1.

SUPPLY—VOTE OF CREDIT FOR FEBRUARY, 1859.

Question proposed,—That this Committee agree to the following Resolution:—

“ Resolved, That there be appropriated a sum not exceeding £78,000, to
 “ defray the expenses of the various Departments and Services of the Colony
 “ for the month of February, 1859, at the rates sanctioned for the year 1858;
 “ and a sum not exceeding £14,000 for the construction of Roads and Bridges,
 “ and Works and Buildings, during the same month.” (Mr. Cowper.)

And a Debate ensuing.

Motion made and Question put,—That the Chairman now leave the Chair, and report that a Point of Order has arisen in the Committee. (Mr. Forster.)

Committee divided.

And the Tellers reporting the numbers as follows:—

Ayes, 4.		Noes, 14.		
Mr. Wild,	} Tellers.	Mr. Cowper,	} Tellers.	
*Mr. Tooth,		Mr. Robertson,		
Mr. Forster,		Mr. Oakes,		
Mr. Deniehy,		Mr. Hart,		
		Mr. Jones,		
		Mr. Weckes,		
		Mr. Thornton,		
		Mr. Williamson,		
		Mr. Richardson,		
		Mr. Plunkett,		
		Mr. Byrnes,		
		Mr. J. Campbell,		
		Mr. Rotton,		
		Mr. Scott,		

*So in Tellers' List.

And it appearing by the said Report that there was not a Quorum present;—
The Chairman left the Chair to report the same to the House.

* . * * * *

Committee resumed.

Question (on Mr. Forster's Motion) again put, and negatived.

* * * * *

Original Question ultimately carried, and reported.

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1859.

Legislative Assembly.
NEW SOUTH WALES.

No. 8.

WEEKLY REPORT OF DIVISIONS
IN
COMMITTEE OF THE WHOLE HOUSE.

(EXTRACTED FROM THE MINUTES)

SESSION OF 1858-9.

WEDNESDAY, 16 FEBRUARY, 1859.

No. 1.

DISTRICT COURTS ACT AMENDMENT BILL.

Clause 3. And whereas doubts have arisen respecting the jurisdiction of the several Courts of Requests established under the Acts of Council sixth Victoria number fifteen and eleventh Victoria number thirty-five Be it enacted that no judgment order or proceeding act matter or thing given made or done by any Commissioner or other Officer of any of the said Courts of Requests or other person or persons before the passing of this Act under the authority or supposed authority of the provisions contained in the said Acts of Council or either of them shall be impeached or invalidated but that the same shall be valid and effectual to all intents and purposes whatsoever anything contained in the "District Courts Act of 1858" notwithstanding—*Read.*

Question proposed,—That the Clause, as read, stand part of the Bill. (*Mr. Cowper.*)
An Amendment having been proposed and Negatived. (Mr. Hart.)

Original Question put.
Committee divided.

Ayes, 15.

Mr. Cowper,
Mr. R. Campbell,
Mr. Robertson,
Mr. Hart,
Mr. Oakes,
Mr. Richardson,
Mr. Weekes,
Mr. Gordon,
Mr. Dickson,
Mr. Rotton,
Mr. Scott,
Mr. Dalley,
Mr. J. Campbell,
Mr. Byrnes,
Mr. Thornton, } Tellers.

Noes, 8.

Mr. Murray,
Mr. W. B. Tooth,
Mr. Denieby,
Mr. Forster,
Mr. Wild,
Mr. Plunkett,
Mr. Hay,
Mr. Faucett, } Tellers.

No. 2.

Clause 4. No action suit information indictment prosecution or other proceeding shall be commenced or prosecuted in any manner whatsoever against any Commissioner or Officer of any of the said Courts of Requests or any person or persons acting under and in obedience to any order or judgment of any of the said Courts for any matter or thing done by him or them under the authority or supposed authority of the provisions contained in the said Acts of Council or either of them and if any action suit information indictment prosecution or proceeding whatsoever shall be or shall have been commenced against

any Commissioner or Officer or any person or persons acting under or in obedience to any order or judgment of any of the said Courts it shall be lawful for the defendant or defendants to apply to the Supreme Court or to any Judge thereof to stay proceedings and such Court or Judge is hereby required to stay such proceedings accordingly and to make such order in regard to the costs of such application as to the Court or Judge shall seem fit—*Read.*

Question proposed,—That the Clause, as read, stand part of the Bill. (*Mr. Cowper.*)

Motion made and Question put,—That the Chairman now leave the Chair, report progress, and ask leave to sit again this day week. (*Mr. Forster.*)

Committee divided.

Ayes, 7.

Mr. Wild,
Mr. Forster,
Mr. Murray,
Mr. Plunkett,
Mr. Flood,
Mr. Denichy, } Tellers.
Mr. Faucett, }

Noes, 16.

Mr. Cowper,
Mr. R. Campbell,
Mr. Robertson,
Mr. Williamson,
Mr. Byrnes,
Mr. Gordon,
Mr. Rotton,
Mr. Weekes,
Mr. Jamison,
Mr. Thornton,
Mr. Richardson,
Mr. Dalley,
Mr. Scott,
Mr. J. Campbell,
Mr. Oakes, } Tellers.
Mr. Dickson, }

No. 3.

A Question having arisen as to whether the Clause under consideration, (which proposes an Indemnity for Proceedings under the Courts of Requests Acts,) can properly come within the Title of the Bill before the Committee (which is intituled "*A Bill to amend the District Courts Act of 1858*");—

Motion made and Question put,—That the Chairman now leave the Chair, report the Point of Order, and ask leave to sit again so soon as the same shall have been determined in the House. (*Mr. Murray.*)

Committee divided.

Ayes, 8.

Mr. Denichy,
Mr. Forster,
Mr. Flood,
Mr. Murray,
Mr. Williamson,
Mr. Plunkett,
Mr. Wild, } Tellers.
Mr. Faucett, }

Noes, 15.

Mr. Cowper,
Mr. R. Campbell,
Mr. Robertson,
Mr. Byrnes,
Mr. Gordon,
Mr. Rotton,
Mr. Thornton,
Mr. Weekes,
Mr. Richardson,
Mr. Dalley,
Mr. Scott,
Mr. J. Campbell,
Mr. Oakes,
Mr. Dickson, } Tellers.
Mr. Jamison, }

Words of Heat reported.

No further progress made.

1859.

Legislative Assembly.
NEW SOUTH WALES.

No. 9.

WEEKLY REPORT OF DIVISIONS
IN
COMMITTEE OF THE WHOLE HOUSE.

(EXTRACTED FROM THE MINUTES.)

SESSION OF 1858-9.

THURSDAY, 3 MARCH, 1859.

No. 1.

SUPPLY—ESTIMATES FOR 1859.

(Railways.)

Question proposed,—That there be granted to Her Majesty a sum not exceeding £12,170, to defray the Salaries and Contingencies of Railway Establishment, for the year 1859. (*Mr. Robertson.*)

Motion made and Question put,—That the Chairman now leave the Chair, report progress, and ask leave to sit again to-morrow. (*Mr. Deniely.*)

Committee divided.

And the Tellers reporting the numbers as follows :—

Ayes, 5.	:	Noes, 10.
Mr. Deniely.	|	Mr. Cowper,
Mr. Forster,	|	Mr. Robertson,
Mr. Plunkett,	|	Mr. Byrnes,
Mr. W. B. Tooth,	|	Mr. Richardson,
Mr. Flood,	|	Mr. Gordon,
} Tellers.	|	Mr. Oakes,
	|	Mr. Suttor,
	|	Mr. J. Campbell,
	|	Mr. Hay,
	|	Sir Daniel Cooper,
	|	} Tellers.

And it appearing by the said Report that there was not a Quorum present,—the Chairman left the Chair to report the same to the House.

1859.

Legislative Assembly.

NEW SOUTH WALES.

No. 10.

WEEKLY REPORT OF DIVISIONS
IN
COMMITTEE OF THE WHOLE HOUSE.

(EXTRACTED FROM THE MINUTES.)

SESSION OF 1858-9.

WEDNESDAY, 9 MARCH, 1859.

No. 1.

SUPPLY—ESTIMATES FOR 1859.

(Railways.)

(Resumed from 3 March.—Items seriatim.)

Question proposed,—That there be granted to Her Majesty a sum not exceeding £1,500, to defray the Salary of the Chief Commissioner of Railways, for the year 1859. (Mr. Robertson.)

Afterwards proposed,—That there be granted a sum not exceeding £800 for this service (being £700 less than the Original Estimate.) (Mr. Williamson.)

Afterwards proposed,—That there be granted One Shilling only for this service. (Mr. Forster.)

Question put,—That there be granted One Shilling only for this service.
Committee divided.

Ayes, 3.

Mr. Williamson,
Mr. Forster, } Tellers.
Mr. Gordon, }

Noes, 21.

Mr. Cowper,
Mr. Robertson,
Mr. Thornton,
Mr. Oakes,
Mr. Flood,
Mr. Piddington,
Mr. Byrnes,
Mr. W. B. Tooth,
Mr. Taylor,
Mr. Weekes,
Mr. Richardson,
Mr. Wild,
Mr. Jamison,
Mr. Jones,
Mr. Suttor,
Mr. W. Macleay,
Mr. Plunkett,
Mr. Scott,
Mr. Dickson,
Mr. Jenkins, } Tellers.
Mr. Denichy, }

No. 2.

The Question, that there be granted a sum not exceeding £800 for this service, having been put and negatived;—

Original Question stated.

Motion made and Question put,—That there be granted a sum not exceeding £1,000 for this service, (being £500 less than the Original Estimate). (Mr. Piddington.)

Committee divided.

Ayes, 9.
 Mr. Byrnes,
 Mr. Williamson,
 Mr. Piddington,
 Mr. Richardson,
 Mr. Flood,
 Mr. Deniehy,
 Mr. Dickson,
 Mr. Gordon, } Tellers.
 Mr. Forster, }

Noes, 15.

Mr. Cowper,
 Mr. Robertson,
 Mr. Oakes,
 Mr. Jenkins,
 Mr. Jamison,
 Mr. Weekes,
 Mr. Taylor,
 Mr. W. B. Tooth,
 Mr. Wild,
 Mr. Jones,
 Mr. Suttor,
 Mr. W. Macleay,
 Mr. Plunkett,
 Mr. Scott, } Tellers.
 Mr. Thornton, }

No. 3.

Original Question stated.

Motion made and Question put,—That there be granted a sum not exceeding £1,150 for this service, (being £350 less than the original Estimate.) (*Mr. Deniehy.*)

Committee divided.

Ayes, 11.
 Mr. Byrnes,
 Mr. Williamson,
 Mr. Piddington,
 Mr. Oakes,
 Mr. Thornton,
 Mr. Richardson,
 Mr. Flood,
 Mr. Deniehy,
 Mr. Dickson,
 Mr. Forster, } Tellers.
 Mr. Gordon, }

Noes, 13.

Mr. Cowper,
 Mr. Robertson,
 Mr. Jenkins,
 Mr. Jamison,
 Mr. Weekes,
 Mr. Taylor,
 Mr. W. B. Tooth,
 Mr. Wild,
 Mr. Jones,
 Mr. Suttor,
 Mr. W. Macleay,
 Mr. Scott, } Tellers.
 Mr. Plunkett, }

Whereupon Original Question put and Carried.

No. 4.

Question proposed,—That there be granted to Her Majesty, a sum not exceeding £10,670, to defray the aggregate remainder of the salaries, and the contingencies, of the Railway Establishment, for the year 1859. (*Mr. Robertson.*)

Motion made and Question put,—That there be granted a sum not exceeding £9,670 for this Service (being less than the original Estimate by £1,000—the amount proposed for Law Expenses). (*Mr. Forster.*)

Committee divided.

Ayes, 15.
 Mr. Suttor,
 Mr. Hart,
 Mr. Forster,
 Mr. Thornton,
 Mr. Jones,
 Mr. Oakes,
 Mr. Weekes,
 Mr. Jamison,
 Mr. Richardson,
 Mr. Flood,
 Mr. Dickson,
 Mr. Deniehy,
 Mr. Scott,
 Mr. Byrnes, } Tellers.
 Mr. Gordon, }

Noes, 7.

Mr. Cowper,
 Mr. Robertson,
 Mr. Jenkins,
 Mr. Hay,
 Mr. Plunkett,
 Mr. Taylor, } Tellers.
 Mr. Wild, }

No 5.

(Construction and Maintenance of Roads.)

Question proposed,—That there be granted to Her Majesty, in the year 1859, a sum not exceeding £70,800, to defray the construction and maintenance of the Main Northern Road, the Main Western Road, the Mudgee Road, and the Main Southern Road. (*Mr. Robertson.*)

Afterwards proposed and Negatived,—That there be granted a sum not exceeding £64,150 for this service (being less than the Original Estimate by £6,650, as affecting the Main Northern Road, viz.:—£300 to divert Road to meet Bridge at Falbrook; £2,300 for the construction of a Bridge at Falbrook; £300 for ditto at Foybrook; £200 for ditto at Apple-tree Flat; £450 for ditto at Sandy Creek; £1,300 for ditto at Murrurundi; £600 for Bridges over minor Creeks to Murrurundi Gap; and £1,200 for ditto to Bendemere.) (*Mr. Piddington.*)

Motion made and Question put,—That there be granted a sum not exceeding £67,900 for this Service (being less than the Original Estimate by £2,900, as affecting the Main Northern Road, viz.:—£300 to divert Road to meet Bridge at Falbrook; £2,300 for the construction of a Bridge at Falbrook; and £300 for ditto at Foybrook.) (*Mr. Piddington.*)

Committee

Committee divided.

Ayes, 6.		Noes, 18.	
Mr. Jones,	} Tellers.	Mr. Cowper,	} Tellers.
Mr. Gordon,		Mr. Robertson,	
Mr. Forster,		Mr. Suttor,	
Mr. Plunkett,		Mr. Egan,	
Mr. Piddington,		Mr. Hay,	
Mr. Thornton,		Mr. Taylor,	
		Mr. Williamson,	
		Mr. Wild,	
		Mr. Faucett,	
		Mr. W. Macleay,	
		Mr. Weekes,	
		Mr. Jamison,	
		Mr. Richardson,	
		Mr. Denichy,	
		Mr. Scott,	
		Mr. Dickson,	
		Mr. Oakes,	
		Mr. Byrnes,	

Whereupon Original Question put and Carried.

 THURSDAY, 10 MARCH, 1859.

No. 6.

SUPPLY—ESTIMATES FOR 1859—*continued.**(Works and Buildings.)*

Motion made and Question put,—That there be granted to Her Majesty in the year 1859, a sum not exceeding £7,000, to defray the charge of Alterations and Additions to Legislative Council and Assembly Buildings. (*Mr. Robertson.*)

Committee divided.

Ayes, 11.		Noes, 13.	
Mr. Cowper,	} Tellers.	Mr. Hay,	} Tellers.
Mr. Robertson,		Mr. Piddington,	
Mr. Thornton,		Mr. Denichy,	
Mr. Taylor,		Mr. Murray,	
Mr. Lord,		Mr. Byrnes,	
Mr. Flood,		Mr. Jamison,	
Mr. Oakes,		Mr. W. McLeay,	
Mr. J. Campbell,		Mr. Forster,	
Mr. Plunkett,		Mr. W. B. Tooth,	
Mr. Jones,		Mr. Jenkins,	
Mr. Weekes,		Mr. Dickson,	
	Mr. Scott,		
	Mr. Wild,		

No. 7.

Question proposed,—That there be granted to Her Majesty, in the year 1859, a sum not exceeding £1,500, to defray the charge of Repairs to Government House and Out Offices. (*Mr. Robertson.*)

Motion made and Question put,—That there be granted a sum not exceeding £750 for this Service, (being £750 less than the Original Estimate.) (*Mr. Piddington.*)

Committee divided.

Ayes, 11.		Noes, 15.	
Mr. Scott,	} Tellers.	Mr. Cowper,	} Tellers.
Mr. Richardson,		Mr. Robertson,	
Mr. Gordon,		Mr. Wild,	
Mr. Flood,		Mr. Murray,	
Mr. Hay,		Mr. W. B. Tooth,	
Mr. Lord,		Mr. Forster,	
Mr. Denichy,		Mr. W. Macleay,	
Mr. Piddington,		Mr. Taylor,	
Mr. Plunkett,		Mr. Weekes,	
Mr. Jones,		Mr. Thornton,	
Mr. Dickson,		Mr. Oakes,	
	Mr. Byrnes,		
	Mr. Jamison,		
	Mr. J. Campbell,		
	Mr. Jenkins,		

Whereupon Original Question put and Carried.

No. 8.

Motion made and Question put,—That there be granted to Her Majesty, in the year 1859, a sum not exceeding £970, to defray the charge of fencing in the Necropolis at Sydney. (*Mr. Robertson.*)

Committee

Committee divided.

Ayes, 15.
 Mr. Cowper,
 Mr. Robertson,
 Mr. Jones,
 Mr. Scott,
 Mr. Weekes,
 Mr. Richardson,
 Mr. Gordon,
 Mr. Wild,
 Mr. Taylor,
 Mr. Hay,
 Mr. Flood,
 Mr. Deniehy,
 Mr. Plunkett,
 Mr. Oakes, } Tellers.
 Mr. Byrnes, }

Noes, 10.
 Mr. J. Campbell,
 Mr. Jenkins,
 Mr. W. B. Tooth,
 Mr. Forster,
 Mr. W. McLeay,
 Mr. Lord,
 Mr. Jamison,
 Mr. Thornton,
 Mr. Dickson, } Tellers.
 Mr. Murray, }

No. 9.

Motion made and Question put,—That there be granted to Her Majesty, in the year 1859, a sum not exceeding £800, to defray the charge of the erection of a Court House at Rockhampton. (*Mr. Robertson.*)

Committee divided.

Ayes, 18.
 Mr. Cowper,
 Mr. Robertson,
 Mr. Dickson,
 Mr. Oakes,
 Mr. Forster,
 Mr. Deniehy,
 Mr. Jenkins,
 Mr. Hay,
 Mr. Weekes,
 Mr. Taylor,
 Mr. Plunkett,
 Mr. Richardson,
 Mr. W. B. Tooth,
 Mr. J. Campbell,
 Mr. Jamison,
 Sir Daniel Cooper,
 Mr. Byrnes, } Tellers.
 Mr. Jones, }

Noes, 4.
 Mr. Flood,
 Mr. Scott,
 Mr. Piddington, } Tellers.
 Mr. Wild, }

No. 10.

Motion made and Question put,—That there be granted to Her Majesty, in the year 1859, a sum not exceeding £500, to defray the charge of the erection of a Watch House at Rockhampton. (*Mr. Robertson.*)

Committee divided.

Ayes, 19.
 Mr. Cowper,
 Mr. Robertson,
 Mr. Jones,
 Mr. Deniehy,
 Mr. Byrnes,
 Mr. Taylor,
 Mr. Hay,
 Mr. Jenkins,
 Mr. Piddington,
 Mr. Flood,
 Mr. Plunkett,
 Mr. Dickson,
 Mr. Richardson,
 Mr. W. B. Tooth,
 Mr. J. Campbell,
 Mr. Jamison,
 Sir Daniel Cooper,
 Mr. Oakes, } Tellers.
 Mr. Weekes, }

Noes, 3.
 Mr. Forster,
 Mr. Scott, } Tellers.
 Mr. Wild, }

No. 11.

Motion made and Question put,—That there be granted to Her Majesty, in the year 1859, a sum not exceeding £5,000, to defray the charge for the repair of the Circular Quay at Sydney. (*Mr. Robertson.*)

Committee divided.

Ayes, 20.
 Mr. Cowper,
 Mr. Robertson,
 Mr. Oakes,
 Mr. Egan,
 Mr. Scott,
 Mr. Dickson,
 Mr. Byrnes,
 Mr. Flood,
 Mr. Jamison,
 Mr. Jones,
 Mr. Hay,
 Mr. Taylor,
 Mr. Plunkett,
 Mr. Richardson,
 Mr. W. B. Tooth,
 Mr. Deniehy,
 Mr. J. Campbell,
 Sir Daniel Cooper,
 Mr. Gordon, } Tellers.
 Mr. Weekes, }

Noes, 2.
 Mr. Jenkins, } Tellers.
 Mr. Forster, }

1859.

Legislative Assembly.
NEW SOUTH WALES.

No. 11.

WEEKLY REPORT OF DIVISIONS
IN
COMMITTEE OF THE WHOLE HOUSE.

(EXTRACTED FROM THE MINUTES.)

SESSION OF 1858-9.

TUESDAY, 15 MARCH, 1859.

No. 1.

RAILWAY SERVICES OF THOMAS WOORE, ESQ.

Question proposed,—That this Committee agree to the following Resolution :—
Resolved, That an Address be presented to the Governor General, praying that His Excellency will be pleased to cause to be placed upon the Supplementary Estimates for 1859 the sum of “£1,500,” to be awarded to Thomas Woore, Esquire, in consideration of his Railway Services, and in accordance with the Report of a Select Committee of this House during its last Session. (Mr. Murray.)

Amendment proposed,—That the figures “1,500” be omitted, with a view to the insertion in their place of the figures “1,100.” (Mr. Plunkett.)

The Question,—That the figures (1,500) proposed to be omitted stand part of the Question,—having been put and negatived;—

Question put,—That the figures (1,100) proposed to be inserted in the place of the figures omitted be so inserted.

Committee divided.

Ayes, 16.

- Mr. Robertson.
- Mr. Hart,
- Mr. Forster,
- Mr. Thornton,
- Mr. Taylor,
- Mr. Hay,
- Mr. W. B. Tooth,
- Mr. Weekes,
- Mr. Suttor,
- Mr. Plunkett.
- Mr. W. Macleay.
- Mr. Wild,
- Mr. Williamson,
- Mr. Hodgson.
- Mr. Byrnes, } Tellers.
- Mr. Murray, }

Noes, 8.

- Mr. Oakes,
- Mr. Jones,
- Mr. Flood,
- Mr. Piddington,
- Mr. Richardson,
- Mr. J. Campbell,
- Mr. Gordon, } Tellers.
- Mr. Dickson, }

No. 2.

Question then put,—That this Committee agree to the following Resolution :—
Resolved, That an Address be presented to the Governor General, praying that His Excellency will be pleased to cause to be placed upon the Supplementary Estimates for 1859 the sum of £1,100, to be awarded to Thomas Woore, Esquire, in consideration of his Railway Services, and in accordance with the Report of a Select Committee of this House during its last Session.

Committee divided.

And the Tellers reporting the numbers as follows:—

Ayes, 17.	Noes, 2.
Mr. Hodgson,	Mr. Richardson, } Tellers.
Mr. Hart,	
Mr. Deniehy,	Mr. Jones,
Mr. Thornton,	
Mr. Taylor,	
Mr. Robertson,	
Mr. Hay,	
Mr. Weekes,	
Mr. Suttor,	
Mr. Plunkett,	
Mr. W. B. Tooth,	
Mr. Forster,	
Mr. Wild,	
Mr. W. Macleay,	
Mr. Williamson,	
Mr. Byrnes, } Tellers.	
Mr. Murray, }	

And, it appearing by the said report that there was not a Quorum of Members present, the Chairman left the Chair to report the same to the House.

* * * * *

Committee resumed.

Question again put.

And division called for.

But, there being no Tellers for the "Noes," no Division could be had—and the Chairman declared the Question to have passed in the Affirmative.

On Motion to report Resolution (Mr. Murray)—Committee counted out.

THURSDAY, 17 MARCH, 1859.

No. 3.

SUPPLY—FURTHER SUPPLEMENTARY ESTIMATE FOR 1858.

Question proposed,—That there be granted to Her Majesty, as a Further Supplementary charge for the year 1858, a sum not exceeding £4,000, to enable the Trustees of the Sydney Grammar School to pay the debt incurred by them in the erection of the Building. (Mr. Cowper.)

And a Debate ensuing;—

Motion made and Question put,—That the further consideration of this item be postponed. (Mr. Cowper.)

Committee divided.

Ayes, 14.	Noes, 7.
Mr. Cowper,	Mr. Dickson,
Mr. Robertson,	Mr. Byrnes,
Mr. Jenkins,	Mr. Piddington,
Mr. Williamson,	Mr. Weekes,
Mr. Hay,	Mr. Gordon,
Mr. W. Macleay,	Mr. Oakes, } Tellers.
Mr. Scott,	Mr. Jones, }
Mr. Flood,	
Mr. Forster,	
Mr. J. Campbell,	
Sir Daniel Cooper,	
Mr. Hodgson,	
Mr. Suttor, } Tellers.	
Mr. Murray, }	

No. 4.

Question proposed,—That there be granted to Her Majesty a sum not exceeding £50, to defray the Further Supplementary charge of the Moreton Bay Court, established for the year 1858. (Mr. Cowper.)

Motion made and Question put,—That the Chairman now leave the Chair, report progress, and ask leave to sit again to-morrow. (Mr. Forster.)

Committee divided.

Ayes, 7.	Noes, 13.
Sir Daniel Cooper,	Mr. Cowper,
Mr. Forster,	Mr. Robertson,
Mr. Jenkins,	Mr. Williamson,
Mr. W. Macleay,	Mr. Oakes,
Mr. Hay,	Mr. Byrnes,
Mr. Piddington, } Tellers.	Mr. Weekes,
Mr. Dickson, }	Mr. Gordon,
	Mr. Jones,
	Mr. Scott,
	Mr. Suttor,
	Mr. J. Campbell,
	Mr. Murray, } Tellers.
	Mr. Hodgson, }

Committee counted out, without further progress.

1859.

Legislative Assembly.

NEW SOUTH WALES.

No. 12.

WEEKLY REPORT OF DIVISIONS
IN
COMMITTEE OF THE WHOLE HOUSE.

(EXTRACTED FROM THE MINUTES.)

SESSION OF 1858-9.

WEDNESDAY, 23 MARCH, 1859.

No. 1.

SUPPLY—FURTHER SUPPLEMENTARY ESTIMATE FOR 1858.

Motion made and Question put,—That there be granted to Her Majesty, as a Further Supplementary Charge for the year 1858, a further sum not exceeding £550, for Furniture for Government House. (*Mr. Robertson.*)

Committee divided.

Ayes, 8.
Mr. Cowper,
Mr. Robertson,
Mr. Hargrave,
Mr. J. Campbell,
Mr. Thornton,
Mr. Flood,
Mr. Weckes, } Tellers.
Mr. Oakes, }

Noes, 16.
Mr. Suttor,
Mr. Williamson,
Mr. Jones,
Mr. W. B. Tooth,
Mr. Byrnes,
Mr. Piddington,
Mr. Hodgson,
Mr. Egan,
Mr. Richardson,
Mr. Dickson,
Mr. Jenkins,
Mr. Forster,
Mr. Plunkett,
Mr. Murray,
Mr. Gordon, } Tellers.
Mr. Hay, }

No. 2.

Motion made and Question put,—That there be granted to Her Majesty, as a further Supplementary Charge for the year 1858, a sum not exceeding £200, for the erection of a Cottage at Garden Island, for Naval working parties. (*Mr. Robertson.*)

Committee divided.

Ayes, 19.
Mr. Cowper,
Mr. Robertson,
Mr. Hargrave,
Mr. Oakes,
Mr. Gordon,
Mr. Murray,
Mr. W. B. Tooth,
Mr. Williamson,
Mr. Hay,
Mr. Hodgson,
Mr. Plunkett,
Mr. Jenkins,
Mr. Richardson,
Mr. Flood,
Mr. Suttor,
Mr. J. Campbell,
Sir Daniel Cooper,
Mr. Byrnes, } Tellers.
Mr. Weckes, }

Noes, 5.
Mr. Egan,
Mr. Piddington,
Mr. Jones,
Mr. Forster, } Tellers.
Mr. Thornton, }

THURSDAY, 24 MARCH, 1859.

No. 3.

SUPPLY.—FURTHER SUPPLEMENTARY ESTIMATE FOR 1858—*continued.*

Motion made and Question put,—That there be granted to Her Majesty, as a further Supplementary Charge for the year 1858, a sum not exceeding £4,000, to enable the Trustees of the Sydney Grammar School to pay the debt incurred by them in the erection of the Building. (*Mr. Cowper.*)

Committee divided.

Ayes, 20.	Nocs, 7.
Mr. Cowper,	Mr. Dickson,
* Mr. Plunkett,	Mr. Jamison,
Mr. Hargrave,	Mr. Byrnes,
* Mr. Plunkett,	Mr. Williamson,
Mr. Murray,	Mr. Gordon,
Mr. Macarthur,	Mr. Forster,
Sir Daniel Cooper,	Mr. Piddington, } Tellers.
Mr. J. Campbell,	
Mr. Suttor,	
Mr. Richardson,	
Mr. Rotton,	
Mr. Jones,	
Mr. Oakes,	
Mr. Jenkins,	
Mr. Flood,	
Mr. Thornton,	
Mr. Weekes,	
Mr. Hodgson,	
Mr. Hart,	
Mr. Denichy, } Tellers.	

* So in Tellers' List.

No. 4.

SUPPLY.—SUPPLEMENTARY ESTIMATE FOR 1859.

Motion made and Question put,—That there be granted to Her Majesty, as a Supplementary Charge for the year 1859, a sum not exceeding £9,308 6s. 8d., to defray the following Services, that is to say:—£5,658 6s. 8d., Compensation for the loss of the addition to the Stipends of the Ministers of Religion provided for under Schedule (C) to Schedule (1) of the Act of the Imperial Parliament, 18 and 19 Vict., cap. 54; and £3,650, Compensation for the loss of Stipends to the Ministers of Religion, not provided for under the same Schedule of the said Act. (*Mr. Cowper.*)

Committee divided.

Ayes, 21.	Nocs, 7.
Mr. Cowper,	Mr. J. Campbell,
Mr. Robertson,	Mr. Denichy,
Mr. Hargrave,	Mr. Flood,
Mr. Jenkins,	Mr. Rotton,
Mr. Hart,	Mr. Richardson,
Mr. Egan,	Mr. Williamson, } Tellers.
Mr. Murray,	Mr. Forster,
Mr. Faucett,	
Mr. Hay,	
Mr. Piddington,	
Mr. Gordon,	
Mr. Plunkett,	
Mr. Jamison,	
Mr. Jones,	
Mr. Suttor,	
Mr. Dickson,	
Mr. Oakes,	
Mr. Hodgson,	
Mr. Macarthur,	
Mr. Byrnes, } Tellers.	
Mr. Weekes, }	

No. 5.

Question proposed,—That there be granted to Her Majesty a sum not exceeding £1,333, to defray the Supplementary Charge of the Post Office Establishment, for the year 1859. (*Mr. Cowper.*)

Motion made and Question put,—That there be granted a sum not exceeding £1,083 for this Service, (being £300 less than the Original Estimate). (*Mr. Murray.*)

Committee

Committee divided.

Ayes, 5.
 Mr. Plunkett,
 Mr. Williamson,
 Mr. Hay,
 Mr. Murray, } Tellers.
 Mr. Forster, }

Noes, 19.

Mr. Cowper,
 Mr. Robertson,
 Mr. Hargrave,
 Mr. Rotton,
 Mr. Jenkins,
 Mr. Weekes,
 Mr. Richardson,
 Mr. Hart,
 Mr. Egan,
 Mr. Jamison,
 Mr. Flood,
 Mr. Gordon,
 Mr. Dickson,
 Mr. Jones,
 Mr. Suttor,
 Mr. Oakes,
 Mr. J. Campbell,
 Mr. Macarthur, } Tellers.
 Mr. Byrnes, }

Original Question put und carried.

No. 6.

Motion made and Question put,—That there be granted to Her Majesty, a sum not exceeding £2,000, to defray the Supplementary Charge of Conveyance of Mails, for the year 1859. (*Mr. Cowper.*)

Committee divided.

Ayes, 19.
 Mr. Cowper,
 Mr. Hargrave,
 Mr. Robertson,
 Mr. Gordon,
 Mr. Weekes,
 Mr. Jamison,
 Mr. Williamson,
 Mr. Faucett,
 Mr. Byrnes,
 Mr. Egan,
 Mr. Richardson,
 Mr. Macarthur,
 Mr. Jones,
 Mr. Flood,
 Mr. Suttor,
 Mr. J. Campbell,
 Mr. Plunkett,
 Mr. Rotton, } Tellers.
 Mr. Oakes, }

Noes, 5.

Mr. Murray,
 Mr. Forster,
 Mr. Hart,
 Mr. Jenkins, } Tellers.
 Mr. Hay, }

No. 7.

Motion made and Question put,—That there be granted to Her Majesty, a sum not exceeding £173 7s. 6d., to defray the Supplementary Charge of the Military Allowance, for the year 1859,—being lodging allowance to Brigade Major, at 9s. 6d. per diem. (*Mr. Cowper.*)

Committee divided.

Ayes, 6.
 Mr. Cowper,
 Mr. Hargrave,
 Mr. Robertson,
 Mr. Hay,
 Mr. Jenkins, } Tellers.
 Mr. Murray, }

Noes, 15.

Mr. J. Campbell,
 Mr. Plunkett,
 Mr. Egan,
 Mr. Denichy,
 Mr. Flood,
 Mr. Macarthur,
 Mr. Oakes,
 Mr. Weekes,
 Mr. Jones,
 Mr. Byrnes,
 Mr. Williamsou,
 Mr. Rotton,
 Mr. Jamison,
 Mr. Gordon, } Tellers.
 Mr. Forster, }

No. 8.

Question proposed,—That there be granted to Her Majesty a sum not exceeding £3,600, to defray the Supplementary Charge of Grants in aid of Public Institutions, for the year 1859. (*Mr. Cowper.*)

Motion made and Question put,—That there be granted a sum not exceeding £2,600, for this Service, (being less than the Original Estimate by £1,000, proposed to be granted in aid of the erection of the Temperance Hall, Sydney, on condition of an equal sum being raised by private subscription.) (*Mr. Forster.*)

Committee

Committee divided.

Ayes, 8.

Mr. J. Campbell,
 Mr. Flood,
 Mr. Murray,
 Mr. Jones,
 Mr. Forster,
 Mr. Hay,
 Mr. Denichy, } Tellers.
 Mr. Rotton, }

Noes, 13.

Mr. Cowper,
 Mr. Robertson,
 Mr. Hargrave,
 Mr. Jenkins,
 Mr. Oakes,
 Mr. Weekes,
 Mr. Gordon,
 Mr. Williamson,
 Mr. Suttor,
 Mr. Byrnes,
 Mr. Jamison,
 Mr. Plunkett,
 Sir Daniel Cooper, } Tellers.

No. 9.

Original Question put.
Committee divided.

Ayes, 16.

Mr. Cowper,
 Mr. Hargrave,
 Mr. Robertson,
 Mr. Gordon,
 Mr. Weekes,
 Mr. Williamson,
 Mr. Jones,
 Mr. Hay,
 Mr. Jamison,
 Mr. Murray,
 Mr. Jenkins,
 Mr. Suttor,
 Sir Daniel Cooper,
 Mr. Plunkett,
 Mr. Oakes, } Tellers.
 Mr. Byrnes, }

Noes, 5.

Mr. J. Campbell,
 Mr. Flood,
 Mr. Rotton,
 Mr. Forster, } Tellers.
 Mr. Denichy, }

1859.

Legislative Assembly.

NEW SOUTH WALES.

No. 13.

WEEKLY REPORT OF DIVISIONS

IN

COMMITTEE OF THE WHOLE HOUSE.

(EXTRACTED FROM THE MINUTES.)

SESSION OF 1858-9.

THURSDAY, 31 MARCH, 1859.

No. 1.

SUPPLY—SUPPLEMENTARY ESTIMATE FOR 1859.

Motion made and Question put,—That there be granted to Her Majesty, a sum not exceeding £200, to defray the Supplementary Charge of the Salary of a Clerk to the Harbour Master, Sydney, for the year 1859. (Mr. Cowper.)

Committee divided.

<p>Ayes, 20.</p> <p>Mr. Cowper, Mr. Robertson, Mr. Hargrave, Mr. Rotton, Mr. Jones, Mr. Oakes, Mr. Williamson, Mr. Gordon, Mr. Hodgson, Mr. Weekes, Mr. Piddington, Mr. Sutter, Mr. Macarthur, Mr. Richardson, Mr. Jenkins, Dr. Bowker, Mr. Plunkett, Mr. Marks, Mr. Byrnes, } Tellers. Mr. Deniehy, }</p>	<p>Noes, 6.</p> <p>Mr. Hart, Mr. Egan, Mr. Flood, Mr. Hay, Mr. Forster, } Tellers. Mr. Dickson, }</p>
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No. 2.

Motion made and Question put,—That there be granted to Her Majesty, as a Supplementary Charge for the year 1859, a sum not exceeding £8,000, to provide Compensation to Public Officers whose situations are abolished. (Mr. Cowper.)

Committee divided.

<p>Ayes, 5.</p> <p>Mr. Cowper, Mr. Robertson, Mr. Hargrave, Mr. Egan, } Tellers. Mr. Taylor, }</p>	<p>Noes, 19.</p> <p>Mr. Plunkett, Mr. Jenkins, Mr. Williamson, Mr. Hay, Mr. Macarthur, Mr. Sutter, Mr. Piddington, Mr. Rotton, Mr. Oakes, Mr. Weekes, Mr. Dickson, Mr. Hodgson, Mr. Byrnes, Dr. Bowker, Mr. Richardson, Mr. Jones, Mr. Marks, Mr. Forster, } Tellers. Mr. Deniehy, }</p>
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No. 3.

SUPPLY—ADDITIONAL SUPPLEMENTARY ESTIMATE FOR 1859.

Motion made and Question put,—That there be granted to Her Majesty, as a Supplementary Charge for the year 1859, a sum not exceeding £375, to defray the salary of a Police Magistrate for Armidale. (*Mr. Cowper.*)

Committee divided.

Ayes, 13.	Noes, 11.
Mr. Cowper,	Mr. Hodgson,
Mr. Robertson,	Mr. Macarthur,
Mr. Hargrave,	Mr. Weekes,
Mr. Deniehy,	Mr. Rotton,
Mr. Forster,	Dr. Bowker,
Mr. Suttor,	Mr. Jones,
Mr. Williamson,	Mr. Hay,
Mr. Plunkett,	Mr. Egan,
Sir Daniel Cooper,	Mr. Oakes,
Mr. Byrnes,	Mr. Gordon,
Mr. Piddington,	Mr. W. Macleay, } Tellers.
Mr. Taylor, } Tellers.	
Mr. Jenkins, }	

No. 4.

Question proposed,—That there be granted to Her Majesty a sum not exceeding £350, to defray the Supplementary Charge of the Establishment of the Law Officers of the Crown, for the year 1859, being for an additional Clerk to the Civil Crown Solicitor. (*Mr. Cowper.*)

And the Committee having continued to sit till after midnight;—

FRIDAY, 1 APRIL, 1859, A. M.

Question put.

Committee divided.

Ayes, 16.	Noes, 9.
Mr. Cowper,	Mr. Byrnes,
Mr. Robertson,	Mr. Williamson,
Mr. Hargrave,	Mr. Rotton,
Mr. Jones,	Mr. Egan,
Mr. Marks,	Mr. Oakes,
Mr. Hodgson,	Mr. Hart,
Dr. Bowker,	Mr. Deniehy,
Mr. Taylor,	Mr. Gordon, } Tellers.
Mr. Hay,	Mr. Forster, }
Mr. Macarthur,	
Mr. W. Macleay,	
Sir Daniel Cooper,	
Mr. Jenkins,	
Mr. Plunkett,	
Mr. Suttor, } Tellers.	
Mr. Weekes, }	

No. 5.

Motion made and Question put,—That there be granted to Her Majesty, a sum not exceeding £296 13s. 2d. to defray the Supplementary Charge of the Customs Department for the year 1859, being Costs of Prosecutions for Illicit Distillation. (*Mr. Cowper.*)

Committee divided.

Ayes, 15.	Noes, 9.
Mr. Cowper,	Mr. Forster,
Mr. Robertson,	Mr. Rotton,
Mr. Hargrave,	Mr. Byrnes,
Mr. Suttor,	Mr. Williamson,
Mr. Plunkett,	Mr. Egan,
Sir Daniel Cooper,	Mr. Oakes,
Mr. W. Macleay,	Mr. Deniehy,
Mr. Macarthur,	Mr. Gordon, } Tellers.
Mr. Hay,	Mr. Jenkins, }
Mr. Weekes,	
Mr. Taylor,	
Mr. Hodgson,	
Mr. Marks,	
Mr. Jones, } Tellers.	
Mr. Hart, }	

No. 6.

Motion made and Question put,—That there be granted to Her Majesty, as a Supplementary Charge for the year 1859, a sum not exceeding £2,200, as Repayment to Mr. O'Neill Brenan of the purchase money for a Quarry near Darlington Gaol. (*Mr. Robertson.*)

Committee

Committee divided.

Ayes, 20.

Mr. Cowper,
 Mr. Robertson,
 Mr. Hargrave,
 Mr. Egan,
 Mr. Deniehy,
 Mr. Marks,
 Mr. Rotton,
 Mr. Forster,
 Mr. Taylor,
 Mr. Weekes,
 Mr. Oakes,
 Mr. Macarthur,
 Mr. Hay,
 Mr. Hodgson,
 Mr. W. Macleay,
 Sir Daniel Cooper,
 Mr. Jenkins,
 Mr. Plunkett,
 Mr. Suttor, } Tellers.
 Mr. Jones, }

Noes, 3.

Mr. Williamson,
 Mr. Byrnes, } Tellers.
 Mr. Hart, }

1859.

Legislative Assembly.

NEW SOUTH WALES.

No. 14.

WEEKLY REPORT OF DIVISIONS

IN

COMMITTEE OF THE WHOLE HOUSE.

(EXTRACTED FROM THE MINUTES.)

SESSION OF 1858-9.

WEDNESDAY, 6 APRIL, 1859.

No. 1.

LEGISLATIVE COUNCIL'S MESSAGE WITH REFERENCE TO ASSEMBLY'S AMENDMENTS IN THE DISTRICT COURTS ACT AMENDMENT BILL CONSIDERED, VIZ. :—

Mr. Speaker,

The Legislative Council having had under consideration the Legislative Assembly's Message, dated the 24th instant, requesting its concurrence in certain Amendments made by the Assembly in the District Courts Act Amendment Bill,—
Agrees to so much of the Amendment in page 1 as proposes to omit Clause 3.
Disagrees from so much thereof as proposes to insert new Clause 3 :—

1. Because the Clause is unnecessary for the proper working of the District Courts Act of 1858.
2. Because it takes away from the Magistrates all powers of adjudication in Civil and other matters heretofore decided by the Chairman of General and Quarter Sessions in conjunction with the Magistrates on the Bench ; and because it affirms an amendment, rejected after full deliberation during the discussion of the original measure in this House, and the Council considers it undesirable now to open a question which has been so recently decided.
3. Because it abolishes all the powers of Courts of General and Quarter Sessions without referring particularly to the various Statutes on the subject.
4. Because it is undesirable to abolish indiscriminately all Statutes or Acts regulating or in any way relative to such Courts.
5. Because, by a reasonable interpretation, it may be held to abolish Trials by Jury, and to vest in the Judges of the District Courts the powers of a Jury in Criminal matters.

Agrees to so much of the Amendment in page 2 as proposes to omit Clauses 4.
Disagrees from so much thereof as proposes to insert new Clause 4 :—

1. Because the Clause is unnecessary for the proper working of the District Courts Act of 1858.
2. Because it gives power to Judges of the District Courts to grant Criminal informations, and to adjudicate upon other matters wholly foreign to the main objects of the District Courts Act.
3. Because it is inexpedient to grant to such Judges an extension of the powers vested in them by the said Act, until experience has been obtained of the operation of the powers already vested in such Judges.

Legislative Council Chamber,
Sydney, 1 April 1859.

W. W. BURTON,
President.

Motion made (*Mr. Cowper*) and Question put,—That the Committee agree to the following Resolutions:—

The Committee does not insist upon the Assembly's Amendments in this Bill disagreed to by the Council's Message, dated the 1st instant.

The Committee recommends the Council's attention be invited to the circumstance that there is in the Message no intimation of agreement or disagreement to the proposed new Clauses 5, 6, and 7.

The Committee recommends that exception be taken to that part of the Council's second reason for disagreement to the proposed new Clause 3, which reads as follows,—“ And because it affirms an Amendment, rejected after full deliberation during the discussion of the original measure in this House, and the Council considers it undesirable now to open a question which has been so recently decided,” because it believes it to be untenable as a reason for one House declining the consideration of any Amendment proposed by the other, inasmuch as the House proposing any such Amendment cannot constitutionally be aware of any discussions which may have previously taken place on a question not coming to it from the other.

Committee divided.

Ayes, 23.

Mr. Cowper,
Mr. Robertson,
Mr. Hargrave,
Mr. Dickson,
Mr. Byrnes,
Mr. Weekes,
Mr. Hart,
Mr. Flood,
Mr. Jenkins,
Mr. Wild,
Mr. Piddington,
Mr. Faucett,
Mr. Macarthur,
Mr. Plunkett,
Mr. Hodgson,
Mr. Marks,
Mr. Oakes,
Mr. Jones,
Mr. Taylor,
Mr. Dalley,
Mr. Suttor,
Mr. Gordon,
Mr. Rotton, } Tellers.

Noes, 2.

Mr. Forster, } Tellers.
Mr. Deniehy, }

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

No. 1.

WEEKLY ABSTRACT
OF
PETITIONS RECEIVED
BY THE
LEGISLATIVE ASSEMBLY.

SESSION 1858.

WHEN RECEIVED.	FROM WHOM AND WHENCE PRESENTED.	NUMBER OF SIGNATURES.	BY WHOM PRESENTED.	ABSTRACT OF PRAYER.
1858. Dec. 17 ..	Certain Members of the Hebrew Faith	(204) Two hundred and four	Mr. Plunkett ..	Praying the House to re-consider its vote on the Resolution for supplementing Schedule C. to Schedule (1) of the Act of the Imperial Parliament, 18 and 19 Vict., Cap. 54.
Dec. 17 ..	Certain Presbyterian Ministers	(2) Two	Mr. Donaldson ..		Ditto, ditto, ditto.

R. O'CONNOR,
Clerk of Legislative Assembly.

*Legislative Assembly Offices,
Sydney, 17 December, 1858.*

1858-9.

Legislative Assembly.
NEW SOUTH WALES.

No. 2.

WEEKLY ABSTRACT
OF
PETITIONS RECEIVED
BY THE
LEGISLATIVE ASSEMBLY.

SESSION 1858-9.

WHEN RECEIVED.	FROM WHOM AND WHENCE PRESENTED.	NUMBER OF SIGNATURES.	BY WHOM PRESENTED.	ABSTRACT OF PRAYER.
1858. Dec. 21 ..	James French	(1) One	Mr. J. Campbell	{ Complaining of the abolition, without notice, of his office of Ranger of Crown Lands for the County of Cumberland, and praying the House to take the premises into consideration.
Dec. 21 ..	Certain Presbyterians resident in the Town and District of Brisbane	(242) Two hundred and forty-two	Mr. Richardson .	{ Praying the appointment of a Select Committee to inquire into and report upon the proceedings of the Synod of Australia towards the Rev. Dr. Lang, in the year 1842.
Dec. 21 ..	Certain Presbyterians resident in the Town and District of Ipswich	(43) Forty-three	Mr. Richardson .	Similar prayer.
Dec. 21 ..	The Bishop of Sydney and certain Licensed Clergymen ..	(7) Seven	Mr. J. Campbell	{ Representing that the Vote in reference to the proposed Supplement to Schedule C, will subject to the most serious inconvenience the Clergy on the Gold Fields and elsewhere, and is fraught with very great hardship, and praying the House to adopt such measures with reference thereto as to the House shall seem fit.
Dec. 22 ..	Certain Inhabitants of the Hunter District	(808) Eight hundred and eight	Mr. Hodgson ..	{ Praying a Revision of the Railway charges and a change in the Railway Management.
Dec. 22 ..	Certain Presbyterians of Scone and its neighbourhood	(102) One hundred and two	Mr. Robertson..	{ Praying the appointment of a Select Committee to inquire into the proceedings of the Synod of Australia towards the Rev. Dr. Lang, in the year 1842.
Dec. 22 ..	Certain Presbyterians of Murrumbidgee	(8) Eight	Mr. Robertson..	{ Praying the abolition of Religious Endowment, and the passage of a measure to enable the Government to inquire into and control the proceedings of Religious Bodies endowed by the State, so long as such endowment shall be continued.
Dec. 23 ..	Michael Golden, St. Leonard's, North Shore	(1) One	Mr. Plunkett ..	{ Complaining of his summary dismissal from the Police Force, and praying inquiry, with a view to his reinstatement, in case no offence should be proved against him.
Dec. 23 ..	J. N. Beit, Merchant, of Sydney	(1) One	Mr. Deniehy ..	{ Praying that an inquiry be instituted for the discovery of abuses in the Insolvency Jurisdiction of the Supreme Court.

*Legislative Assembly Offices,
Sydney, 23 December, 1858.*

R. O'CONNOR,
Clerk of Legislative Assembly.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

No. 3.

WEEKLY ABSTRACT

OF

PETITIONS RECEIVED

BY THE

LEGISLATIVE ASSEMBLY.

SESSION 1858-9.

WHEN RECEIVED.	FROM WHOM AND WHENCE PRESENTED.	NUMBER OF SIGNATURES.	BY WHOM PRESENTED.	ABSTRACT OF PRAYER.
1859. Jan. 4....	Members of the Congregation of Bathurst-street Baptist Chapel, Sydney	(108) One hundred and eight	Mr. Piddington	{ Expressing Petitioners' gratifica- tion at the recent decision of this House in reference to the pro- posed Supplement to Schedule C, and praying the speedy and entire abolition of State Aid to Religion.
Jan. 4....	Certain Citizens of Sydney in Public Meeting assembled...}	(160) One hundred and sixty	Mr. Piddington	{ Praying that the recent vote of this House, in reference to the proposed Supplement to Schedule C, may not be rescinded, and that steps may be taken for the speedy and entire abolition of State Enowments for religious purposes in this Colony.

Legislative Assembly Offices,
Sydney, 7 January, 1859.

R. O'CONNOR,
Clerk of Legislative Assembly.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

No. 4.

WEEKLY ABSTRACT
OF
PETITIONS RECEIVED
BY THE
LEGISLATIVE ASSEMBLY.

SESSION 1858-9.

WHEN RECEIVED.	FROM WHOM AND WHENCE PRESENTED.	NUMBER OF SIGNATURES.	BY WHOM PRESENTED.	ABSTRACT OF PRAYER.
1859. Jan. 12 ..	Certain Occupants of Crown Lands, Port Curtis.....}	(15) Fifteen.....	Mr. W. B. Tooth	{ Praying the extension to them of the same right of pre-emption which protects the improvements made by Squatters in the Intermediate and Unsettled Districts.

*Legislative Assembly Offices,
Sydney, 14 January, 1859.*

R. O'CONNOR,
Clerk of Legislative Assembly.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

No. 5.

WEEKLY ABSTRACT
OF
PETITIONS RECEIVED
BY THE
LEGISLATIVE ASSEMBLY.

SESSION 1858-9.

WHEN RECEIVED.	FROM WHOM AND WHENCE PRESENTED.	NUMBER OF SIGNATURES.	BY WHOM PRESENTED.	ABSTRACT OF PRAYER.
1859.				
Jan. 19 ..	Certain Members of different Denominations on the Turon Gold Field	(408) Four hundred and eight	Mr. Hay	{ Deploring the recent decision of the House in reference to the proposed Supplement to Schedule C, and praying relief.
Jan. 19 ..	Certain Inhabitants of Braidwood	(662) Six hundred and sixty-two ...	Mr. R. Campbell	Similar prayer.

Legislative Assembly Offices,
Sydney, 21 January, 1859.

R. O'CONNOR,
Clerk of Legislative Assembly.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

No. 6.

WEEKLY ABSTRACT
OF
PETITIONS RECEIVED
BY THE
LEGISLATIVE ASSEMBLY.

SESSION 1858-9.

WHEN RECEIVED.	FROM WHOM AND WHENCE PRESENTED.	NUMBER OF SIGNATURES.	BY WHOM PRESENTED.	ABSTRACT OF PRAYER.
1859. Jan. 27 ..	H. A. Palmer, Minister of the Church of England at Sofala }	(1) One	Mr. Donaldson..	{ Representing that the recent decision of this House in reference to the proposed Supplement to Schedule C, entirely deprives petitioner of all means of livelihood, and praying relief.
Jan. 27 ..	W. B. Allen, and others, Soap Boilers—Sydney..... }	(5) Five	Mr. Dalley	{ Praying the repeal of the existing law prohibitory of the exercise of their occupation in the City of Sydney.

Legislative Assembly Offices,
Sydney, 28 January, 1859.

R. O'CONNOR,
Clerk of Legislative Assembly.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

No. 7.

WEEKLY ABSTRACT
OF
PETITIONS RECEIVED
BY THE
LEGISLATIVE ASSEMBLY.

SESSION 1858-9.

WHEN RECEIVED.	FROM WHOM AND WIENCE PRESENTED.	NUMBER OF SIGNATURES.	BY WHOM PRESENTED.	ABSTRACT OF PRAYER.
1859. Feb. 3	C. F. Gorton, late Clerk in Surveyor General's Department	(1) One	Mr. Wild	{ Complaining of his dismissal from office on account of Evidence given by him before a Select Committee of this House, and praying relief.
Feb. 4	W. Rotton and F. Williams	(2) Two	Mr. Faucett	{ Representing that, on the 22nd March last, Petitioners became Bail for the appearance of one Guggin, at the Police Office, Sydney, on the 29th day of the same month,—that they were informed when this Bail was taken at the Police Office, Singleton, "that it was only a matter of course," whilst they were not informed of the offence of the said Guggin,—that, in obedience to a Warrant, Petitioners paid, under protest, to the Sheriff's Bailiff, the sum of one hundred pounds,—that upon the hearing of Petitioners' Appeal against the enforcement of such Warrant, the Sheriff's Bailiff stated that the money had been paid into the Colonial Treasury, whereupon the Chairman of the Court declined to entertain Petitioners' appeal, on the ground that the money had left the Sheriff's hands,—that the Government have declined to refund the money,—and praying the House to take the premises into consideration, and to cause such proceedings to be taken as to them shall seem fit.

Legislative Assembly Offices,
Sydney, 4 February, 1859.

R. O'CONNOR,
Clerk of Legislative Assembly.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

No. 8.

WEEKLY ABSTRACT
OF
PETITIONS RECEIVED
BY THE
LEGISLATIVE ASSEMBLY.

SESSION 1858-9.

WHEN RECEIVED.	FROM WHOM AND WHENCE PRESENTED.	NUMBER OF SIGNATURES.	BY WHOM PRESENTED.	ABSTRACT OF PRAYER.
1859. Feb. 8....	Certain Inhabitants of the town of Singleton, and others }	(94) Ninety-four	Mr. Piddington..	{ Praying that the House will not pass the sum of £6,500 placed on the Estimates for this year, for the purpose of building Bridges at Falbrook, and elsewhere on that line of road, which will be thoroughly useless to the country when Railway extension reaches the several points in the Petition referred to.

Legislative Assembly Offices,
Sydney, 11 February, 1859.

R. O'CONNOR,
Clerk of Legislative Assembly.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

No. 9.

WEEKLY ABSTRACT
OF
PETITIONS RECEIVED
BY THE
LEGISLATIVE ASSEMBLY.

SESSION 1858-9.

WHEN RECEIVED.	FROM WHOM AND WHENCE PRESENTED.	NUMBER OF SIGNATURES.	BY WHOM PRESENTED.	ABSTRACT OF PRAYER.
1859.				
Feb. 22 ..	T. G. Rusden, Esq.	(1) One	Mr. Piddington..	{ Representing that Petitioner paid two separate sums as deposits upon two Petitions in relation to the return of a Member for New England, at the late General Election; — alleging that the House did receive, and now has power over, these deposits; and praying that the House will cause his own money to be returned to him unconditionally.
Feb. 23 ..	Certain Presbyterians, and other friends of Religious liberty at Newcastle, and its vicinity	(68) Sixty-eight.....	Mr. Piddington..	{ Praying the appointment of a Select Committee to inquire into, and report upon, the Proceedings of the Synod of Australia towards the Rev. Dr. Lang, in the year 1842.

Legislative Assembly Offices,
Sydney, 25 February, 1859.

R. O'CONNOR,
Clerk of Legislative Assembly.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

No. 10.

WEEKLY ABSTRACT

OF

PETITIONS RECEIVED

BY THE

LEGISLATIVE ASSEMBLY.

SESSION 1858-9.

WHEN RECEIVED.	FROM WHOM AND WHENCE PRESENTED.	NUMBER OF SIGNATURES.	BY WHOM PRESENTED.	ABSTRACT OF PRAYER.
1859. March 8 ..	Mr. EweBank Lough	(1) One	Mr. Denichy ..	{ Complaining of his dismissal from the office of Clerk and Steward of the Lunatic Asylum, and praying inquiry into the cause thereof.
March 8 ..	Certain Stockholders, Magistrates, and others, resident in the District of Albert.. }	(34) Thirty-four.....	Mr. W. Macleay	{ Praying Police Protection for the Districts of Albert and Lower Darling.

*Legislative Assembly Offices,
Sydney, 11 March, 1859.*

R. O'CONNOR,
Clerk of Legislative Assembly.

1858-9.

Legislative Assembly.
NEW SOUTH WALES.

No. 11.

WEEKLY ABSTRACT
OF
PETITIONS RECEIVED
BY THE
LEGISLATIVE ASSEMBLY.

SESSION 1858-9.

WHEN RECEIVED.	FROM WHOM AND WHENCE PRESENTED.	NUMBER OF SIGNATURES.	BY WHOM PRESENTED.	ABSTRACT OF PRAYER.
1859. March 15.	Dr. Charles Muller, of Sydney.	(1) One	Mr. Deniehy	{ Complaining of certain circumstances in connection with an Inquest held upon the body of one John Maloney, in the month of February or March last year, and praying relief.

Legislative Assembly Offices,
Sydney, 18 March, 1859.

R. O'CONNOR,
Clerk of Legislative Assembly.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

No. 12.

WEEKLY ABSTRACT
OF
PETITIONS RECEIVED
BY THE
LEGISLATIVE ASSEMBLY.

SESSION 1858-9.

WHEN RECEIVED.	FROM WHOM AND WHENCE PRESENTED.	NUMBER OF SIGNATURES.	BY WHOM PRESENTED.	ABSTRACT OF PRAYER.
1859. March 22.	Mr. Joseph Rowsell. Upper Wilson River	(1) One	Mr. Williamson.	{ Complaining of encroachment upon the right of road in the neighbourhood of his leasehold, and praying abatement of such encroachment.
.. 24.	Landed Proprietors and Residents in the vicinity of Wynyard Square	(39) Thirty-nine	Mr. Thornton ..	{ Complaining of street sweepings being deposited in Wynyard Square, and praying relief.

*Legislative Assembly Offices,
Sydney, 25 March, 1859.*

R. O'CONNOR,
Clerk of Legislative Assembly.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

No. 13.

WEEKLY ABSTRACT
OF
PETITIONS RECEIVED
BY THE
LEGISLATIVE ASSEMBLY.

SESSION 1858-9.

WHEN RECEIVED.	FROM WHOM AND WHENCE PRESENTED.	NUMBER OF SIGNATURES.	BY WHOM PRESENTED.	ABSTRACT OF PRAYER.
1859. April 6 ..	Certain Citizens of Sydney	{ (959) Nine hundred } { and fifty-nine .. }	Mr. Thornton ..	{ Praying a commission of Inquiry } { into the operation of the City } { Sewerage Act of 1853. }

Legislative Assembly Offices,
Sydney, 9 April, 1859.

R. O'CONNOR,
Clerk of Legislative Assembly.

1858-9.

Legislative Assembly.
NEW SOUTH WALES.

P E T I T I O N S .

GENERAL SUMMARY of the Weekly Abstracts of PETITIONS received by the Legislative Assembly during the Session of 1858-9.

WHEN RECEIVED.	FROM WHOM AND WHENOE PRESENTED.	NUMBER OF SIGNATURES.	BY WHOM PRESENTED.	ABSTRACT OF PRAYER.	WHETHER PRINTED.
1859. Feb. 8.	1. Bridges. Certain Inhabitants of the town of Singleton, and others }	(94) Ninety-four	Mr. Piddington	Praying that the House will not pass the sum of £6,500 placed on the Estimates for this year, for the purpose of building Bridges at Falbrook, and elsewhere on that line of road, which will be thoroughly useless to the country when Railway extension reaches the several points in the Petition referred to	Printed.
1858. Dec. 22	2. Grievances. Certain Inhabitants of the Hunter District }	(808) Eight hundred and eight }	Mr. Hodgson	Praying a Revision of the Railway charges and a change in the Railway Management.	Printed.
Dec. 23	J. N. Beit, Merchant, of Sydney	(1) One	Mr. Denichy	Praying that an inquiry be instituted for the discovery of abuses in the Insolvency Jurisdiction of the Supreme Court.	Printed.
1859. Jan. 27	W. B. Allen, and others, Soap Boilers—Sydney }	(5) Five	Mr. Dalley	Praying the repeal of the existing law prohibitory of the exercise of their occupation in the City of Sydney.	Printed.
Jan. 12	Certain Occupants of Crown Lands, Fort Curtis }	(16) Fifteen	Mr. W. B. Tooth.	Praying the extension to them of the same right of pre-emption which protects the improvements made by Squatters in the Intermediate and Unsettled Districts.	Printed.
March 8	Certain Stockholders, Magistrates, and others, resident in the District of Albert }	(34) Thirty-four	Mr. W. Macleay	Praying Police Protection for the Districts of Albert and Lower Darling.	Printed.
March 24	Landed Proprietors and Residents in the vicinity of Wynyard Square }	(39) Thirty-nine	Mr. Thornton	Complaining of street sweepings being deposited in Wynyard Square, and praying relief.	Printed.
April 6	Certain Citizens of Sydney }	{(959) Nine hundred and fifty-nine }	Mr. Thornton	Praying a commission of Inquiry into the operation of the City Sewerage Act of 1853.	Printed.
1858. Dec. 21	3. Lang, Rev. Dr. Certain Presbyterians resident in the Town and District of Brisbane }	(242) Two hundred and forty-two }	Mr. Richardson.	Praying the appointment of a Select Committee to inquire into and report upon the proceedings of the Synod of Australia towards the Rev. Dr. Lang, in the year 1842.	Printed.
Dec. 21	Certain Presbyterians resident in the Town and District of Ipswich }	(43) Forty-three	Mr. Richardson.	Similar prayer.	Printed.
Dec. 22	Certain Presbyterians of Scone and its neighbourhood }	(102) One hundred and two }	Mr. Robertson..	Praying the appointment of a Select Committee to inquire into the proceedings of the Synod of Australia towards the Rev. Dr. Lang, in the year 1842.	Printed.
1859. Feb. 23	Certain Presbyterians, and other friends of Religious liberty at Newcastle, and its vicinity }	(68) Sixty-eight	Mr. Piddington.	Praying the appointment of a Select Committee to inquire into and report upon the proceedings of the Synod of Australia towards the Rev. Dr. Lang, in the year 1842.	Printed.

WHEN RECEIVED.	FROM WHOM AND WHENCE PRESENTED.	NUMBER OF SIGNATURES.	BY WHOM PRESENTED.	ABSTRACT OF PRAYER.	WHETHER PRINTED.
1858.	4. Redress.				
Dec. 21 ..	James French	(1) One	Mr. J. Campbell.	{ Complaining of the abolition, without notice, of his office of Ranger of Crown Lands for the County of Cumberland, and praying the House to take the premises into consideration	} Printed.
Dec. 23 ..	Michael Golden, St. Leonard's, North Shore	(1) One	Mr. Plunkett ..	{ Complaining of his summary dismissal from the Police Force, and praying inquiry, with a view to his reinstatement, in case no offence should be proved against him	} Not Printed.
1859.					
Feb. 3	C. F. Gorton, late Clerk in Surveyor General's Department }	(1) One	Mr. Wild	{ Complaining of his dismissal from office on account of Evidence given by him before a Select Committee of this House, and praying relief	} Printed.
Feb. 4	W. Rotton and F. Williams	(2) Two	Mr. Faucett	{ Representing that, on the 22nd March last, Petitioners became Bail for the appearance of one Gaggin, at the Police Office, Sydney, on the 29th day of the same month,—that they were informed when this Bail was taken at the Police Office, Singleton, "that it was only a matter of course," whilst they were not informed of the offence of the said Gaggin,—that, in obedience to a Warrant, Petitioners paid, under protest, to the Sheriff's Bailiff, the sum of one hundred pounds,—that upon the hearing of Petitioners' Appeal against the enforcement of such Warrant, the Sheriff's Bailiff stated that the money had been paid into the Colonial Treasury, whereupon the Chairman of the Court declined to entertain Petitioners' appeal, on the ground that the money had left the Sheriff's hands,—that the Government have declined to refund the money,—and praying the House to take the premises into consideration, and to cause such proceedings to be taken as to them shall seem fit	} Printed.
Feb. 22 ..	T. G. Rusden, Esq.	(1) One	Mr. Piddington..	{ Representing that Petitioner paid two separate sums as deposits upon two Petitions in relation to the return of a Member for New England, at the late General Election;—alleging that the House did receive, and now has power over, these deposits; and praying that the House will cause his own money to be returned to him unconditionally..	} Not Printed.
March 8 ..	Mr. EweBank Lough	(1) One	Mr. Deniehy ..	{ Complaining of his dismissal from the office of Clerk and Steward of the Lunatic Asylum, and praying inquiry into the cause thereof	} Printed.
March 15..	Dr. Charles Muller, of Sydney..	(1) One	Mr. Deniehy ..	{ Complaining of certain circumstances in connection with an Inquest held upon the body of one John Maloney, in the month of February or March last year, and praying relief	} Not Printed.
March 22..	Mr. Joseph Rowsell, Upper Wilson River	(1) One	Mr. Williamson.	{ Complaining of encroachment upon the right of road in the neighbourhood of his leasehold, and praying abatement of such encroachment	} Printed.
1858.	5. Religious Endowments.				
Dec. 17 ..	Certain Members of the Hebrew Faith	(204) Two hundred and four	Mr. Plunkett ..	{ Praying the House to reconsider its vote on the Resolution for supplementing Schedule C. to Schedule (1) of the Act of the Imperial Parliament, 18 and 19 Vict., Cap. 54	} Printed.

WHEN RECEIVED.	FROM WHOM AND WHENCE PRESENTED.	NUMBER OF SIGNATURES.	BY WHOM PRESENTED.	ABSTRACT OF PRAYER.	WHETHER PRINTED.
1858.	5. Religious Endowments. — <i>continued.</i>				
Dec. 17 ..	Certain Presbyterian Ministers..	(2) Two	Mr. Donaldson..	{ Praying the House to reconsider its vote on the Resolution for supplementing Schedule C. to Schedule (1) of the Act of the Imperial Parliament, 18 and 19 Vict., Cap. 54	} Printed.
Dec. 21 ..	The Bishop of Sydney and certain Licensed Clergymen .. }	(7) Seven	Mr. J. Campbell.	{ Representing that the Vote in reference to the proposed Supplement to Schedule C, will subject to the most serious inconvenience the Clergy on the Gold Fields and elsewhere, and is fraught with very great hardship, and praying the House to adopt such measures with reference thereto as to the House shall seem fit...	} Printed.
Dec. 22 ..	Certain Presbyterians of Murrumbidgee .. }	(8) Eight	Mr. Robcitsen ..	{ Praying the abolition of Religious Endowment, and the passage of a measure to enable the Government to inquire into and control the proceedings of Religious Bodies endowed by the State, so long as such endowment shall be continued	} Printed.
1859.					
Jan. 4	Members of the Congregation of Bathurst-street Baptist Chapel, Sydney	(103) One hundred and eight	Mr. Piddington..	{ Expressing Petitioners' gratification at the recent decision of this House in reference to the proposed Supplement to Schedule C, and praying the speedy and entire abolition of State Aid to Religion	} Printed.
Jan. 4 ...	Certain Citizens of Sydney, in Public Meeting assembled.. }	(160) One hundred and sixty	Mr. Piddington..	{ Praying that the recent vote of this House, in reference to the proposed Supplement to Schedule C, may not be rescinded, and that steps may be taken for the speedy and entire abolition of State Endowments for religious purposes in this Colony	} Printed.
Jan. 19 ..	Certain Members of different Denominations on the Turon Gold Field	(408) Four hundred and eight	Mr. Hay	{ Deploring the recent decision of the House in reference to the proposed Supplement to Schedule C, and praying relief	} Printed.
Jan. 19 ..	Certain Inhabitants of Braidwood	(662) Six hundred and sixty-two	Mr. R. Campbell	Similar prayer.	Printed.
Jan. 27 ..	H. A. Palmer, Minister of the Church of England at Sofala }	(1) One	Mr. Donaldson..	{ Representing that the recent decision of this House in reference to the proposed Supplement to Schedule C, entirely deprives petitioner of all means of livelihood, and praying relief	} Printed.

Legislative Assembly Offices,
Sydney, 9 April, 1859.

R. O'CONNOR,
Clerk of Legislative Assembly.

[The following text is extremely faint and illegible due to low contrast and scan quality. It appears to be a list or index of items, possibly names and dates, arranged in columns. The text is mostly lost to the background.]

1858-9.

Legislative Assembly.
NEW SOUTH WALES.

ALPHABETICAL REGISTER OF PUBLIC BILLS ORIGINATED IN THE ASSEMBLY DURING THE SESSION OF 1858-9.

SHORT TITLES.	BY WHOM INITIATED.	When ordered.	When presented and read 1 ^o .	Read 2 ^o .	Committed.	Reported.	Recommitted.	Report.	Adoption of Report.	Read 3 ^o .	Passed.	Sent up to Council for concurrence.	Agreed to by Council without Amendment.	Agreed to by Council with Amendment.	Council's Amendments agreed to.	Council's Amendments disagreed to.	Council's Amendments agreed to with Amendments.	Council agree to Assembly's Amendments on their Amendments.	Council disagree to Assembly's Amendments on their Amendments.	Bill dropped or laid aside.	Assent.	Number of Act.	REMARKS.
Appropriation Bill for 1858-9	Mr. Cowper	17 Mar.	1 April	6 April	6 April	6 April			6 April	6 April	6 April	6 April	9 April								9 April	27	
Compulsory Vaccination Bill	Mr. Jenkins	14 Jan.	14 Jan.																	3 Feb. 8 April			Dropped, 3 February. Restored, 8 February. Dropped on motion for postponement of second reading, 6 April.
Crown Lands Alienation in Certain Cases Bill	Mr. Robertson		9 Dec.																	10 Dec.			Introduced and read 1 ^o <i>pro forma</i> . Discharged from Paper, 10 December.
Loan Bill for 1859	Mr. Cowper	23 Mar.	1 April	6 April	6 April	6 April			6 April	6 April	6 April	6 April	9 April								9 April	26	
Moreton Bay Assistant District Judge Appointment Bill	Mr. Plunkett	17 Dec.	17 Dec.																	24 Mar.			Withdrawn, 24 March.
Treasury Bills Act Repeal Bill	Mr. R. Campbell	23 Feb.	23 Feb.	10 Mar.	10 Mar.	10 Mar.			10 Mar.	17 Mar.	17 Mar.	17 Mar.	1 April								9 April	24	
Undue Expenses at Elections Prevention Bill	Mr. Forster	8 Mar.	8 Mar.																	6 April			Superseded by the Question of that day six months, 6 April.

(NO PRIVATE BILLS INTRODUCED UPON PETITION TO THE ASSEMBLY, DURING THE SESSION OF 1858-9.)

ALPHABETICAL REGISTER OF PUBLIC AND PRIVATE BILLS BROUGHT FROM THE COUNCIL DURING THE SESSION OF 1858-9.

SHORT TITLES OF		When Brought.	Read 1 ^o .	Referred to Select Committee.	Reported by Select Committee.	Read 2 ^o .	Committed.	Reported.	Recommitted.	Report.	Adoption of Report.	Read 3 ^o .	Passed without Amendment.	Passed with Amendment.	Sent up to Council for concurrence.	Agreed to by Council.	Agreed to by Council with Amendment upon Assembly's Amendment.	Council's Amendments upon Assembly's Amendments agreed to.	Council's Amendments upon Assembly's Amendments disagreed to.	Bill dropped or laid aside.	Assent.	Number of Act.	REMARKS.
PUBLIC BILLS.	PRIVATE BILLS.																						
District Courts Act Amendment Bill		3 Feb.	3 Feb.			16 Feb.	16 Feb.	17 Mar.	23 Mar.	23 Mar.	23 Mar.	24 Mar.		24 Mar.	24 Mar.		1 April.	6 April.		16 Feb. 24 Feb.	9 April.	25	{ Dropped, 16 February. Restored, 23 February. Dropped, 24 February. Restored, 9 March.
Graduates of British Universities Bill		14 Jan.	14 Jan.			5 Feb.	5 Feb.	5 Feb.	23 Feb. 17 Mar.	10 Mar. 17 Mar.	5 Feb. 10 Mar. 17 Mar.	23 Mar.		23 Mar.	23 Mar.	24 Mar.				23 Feb.	9 April.	23	Dropped, 23 February. Restored, 9 March.
Letters of Registration Act Amendment Bill		6 April.	7 April.																		9 April.		Discharged from Paper.
Prosecutions for Libel Amendment Bill		21 Mar.	29 Mar.			6 April.															6 April.		Dropped, 6 April.
Supreme Court Additional Judge's Appointment Bill		27 Jan.																			9 April.		Stopped by Prorogation.

RECAPITULATION.

Number of Public Bills originated in the LEGISLATIVE ASSEMBLY, as per Register No. 1																							7
Number of Private Bills do. do. as per Register No. 2																							0
Number of Public Bills brought from the LEGISLATIVE COUNCIL, as per Register No. 3																							5
Number of Private Bills do. do. do.																							0
																							12
Passed and Assented to																							5
Superseded by the Question of that day Six Months																							1
Discharged from the Paper																							1
Dropped on Motion for postponement of Second Reading																							1
Withdrawn																							1
Stopped by Prorogation																							1
Dropped																							1
																							12

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

ALPHABETICAL REGISTERS

OF

ADDRESSES AND ORDERS FOR PAPERS,

AND OF

SEPARATE AND JOINT ADDRESSES

NOT BEING FOR PAPERS.

(SESSION 1858-9.)

1858-9.

Legislative Assembly.
NEW SOUTH WALES.

ALPHABETICAL REGISTER OF ADDRESSES AND ORDERS FOR PAPERS, DURING THE SESSION OF 1858-9.

WHEN PASSED.		ON WHOSE MOTION.	PAPERS APPLIED FOR.		RETURN TO ADDRESS OR ORDER.	REGISTER NUMBER.	IF TO BE PRINTED.		
No.	Date.		By Address.	By Order.			Date of Order.	When given to Clerk of Printing Branch.	When returned to Clerk of Records.
56	25 Mar.	Mr. Plunkett		Assembly—Adjournments and Counts-out for want of a Quorum	29 March	59/122	29 March	30 March	5 April.
61	5 April	Mr. Hay	Assessment Act—Interpretation of 2nd Clause of		7 April	59/145	7 April	11 April	19 April.
18	14 Jan.	Mr. Donaldson	Banking Agency for the Government in England.		7 April	59/141	7 April	11 April	10 May.
57	29 Mar.	Mr. Deniehy		Bligh, Mr., C. P. S., Armidale—Inquiry into conduct of	17 March	59/101	17 March	18 March	5 April.
33	15 Feb.	Mr. Deniehy	Clerk of Petty Sessions, Kiama—Practising professionally		7 April	59/142	7 April	11 April	10 May.
29	8 Feb.	Mr. Piddington	Consolidated Revenue—Receipts & Disbursements.		7 April	59/147	7 April	11 April	10 May.
45	8 Mar.	Mr. Jenkins	Corporation of the City of Sydney—Loans to		14 January	59/24	18 January	18 January	9 February.
28	4 Feb.	Mr. Murray	Currawong or Nelligan—laying out Townships at		29 March	59/120	29 March	30 March	3 May.
18	14 Jan.	Mr. Owen	Deniehy, Dan. H., Esq.—Professional assistance to Government		8 March	59/86	8 March	9 March	14 March.
33	15 Feb.	Mr. Plunkett	District Courts, Act of 1858—Appointments under		30 March	59/127	30 March	31 March	5 April.
61	5 April	Mr. Plunkett	District Courts Jury Lists—Preparation of.		7 April	59/144	7 April	11 April	29 April.
33	15 Feb.	Mr. Murray	Douglass v. Wisdom—Case of						
53	22 Mar.	Mr. Hay	Electric Communication between Australia and Europe						
63	7 April	Mr. Forster	Finucane, Michl.—Charges against by Mr. Bligh.						
45	8 Mar.	Mr. Wild		Gorton, Mr.—Dismissal of, from office.					
45	8 Mar.	Mr. Forster		Government Officers—Compensation to					
45	8 Mar.	Mr. Deniehy	Hindmarsh, Percival, Esq.—Inquest on the body of the late		29 March	59/121	29 March	30 March	3 May.
28	4 Feb.	Mr. Flood		Hunter River—Expenses in Improving the Navigation of the	15 February	59/64	15 February	16 February	22 February.
27	3 Feb.	Mr. Deniehy	Immigration—Assisted, to Morceton Bay.						
53	22 Mar.	Mr. Williamson	Kempsey Postmaster—Johnson & Ross v. Isaacs		9 April	59/149	9 April	12 April	10 May.

ALPHABETICAL REGISTER OF ADDRESSES, &c.—Continued.

WHEN PASSED.		ON WHOSE MOTION.		PAPERS APPLIED FOR.		RETURN TO ADDRESS OR ORDER.	REGISTER NUMBER.	IF TO BE PRINTED.	
No.	Date.	Entry.		By Address.	By Order.			Date of Order.	When given to Clerk of Printing Branch.	When returned to Clerk of Records.
29	8 Febr.	3	Mr. Plunkett	Lands granted to the several Religious Denominations.		7 April	59/143	11 April	29 April.
46	9 Mar.	9	Mr. Plunkett	Label, prosecutions for, Regina v. Lang, and Regina v. Fussell.		12 January	59/21	13 January	9 February.
53	22 Mar.	6	Mr. Forster	Mackenzie, Mr. Colin, appointment of as Chief Registrar of District Court.		29 March	59/125	30 March	5 April.
37	22 Feb.	3	Mr. Forster	Ministers of Religion, intended compensation to.					
60	2 April	5	Mr. Deniehy	Muller, Doctor Chas.—(Coroner for Sydney)					
14	7 Jan.	3	Mr. Plunkett	North, E. J. C. Esq., removal of from Commission of the Peace.					
45	8 Mar.	13	Mr. Deniehy	Orphan School Board, Roman Catholic					
15	12 Jan.	6	Mr. Williamson		{ Pilotage Rates, Amendment Act of 1858, working of the.				
15	12 Jan.	13	Mr. Williamson		{ Pilot Service—Reports from Board.	27 January	59/34	28 January	9 February.
14	7 Jan.	2	Mr. Donaldson	Postal Service—Instructions to Mr. Merewether		12 January	59/20	13 January	9 February.
45	8 Mar.	20	Mr. Piddington	Public Worship, Royal Instructions in reference to Schedules for.					
23	27 Jan.	16	Mr. Arnold		{ Railway, Great Northern—Receipts and Expenditure.				
56	25 Mar.	3	Mr. Williamson		{ Railway, Great Southern—Expenditure on Pymont Extension.				
27	3 Feb.	6	Mr. Piddington		{ Railway, Great Southern — Passenger Traffic.				
27	3 Feb.	5	Mr. Piddington		Railway Receipts and Disbursements.				
33	15 Feb.	5	Mr. Flood	Railways—Construction of, Schedule of Prices		23 February	59/74	23 February	7 March.
61	5 April	3	Mr. Martin	Regina v. Dogherty & Peckham.					
8	21 Dec.	12	Mr. Forster	Religion, State aid to					
4	14 Dec.	5	Mr. Flood		Road from Appin to Wollongong	9 February	59/55	10 February	19 February.
32	11 Feb.	3	Mr. Forster	Sanderson, Mr.—Licensed Surveyor.		15 February	59/65	16 February	22 February.
45	8 Mar.	25	Mr. Deniehy	Stephen, Sir Alfred—Resignation of his seat in Legislative Council		10 March	59/95	11 March	5 April.
7	17 Dec.	11	Mr. Hart	Supreme Court, business of the		21 Dec.	58/791	22 December	9 February.
48	11 Mar.	4	Mr. Murray	Walsh, Mr., and Magistrates of Berrima		30 March	59/126	31 March	8 May.
7	17 D.c.	2	Mr. Flood	Weaver, Mr. Wm.—Late Colonial Architect		16 February	59/66	17 February	7 March.

ALPHABETICAL REGISTER OF SEPARATE AND JOINT ADDRESSES (NOT BEING FOR PAPERS,) TO THE GOVERNOR GENERAL, DURING THE SESSION OF 1858-9.

SUBJECT OF ADDRESS.	ORIGINATED IN THE ASSEMBLY.			BROUGHT FROM THE COUNCIL.			WHEN PASSED OR AGREED TO.			WHEN AND HOW PRESENTED.			WHEN AND HOW ANSWERED.			REMARKS.		
	VOTES.			VOTES.			VOTES.			VOTES.			VOTES.					
	No.	Date.	Entry	No.	Date.	Entry	No.	Date.	Entry	No.	Date.	By whom.	No.	Date.	Entry		No.	Date.	By whom and how.
Crown Law Officers as Cabinet Ministers	7	17 Dec.....	4	Mr. Fenster	4	17 Dec.....	7	17 Dec.....	4	22 Dec.....	The Speaker.....	..	..	..	..	..	..	..
	62	6 April ..	10	Mr. Cowper .....	..	6 April ..	62	6 April ..	10	7 April ..	Ditto .....	..	..	..	..	..	..	..
	45	8 March ..	14	Mr. Daniely ..	..	8 March ..	45	8 March ..	14	14 March ..	Ditto .....	..	..	..	..	..	..	..
	2	9 Dec.....	4	Mr. Hart	9 Dec.....	2	9 Dec.....	4	10 Dec.....	Legislative Assembly. }	3	10 Dec.....	1	10 Dec.....	1	10 Dec.....	1	10 Dec.....

Legislative Assembly Offices,
Sydney, 10 May, 1859.

R. O'CONNOR,
Clerk of Legislative Assembly.

Committee, to
prepare reply,
appointed by
Ballot.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

STANDING AND SELECT COMMITTEES APPOINTED DURING THE SESSION OF 1858-9.

No. of Committee	DESIGNATION OF COMMITTEE.	WHEN AND HOW APPOINTED.	MEMBERS.	CHAIRMAN.	Number of Meetings.		No. of Witnesses examined.	WHEN REPORTED.
					Called.	Held.		
1	The Governor General's Opening Speech ..	9 December, 1858, Votes 2, Entry 4 (By Ballot.)	1858. { Mr. Hart, Mr. Piddington, Mr. Jones, Mr. Byrnes, The Speaker, Mr. Arnold, Mr. Cowper, Mr. Donaldson, Mr. Fancett,	Mr. Hart	1	1	None...	Final, 9th December, 1858.
2	Standing Orders	10 December, 1858, Votes 3, Entry 5 (On motion of Mr. Cowper.)	{ The Speaker, Mr. Arnold, Mr. Cowper, Mr. Donaldson, Mr. Fancett,	The Speaker				
3	Library	10 December, 1858, Votes 3, Entry 6 (On motion of Mr. Cowper.)	{ The Speaker, Mr. Arnold, Mr. Cowper, Mr. Deniehy, Mr. Donaldson,	The Speaker				
4	Irish Female Immigrants	15 December, 1858, Votes 5, Entry 6 (On motion of Mr. Thornton.)	{ Mr. Thornton, Mr. Deniehy, Mr. Fancett, Mr. Owen, Richard Jones, Esquire, The Honorable John Hay, Esquire, Robert Thomas Jamison, Esquire, Elias Carpenter Weekes, Esquire, Alexander Walker Scott, Esquire, Samuel Deane Gordon, Esquire, Robert Owen, Esquire.	Mr. Thornton	16	10	16	Final, 2nd February, 1859.
5	Elections and Qualifications	9 December, 1858, Votes 2, Entry 5 (By Speaker's Warrant.)	{ None.	None.				

No. of Committee	DESIGNATION OF COMMITTEE.	WHEN AND HOW APPOINTED.	MEMBERS.	CHAIRMAN.	Number of Meetings.		No. of Witnesses examined.	WHEN REPORTED.
					Called.	Held.		
6	Extension of Railway to Windsor	17 December, 1858, Votes 7, Entry 9 (On motion of Mr. Smith.)	{ Mr. Smith, Mr. Dalley, Mr. Scott, Mr. Oakes, Mr. Robertson, } { Mr. Suter, Mr. Thomson, Mr. White, Mr. R. Tooth, Mr. Plunkett, } { Mr. Gordon, Mr. Hodgson, Mr. Jones, Mr. Arnold, Mr. Piddington, } { Mr. Robertson, Mr. Scott, Mr. Weekes, Mr. Dickson, Mr. White, } None. 1859.	Mr. Smith	10	8	14	Final, 5th January, 1859.
7	Railway to Morphett	21 December, 1858, Votes 8, Entry 10 (By Ballot.)	{ Mr. Deniehy, Mr. Dalley, Mr. Flood, Mr. Hodgson, } { Mr. Owen, Mr. Murray, Mr. Piddington, Mr. Smith, } None. 1859.	None.				
8	University of Sydney	14 January, 1859, Votes 18, Entry 14 (On motion of Mr. Deniehy.)	{ Mr. Plunkett, Mr. Jones, Mr. Forster, Mr. Faucett, } { Mr. Flood, Mr. Hay, Mr. Murray, Mr. Piddington, } { Mr. Coverper, Mr. Jones, The Speaker, Mr. Flood, Mr. Hay, } { Mr. Martin, Mr. Deniehy, Mr. Jones, } { Mr. Macarthur, Mr. Murray, Mr. Plunkett, }	Mr. Plunkett	9	3	8	Final, 23rd March, 1859.
9	Vacant Seat;—Question of Privilege.....	3rd March, 1859, Votes 43, Entry 1 (By Ballot.)	{ Mr. Coverper, Mr. Jones, The Speaker, Mr. Flood, Mr. Hay, } { Mr. Plunkett, Mr. Arnold, Mr. Gordon, Mr. Piddington, Mr. Murray, } { Mr. Martin, Mr. Deniehy, Mr. Jones, } { Mr. Macarthur, Mr. Murray, Mr. Plunkett, }	The Speaker	3	3	1	Final, 29th March, 1859.
10	Parliamentary Accommodation	17 March, 1859, Votes 51, Entry 4 (By Ballot.)	{ Mr. Martin, Mr. Deniehy, Mr. Jones, } { Mr. Macarthur, Mr. Murray, Mr. Plunkett, }	Mr. Martin	8	8	11	Final, 6th April, 1859.
11	Proposed Vote of Censure on the Attorney General	25 March, 1859, Votes 56, Entry 5 (By Ballot.)						

R. O'CONNOR,
Clerk of Legislative Assembly.

Legislative Assembly Offices,
Sydney, 9 April, 1859.

1858-9.

Legislative Assembly.
NEW SOUTH WALES.

BUSINESS OF THE LEGISLATIVE ASSEMBLY OF NEW SOUTH WALES,
DURING THE SESSION OF 1858-9.

1. Now Writs issued										1
2. Select Committees :—										
On Public Bills	None.									
On other Public Matters	8									
On Private Bills	None.									
										8
3. Standing Committees.. .. .										2
4. Election Committee (number of cases)										None.
5. Public Bills :—										
Originated in the Assembly—										
Received the Royal Assent	3									
Reserved for signification of Her Majesty's Pleasure thereon	None.									
Dropped or otherwise disposed of.. .. .	4									
										7
Brought from the Council—										
Received the Royal Assent	2									
Reserved for signification of Her Majesty's Pleasure thereon	None.									
Dropped or otherwise disposed of	3									
										5
										12
6. Private Bills :—										
Originated in the Assembly—										
Received the Royal Assent										
Dropped or otherwise disposed of										
Brought from the Council—										
Received the Royal Assent										
Dropped or otherwise disposed of										
										None.
7. Petitions received :—										
Printed	26									
Not Printed	3									
										29
8. Divisions :—										
In Whole House	71									
In Committee	84									
										155
9. *Sittings :—										
Days of Meeting										64
Hours of Sitting										329 hrs. 37 min.
Hours of Sitting after Midnight										9 hrs.
Daily Average (nearly)										6 hrs. 13 min. 10 secs.
Adjourned for want of a Quorum :—										
Before Commencement of Business										10.
After Commencement of Business										26
10. Votes and Proceedings										64
Entries in Votes and Proceedings :—										
Of Business done	427									
Of Notices of Motion	951									
Of Orders of the Day	321									
Of Questions	257									
Of Contingent Notices, &c.	67									
										2023
Daily Average (nearly)										33
11. Orders for Papers										11
12. Addresses for Papers										33
13. Other Addresses										4
14. Papers laid upon the Table :—										
By Message	4									
By Command	59									
In return to Orders.. .. .	7									
In Return to Addresses	22									
Reports from Select Committees.. .. .	5									
										92
Ordered to be Printed	97†									
Not Ordered to be Printed	None.									
										97

*During Session of 1858 (from 25rd March to 26th November, 1858) :—
Days of Meeting 127
Hours of Sitting 828 hours, 4 minutes.
During Session of 1858-9 (from 8 December, 1858, to 9 April, 1859.) :—
Days of Meeting 64
Hours of Sitting 329 hours, 37 minutes.
Total during *two* Sessions, broken only by a Recess of 11 days :—
Days of Meeting 191
Hours of Sitting 1157 hours 41 minutes.
Daily Average (nearly) 6 hours, 38 minutes.
†Exclusive of a "Return to Address" laid upon the Table during last Session, making in all, 98.

Legislative Assembly Offices,
Sydney, 9 April, 1859.

R. O'CONNOR,
Clerk of Legislative Assembly.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

ADJOURNMENTS AND COUNTS OUT FOR WANT OF A QUORUM.

Ordered by the Legislative Assembly to be Printed, 29 March, 1859.

RETURN to an Order made by the Honorable the Legislative Assembly of New South Wales, dated 25 March, 1859, That there be laid upon the Table of this House,—

“ (1.) A Return enumerating the number of days on which this House has been adjourned for want of a Quorum during the present Session.

“ (2.) Also, the number of times the House, and the Committees of the whole House, have been counted out during the same period.”

“ (3.) The names of those Members who were absent on each occasion when the House was adjourned for want of a Quorum at the ordinary hour for meeting.”

(Mr. Plunkett.)

ADJOURNMENTS AND COUNTS OUT FOR WANT OF A QUORUM.

Nos. 1 and 3.

RETURN enumerating the number of days on which this House has been Adjourned for want of a Quorum at the ordinary hour for meeting during the present Session, 1858-9, and shewing the Names of those Members who were absent on each occasion.

THURSDAY 16 DECEMBER, 1858.

Members Absent;—A. Aldcorn, Esq., R. R. S. Bowker, Esq., H. Buckley, Esq., J. Byrnes, Esq., R. Campbell, Esq., J. Campbell, Esq., G. H. Cox, Esq., B. Cribb, Esq., D. H. Deniehy, Esq., J. Dickson, Esq., S. A. Donaldson, Esq., D. Egan, Esq., P. Faucett, Esq., S. D. Gordon, Esq., J. Hart, Esq., J. Hay, Esq., A. Hodgson, Esq., W. Lee, Esq., E. H. Lloyd, Esq., J. Macarthur, Esq., G. Macleay, Esq., J. Martin, Esq., T. A. Murray, Esq., G. Oakes, R. Owen, Esq., John Paterson, Esq., J. Richardson, Esq., A. W. Scott, Esq., T. W. Smith, Esq., W. H. Suttor, Esq., W. T. Taylor, Esq., G. Thornton, Esq., R. Tooth, Esq., W. B. Tooth, Esq., G. B. White, Esq., W. V. Wild, Esq., J. Williamson, Esq.

THURSDAY, 13 JANUARY, 1859.

Members Absent;—A. Aldcorn, Esq., R. R. S. Bowker, Esq., H. Buckley, Esq., J. Byrnes, Esq., J. Campbell, Esq., G. H. Cox, Esq., B. Cribb, Esq., J. Dickson, Esq., D. Egan, Esq., P. Faucett, Esq., S. D. Gordon, Esq., J. Hart, Esq., J. Hay, Esq., A. Hodgson, Esq., R. T. Jamison, Esq., R. L. Jenkins, Esq., W. Lee, Esq., E. H. Lloyd, Esq., G. W. Lord, Esq., J. Macarthur, Esq., G. Macleay, Esq., W. Macleay, Esq., J. Martin, Esq., T. A. Murray, Esq., G. Oakes, Esq., J. Paterson, Esq., J. H. Plunkett, Esq., T. W. Smith, Esq., W. H. Suttor, Esq., R. Tooth, Esq., W. B. Tooth, Esq., E. C. Weekes, Esq., G. B. White, Esq., J. Williamson, Esq.

THURSDAY, 20 JANUARY, 1859.

Members Absent;—A. Aldcorn, Esq., W. M. Arnold, Esq., R. R. S. Bowker, Esq., H. Buckley, Esq., G. H. Cox, Esq., B. Cribb, Esq., S. A. Donaldson, Esq., D. Egan, Esq., P. Faucett, Esq., E. Flood, Esq., S. D. Gordon, Esq., J. Hay, Esq., A. Hodgson, Esq., R. T. Jamison, Esq., R. Jones, Esq., W. Lee, Esq., E. H. Lloyd, Esq., G. Lord, Esq., J. Macarthur, Esq., G. Macleay, Esq., W. Macleay, Esq., J. Marks, Esq., J. Martin, Esq., T. A. Murray, Esq., G. Oakes, Esq., R. Owen, Esq., J. Paterson, Esq., W. R. Piddington, Esq., A. W. Scott, Esq., T. W. Smith, Esq., W. H. Suttor, Esq., W. T. Taylor, Esq., R. Tooth, Esq., E. C. Weekes, Esq., G. B. White, Esq., W. V. Wild, Esq., J. Williamson, Esq.

FRIDAY, 18 FEBRUARY, 1859.

Members Absent;—A. Aldcorn, Esq., W. M. Arnold, Esq., R. R. S. Bowker, Esq., H. Buckley, Esq., J. Byrnes, Esq., R. Campbell, Esq., J. Campbell, Esq., G. H. Cox, Esq., B. Cribb, Esq., W. B. Dalley, Esq., D. H. Deniehy, Esq., J. Dickson, Esq., S. A. Donaldson, Esq., D. Egan, Esq., P. Faucett, Esq., E. Flood, Esq., A. Hodgson, Esq., R. T. Jamison, Esq., R. Jones, Esq., W. Lee, Esq., E. H. Lloyd, Esq., G. W. Lord, Esq., J. Macarthur, Esq., G. Macleay, Esq., W. Macleay, Esq., J. Marks, Esq., J. Martin, Esq., G. Oakes, Esq., R. Owen, Esq., J. Paterson, Esq., J. Richardson, Esq., H. Rotton, Esq., T. W. Smith, Esq., W. H. Suttor, Esq., R. Tooth, Esq., W. B. Tooth, Esq., G. B. White, Esq., W. V. Wild, Esq., J. Williamson, Esq.

FRIDAY, 25 FEBRUARY, 1859.

Members Absent;—A. Aldcorn, Esq., W. M. Arnold, Esq., R. R. S. Bowker, Esq., H. Buckley, Esq., J. Byrnes, Esq., R. Campbell, Esq., J. Campbell, Esq., G. H. Cox, Esq., B. Cribb, Esq., W. B. Dalley, Esq., D. H. Deniehy, Esq., J. Dickson, Esq., S. A. Donaldson, Esq., P. Faucett, Esq., S. D. Gordon, Esq., J. Hart, Esq., J. Hay, Esq., R. Jones, Esq., W. Lee, Esq., E. H. Lloyd, Esq., G. W. Lord, Esq., J. Macarthur, Esq., G. Macleay, Esq., J. Marks, Esq., J. Martin, Esq., G. Oakes, Esq., R. Owen, Esq., J. Paterson, Esq., J. Richardson, Esq., H. Rotton, Esq., A. W. Scott, Esq., T. W. Smith, Esq., W. H. Suttor, Esq., R. Tooth, Esq., W. B. Tooth, Esq., G. B. White, Esq., J. Williamson, Esq.

TUESDAY,

TUESDAY, 1 MARCH, 1859.

Members Absent;—A. Aldcorn, Esq., W. M. Arnold, Esq., R. R. S. Bowker, Esq., H. Buckley, Esq., J. Byrnes, Esq., R. Campbell, Esq., J. Campbell, Esq., G. H. Cox, Esq., B. Cribb, Esq., D. H. Denichy, Esq., J. Dickson, Esq., S. A. Donaldson, Esq., D. Egan, Esq., P. Faucett, Esq., S. D. Gordon, Esq., J. Hart, Esq., A. Hodgson, Esq., R. T. Jamison, Esq., R. Jones, Esq., W. Lee, Esq., E. H. Lloyd, Esq., J. Macarthur, Esq., G. Macleay, Esq., J. Marks, Esq., J. Martin, Esq., G. Oakes, Esq., R. Owen, Esq., J. Paterson, Esq., J. Richardson, Esq., H. Rotton, Esq., T. W. Smith, Esq., G. Thornton, Esq., R. Tooth, Esq., E. C. Weekes, Esq., G. B. White, Esq., J. Williamson, Esq.

WEDNESDAY, 2 MARCH, 1859.

Members Absent;—A. Aldcorn, Esq., R. R. S. Bowker, Esq., H. Buckley, Esq., J. Byrnes, Esq., R. Campbell, Esq., G. H. Cox, Esq., B. Cribb, Esq., S. A. Donaldson, Esq., D. Egan, Esq., P. Faucett, Esq., E. Flood, Esq., S. D. Gordon, Esq., J. Hart, Esq., A. Hodgson, Esq., R. T. Jamison, Esq., R. L. Jenkins, Esq., R. Jones, Esq., W. Lee, Esq., E. H. Lloyd, Esq., G. Macleay, Esq., W. Macleay, Esq., J. Marks, Esq., J. Martin, Esq., T. A. Murray, Esq., G. Oakes, Esq., R. Owen, Esq., J. Paterson, Esq., W. R. Piddington, Esq., J. Richardson, Esq., H. Rotton, Esq., A. W. Scott, Esq., T. W. Smith, Esq., W. T. Taylor, Esq., R. Tooth, Esq., W. B. Tooth, Esq., E. C. Weekes, Esq., G. B. White, Esq., W. V. Wild, Esq., J. Williamson, Esq.

FRIDAY, 4 MARCH, 1859.

Members Absent;—A. Aldcorn, Esq., R. R. S. Bowker, Esq., H. Buckley, Esq., J. Byrnes, Esq., R. Campbell, Esq., J. Campbell, Esq., G. H. Cox, Esq., B. Cribb, Esq., W. B. Dalley, Esq., J. Dickson, Esq., S. A. Donaldson, Esq., P. Faucett, Esq., E. Flood, Esq., S. D. Gordon, Esq., J. Hay, Esq., A. Hodgson, Esq., R. T. Jamison, Esq., R. L. Jenkins, Esq., W. Lee, Esq., E. H. Lloyd, Esq., G. W. Lord, Esq., J. Macarthur, Esq., G. Macleay, Esq., J. Marks, Esq., J. Martin, Esq., T. A. Murray, Esq., G. Oakes, Esq., J. Paterson, Esq., J. Richardson, Esq., H. Rotton, Esq., A. W. Scott, Esq., T. W. Smith, Esq., W. H. Suttor, Esq., G. Thornton, Esq., R. Tooth, Esq., G. B. White, Esq., J. Williamson, Esq.

WEDNESDAY, 16 MARCH, 1859.

Members Absent;—A. Aldcorn, Esq., R. R. S. Bowker, Esq., H. Buckley, Esq., J. Byrnes, Esq., R. Campbell, Esq., G. H. Cox, Esq., B. Cribb, Esq., W. B. Dalley, Esq., D. H. Denichy, Esq., J. Dickson, Esq., S. A. Donaldson, Esq., D. Egan, Esq., P. Faucett, Esq., S. D. Gordon, Esq., J. Hay, Esq., R. T. Jamison, Esq., R. Jones, Esq., W. Lee, Esq., E. H. Lloyd, Esq., G. W. Lord, Esq., J. Macarthur, Esq., G. Macleay, Esq., W. Macleay, Esq., J. Marks, Esq., J. Martin, Esq., T. A. Murray, Esq., J. Paterson, Esq., J. Richardson, Esq., H. Rotton, Esq., T. W. Smith, Esq., W. H. Suttor, Esq., W. T. Taylor, Esq., R. Tooth, Esq., G. B. White, Esq., W. V. Wild, Esq., J. Williamson, Esq.

R. O'CONNOR,
Clerk of Legislative Assembly.

*Legislative Assembly Offices,
Sydney, 29 March, 1859.*

4 ADJOURNMENTS AND COUNTS OUT FOR WANT OF A QUORUM.

No. 2.

RETURN shewing the number of times the House, and the Committees of the whole House, have been Counted Out during the present Session.

UPON NOTICE TAKEN IN THE HOUSE.		UPON REPORT FROM COMMITTEES OF THE WHOLE HOUSE.		UPON DIVISION IN THE HOUSE.		UPON REPORT AFTER DIVISION IN COMMITTEES OF THE WHOLE HOUSE.	
Hour.		Hour.		Hour.		Hour.	
5-50, P.M.	7 January.	7-45, P.M.	2 February.	6-30, P.M.	28 January.	6-50, P.M.	1 February.
12-15, A.M.	12 "	11-10, "	17 "	9-30, "	15 February.	10-35, "	3 March.
9-10, P.M.	14 "	10-40, "	23 "	7-45, "	22 March.		
8-43, "	18 "	5-30, "	24 "				
4-56, "	19 "	7-20, "	15 March.				
4-35, "	9 February.	11-20, "	17 "				
5-10, "	11 "						
11-35, "	16 "						
4-10, "	22 "						
7-30, "	8 March.						
6-25, "	11 "						
5-25, "	18 "						

Legislative Assembly Offices,
Sydney, 29 March, 1859.

R. O'CONNOR,
Clerk of Legislative Assembly.

SYNOPSIS of the Foregoing Return.

12 DAYS.	6 DAYS.	3 DAYS.	2 DAYS.
1 after 12 o'clock, A.M.	2 after 11 o'clock, P.M.	1 after 9 o'clock, P.M.	1 after 10 o'clock, P.M.
1 after 11 " P.M.	1 after 10 " "	1 after 7 " "	1 after 6 " "
1 after 9 " "	2 after 7 " "	1 after 6 " "	
1 after 8 " "	1 after 5 " "		
1 after 7 " "			
1 after 6 " "			
3 after 5 " "			
3 after 4 " "			
12 days.	6 days.	3 days.	2 days.

Legislative Assembly Offices,
Sydney, 29 March, 1859.

R. O'CONNOR,
Clerk of Legislative Assembly.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

VACANT SEAT—QUESTION OF PRIVILEGE.

REPORT FROM THE SELECT COMMITTEE

ON

VACANT SEAT QUESTION OF PRIVILEGE,

TOGETHER WITH

THE PROCEEDINGS OF THE COMMITTEE,

MINUTES OF EVIDENCE,

AND

APPENDIX.

ORDERED BY THE LEGISLATIVE ASSEMBLY TO BE PRINTED,

23 *March*, 1859.

SYDNEY :

PRINTED BY WILLIAM HANSON, GOVERNMENT PRINTER,
PHILLIP-STREET.

1859.

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1858-9.

EXTRACTS FROM THE VOTES AND PROCEEDINGS OF THE
LEGISLATIVE ASSEMBLY.

VOTES No. 43. THURSDAY, 3 MARCH, 1859.

1. Vacant Seat—Question of Privilege :—Mr. Cowper moved, That the Seat of Robert Owen, Esquire, hath become and is now vacant, by reason of his acceptance of Office as a Judge under the District Courts Act of 1858, since his election and return to serve in this House, as a Member for the Electoral District of East Camden.

Debate ensued.

Question put and passed ;—

Whereupon Mr. Plunkett moved, as a Question of Privilege,—

(1.) That a Select Committee be appointed to inquire into and report upon the circumstances relating to the acceptance of the office of District Judge by Robert Owen, Esquire, Member for East Camden, in so far as they affect his Votes on the 23rd February, in reference to the proposed new arrangements of the Ministerial Departments of the Government.

(2.) That such Committee consist of Mr. Jones, Mr. Murray, Mr. Hay, Mr. Forster, Mr. Flood, Mr. Faucett, Mr. Piddington, and the Mover.

Debate ensued.

And Mr. Weckes having required that the proposed Committee be appointed by Ballot,—

Question put,—That a Select Committee be appointed to inquire into and report upon the circumstances relating to the acceptance of the office of District Judge by Robert Owen, Esquire, Member for East Camden, in so far as they affect his Votes on the 23rd February, in reference to the proposed new arrangements of the Ministerial Departments of the Government.

The House divided.

Ayes, 18.

Noes, 8.

* * * * *

Whereupon the House proceeded to the Ballot, and the Speaker declared the following Members to be, with the Mover, the Committee duly appointed ;—namely, Mr. Jones, Mr. Forster, Mr. Faucett, Mr. Flood, Mr. Hay, Mr. Murray, and Mr. Piddington.

VOTES No. 45. TUESDAY, 8 MARCH, 1859.

15. Attendance of Member of Legislative Council :—Mr. Plunkett moved, without previous notice, that the following Message be carried to the Legislative Council :—

MR. PRESIDENT,

The Legislative Assembly having appointed a Select Committee to inquire into a Question of Privilege, arising out of Mr. Robert Owen's vacation of his Seat, as a Member for the Electoral District of East Camden, on his acceptance of office as a Judge under the District Courts Act of 1858, and that Committee being desirous to examine the Honorable George Allen, Esquire, in reference thereto, begs to request that the Legislative Council will give leave to its said Member to attend accordingly, on such day or days as shall be arranged between him and the said Committee.

*Legislative Assembly Chamber,
Sydney, 8 March, 1859.*

Speaker.

Question put and passed.

VOTES,

VOTES No. 46. WEDNESDAY, 9 MARCH, 1859.

5. Attendance of Member of Legislative Council:—The Speaker reported that whilst the House was in Committee of Supply the following Message was received from the Legislative Council:—

MR. SPEAKER,

In answer to the Message from the Legislative Assembly, dated the 8th instant, requesting leave for the Honorable George Allen, a Member of the Legislative Council, to attend and be examined before a Select Committee of the Legislative Assembly, appointed to inquire into a "Question of Privilege, arising out of Mr. Robert Owen's vacation of his Seat as a Member for the Electoral District of East Camden, on his acceptance of office as a Judge under the District Courts Act of 1858," the Council acquaints the Legislative Assembly that leave has been granted to Mr. Allen to attend and be examined by the said Committee, if he think fit.

*Legislative Council Chamber,
Sydney, 9 March, 1859.*

W. W. BURTON,
President.

VOTES No. 47. THURSDAY, 10 MARCH, 1859.

6. Attendance of Member of Legislative Council:—Mr. Plunkett moved, without previous notice, that the following Message be carried to the Legislative Council:—

MR. PRESIDENT,

The Legislative Assembly having appointed a Select Committee to inquire into a Question of Privilege, arising out of Mr. Robert Owen's vacation of his Seat as a Member for the Electoral District of East Camden, on his acceptance of office as a Judge under the District Courts Act of 1858, and that Committee being desirous to examine the Honorable Robert McIntosh Isaacs, Esquire, in reference thereto, begs to request that the Legislative Council will give leave to its said Member to attend accordingly, on such day and days as shall be arranged between him and the said Committee.

*Legislative Assembly Chamber,
Sydney, 10 March, 1859.*

Speaker.

Question put and passed.

VOTES No. 54. WEDNESDAY, 23 MARCH, 1859.

3. Vacant Seat—Question of Privilege:—Mr. Plunkett, as Chairman, brought up the Report from, and laid upon the Table the Evidence taken before the Select Committee appointed on the 3rd March instant to inquire into and report upon the circumstances relating to the acceptance of the office of District Judge by Robert Owen, Esquire, Member for East Camden, in so far as they affect his Votes on the 23rd February, in reference to the proposed new arrangements of the Ministerial Departments of the Government.

Ordered to be printed, together with the Minutes of Proceedings.

1858-9.

VACANT SEAT:—QUESTION OF PRIVILEGE.

REPORT.

THE SELECT COMMITTEE of the Legislative Assembly, appointed on the 3rd instant, "to inquire into, and report upon, the circumstances relating to the acceptance of the Office of District Judge by Robert Owen, Esquire, Member for East Camden, in so far as they affect his Votes on the 23rd February, in reference to the proposed new arrangements of the Ministerial Departments of the Government,"—have agreed to the following Report:—

Your Committee, in the first place, deem it convenient to recapitulate the facts which led to their appointment, as the objects of the investigation, as well as the course of inquiry taken by them, will thereby be better understood. They are as follows:—

On the 9th day of February last, the following Notice of Motion was placed on the Votes and Proceedings of the House:—

"2. MR. COWPER to move;—

- "(1.) That, with a view to the more effectual administration of Responsible Government, a new arrangement of the Ministerial Departments, as fixed by the Resolution of the Assembly passed on the 8th August, 1856, ought to be made.
- "(2.) That the Department of the Attorney General and Solicitor General be abolished.
- "(3.) That the Department of the Secretary for Lands and Public Works be divided, and that a new Department be created, to be called the Department of Public Works.
- "(4.) That a Department be created, to be called the Department of Trade and Customs.
- "(5.) That the Attorney General and the Solicitor General shall not in future be Responsible Ministers, but shall be Political Officers, retiring from office with the Ministry."

These Resolutions were moved on Wednesday, the 23rd February, and certain amendments were proposed, which were all negatived on Divisions of the House. Mr. Owen (the Member for East Camden) voted in these Divisions *without question*. When the Original Question was then put, a division was called for; Mr. Owen was nominated one of the Tellers on the side of the "Ayes." Before the Telling had commenced, a Member on the side of the "Noes" challenged the vote of Mr. Owen, saying "There was a rumour abroad, and generally believed, that he (Mr. Owen) was to be one of the District Court Judges, and he asked that gentleman, before he voted, whether the rumour were true, as in case it wore he ought not to vote." Mr. Owen gave no reply, but proceeded to act as Teller. The *Speaker* then announced that the motion was carried by a majority of one, the numbers being "Ayes, 15, Noes, 14."

Mr. Faucett (the Member for King and Georgiana) almost immediately after the division, gave notice, that on the following day he would put a question to the Chief Secretary, to this effect,—“Whether it be true that the office of District Court Judge had been offered to Mr. Owen, and accepted by him.” In a few moments after this notice was given, Mr. Owen rose from the back seat and addressed the House, as follows:—“If the Honorable Gentlemen had waited a moment, I was going to explain that no such offer had

"had been made, and, as a matter of course, had not been accepted." As soon as this was said by Mr. Owen, Mr. Faucett rose and said, "After such a declaration from the Honorable Member, I beg leave to withdraw the Notice I have given." On the Tuesday following, Mr. Owen's appointment to the office of District Court Judge for the Northern District appeared in the *Government Gazette*, and on the same day (Tuesday) a motion was made by the Chief Secretary to the effect,—“That the Seat of Robert Owen, Esquire, hath become, and is now vacant, by reason of his acceptance of office as a Judge under the District Courts Act of 1858.” On this state of facts a distinct motion was then made, as a matter affecting the Privileges of the House, and, after discussion, your Committee was appointed by ballot.

Your Committee, on entering upon the delicate but important duty cast upon them, considered it right to examine the Honorable the Chief Secretary (Mr. Cowper) and Mr. Owen. They have also examined other witnesses, whose names are in margin.*

The Honorable Robt. McIntosh Isaacs was examined at the suggestion of Mr. Owen.

The main and undisputed facts which your Committee have ascertained from the evidence are as follows:—Mr. Hargrave (who held the office of District Court Judge for the Northern Districts during a very short time), on or about the 12th of February intimated to Mr. Cowper his willingness to relinquish the office of District Court Judge, and to accept that of Solicitor General. The office of District Court Judge thus vacated by Mr. Hargrave was, between the 15th and 18th of February, offered to some other gentlemen, all of whom declined it.

It appears that the first negotiation with Mr. Owen commenced on the 18th February, on which day the following letter was sent to Mr. Owen, who was then at Wollongong:—

“(Confidential.)

“18 February, 1859.

“My dear Sir,

“Are you likely to be in Sydney soon? If not, may I inquire whether you would feel disposed to accept an appointment as District Court Judge, if the offer were made to you? Pray see me soon, or give me a speedy reply.

“Yours faithfully,

“CHARLES COWPER.”

Mr. Owen acknowledged this letter on the 20th February, but as the letter in reply has not been produced,—it having been ascertained from Mr. Cowper that he destroyed it (*vide Separate Appendix B.*)—its contents are only known according to the best of Mr. Owen's recollection. He says it was to the effect, “That he would be up on Monday evening; that he required to know about the district, being perfectly ignorant of the matter, for he was very little acquainted with the interior localities; that he would see him on Tuesday, and that he would inform him on the matter about the Circuits, or whatever they are.” Mr. Owen arrived in Sydney at a late hour on Monday. He called at Mr. Cowper's office on the following morning. Their interview was, according to the evidence of both, a short one, not exceeding ten minutes. As the statements of these gentlemen respecting the conversation which passed on the occasion do not agree so as to admit of condensation, your Committee are under the necessity of giving the evidence of these gentlemen on that point separately, and more in detail.

Mr. Cowper, in answer to question 21 and following questions, says:—

- “21. Mr. Owen saw me on Tuesday morning, when he was in town, and began at once by saying that he was not prepared to deal with an absolute offer with reference to the appointment; that if the Government determined to make him an offer, there were matters which would require consideration. One matter he wished to know was—I had not mentioned it in my note, which was not so full as I thought it had been—to what district he would be likely to be appointed, and then with regard to the duties to be performed. The conversation was short, because he mentioned to me the difficulty of Government communicating with a Member of Parliament, and the delicacy of vacating his seat, without he was prepared to accept the office. I simply told him that the offer, if made to him, would be for the Northern Districts. I would say no more than, in order that he might not feel embarrassed with reference to his position in the House; but if the offer were made to him he could then state his objections, and what he wished to draw my attention to.”
- “22. *By Mr. Piddington*: This was on the Tuesday? Yes.
- “23. *By the Chairman*: The 22nd? I suppose so. The conversation was very short. He said, ‘I felt that if an offer were made to me distinctly I should be more or less embarrassed’

“embarrassed as a Member of the Assembly; and therefore I hope that it will be distinctly understood that an offer is not made to me, and if the Government feel disposed to offer it to any other person, without any further communication with me, they are quite at liberty to do so, and I shall feel that I have not any reason to be aggrieved.” These were about the words Mr. Owen used, when he left the room.”

Again, to questions 52-3-4,—

“52. Will you be kind enough to repeat again what Mr. Owen said in the conversation you had on the Tuesday with reference to his duties in the House? There was no distinct reference to his duties in the House in any conversation I had with him; but when I saw him on Tuesday morning the subject was alluded to very slightly with reference to the position of a Member, and he almost declined entering into a conversation upon the matter, but simply wished to know the district, and whether, in the event of an offer being made to him and his entertaining it, any modification of the duty would be listened to.

“53. How did you understand the ‘embarrassment’ he alluded to at the time? He will perhaps be able to explain himself what his views were. He wished that he should not have a distinct offer at the time.

“54. How did you understand the embarrassment he alluded to by a distinct offer? I understood Mr. Owen that there would be a delicacy if he were pledged to the Government, and continued voting after he had accepted the offer.

“55. Was there any understanding how long the negotiation was to be kept open after that conversation? None whatever.”

Again, to Mr. Piddington’s questions, beginning at 82:—

“82. You stated that Mr. Owen made some objection with reference to the district? As to the extent of duty rather. When I said it was the Northern District, he said, if the offer should be made he would have something to say with respect to the extent of the duty.

“83. Mr. Owen made an objection to an offer being made to him distinctly? ‘Not distinctly’; he objected to an offer being made of the appointment, and left it open, not considering that any offer had been made.

“84. He objected to an offer being made on Tuesday? He objected to its being considered as an offer.

“85. He did object? He did no more than any other Member of the Assembly would have done under the circumstances.

“86. Did he or did he not object? I do not know in what sense the word ‘object’ is used.

“87. Did he express any dissatisfaction that you should have made the offer of the District Judgeship on Tuesday? In the conversation that took place I at once stated that I should not make him a definite offer of the appointment, and when he left the room he made the matter as clear as possible in the distinct way I have given in my evidence.

“88. Did he state any reason why a distinct offer should not be made? In the way I have stated.”

Mr. Owen’s evidence is as follows on the same point:—

“25. Did you see Mr. Cowper on the following day? In the morning I went to his office.

“26. Be kind enough to state, as accurately as you can, what occurred? As nearly I can. He was very much engaged, he said, about the Customs, and I waited some time. When I went in I said, ‘I got your letter about this matter, and now I want you to tell me what circuit it is, and about the country. I can say nothing about the matter until you tell me.’ He said, ‘If you look to the *Gazette* you will see that it is the Northern Circuit, which Mr. Hargrave has vacated.’ This was the first I knew of the circuit, for I had not been looking at the papers or at the *Gazette* at all. I knew that Mr. Hargrave had accepted the Solicitor Generalship, but I declare, upon my honor, that I did not know what his circuit was. I knew Mr. Cary had Illawarra, and I thought Mr. Cheeke had Sydney, but the other was a *tabula rasa*.

“27. I suppose you knew that Mr. Hargrave had vacated his office by the acceptance of the Solicitor Generalship? Yes, I knew he had; but you will observe that the note says nothing of his district, and it was not until Mr. Cowper said it was the Northern District I was aware of the fact. Mr. Cowper, half laughing when I asked him ‘How far does it extend?’ said, ‘It is rather large—it goes down to Port Macquarie, and then to Grafton, besides other places.’ I said, ‘That is most appalling—it is impossible—I could not accept such a thing.’ ‘Well,’ he said, ‘the Government are not in a position to make the offer at present—or some such words—and, therefore, you can make any inquiries you please about it.’ I said, ‘I was extremely glad that was the case, and I requested that the Government would keep the matter perfectly open, and to present the office to anyone they liked, for I thought it was a thing I could not undertake. He said, ‘You will have an opportunity of inquiring, but we are not in a position at present to make the offer.’ I said, ‘Very well, I am glad it is so, for I could not accept it.’

“28. Did he state what the difficulty was? No, he did not. I surmised two or three things, but my surmises can go for very little, I presume. He said this in addition, ‘You are quite aware that if the Government make you this offer, and you accept it, that your seat is vacated.’ I said, ‘I am perfectly aware of that.’ He said, therefore, they could do nothing, would make no offer at present, do anything, or wish me to do anything that would embarrass or interfere with my rights of voting for my constituents, and then I added—feeling more than indifferent about the matter—that I was glad he had put me in that position, for the Government were perfectly at liberty to give the appointment to whom they thought proper. I think with these words I came out.

" 29. These are all the words that took place between you; he assigned no other reason for not making a distinct offer? None, except what I have stated."

Again, on the same subject:—

" 32. *By Mr. Piddington*: During the interview, did you express any opinion as to the delicate position you would be placed in if you received a direct offer—your delicate position in the House with reference to your voting? In fact it never crossed my mind about my vote being in the least interfered with. I felt a perfect right to act for my constituents, particularly on that question, as being in the direction of the policy I have always adhered to in my votes.

" 33. I understood you to say that Mr. Cowper intimated to you that you might be embarrassed —? He stated it as a principle of Parliamentary law. He said 'When once the Government make you an offer and you accept it, your vote is no longer to be given.' I said I was perfectly aware of that."

Again:—

" 175. *By Mr. Hay*: You have mentioned that Mr. Cowper did make some remarks with regard to vacating your seat, and I think you said you did not originate any remarks of the sort yourself? I am sure I did not, for I was not thinking of the subject.

" 176. The remarks fell from Mr. Cowper and not from you? Not from me—most positively. I am clear that it never passed my mind about not voting. If it had, I should at once have consulted my honorable friend opposite (*Mr. Jones*), who has been always kind enough to give me advice."

The variance between these two statements is somewhat embarrassing; Mr. Cowper intimates that the observations about "the delicacy of his position," &c., were made by Mr. Owen. Mr. Owen, on the other hand, states positively that they emanated from Mr. Cowper.

As your Committee consider it would be more difficult than it is important to reconcile this discrepancy, they do not feel called on to make the attempt. They, however, sufficiently collect from the evidence of both gentlemen that there was *in fact no acceptance of office by Mr. Owen until Friday, the 25th February*. The circumstances attending the final acceptance of office on that day are related by Mr. Owen in the following evidence:—

" 97. What was the next communication you had with Mr. Cowper on the subject? When the House broke up—I do not know what time it was—on Thursday, I was going out of the gate within the precincts of the House, between the door and the gate, Mr. Cowper—who was at some little distance from me—said, 'Owen, I wish you would see me to-morrow.' I said, 'Very well.'

" 98. Did you see him? Yes, the next morning—Friday morning.

" 99. Had you any written communication, or did you see him personally? I had none but what I have told you,—just in so many words.

" 100. Where did you see him? At his own office—the Colonial Secretary's Office.

" 101. Will you state what took place? He said that he had determined to make me an offer of the Judgeship. As far as I can recollect the course of the proceedings, I said, 'My mind is very much against it; I do not think it is possible for any one gentleman to do the duties. I will not—I cannot undertake to be responsible for duties of so wide a description; but as you now propose to make an offer of the appointment, I will mention two conditions upon which alone I can accept it. One is, that if I try to do the duties, and—as I assuredly feel—fail, that the Government will undertake to apply to Parliament for the division of the district?' That is one condition I made—a precondition. The other was, that if I found, from circumstances connected with myself personally, and the district locally, that I did not like the district, and there were a vacancy, would he promise that I should have that vacancy.

" 102. *By Mr. Piddington*: A vacancy where? In another circuit.

" 103. A vacancy as Judge under the District Courts Act? Yes.

" 104. *By the Chairman*: Were these two conditions assented to? Mr. Cowper said, 'The Government feel it will be impossible for one gentleman to do these duties, but they have had great reluctance to incur larger expenses, or to bring a larger estimate before Parliament; but I promise you if such is the case, and you make such a report, as far as the Government is concerned it shall be done.' I said 'No; write me a letter, and I will accept it upon these conditions.'

" 105. *By Mr. Piddington*: Does the letter contain these conditions? I have not a copy of the letter I wrote to him."

" 106. My question was to elicit from you whether you expected that the two conditions precedent should be conveyed to you by Mr. Cowper in a letter, or whether you were satisfied with his verbal assurance? I was satisfied with his verbal assurance. My reply did not reach him till the evening, but in my mind I had accepted his offer. In my reply I mentioned the extent of the circuit, but it occurred to me that it would scarcely be proper to put the other condition in, therefore I omitted that as a matter of delicacy.

" 107. *By the Chairman*: How soon after that interview did you receive a communication from Mr. Cowper in writing? I said to Mr. Cowper, 'You must make me the offer in writing,' and he sat down and wrote this note, which I did not open for an hour afterwards. (*The witness handed in a note, which was read as follows*):—

" ' My

“ ‘ Sydney, 25 February, 1859.

“ ‘ My dear Sir,

“ ‘ The office of District Court Judge in the Northern District has become vacant by
 “ ‘ the resignation of Mr. Hargrave, who has accepted the appointment of Solicitor General.
 “ ‘ Considering your standing as a Legal Practitioner, and your long experience in the
 “ ‘ Colonial Courts, the Government are of opinion that you would fill the office to the satis-
 “ ‘ faction of the public, provided you are willing to accept it. I beg, therefore, to offer it to
 “ ‘ you, and shall be obliged if you will communicate to me your decision as early as you can
 “ ‘ conveniently do so.

“ ‘ I beg to remain, &c.,

“ ‘ Robert Owen, Esq., M.P.

“ ‘ CHARLES COWPER.”

To which Mr. Owen wrote the following reply :—

“ ‘ Australian Club,
 “ ‘ 25 February, 1859.

“ My dear Mr. Cowper,

“ In reply to your letter of this date offering me the appointment of Judge of
 “ one of the District Courts, I have the honor to accept such appointment. I beg to thank
 “ you for the flattering terms in which your offer is conveyed.

“ May I be permitted, however, on this occasion, to express my opinion that the
 “ Northern District, for which I am to sit, will be found impracticable, from its magnitude,
 “ for one Judge.

“ For, while protracted journeys have to be made during, probably, months of absence
 “ in the interior, the business of the more peopled districts will have to stand over.

“ Nevertheless, I will do my utmost, and a few months working of the system will
 “ test the arrangements as they now stand.

“ I presume you will do me the favor of announcing to the House that my seat is now
 “ vacant, in order that my late constituents may choose a successor.

“ I am, my dear Mr. Cowper,

“ Yours very faithfully,

“ ROBT. OWEN.”

Your Committee now approach the question as to whether the vacant office was
under offer to Mr. Owen on or *before* the 23rd of February, the night on which his vote
 was challenged. It appears to them that the letter of the 18th February, from the Chief
 Secretary to Mr. Owen, did *substantially* and *sufficiently* convey an *offer* of the vacant office
 of District Court Judge, which offer it ought to be regarded as obligatory on the Government
 to carry into effect; for if Mr. Owen had without further stipulation stated his readiness to
 accept the office, your Committee conceive that it would neither be consistent with the honor
 of the Government, nor with that propriety and fairness which ought to mark the conduct of
 any Government in their negotiations with individuals, to recede from making the appoint-
 ment.

We regret being compelled to say, whatever may be the disguises or technicalities of
 official language about offers of appointment on the part of Government, or whatever may be
 the interpretation that has been or may be attempted to be put on Mr. Cowper's letter of the
 18th February, and upon Mr. Cowper's conduct in reference to it, either by himself, or by
 Mr. Owen's absolute and unqualified denial of “ an offer of office ” given by him before the
 House, *in the presence of Mr. Cowper*, upon a question so pointedly submitted to him, that
 neither his conduct or Mr. Owen's can, in our opinion, be reconciled with that regard to truth
 and candour which are due to the House from all its Members under all circumstances.

The arrangement which was agreed to between Mr. Cowper and Mr. Owen on Tuesday
 the 22nd, appears to your Committee to be of a very objectionable nature in a constitutional
 point of view. It appears to have been made for the purpose “ *of not embarrassing Mr. Owen*
 “ *as to his position in the House,*” and by thus allowing him to continue voting, was an
 evasion of a very salutary and clear principle of Parliamentary law.

Although Mr. Cowper and Mr. Owen persuaded themselves that the understanding
 between them on Tuesday placed them, *in regard to the law*, in the same position as if no offer
 had been made, your Committee consider that “ the offer ” remained. The acceptance still
 was in Mr. Owen's power, and the subsequent proceedings convey the impression that if he
 had been negotiated with on Tuesday in the same decided way as on the following Friday he
 would have accepted the office, for after a conversation of five or six minutes with Mr. Cowper
 on the latter day, he accepted it. The consequence of this acceptance would have been, a
 double disqualification against voting on the Wednesday, viz. : *the one arising under the 19th*
section of the Constitution Act, and the other under the 28th section of the District Courts

Act, which enacts "That no *District Court Judge* shall be capable of being summoned or "being elected, or of sitting as a Member of the Legislative Council or Legislative Assembly."

It appears to your Committee, that to keep an office suspended (as it were) before the eyes of a Member, and still within the control of the Prime Minister—thus allowing the Member to continue voting, at the risk of displeasing the Minister, and perhaps causing him to retract, would be even more dangerous to the purity and independence of Parliament than even the actual possession of office. The state of dependence in which the Member would be kept in this way is entirely inconsistent with the unbiassed discharge of his duty to his constituents, and is contrary to the spirit of the Constitution Act. Such a practice is, in the opinion of your Committee, highly dangerous to the integrity and independence of this House, and to the liberties of the people, and cannot be too strongly condemned.

The case of Sir E. Sugden, in 1841, and other cases, to which your Committee have referred, go to shew that a liberal interpretation has been put upon the law by the Imperial Parliament to effect the object intended, as Mr. Hallam, in his Constitutional History, recommends. In speaking of the disqualifications arising from the acceptance of office, and the vacating of seats on such acceptance, that Author says, *Vol. 2, ch. 15, p. 346* (last edition):—

"These restrictions ought to be rigorously and jealously maintained, and to receive "a construction, in doubtful cases, according to their constitutional spirit; not, as if they "were of a penal nature towards individuals,—an absurdity in which the careless and "indulgent temper of modern times might sometimes acquiesce."

JOHN H. PLUNKETT,

Chairman.

*Legislative Assembly Chamber,
Sydney, 23 March, 1859.*

PROCEEDINGS OF THE COMMITTEE.

TUESDAY, 8 MARCH, 1859.

MEMBERS PRESENT:—

Mr. Plunkett,		Mr. Piddington,
Mr. Flood,	|	Mr. Forster,
	Mr. Hay.	

Mr. Plunkett was called to the Chair.

Committee deliberated, and it was *Resolved*:—

- “ 1. That the Honorable the Colonial Secretary, Mr. D. H. Deniehy, M. P., and
“ Mr. R. L. Jenkins, M. P., be requested to attend before the Committee
“ to-morrow,—the former at 11, and the two latter at half-past 11 o'clock—for
“ the purpose of being examined by the Committee.
- “ 2. That a Message be sent to the Legislative Council, requesting that leave may
“ be given to the Honorable George Allen, Esquire, to attend before the Com-
“ mittee, for the purpose of being examined, on such day or days as may be
“ arranged between him and the Committee.
- “ 3. That Mr. Robert Owen, late a Member for the Electoral District of East
“ Camden, be summoned before the Committee, as a witness, for Thursday
“ next.”

The Chairman then read—(*vide* “*Hansard*, vol. 59, pages 620 and 674”)—the reports of certain debates in the House of Commons on the 20th and 21st September, 1841, in a “*Question of Privilege*,” raised by Sir Thomas Wilde, in reference to the Member for Ripon (Sir Edward Sngden) retaining his Seat after his acceptance of office as Lord Chancellor of Ireland.

Committee deliberated.

Clause 26 of 6 Anne, c. 7, then read.

Committee further deliberated.

[Adjourned till to-morrow, at *Eleven* o'clock.]

WEDNESDAY, 9 MARCH, 1859.

MEMBERS PRESENT:—

J. H. Plunkett, Esquire, in the Chair.

Mr. Faucett,		Mr. Flood,
Mr. Piddington,	|	Mr. Forster,
Mr. Jones,	Mr. Hay.	

The Honorable Charles Cowper, M. P., Principal Secretary, examined.

And the Chairman, in the course of his examination, having first put certain questions, tending to elicit from the witness the causes which led to Mr. Hargrave's resignation of the office of District Courts Judge, was proceeding then to put the following question, viz:—
“ Was it at his own request or the request of the Government? ”—

When Mr. Jones objected to the said question being put from the Chair, on the ground of its irrelevancy.

Committee deliberated.

Question by leave withdrawn.

Mr. Cowper's examination concluded.

Mr. D. H. Deniehy, M. P., and Mr. R. L. Jenkins, M. P., then examined.

[Adjourned till to-morrow, at *Eleven* o'clock.]

THURSDAY, 10 MARCH, 1859.

MEMBERS PRESENT:—

J. H. Plunkett, Esquire, in the Chair.

Mr. Piddington,		Mr. Faucett,
Mr. Jones,	|	Mr. Flood,
	Mr. Hay.	

Mr. Robert Owen, late a Member for the Electoral District of East Camden, now District Court Judge for the Northern Districts, examined.

[Adjourned till to-morrow, at *Eleven* o'clock.]

FRIDAY,

FRIDAY, 11 MARCH, 1859.

MEMBERS PRESENT:—

J. H. Plunkett, Esquire, in the Chair.

Mr. Hay,	|	Mr. Piddington,
Mr. Jones,	|	Mr. Forster,
	Mr. Flood.	

The Honorable George Allen, Esquire, who attended before the Committee by permission of the Legislative Council, for the purpose of being examined, desired, prior to his examination, to state, that although he attended before the Committee this day at their own request to answer any questions that might be put to him, because he conceived that his refusal to do so might convey an impression prejudicial to Mr. Owen, but nevertheless he wished it to be distinctly understood that he had not tendered himself to the Committee for the purpose of giving evidence, as he was clearly of opinion that an important principle was involved in the practice pursued by the Committee in the present instance—of requesting the attendance of Members of either House before a Committee to answer questions in respect to *private* conversations held by them with other Members, either in the Refreshment Room or any other part of the Parliamentary Buildings.

Committee deliberated.

The Honorable *George Allen*, Esquire, Chairman of Committees of the Legislative Council, then examined.

The Chairman then informed the Committee that he had, at Mr. Owen's request, (conveyed to him through the Clerk of Select Committees) moved last night in the House, that a Message be sent to the Legislative Council requesting that leave might be given to the Honorable R. M. Isaacs, Esquire, to attend before the Committee for the purpose of being examined on such day or days as might be arranged between him and the Committee.

Committee then deliberated, and it was *Resolved*:—

- "1. That the Honorable R. M. Isaacs, Esquire, be requested to attend before this "Committee on Tuesday next, for the purpose of being examined."
- "2. And that James Greer, Esquire, solicitor, be summoned before this Committee, "as a witness, for the same day."

Committee again deliberated, and it was *Resolved*:—

- "1. That proofs of the evidence taken, when transcribed, be struck off as speedily "as possible, and that copies thereof be supplied for the information of the "members of the Committee.
- "2. That there be transmitted to each witness, for his perusal, a copy, in proof, "of his own evidence, with the usual letter of instructions, intimating to him "the scope for correction allowed in such evidence."

[Adjourned till Tuesday next, at *Eleven o'clock*.]

TUESDAY, 15 MARCH, 1859.

MEMBERS PRESENT:—

J. H. Plunkett, Esquire, in the Chair.

Mr. Hay,	|	Mr. Forster,
Mr. Piddington,	|	Mr. Flood.

Proofs of the *unrevised* evidences of Mr. Cowper, Mr. Deniehy, and Mr. Jenkins, laid before the Committee.

The Chairman then informed the Committee that he had yesterday caused a communication to be made to the Principal Secretary, requesting him to supply the Note addressed to him by Mr. Owen, from Wollongong, in reply to his (Mr. Cowper's) communication of the 18th ultimo, and that to such communication a reply had been *this day* received from Mr. Cowper.

Letters then read.

Ordered to be printed in Appendix. (*Vide "Separate Appendix, A and B."*)

Committee deliberated.

Mr. *Michael Fitzpatrick*, Under Secretary for Lands and Public Works, and the Honorable *R. M. Isaacs*, Esquire—attending by permission of the Legislative Council—examined.

The Chairman apprised the Committee that as Mr. James Greer, who had been summoned before them for *this day*, as a witness, had stated to him his inability to give evidence calculated to throw any light upon the subject of this inquiry, he had consequently excused him from attendance before the Committee.

Committee then deliberated, and it was *Resolved*:—

- "1. That sufficient evidence has now been taken for the purposes of this inquiry.
- "2. That the next meeting of the Committee be convened for to-morrow, and be "for the purpose of considering the heads of Report."

[Adjourned till to-morrow, at *Eleven o'clock*.]

WEDNESDAY,

WEDNESDAY, 16 MARCH, 1859.

MEMBERS PRESENT:—

J. H. Plunkett, Esquire, in the Chair.

Mr. Murray,	|	Mr. Hay,
Mr. Forster,	|	Mr. Piddington,
Mr. Flood,	|	Mr. Jones.

Committee met, pursuant to Resolution, to consider heads of Report.

Mr. Murray having however stated that as his name appeared, by the evidence of the Principal Secretary, given before the Committee, to be mixed up in certain proceedings relative to the appointment of a successor to Mr. Hargrave, as District Court Judge, he was desirous of being examined by the Committee.

Committee thereupon *Resolved*:—

“ That the Honorable T. A. Murray be now examined.”

The Honorable T. A. Murray, a member of the Committee, then examined in his place.

Proofs of the *unrevised* evidence of Mr. Robert Owen laid before the Committee.

Committee deliberated on heads of Report.

[Adjourned till Friday next, at *Eleven o'clock*.]

FRIDAY 18 MARCH, 1859.

MEMBERS PRESENT:—

J. H. Plunkett, Esquire, in the Chair.

Mr. Jones,	|	Mr. Forster,
Mr. Flood,	|	Mr. Hay,
Mr. Piddington,	|	Mr. Murray.

Letter from Mr. Robert Owen, from Wollongong, dated 16th instant, to the Clerk of Select Committees, read.

The Chairman then stated that he had been informed by the Clerk of Select Committees that Mr. Owen had *this morning* called upon him, and handed in his evidence, as revised, together with a letter addressed to him (the Chairman), which he now laid before the Committee.

Letter read.

Ordered to be printed in Appendix. (*Vide* “ *Separate Appendix C.*”)

Committee deliberated.

Motion made (Mr. Piddington), and *Question*—“ The Committee having heard the Chairman read a letter from Mr. Owen, suggesting that Mr. W. B. Dalley should be examined, is of opinion that it is quite impossible, at this stage of the proceedings, to delay the decision of the Committee until the return of Mr. Dalley from Bathurst; nor is the Committee of opinion that the reasons urged in Mr. Owen’s note have any foundation in fact”—*agreed to*.

The Chairman laid before the Committee the *revised* evidence of Mr. Owen, and having called their attention to an Addendum made thereto by the witness, when his evidence was with him for correction, desired their opinion as to the expediency of permitting the same to be attached to his evidence.

Addendum read.

Committee deliberated, and it was *Resolved*:—

“ That in the opinion of this Committee it is expedient to permit the printing of the Addendum in question with Mr. Owen’s evidence.”

Portion of Draft Report, proposed by Chairman, then read.

Committee deliberated.

Motion made (Mr. Jones) and *Question*,—“ That the Draft Report, proposed by the Chairman, be printed, and a copy thereof transmitted to each member of the Committee, prior to their next meeting”—*agreed to*.

[Adjourned till Tuesday next, at *Eleven o'clock*.]

TUESDAY, 22 MARCH, 1859.

MEMBERS PRESENT:—

J. H. Plunkett, Esquire, in the Chair.

Mr. Jones,	|	Mr. Piddington,
Mr. Murray,	|	Mr. Hay.

Committee met at ten minutes past 1 P.M.

The Chairman laid before the Committee a Draft Report,—

And the Committee were proceeding to consider the same,—

When it was pointed out that, in consequence of attendance *this day* of the Chairman and certain members of *this* Committee upon the Committee on “Parliamentary Accommodation,” upwards of an hour had elapsed between the time for which the meeting of the Committee was convened and its actual meeting, and consequently that any deliberations of the Committee would now be irregular.

Committee thereupon

[Adjourned till to-morrow, at *Eleven o'clock*.]

WEDNESDAY, 23 MARCH, 1859.

MEMBERS PRESENT:—

J. H. Plunkett, Esquire, in the Chair.

Mr. Jones,		Mr. Murray,
Mr. Hay,		Mr. Forster,
	Mr. Piddington.	

Committee met to consider Draft Report proposed by the Chairman.

Motion made (Mr. Murray) and Question—"That the Draft Report proposed by the Chairman be now read and considered paragraph by paragraph"—*agreed to.*

Paragraphs 1, 2, 5, 6, and 11 read, considered, and agreed to without amendment.

Paragraphs 3, 4, 7, 8, 9, and 10 read, considered, *verbally* amended, and agreed to.

Paragraph 12 read, viz. :—

"Your Committee with some pain approach the question as to whether the vacant office was *under offer* to Mr. Owen before the 23rd of February, the night on which his vote was challenged. It appears to them that the letter of the 18th February, from the Chief Secretary to Mr. Owen, did *substantially* and *sufficiently* convey an offer of the vacant office of District Court Judge, which offer ought to be regarded as obligatory on the Government to carry into effect; for if Mr. Owen had at once stated his readiness to accept the office, your Committee conceive that it would neither be consistent with the honor of the Government, or with that propriety and fairness which ought to mark the conduct of any Government in their negotiations with individuals, to recede from making the appointment."

Committee deliberated.

Paragraph *verbally* amended.

Motion made (Mr. Jones) and Question proposed,—“That after the word ‘*substantially*’ the words ‘*and sufficiently*’ be omitted.”

Committee deliberated.

Question put,—“That the words proposed to be omitted stand part of the proposed paragraph.”

Committee divided.

Ayes, 3.		Noes, 2.
Mr. Forster,		Mr. Jones,
Mr. Piddington,		Mr. Hay.
Mr. Murray,		

Deliberation on paragraph resumed.

Motion made (Mr. Forster) and Question proposed,—“That after the words ‘which offer,’ the words ‘ought to be regarded as obligatory on the Government to carry into effect’ be omitted, with a view to the insertion of the words, ‘though afterwards professedly withdrawn, was at the time of making it obligatory upon the Government,’—in lieu thereof.”

Committee deliberated.

Question put,—“That the words proposed to be omitted stand part of the proposed paragraph.”

Committee divided.

Ayes, 4.		No, 1.
Mr. Hay,		Mr. Forster.
Mr. Piddington,		
Mr. Murray,		
Mr. Jones.		

Paragraph further *verbally* amended.

Motion then made, and Question put,—“That this paragraph, as *verbally* amended, stand part of the proposed Report.”

Committee divided.

Ayes, 3.		Noes, 2.
Mr. Piddington,		Mr. Jones,
Mr. Hay,		Mr. Forster.
Mr. Murray.		

Paragraph 13 read, viz. :—

“We regret being compelled to say, whatever may be the disguises or technicalities of official language about offers of appointment on the part of Government, or whatever may be the interpretation that has been or may be attempted to be put on Mr. Cowper’s letter of the 18th February, and upon Mr. Cowper’s conduct in reference to it, either by himself or by Mr. Owen’s absolute and unqualified denial of ‘an offer of office’ given by him before the House, in the presence of Mr. Cowper, upon a question so pointedly submitted to him, that neither his conduct or Mr. Owen’s can, in our opinion, be reconciled with that truth and candour which are due to the House from all its Members under all circumstances.”

Committee deliberated.

Paragraph *verbally* amended, at the suggestion of Mr. Forster.

Motion

Motion made (Mr. Forster) and *Question proposed*,—"That the words
 " 'We feel at the same time bound to record our impression that Mr. Owen's
 " 'statement to the House on 23rd February, in reply to the question put by
 " 'Mr. Plunkett, was made without due consideration of the effect his words would
 " 'have in not fully conveying the facts, as they had actually occurred, between
 " 'himself and Mr. Cowper,'

" be added at the end of the proposed paragraph."

Question put,—"That those words be there added."
 Committee divided.

Ayes, 2.

Mr. Forster,
 Mr. Jones.

Noes, 3.

Mr. Murray,
 Mr. Piddington,
 Mr. Hay.

Question then proposed,—"That the paragraph, as verbally amended, stand part of the
 " proposed Report."

Deliberation on paragraph resumed.

Question put.

Committee divided.

Ayes, 3.

Mr. Hay,
 Mr. Murray,
 Mr. Piddington.

Noes, 2.

Mr. Jones,
 Mr. Forster.

Paragraph 14 read, viz. :—

"The arrangement which was agreed to between Mr. Cowper and Mr. Owen on
 " Tuesday the 22nd, appears to your Committee to be of a very objectionable nature
 " in a constitutional point of view. It was obviously suggested for the purpose 'of not
 " 'embarrassing Mr. Owen as to his position in the House,' and, by thus allowing him to
 " continue voting, was an evasion of a very salutary and clear principle of Parliamentary
 " law."

Motion made (Mr. Jones), and *Question proposed*,—"That after the words 'the 22nd,'
 " the words 'while it did in terms withdraw or defer the offer substantially made in Mr.
 " 'Cowper's note of the 18th' be inserted."

Committee deliberated.

Question put,—"That those words be there inserted."

Committee divided.

Ayes, 2.

Mr. Jones,
 Mr. Forster.

Noes, 3.

Mr. Murray,
 Mr. Piddington,
 Mr. Hay.

Further Motion made (Mr. Jones), and *Question proposed*,—"That all the words
 " after the word 'view' be omitted from the proposed paragraph."

Committee deliberated.

Question put,—"That the words proposed to be omitted stand part of the proposed
 " paragraph."

Committee divided.

Ayes, 4.

Mr. Murray,
 Mr. Hay,
 Mr. Forster,
 Mr. Piddington.

No, 1.

Mr. Jones.

Motion made (Mr. Hay), and *Question*—"That the words 'was obviously suggested'
 " be omitted, and the words 'appears to have been made' be inserted in lieu thereof."—
 agreed to:

Words, "appears to have been made," inserted accordingly.

Deliberation on paragraph resumed.

Motion then made, and *Question put*,—"That this paragraph, as amended, stand part
 " of the proposed Report."

Committee divided.

Ayes, 4.

Mr. Hay,
 Mr. Forster,
 Mr. Piddington,
 Mr. Murray.

No, 1.

Mr. Jones.

Paragraph 15 read, viz. :—

"Although Mr. Cowper and Mr. Owen persuaded themselves that the understanding
 " between them on Tuesday placed them, *in regard to the law*, in the same position as if no
 " offer had been made, your Committee consider that 'the offer' remained. The acceptance
 " was only postponed, and the subsequent proceedings leave no doubt, that if Mr. Owen had
 " been negotiated with on Tuesday in the same decided way as on the following Friday, he
 " would have accepted the office (for after a conversation of five or six minutes with Mr.
 " Cowper on the latter day, he accepted it); the consequence of which acceptance would have
 " been, a double disqualification against voting on the Wednesday, viz.: that arising under
 " the

“ the 19th section of the Constitution Act, and *the other* under the 28th section of the District Courts Act, which enacts ‘ That no *District Court Judge* shall be capable of being summoned or being elected, or of sitting as a Member of the Legislative Council or Legislative Assembly.’ ”

Committee deliberated.

Motion made (Mr. Forster), and *Question proposed*—“ That after the word ‘ remained ’ the words ‘ to some extent obligatory ’ be inserted.”

Question put—“ That those words be there inserted.”

Committee divided.

Aye, 1.		Noes, 4.
Mr. Forster.		Mr. Jones, Mr. Murray, Mr. Piddington, Mr. Hay.

Further Motion made (Mr. Forster), and,—

Question proposed—“ That after the words ‘ The acceptance,’ the words ‘ only postponed ’ be omitted, with a view to the insertion of the words ‘ still in Mr. Owen’s power ’ in lieu thereof.”

Committee deliberated.

Question put—“ That the words proposed to be omitted stand part of the proposed paragraph.”

Committee divided.

Aye, 1.		Noes, 4.
Mr. Jones.		Mr. Forster, Mr. Murray, Mr. Hay, Mr. Piddington.

Words struck out accordingly.

Deliberation resumed.

Question then put—“ That the words proposed to be inserted in place of the words omitted be so inserted.”

Committee divided.

Ayes, 4.		No, 1.
Mr. Piddington, Mr. Hay, Mr. Murray, Mr. Forster.		Mr. Jones.

Words, “ still in Mr. Owen’s power ” inserted accordingly.

Paragraph further *verbally* amended, at the suggestion of Mr. Murray.

Motion then made, and *Question put*—“ That this paragraph, as amended, stand part of the proposed Report.”

Committee divided.

Ayes, 4.		No. 1.
Mr. Murray Mr. Hay, Mr. Piddington, Mr. Forster.		Mr. Jones.

Paragraph 16 read, viz. :—

“ It appears to your Committee, that having an office suspended (as it were) before the eyes of a Member, and still within the control of the Prime Minister—allowing the Member to continue voting, at the risk of displeasing the Minister, and perhaps thus to cause the Minister to retract, would be even more dangerous to the purity and independence of Parliament than even the secure possession of office. The state of dependence in which the Member would be kept in this way is entirely inconsistent with the unbiassed discharge of his duty to his constituents, and is the very evil contemplated by the Statute, and for which the remedy of sending him back to his constituents was devised. Such a practice is, in the opinion of your Committee, highly dangerous to the integrity and independence of this House, and to the liberties of the people, and cannot be too strongly condemned.”

Committee deliberated.

Paragraph *verbally* amended, at the suggestion of Mr. Forster.

Deliberation resumed.

Motion made (Mr. Jones) and *Question*—“ That in lieu of the words ‘ the very evil contemplated by the Statute, and for which the remedy of sending him back to his constituents was devised,’ there be inserted the words ‘ contrary to the spirit of the Constitution Act ’”—*agreed to*.

Words struck out, and words “ contrary to the spirit of the Constitution Act ” inserted accordingly.

Motion then made and *Question*—“ That this paragraph, as amended, stand part of the proposed Report ”—*agreed to*.

Paragraph 17 read, viz. :—

“ The case of Sir E. Sugden, in 1841, bears some analogy to the present case. Sir Edward Sugden, then member for *Lepton*, was nominated to be the future Lord Chancellor of Ireland,—Lord Campbell still held the Great Seal, and actually filled the office, by

“ discharging

“ discharging all its duties for some time after—so that the office to which Sir E. Sugden was nominated was not, in fact, vacant. Still, after discussion and consideration of the arguments urged, to the effect ‘ That the acceptance of the office was not completed, and ‘ that the office was, at the time, held by another,’ the constitutional principle was acknowledged and acted on, by the immediate issue of a new Writ for Ripon. This case, and other cases to which your Committee have referred, go to shew that a liberal interpretation has been given by the Imperial Parliament so as to effect the object intended by the law, and such as Mr. Hallam, in his Constitutional History, recommends. In speaking of the disqualifications arising from the acceptance of office, and the vacating seats on such acceptance, that Author says, *vol. 2, ch. 15, p. 346* (last edition):—

“ ‘ These restrictions ought to be rigorously and jealously maintained, and to receive a construction, in doubtful cases, according to their constitutional spirit; not as if they were of a penal nature towards individuals,—an absurdity in which the careless and indulgent temper of modern times might sometimes acquiesce.’ ”

Committee deliberated.

Paragraph verbally amended, at the suggestion of Mr. Forster and Mr. Murray.

Motion then made, and Question—“ That this paragraph, as verbally amended, stand part of the proposed Report ”—*agreed to.*

Whereupon motion made, and Question proposed—“ That the Draft Report, as amended, be the Report of the Committee.”

Committee divided.

Ayes, 4.	No, 1.
Mr. Piddington,	Mr. Jones.
Mr. Murray,	
Mr. Hay,	
Mr. Forster.	

Chairman requested to report to the House.

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<i>Thursday, 10 March, 1859.</i>	
Robert Owen, Esq., <i>District Court Judge</i>	9
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<i>Tuesday, 15 March, 1859.</i>	
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LIST OF SEPARATE APPENDIX.

A.	
Letter, dated 14 March, 1859, from the Clerk of the Legislative Assembly to the Principal Secretary, requesting, by direction of the Chairman, to be supplied with the Note addressed to Mr. Cowper by Mr. Owen, from Wollongong, in reply to his (Mr. Cowper's) communication of the 18th February, 1859. (<i>Vide "Proceedings of the Committee" on 15th March, 1859.</i>)..	27
B.	
Letter, dated 15 March, 1859, from the Principal Secretary to the Clerk of the Legislative Assembly, stating inability to supply the Note in question. (<i>Vide "Proceedings of the Committee" on 15th March, 1859.</i>)	27
C.	
Letter, without date, from Robert Owen, Esquire, to the Chairman, requesting that The Honorable W. B. Dalley, Esquire, M. P., might be examined by the Committee. (<i>Vide "Proceedings of the Committee" on 18th March, 1859</i>)	27

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

MINUTES OF EVIDENCE

TAKEN BEFORE

THE SELECT COMMITTEE

ON

VACANT SEAT.

(QUESTION OF PRIVILEGE.)

WEDNESDAY, 9 MARCH, 1859.

Present:—

MR. FAUCETT,	MR. JONES,
MR. FORSTER,	MR. PIDDINGTON,
MR. HAY,	MR. PLUNKETT.

J. H. PLUNKETT, Esq., Q. C., IN THE CHAIR.

The Hon. Charles Cowper, Esq., M.P., Principal Secretary, called in and examined:—

1. *By the Chairman:* You are the Colonial Secretary and Premier? Yes.
2. The office of District Judge for the Northern Districts was, I believe, held by Mr. Hargrave, the present Solicitor General? Yes.
3. How long did he hold it? I do not remember the dates, but the public gazettes will shew.
4. A very short time? A very short time.
5. I believe he presided at one Quarter Sessions at Maitland during his tenure of office? Yes, he did.
6. How did it happen that he gave up the office of District Judge for that of Solicitor General? He voluntarily resigned it.
7. Was it at his own request or at the request of the Government? (*Mr. Jones having objected, the Chairman withdrew the question. Vide "Minutes of Proceedings on 9 March, 1859."*)
8. When did Mr. Hargrave resign the office of District Judge? I am sorry to say I have not the date; it must have been previous to the 15th of February, for I find that I had on the 15th February a telegraphic message from Mr. Walsh, the Solicitor, of Goulburn, to Mr. Murray. On the 15th of February, Mr. Hargrave having expressed his readiness to accept the office of Solicitor General, I consulted Mr. Murray whether he considered that Mr. Walsh, the Solicitor, of Goulburn, would accept the office of District Judge if it were offered to him; Mr. Murray undertook to communicate with Mr. Walsh the same day, and on the same day he received an answer declining the office.
9. Had Mr. Hargrave absolutely resigned, and in what way, on that day?—in writing? Mr. Hargrave never resigned in writing; he resigned voluntarily, and I, wishing to fill the office of Solicitor General, sent for Mr. Hargrave, stated that I had heard he was willing to become Solicitor General to the Government, and put the question to him whether he was willing to take the office with all its contingencies. I received from him an intimation that the uncertainty arising from its being a political office would not prevent his accepting it.
10. Was that on the 15th? No, it must have been previously; I think the 15th was Tuesday, if so, that was on the Monday—I think it was on the Monday.
11. Then, on the 15th, I understand, you commissioned Mr. Murray to offer the place of District Judge to Mr. Walsh of Goulburn? To ascertain from Mr. Walsh whether he were willing to take it.

The Hon.
C. Cowper,
Esq., M.P.
9 Mar., 1859.

The Hon.
C. Cowper,
Esq., M.P.

9 Mar., 1869.

12. *By Mr. Piddington*: Was that after you ascertained Mr. Hargrave was ready to accept it? Yes.
13. *By Mr. Faucett*: Then, of course, the offer to Mr. Walsh must have been after the absolute acceptance of office by Mr. Hargrave? Yes.
14. The absolute resignation by Mr. Hargrave of the office as District Judge, and his absolute acceptance of the office of Solicitor General? Yes.
15. *By the Chairman*: When was Mr. Hargrave gazetted as Solicitor General? On the 22nd February. He must have been appointed by the Executive Council on Monday—the day before.
16. Was his resignation in writing? No, it was not.
17. How was the communication made on the part of the Government to Mr. Owen? Between the day—the 15th—already alluded to, and the communication with Mr. Owen, the appointment was offered to two or three gentlemen. I think I am not taking an unwarrantable liberty in saying that I named Mr. Faucett in my conversation with Mr. Murray, and expressed my readiness to authorise him to make the same communication to Mr. Faucett in the event of Mr. Walsh declining. I mentioned, in fact, two names to Mr. Murray—Mr. Walsh and Mr. Faucett, and I understood that neither of those gentlemen were willing to accept it. After that, having a list of names before me of those who appeared to be the most eligible persons in the profession, I communicated with Mr. Purefoy, the Commissioner of Insolvent Estates, and asked him whether he were willing to accept the office. That was about the 17th; I think I wrote a note on the 16th. He came up to the House, but failed in seeing me, and left a message. I wrote a note the following morning, which must have been the 17th; he came and talked the matter over with me, and for the reasons he gave me, while he expressed his thanks for the offer, stated that he preferred remaining in his present appointment. Mr. Purefoy having declined, I communicated with Mr. Matthew Henry Stephen, the Barrister, and offered the appointment to him. I find from his note of the 18th that he declined it. It was after that—I do not know exactly the time, but Mr. Owen was not in Sydney—that turning my attention to the parties who seemed likely to accept it, I was of opinion that Mr. Owen was well qualified for, and would fill the office efficiently. I had not seen Mr. Owen, as far as my recollection goes, for a day or two in the House, and did not know when he would be back. I therefore wrote to him at Wollongong a note—a very short one—I kept no copy of it, but I think it was inquiring when he would be in Sydney, and asking—
18. What was the date? That I do not remember; it was either Friday or Saturday.
19. That was the day after Mr. Stephen declined? Either that afternoon or the next day; either Friday or Saturday. I stated that my object was to confer with him with reference to this appointment. Mr. Owen—
20. Have you any recollection of the terms of the note? Not any; it was a very hurried note.
21. Could you repeat the terms? Not beyond what I state generally; it merely intimated that when he came to Sydney I wished to see him on the subject of this vacancy. Mr. Owen saw me on Tuesday morning, when he was in town, and began at once by saying that he was not prepared to deal with an absolute offer with reference to the appointment; that if the Government determined to make him an offer, there were matters which would require consideration. One matter he wished to know was—I had not mentioned it in my note, which was not so full as I thought it had been—to what district he would be likely to be appointed, and then with regard to the duties to be performed. The conversation was short, because he mentioned to me the difficulty of Government communicating with a Member of Parliament, and the delicacy of vacating his seat, without he was prepared to accept the office. I simply told him that the offer, if made to him, would be for the Northern Districts. I would say no more then, in order that he might not feel embarrassed with reference to his position in the House; but if the offer were made to him, he could then state his objections, and what he wished to draw my attention to.
22. *By Mr. Piddington*: This was on the Tuesday? Yes.
23. *By the Chairman*: The 22nd? I suppose so. The conversation was very short. He said, "I feel that if an offer were made to me distinctly I should be more or less embarrassed as a Member of the Assembly; and therefore I hope it will be distinctly understood that an offer is not made to me, and if the Government feel disposed to offer it to any other person, without any further communication with me, they are quite at liberty to do so, and I shall feel that I have not any reason to be aggrieved." These were about the words Mr. Owen used, when he left the room. I had previously, finding difficulty in getting an eligible gentleman to accept the appointment, put the question to Mr. Hargrave whether he thought there was any necessity for the Government to be in much haste in filling the office up. He said he did not think there was any immediate necessity, and I did not intend to communicate with Mr. Owen for some days; but I did so in consequence of what took place in the House after his vote, and at the suggestion of one or two gentlemen in the House, that if there were likely to be anything decisive in the matter it would be better to close it at once. I hesitated, because I knew that up to that time Mr. Owen was perfectly free, and the Government were free. I had no wish to embarrass Mr. Owen's proceedings with regard to the particular vote to which allusion was made. I felt no particular interest in it. I really should have been quite as well pleased if Mr. Owen had voted one way as another; but on the next morning I asked him to call upon me, and I then delivered a note to him, which he, of course, has now, making him a distinct offer. He left me then, quite uncertain. It was on Friday morning, because the House met on that afternoon, and I recollect that even then I did not feel satisfied that Mr. Owen had accepted the appointment, so that I could have announced the vacation of his seat. I asked the Speaker whether Mr. Owen had sent his resignation to him, and he then explained that it was not necessary for him to resign if he had accepted office. I made the remark that I had not received his acceptance of office, as

I thought it possible I might have done, and he then reminded me that the acceptance would vacate the seat—that no proceeding on the part of Mr. Owen was necessary. Mr. Owen's note—which I will hand in to the Committee—I find I have not got it here, but will send to my office for it. (*The note was sent for*)

The Hon.
C. Cowper.
Esq., M.P.

9 Mar., 1859.

24. The first note you wrote to Mr. Owen on the Saturday? Mr. Owen has that, and most likely will produce it.

25. Could you undertake to give its contents more particularly? No, I could not; and it would be better that the note should be produced.

26. Did it mention the resignation of Mr. Hargrave? No; it could not have done so. I fancied that it was more definite than it was; for when Mr. Owen saw me on Tuesday he said might he ask me to what district the vacancy alluded.

27. Was any other district vacant at the time? No, there was not, and I was rather surprised at his putting the question, partly because I thought I had mentioned something of it in my note, and partly because I thought he would have heard it from public rumour. I see from the note of the Governor General that Mr. Owen's note of acceptance appears to have been the 25th or 26th; I think I only got it on the morning of the 26th.

28. Then I understand that all the negotiation between Mr. Owen and the Government was conducted directly by Mr. Owen and yourself? Entirely.

29. Not through any third person? No.

30. On the Tuesday, then, you saw him after intimating to him by the note of Saturday that you wished to speak to him about this place? Yes.

31. Did you then inform him how the vacancy arose, and the particular place? No; it was a very hurried interview. I had to see him in my private room, as my office was full. He said, "I wish to ask you to what district you allude?" I recollect saying, "I fancied I had told you; but of course it is the Northern District, vacated by Mr. Hargrave, who will be our Solicitor General."

32. How was it that after that interview you thought the matter was open on the part of the Government, and also on the part of Mr. Owen, to withdraw the offer? It was not an offer. His attention was directed to a possible offer that might be open to him. I apprehend that it would scarcely be fair to an individual to require him to say yes or no to an important offer without his having considered the subject; I should do the same thing in every similar case.

33. But before you communicated with Mr. Owen I suppose you considered the subject on the part of the Government? I did.

34. Though Mr. Owen might not have considered it sufficiently, did you consider it sufficiently—did you consider that you would be warranted, after that intimation, in offering the appointment to anyone else till a final answer was obtained from Mr. Owen? As Mr. Owen distinctly left the Government free, and expressed his desire that they would consider themselves free, I should have felt if, on re-consideration, any other person more eligible offered—any person in the profession—I think the Government without any injustice or want of courtesy could have communicated with any person. Mr. Owen was remarkably particular that I should understand that he left the Government entirely free, unless they heard further from him.

35. Was there any communication in any way between that and Wednesday night? None whatever; in fact, I was surprised when I heard in the House an allusion to it. I was talking to somebody else at the time, and I did not catch Mr. Owen's name. When I heard at the time of the division from some around me that "Mr. Owen ought to answer that," I was under the impression that his name had not been mentioned, that there was nothing he ought to allude to; that impression was so strong that I went to the Speaker, and said, "May I ask, did you hear Mr. Owen's name mentioned," and he nodded assent, and then, or subsequently—for there was a little pressure in my friends around—I put the question, "Is it put in that shape that he is bound to answer?" The Speaker said, "It is in the hands of the honorable gentleman himself." I took my seat again, and Mr. Faucett, I think, gave notice of motion, but I did not even hear that, but either Mr. Robertson or Mr. Dalley pressed me again, and said, "You hear that notice of motion by Mr. Faucett; had not Mr. Owen better answer it at once?" I said, "The Speaker says it entirely rests with himself." I think that was all that passed in the House.

36. Had you been aware that it was generally understood in the House before the meeting of that day that Mr. Owen was to be the new District Judge? I was not aware of it; I had been much engaged during the day, and I had not heard it.

37. On the following morning you wrote to Mr. Owen formally? I did.

38. Did you see Mr. Owen on the following day? Yes; I sent for him to the Australian Club, and handed him a note, which he took away with him, but he did not even then say he accepted it. I alluded to what had taken place the previous night, and said the offer had better be made, and I now made him the offer. He took the note away, and said, "I will send you an answer." I expected the answer during the day, but did not get it. My impression, when I went up to the House was, that there was even then an uncertainty whether Mr. Owen would take the appointment, and it was under that impression I put the question either to the Speaker or to Mr. O'Connor whether he had received Mr. Owen's resignation, for he seemed to have an impression that if he did accept it he might make some stipulation with regard to the duties; he thought the duties would be excessive, unless the district were reduced.

39. Had you any reason to doubt after the interview with Mr. Owen on Tuesday that he would have declined it? I should not have been surprised if he had; it was much the same conversation as I had had with Mr. Stephen, who did not express anything more than doubts when he left me, but afterwards sent me a note declining.

40. Had you, in fact, any doubt that Mr. Owen would accept the office after your interview of Tuesday? There was no certainty.

41. Had you any doubt? Wherever there is no certainty there must be doubt.

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42. In point of fact, did you think of offering it to anyone else? I did not; for really at the moment I had not thought any one more eligible.
43. If the matter had not been questioned in the House, I understood from you before that you would not have thought it necessary to press the closing of that negotiation, in consequence of what Mr. Hargrave had told you? No. I thought of leaving it over until Friday afternoon, when Government business was not on, or Saturday, when I should have had more time to think of this matter.
44. When did Mr. Hargrave tell you that the thing might lie over? I think on Wednesday, when it was under offer to Mr. Stephen. I think I must have put the question in reference to Mr. Stephen's hesitation.
45. That was on Saturday? No, it was the Friday previously.
46. Can you recollect whether this advice was given by Mr. Hargrave on Friday, or on any subsequent day? No; I think it must have been about Mr. Stephen; I do not think it had any reference to Mr. Owen, but I would not positively say. It was with reference to the various gentlemen declining the office.
47. Do you know that on the Friday Mr. Owen tendered his resignation to the Speaker? I am informed by the Speaker that he did not; that is a mistake. The conversation that took place between the Speaker and yourself had reference to my communication. The Speaker informed me of that after the debate. He had no communication with Mr. Owen: that had reference to my communication with the Speaker.
48. Did any one tender him the resignation of Mr. Owen? No person, I understood the Speaker, communicated with him except myself, and I, not having heard from Mr. Owen, had doubt whether Mr. Owen would accept the office. He went off to Wollongong, and I had nothing but the written note which I got when I went to my office the next morning.
49. On what day had you the last communication from Mr. Owen before he went to Wollongong? When I gave him the note.
50. That was on Thursday? I think it was; that will be seen from the note, which will be here presently.
51. This conversation which you had with the Speaker was before the 26th? It was on Friday afternoon, when the House either did not meet or broke up. I could not have written to Mr. Owen then, I think, till the Friday morning.
52. Will you be kind enough to repeat again what Mr. Owen said in the conversation you had on the Tuesday with reference to his duties in the House? There was no distinct reference to his duties in the House in any conversation I had with him; but when I saw him on Tuesday morning the subject was alluded to very slightly with reference to the position of a Member, and he almost declined entering into a conversation upon the matter, but simply wished to know the district, and whether, in the event of an offer being made to him and his entertaining it, any modification of the duty would be listened to.
53. How did you understand the "embarrassment" he alluded to at the time? He will perhaps be able to explain himself what his views were. He wished that he should not have a distinct offer at the time.
54. How did you understand the embarrassment he alluded to by a distinct offer? I understood Mr. Owen that there would be a delicacy if he were pledged to the Government, and continued voting after he had accepted the offer.
55. Was there any understanding how long the negotiation was to be kept open after that conversation? None whatever.
56. As I understand you, it would have been kept open if not for the proceedings on Wednesday night? Nothing was said to Mr. Owen with reference to that.
57. Is the note that you wrote on Thursday morning that you have sent for? No—his answer to that note.
58. Have you any copy of the note you wrote? No; I just wrote it and sent it off; it contained very few lines; Mr. Owen will produce it, no doubt.
59. Did you make known to any other Member of the Government that you had had any negotiation with Mr. Owen on the subject? I have no doubt that I did.
60. What communication did you make? I cannot bear in mind; our communication was very confidential and free. I had the matter for some days before me, in fact I took the almanac and went through the list of the Bar and of Attorneys, and put several names down.
61. What I want to know is what was the precise nature of the communication that you made to the other Members of the Government after seeing Mr. Owen on Tuesday? I do not think I mentioned the matter—at least I have no recollection of having mentioned the matter. (*The messenger entered with a note, which was handed to the witness, who read the same as follows*):—

" Australian Club,

" 25 February, 1859.

" My dear Mr. Cowper,

" In reply to your letter of this date offering me the appointment of Judge of one of the District Courts, I have the honor to accept such appointment. I beg to thank you for the flattering terms in which your offer is conveyed.

" May I be permitted, however, on this occasion, to express my opinion that the Northern District, for which I am to sit, will be found impracticable, from its magnitude, for one Judge.

" For, while protracted journeys have to be made during, probably, months of absence in the interior, the business of the more peopled districts will have to stand over.

" Nevertheless, I will do my utmost, and a few months working of the system will test the arrangements as they now stand.

" I presume you will do me the favor of announcing to the House that my seat is now vacant, in order that my late constituents may choose a successor.

" I am, my dear Mr. Cowper,

" Yours very faithfully,

" ROBT. OWEN."

I did not get that till the next morning.

62. Then your letter to him was of the same date? Yes, it must have been; still I was under the impression that I wrote it the next morning; however, a day might have elapsed.
63. You have no distinct recollection of communicating to your colleagues that Mr. Owen was to be the new Judge? Certainly not that he was to be the new Judge.
64. In what terms did you communicate it? Simply that he was considered eligible to have the offer made to him, in which they concurred.
65. Did you state that you had had any communication with Mr. Owen? I do not remember that I did.
66. When did Mr. Hargrave know that Mr. Owen was to be his successor? My impression is, not until after he had taken the office.
67. Who had taken the office? Mr. Owen. I am not quite sure that I told him till the following Monday. If I got the note on Saturday I might have told him, but I am quite sure Mr. Lutwyche did not know it till Monday morning.
68. Was not Mr. Hargrave in the House on the Wednesday night? I do not know—I do not remember.
69. Did you authorize Mr. Hargrave or Mr. Dalley to communicate with Mr. Owen on the subject at all? Certainly not.
70. *By Mr. Piddington:* I think I understood you to say that you had consulted Mr. Hargrave with reference to his appointment to the office of Solicitor General on or about the 15th of February? Yes; I saw him on the Saturday previously.
71. Earlier than the 15th? Saturday the 12th, was the day of my first interview with Mr. Hargrave.
72. Did Mr. Hargrave express his readiness to accept the office of Solicitor General on Saturday the 12th? Mr. Hargrave said that if the Government offered him the office of Solicitor General that he would not object to resign the Judgeship, and I said, "I think you ought to consider well before you do that; the one is a permanent office, the other political, subject to the changes of Government." He said that would not be an objection. I said, "You must have some faith in the continuance of the Government." He said he had made a very good practice previous to accepting office, and he did not think his acceptance of office would be found to have damaged that practice. He had confidence in his own ability and reputation, and did not consider he was so dependent upon the office of Judge as to make it a matter of such consideration as in fact I thought it might be.
73. Then, in fact, you did make an offer of the Solicitor Generalship to Mr. Hargrave on the 12th February? Yes. On Monday afternoon, or Tuesday, I said, "I will not make you an offer to day, for I think the matter is one that ought not to be resolved upon hastily, and that you ought not to be pressed to make a decision so speedily, but as I have put the question to you I will send for you in a day or two."
74. May I ask what occasioned the interview on Saturday, for it appears from what you have stated that you dissuaded him from the acceptance of office? No; I was rather too glad that he would accept it.
75. But as a friend you thought it necessary to point out the danger he incurred? To put the contingencies as well as the advantages before him.
76. Did you afterwards apply to Mr. Walsh, of Goulburn, to ascertain whether he would accept the same office? No—the Judgeship. After the conversation on Monday or Tuesday morning—I think it must have been Monday—being satisfied that Mr. Hargrave had well considered what he was about to do, I wrote a note to Mr. Murray, who was over at the Australian Club, knowing that he took a great interest in Mr. Walsh, and, like myself, had a high opinion of his ability and standing as a lawyer, and having had some conversation with Mr. Walsh some months ago about District Courts, my impression was that he was likely to accept the offer of a Judgeship, and I felt at liberty to make him the offer in the first instance.
77. With respect to the office of Solicitor General, did you apply to any other gentleman with a view to obtain his assent to accept the office? No.
78. To none other besides Mr. Hargrave? No.
79. I think you stated that you wrote to Mr. Owen on Saturday, the 19th February, stating that you wished to confer with him with reference to the appointment of District Judge? Yes.
80. And, in consequence of that note written by you, Mr. Owen waited upon you on Tuesday, the 22nd? Yes; I think so.
81. And you then conversed with him with reference to the subject of accepting that office? Yes.
82. You stated that Mr. Owen made some objection with reference to the district? As to the extent of duty rather. When I said it was the Northern District, he said, if the offer should be made he would have something to say with respect to the extent of the duty.
83. Mr. Owen made an objection to an offer being made to him distinctly? Not "distinctly"; he objected to an offer being made of the appointment, and left it open, not considering that any offer had been made.
84. He objected to an offer being made on Tuesday? He objected to its being considered as an offer.
85. He did object? He did no more than any other Member of the Assembly would have done under the circumstances.
86. Did he or did he not object? I do not know in what sense the word "object" is used.
87. Did he express any dissatisfaction that you should have made the offer of the District Judgeship on Tuesday? In the conversation that took place I at once stated that I should not make him a definite offer of the appointment, and when he left the room he made the matter as clear as possible in the distinct way I have given in my evidence.
88. Did he state any reason why a distinct offer should not be made? In the way I have stated.

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89. Did he not say a distinct offer should not be given him because it might embarrass him in his votes? I would not say that he said "embarrass." I would not tie myself to use the particular word he used.

90. *By Mr. Forster*: "Delicacy"? Yes.

91. *By Mr. Piddington*: Did you coincide in the opinion expressed by Mr. Owen, that he might be embarrassed, or placed in a delicate position? I felt that, if an offer were made to Mr. Owen, and he distinctly accepted it, his seat would be vacant, and I did not think it right to place him in that position without allowing him to have time to consider, any more than I thought it right to close with Mr. Hargrave.

92. Mr. Hargrave was not a Member of the House? The circumstances that actuated me in one case actuated me in the other.

93. Mr. Owen started the objection on the ground that it would embarrass him? I did not say that Mr. Owen started the objection. I will not say whether it came from Mr. Owen or from me first. My impression is, that whatever was said in the first instance came from myself.

94. Whether it came from yourself first or from Mr. Owen, the subject of embarrassment was started—you admit that? Yes.

95. Was that possible embarrassment the reason you did not make a distinct offer of the Judgeship to Mr. Owen on Tuesday? No.

96. It was not to evade any difficulty arising from that cause that you did not offer him the appointment on Tuesday? No, decidedly not.

97. You were aware of the embarrassment that might ensue if you did make him a distinct offer? I think a Member might have felt it his duty to abstain, in justice to his constituents, if an offer were made in this language,—“The Government offer you an appointment distinctly and positively in such a way that you must give an answer, yes or no”——

98. Do you think any possible embarrassment that might arise from such a distinct offer would vary from that which would be caused by a contingent offer such as you describe to have been made? I think an intimation that an offer might be made was in no way binding upon one party or the other.

99. Do you think such a contingent offer coming from a person in authority like the Colonial Secretary might possibly have an effect upon the vote of a Member? In my opinion it was not a matter of consideration to Mr. Owen whether he had——

100. I am not asking the question whether it would be likely to affect the vote of Mr. Owen? I think your question implies it.

101. I ask whether you think a contingent offer, such as you have stated was made, was one that might possibly affect the vote of a Member? I do not see that it need; and in Mr. Owen's case I am convinced that it had no weight whatever.

102. *By Mr. Hay*: Do you know the nature of the clause in the Constitution Act by which the seat of a Member is vacated? Yes.

103. At what particular stage do you consider the acceptance is complete, in view of the Act—when would the seat become void? Not until a distinct offer were made and accepted.

104. On what authority do you suppose such an offer should be made, the acceptance of which *ipso facto* would vacate the seat—on the authority of yourself, for instance, in the present case, or on the authority of the Executive Council? I think as soon as a distinct offer were made by the Minister authorised to offer it, the Member would act wisely in not voting; but in law I believe the distinct acceptance is necessary.

105. But the distinct acceptance of an offer made by anyone generally supposed to be authorised to make such an offer—for instance, of yourself? Yes.

106. You do not hold that it requires the offer to be made under the immediate authority of the Executive Council? Certainly not.

107. In this case I presume the offer was not made under the immediate authority of the Executive Council? It was not—not collectively.

108. May I ask when they met and authorised the appointment of Mr. Owen? On the following Monday—Monday, the 28th.

109. Was there any further notification made to Mr. Owen in consequence of that? I do not know what the course is; the usual course was followed? Mr. Owen was gazetted the following day—he was away at Wollongong.

110. Was it likely the Executive Council communicated with Mr. Owen? I think not; I think it would go to the Crown Law Officers, although of late most of the matters connected with the administration of justice passes through me.

111. But, as far as the acceptance of office is concerned, you do not think anything was dependent upon the formal appointment by the Executive Council? No. I had mentioned the matter to the Governor General, as I find by a note which I received from His Excellency on the 26th.

112. Then in reality you believe that the virtual appointment which was implied in the offer by the Secretary, and the acceptance of that offer by the gentleman to whom it was made, is sufficient to produce all the effects of that law? Yes, I think so.

113. *By Mr. Forster*: In using these words, which I think I have taken down correctly—you will perhaps correct me if I am wrong—"There would be delicacy if Mr. Owen were pledged to the Government to accept the office and continue voting"—do you mean that if an Honorable Member could get over the delicacy—which is not a very distinct word—that his pledge to accept the office would not be an acceptance of it? I do not know what gentlemen might construe as a pledge to accept an office; but there was no pledge in this case to accept an office.

114. What is the difference between being pledged to accept an office and accepting it? I know no great difference.

115. In that case the pledge to accept must morally have all the effect of a legal acceptance? Yes.

116. In this case Mr. Owen, you say, did not consider this as an acceptance at all, neither then were the Government bound by the offer? No.
117. They were at liberty to offer it the next moment to anyone? Yes.
118. You seem to draw a distinction between a distinct and a contingent offer—can you explain the difference between the two? If you desire to have the opinion of a person upon a question, and do not wish that he should decide summarily, I think the course is to propose the matter contingently for his consideration.
119. A contingent offer then means that a person is asked whether he will accept an offer if an offer should be made? Yes.
120. But a distinct offer is one which requires yes or no? Yes.
121. Is it the practice of Government always to precede a distinct by a contingent offer? In important matters I think it is not uncommon.
122. Has it ever been done in regard to appointments to the magistracy? I do not know that I ever communicated with any person in reference to an appointment to the magistracy.
123. In reference to important matters it is generally done? Not uncommonly.
124. Would it not lead to less misunderstanding, and prevent the difficulty that seems to have occurred in this matter, if offers were made distinctly—yes or no? I do not admit that any difficulties have occurred in this matter. It appears to me the natural course of events.
125. If a contingent offer were made of an important office, and the person declined to answer the contingent offer till a distinct offer were made, would the Government think it necessary that the first should be answered before the second were made? Yes. With regard to such offers, the Government do not care to have them refused.
126. If the object were to put the best men into the office, and the party applied to did not care to answer a contingent offer, might not a good, and perhaps independent man, be lost to the public? I think the gentleman would say at once, under such circumstances, "If you will make an offer, I will say yes or no at once."
127. Does it not put the party asked in a somewhat unfair position to obtain from him the acceptance of an office to which after all he may not be appointed? I do not admit that it was a pledge to accept an office.
128. I am not alluding to this particular case, but speaking generally? In that case there appears to be no pledge from the individual.
129. Would he not be bound morally if he answered a note of that kind by saying he would accept the office? Those who are familiar with these matters will know that that is not the course taken.
130. You mentioned that Mr. Walsh had declined taking the office of Judge of the District Court? Yes.
131. Did he give any reasons for his rejection of the offer? No public reasons.
132. *By Mr. Fauvelt:* Do I understand by a contingent offer an offer on the part of the Government by which the Government will not be committed? A contingent offer is a proposal; in fact you can hardly call it an offer if it is contingent.
133. Is it an offer by which the Government does not wish to commit itself, supposing the other party should choose to accept? It is rather a conversation precedent to an offer.
134. In fact it is merely sounding? Well, no doubt.
135. Had you agreed with any other Member of the Executive Council to write to Mr. Owen on the subject before you wrote the first letter? What I did, I did no doubt with the concurrence of my colleagues; but in a matter of this kind a Minister who has charge of a particular branch does some times undertake the responsibility, and it is quite possible I might have done so in this case—I was sure my colleagues would concur.
136. Suppose Mr. Owen, when he received your first letter, had written back to you saying he accepted the offer, would you then have considered that a sufficient offer and acceptance? I do not understand. My first letter to Mr. Owen, at Wollongong, contained no offer.
137. If Mr. Owen had written back stating, "I am willing to accept the District Judgeship now vacant," would you have considered yourself bound by his acceptance? I should have been rather surprised, from what I remember of my note, to have received such an answer. I hardly think he could have written it; I should have thought he bit very freely.
138. If Mr. Owen were not at liberty then to accept, why was it necessary for him to say "I hope I shall not be considered as bound"? That was the following Tuesday.
139. If there had been no offer up to that time, why should he have stated that? You are alluding to my note at Wollongong?
140. No; I am referring to his calling upon you afterwards. If he had accepted then, was there a sufficient offer made to him before he left you—was there a sufficient offer for him to have accepted? No, there was not.
141. Then why did he seem to feel it necessary to say that it should be considered there was no distinct offer? I have already said I did not desire to be understood as quoting Mr. Owen.
142. The offer to Mr. Walsh was, I suppose, unconditional? Yes.
143. *By the Chairman:* If Mr. Owen had not made that provision specially that it should be considered there was no offer, would you conceive yourself bound, in moral propriety at least, as between gentleman and gentleman, to keep the office open for Mr. Owen, without offering it to anyone else? No, certainly not. The words fell from Mr. Owen almost simultaneously with my own. The room was full. I had kept him waiting for some time. I was about to say something when I entered hurriedly, when Mr. Owen at once stated that he should not like an offer to be made to him which he would be called upon at once to decide. I think it natural that one should not be required to say yes or no at once, in such a case.
144. Was there any reason assigned as to inconvenience with respect to votes in the House? No. Votes in the House were not alluded to; it was the inconvenience of his position.
145. Is it usual when the officer at the head of a department offers an appointment, and it is accepted

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accepted, to put it in the *Gazette* at once, without the confirmation of the Executive Council being obtained? When once the matter is passed we do not wait for the confirmation. It is very often stated that "This appointment may go at once," and it is assented to. 146. Then, in fact, there was no confirmation by reading the Minutes—the appointment was made on Monday, and gazetted on the following day? Yes; that is not unfrequently done.

D. H. Denichy, Esq., M.P., examined:—

D. H.
Denichy,
Esq., M.P.
9 Mar., 1869.

1. *By the Chairman*: You are Member for Argyle? I am.
2. When did you first hear that Mr. Owen was to be the District Judge to succeed Mr. Hargrave? The first rumour I heard of it was upon the afternoon of the day upon which the vote in question was given.
3. The 23rd? Yes.
4. How did you first hear it? I think I first heard it in the House—I heard it from several persons, among others, I think, from Mr. Egan, the Member for Maneroo.
5. I believe you had some communication with Mr. Owen himself? Yes. In the course of the afternoon—I should say between five and six, to the best of my recollection—I met Mr. Owen, crossing the House from the right to the left. I asked Mr. Owen, with whom I am proud to say I have always been on terms of the strictest intimacy, if it was true. I said I hoped it was, that I might congratulate him. I then understood Mr. Owen to say he had been offered the office, but had not accepted it. I am not sure whether he said he had not *yet* accepted it, but I think it was that he had not accepted it. The impression left on my mind, from the conversation that *did* take place, was clearly that an offer of a Judgeship had been made to Mr. Owen.
6. Did you congratulate him? Some conversation took place about it, the particulars of which I do not recollect. One of the reasons Mr. Owen gave for his non-acceptance was the trouble it would put his constituents to at the close of the sessions, which struck me as a very natural remark, and the conversation dropped.
7. How long did this conversation take place before the division upon which he was questioned as to whether the place had been offered to him? I should say several hours—four or five hours. This was rather early in the afternoon. I think it was growing dark when the conversation took place, and it was not until a rather late hour in the evening, I think, when the division took place.
8. Was it not a matter of general report in the House that he was to be the new District Judge? General report. I then saw Mr. Owen, I think, on the Friday following. He came to me in his usual friendly way, and said he had called in to say he had accepted the office. I then came up here, and there was no House.
9. Was there any further explanation? No. As I was hurrying away from my office to come here, to assist in making a House, I left Mr. Owen at my desk, writing a private letter. He was to have waited for me, but I delayed too long, and when I returned he was gone.
10. Was that on Thursday or Friday? Friday; it was a private day, and I recollect Mr. Owen said he did not think there would be a House.

Richard Lewis Jenkins, Esq., M.P. examined:—

R. L. Jenkins,
Esq., M.P.
9 Mar., 1869.

1. *By the Chairman*: You are Member for Liverpool Plains? For Liverpool Plains and Gwydir.
2. When did you first hear of Mr. Owen's appointment to the office of District Judge, or of the offer having been made to him? I cannot say exactly, but it must have been some three or four days previous to the 23rd February. Mr. Owen and myself have always been on intimate terms. I have had the pleasure of knowing him some seventeen years; and in a conversation I had with him at the Australian Club I understood that an offer had been made him, but that he was in doubt as to whether or not he should accept it.
3. Do you remember on what day that was? I do not; but it must have been some two or three days before the 23rd February. He made some inquiries of me respecting the state of the roads knowing that I was Member for the Northern Districts, and particularly dwelt upon the difficulty it would be for a Judge to extend his duties as far as Grafton as well as to Maitland. As the distance between those two places was so great he did not think he would be in a position to perform the duty. I understood from him that the office had been offered to him, but that he had not accepted it.
4. At that particular time? At that particular time.
5. I believe you were in the House on the night that he was questioned as to his vote—that was Wednesday, the 23rd? Yes.
6. Fixing that date—can you say on what day of the week this conversation took place? I am unable to say; but I should think it must have been some three or four days before.
7. It was in reference to his travelling about as District Judge in the Northern District; he spoke about the state of the roads, and the difficulty of getting to Grafton and other places? Yes.
8. Had you any doubt in your mind from that conversation that he would accept the office? He himself expressed a doubt, but I rather encouraged him to accept it, and certainly did not feel any doubt in my own mind that he would accept it.
9. Did he assign any reason for his hesitation? The difficulty that would attend the performance of his duties.

10. Was that the only conversation you had with him? Subsequently—I think it was on the Friday after—he told me he had accepted the appointment. I think it was the Friday morning afterwards. R. L. Jenkins,
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11. You had no conversation with him between this particular time of which you have spoken and Friday? No, I think not. I promised to give him some account as to distances on the road.
12. Did you do so? No; I have not done so.
13. *By Mr. Faucett:* You are sure the first conversation was before the vote? Yes.
14. *By the Chairman:* Could it have been on the Tuesday—the day before—or was it earlier than that, because we are informed that Mr. Owen was in Wollongong on Saturday, and came up on Monday or Tuesday? I know it was some time before.
15. *By Mr. Faucett:* Are you positive it was before the vote—before the day of the vote? Yes, I am positive it was. for I felt rather surprised at Mr. Owen's answer that no offer had been made him.
16. *By the Chairman:* Had you any doubt on the day before he stated that no offer had been made him that he was to be the District Judge—did you not hear it generally spoken of? It was generally rumoured—he was the person pointed at as the successor of Mr. Hargrave.

THURSDAY, 10 MARCH, 1859.

Present:—

MR. FAUCETT,
MR. FLOOD,
MR. HAY,

MR. JONES,
MR. PIDDINGTON,
MR. PLUNKETT.

J. H. PLUNKETT, Esq., Q. C., IN THE CHAIR.

Robert Owen, Esq., District Judge for the Northern District, called in and examined:—

1. *By the Chairman:* You were lately Member of the Assembly for East Camden? Yes. Robert Owen,
Esq.
10 Mar., 1859.
2. How long did you sit for that place? From the commencement of the Session before this—from March, I think, 1858.
3. Since the last general election? Yes.
4. Do you recollect, on Wednesday the 23rd February, certain Resolutions respecting new arrangements of the Ministerial Departments being proposed by the Colonial Secretary? Yes, I know it was on Wednesday; I do not recollect the date.
5. There were some divisions on amendments to those Resolutions, in which you voted? Yes.
6. And then the original question was put? Yes.
7. I believe you were one of the tellers? I was.
8. You and Mr. Dalley were tellers on the side of the Ayes? Yes.
9. Do you remember a Member of the House questioning you about the office of District Judge? I recollect you, Sir, stating that there had been a report that I had accepted the office of District Judge, and you on that account challenged the vote, or words to that effect. You asked if an offer had been made, or if it had been accepted.
10. You made no reply? I will explain what took place. As I see it mentioned in the papers—
11. You were silent then? I will tell you what took place. I was standing with Mr. Dalley at the moment—and as I see some incorrect statements in the papers, either from misapprehension or want of proper care—I was standing with Mr. Dalley near the Speaker's room, and your words came very suddenly upon me, and caused some surprise. I was about to answer, thinking it applied to me, but Mr. Dalley said he did not think it was a proper time to say anything upon that; therefore I held my peace for a minute or two. I do not recollect asking the Speaker, but probably I did, as the Speaker seems to think I asked him if it was proper I should make any reply, or what I should do, and then retired to where I had been sitting before, to the back seat of the Ministerial side. I said I wished to answer that, but I did not hear my name mentioned. Putting my head down towards where Mr. Cowper was sitting, and somebody else whom I do not recollect, I said, "Was my name mentioned?"
12. Whom did you address? I was looking down to the two gentlemen before me, and addressed them—whether it was Mr. Byrnes, or not, I cannot say—
13. But Mr. Cowper was one? Yes. I leaned over to say I wished to reply to the question, but did not hear my name mentioned. Both gentlemen said, "Yes, your name was mentioned," and Mr. Dalley said, "I think your name was mentioned." While this was going on—which did not take up so much time as it has now in the description—Mr. Faucett got up, I believe, to give some notice of motion.
14. Notice of a question? Notice of a question I mean, and I then stated, as nearly as I can recollect, these words—most of the Members here were present, and perhaps will recollect whether they are correct—I said, "If the Honorable Member had waited a minute I was going to explain." But I think in his notice of motion he worded it that he would give notice of a question when the offer was made, and when accepted—I think that was Mr. Faucett's question, and my remark when I got up was that if he had waited a moment I was going to state that the offer had not been made, and, as a matter of course, not accepted. These were my words as near as possible, and I see from the newspaper report that the Speaker seems to recollect my words exactly as I have repeated them. I, perhaps, might be permitted to mention here, as there appears to have been something said that approached the ungenerous. It was reported to have been said "That I leaned towards Mr. Cowper; but that nobody,

Robert Owen, Esq. "of course, could know what passed between us—that it might be to ask him what to say."

I say that such an insinuation is unjust, ungenerous, and untrue; I never put any such question.
15. You merely leaned down to speak to Mr. Cowper and Mr. Byrnes? Yes; to inquire whether my name had been mentioned; that was all I asked.

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16. When did you receive any communication with respect to the District Judgeship that you now hold? I had been at my house in Illawarra, I think, for upwards of a week, and I think it was on a Friday—but the postmark will shew—I received a note. From some cause or other, either the delay of the steamer or some other cause, the post was in very late; it did not come in till the afternoon or evening. I was standing on the wharf when my servant man brought me the letter which I hand in to the Committee. (*The Chairman read the same as follows*):—

["Confidential."]

18 February, 1859.

"My dear Sir,

"Are you likely to be in Sydney soon? if not, may I inquire whether you would feel disposed to accept an appointment as District Court Judge, if the offer were made to you?"

"Pray see me soon, or give me a speedy reply.

"Yours faithfully,

"CHARLES COWPER."

I may be permitted to say that I received a letter from the Committee requesting me to produce papers this morning only, but I went down on Monday purposely to get the two letters I produce, which are all I have. I find it was on Saturday I received this—in the evening.

17. On receiving that letter what course did you take? The post down to Sydney leaves on Sunday morning, and by it I wrote a hasty note, of which I have not a copy; indeed, I put it off, thinking I would not write at all, but as my arrangements were to go up in the morning, I wrote to say I would be up in the evening, and would see him.

18. To whom did you write? To Mr. Cowper.

19. You do not recollect the terms of your note? No, I do not recollect. The matter was perfectly new to me. I never heard, nor expected, nor wished for such a matter, but it happened so that my two sons were at home with me; the eldest one has been conducting my professional business jointly with myself for some time, and I had determined about the first week of March to retire entirely from business. When I got this letter from Mr. Cowper I, very naturally, having no one else to shew it to, shewed it to my sons, and at the same time expressed my disinclination to have any such appointment. I was not at that period of life, nor was my position as regarded fortune, or otherwise, such as to induce me to accept the offer if made. They rather suggested that I should accept it, if offered, and said that as I should have nothing to do from this month it would be employment for my mind, and that at any rate it was worth while to ask the particulars about it; that was exactly as it stood with myself and family.

20. This occurred on Saturday? On the Saturday evening.

21. Could you give any notion of the terms of the letter you wrote on Sunday? As near as I can I will do so; it was very hastily written and, not having a copy, my recollection is imperfect; but it was to this effect: I stated that I should be up on Monday evening; that I required to know about the district, being perfectly ignorant of the matter, for I am very little acquainted with the interior localities.

22. Did you state this in your letter? Yes, I think so. "I will see you on Tuesday, and you will inform me about the matter—about the circuits, or whatever they are." I had really paid no attention to the subject. I think that was as near as possible the substance of the letter.

23. Then your family, I collect, strongly advised you to accept the offer? No, they did not strongly advise, not at all. My eldest, just in the words I have mentioned, said, "Father, you will not know what to do with yourself, and it will just be as well for you to see what the nature of the matter is, and not reject it too hastily." The inclination foremost in my mind from that moment to the present was to have nothing to do with it, as I feel it to be impossible to perform the duties satisfactorily.

24. Did you come up on Monday? On Monday night, very late.

25. Did you see Mr. Cowper on the following day? In the morning I went to his office.

26. Be kind enough to state, as accurately as you can, what occurred? As nearly as I can. He was very much engaged he said about the Customs, and I waited some time. When I went in I said, "I got your letter about this matter, and now I want you to tell me what circuit it is, and about the country. I can say nothing about the matter until you tell me." He said, "If you look to the *Gazette* you will see that it is the Northern Circuit, which Mr. Hargrave has vacated." This was the first I knew of the circuit, for I had not been looking at the papers or at the *Gazette* at all. I knew that Mr. Hargrave had accepted the Solicitor Generalship, but I declare, upon my honor, that I did not know what his circuit was. I knew Mr. Cary had Illawarra, and I thought Mr. Cheeke had Sydney, but the other was a *tabula rasa*.

27. I suppose you knew that Mr. Hargrave had vacated his office by the acceptance of the Solicitor Generalship? Yes, I knew he had; but you will observe that the note says nothing of his district, and it was not until Mr. Cowper said it was the Northern District I was aware of the fact. Mr. Cowper—half laughing when I asked him "How far does it extend"—said, "It is rather large; it goes down to Port Macquarie, and then to Grafton, besides other places." I said "That is most appalling—it is impossible—I could not accept such a thing." "Well," he said, "The Government are not in a position to make the offer at present—or some such words—and therefore, you can make any inquiries you please about it." I said "I was extremely glad that was the case," and I requested that the Government would keep the matter perfectly open, and to present the office to any one they liked,

liked, for I thought it was a thing I could not undertake. He said, "You will have an opportunity of inquiring, but we are not in a position at present to make the offer." I said, "Very well, I am glad it is so, for I could not accept it."

28. Did he state what the difficulty was? No, he did not. I surmised two or three things, but my surmises can go for very little, I presume. He said this in addition, "You are quite aware that if the Government make you this offer, and you accept it, that your seat is vacated." I said, "I am perfectly aware of that." He said, therefore, they could do nothing, would make no offer at present, do anything, or wish me to do anything that would embarrass or interfere with my right of voting for my constituents, and then I added—feeling more than indifferent about the matter—that I was glad he had put me in that position, for the Government were perfectly at liberty to give the appointment to whom they thought proper. I think with these words I came out.

29. These are all the words that took place between you; he assigned no other reason for not making a distinct offer? None, except what I have stated.

30. He did not say why the Government were not in a position to make the offer? No, he did not. I, if you choose to accept it, will give you my surmise, but it can go for little value. I think it would be scarcely right to the Government or to myself, but I will state most distinctly and unequivocally that I at that moment left Mr. Cowper's room entirely disengaged from an offer, or from an acceptance, either directly or indirectly. As the thing was startling and new to me, that from the humble position in which I had been moving it should be contemplated to raise me to the position of a Judge I felt some curiosity to inquire about the locality, and I went to search for the *Gazette*, to see what places were to be visited, and I found a most fearful list of places.

31. After the receipt of this letter on the 18th, and this conversation with Mr. Cowper on Tuesday the 22nd, would you have thought Mr. Cowper justified in offering the appointment to anyone else, without communicating with you? I think he would have been quite justified; whether it would have been quite courteous to me is another matter. My language was so decisive and strong that he would have been justified; and my opinion about the matter has never altered to this moment. Although I have accepted the office I feel more than indifferent about it. I placed in the hands of the Government the entire freedom to do what they pleased, and I declare on my honor that was the inmost thought of my mind.

32. *By Mr. Piddington*: During the interview, did you express any opinion as to the delicate position you would be placed in if you received a direct offer—your delicate position in the House with reference to your voting? In fact it never crossed my mind about my vote being in the least interfered with. I felt a perfect right to act for my constituents, particularly on that question, as being in the direction of the policy I have always adhered to in my votes.

33. I understood you to say that Mr. Cowper intimated to you that you might be embarrassed—? He stated it as a principle of Parliamentary law. He said, "When once the Government make you an offer and you accept it, your vote is no longer to be given?" I said I was perfectly aware of that.

34. Did Mr. Cowper state that his knowledge of constitutional law on that point was the reason he did not make you a distinct offer? Nothing of the kind.

35. He did not state that? No.

36. *By the Chairman*: Have you any doubt that the reason a direct offer was not made at the time was, that if that were done the Parliamentary law would prevent you from voting? I have given you the words.

37. What is the impression upon your mind? The impression upon my mind was, that the Government had yet something in the background as to other parties—that was one reason.

38. *By Mr. Jones*: That was one of your surmises? Yes.

39. *By the Chairman*: Had you such an opinion of Mr. Cowper as that he would after writing you such a letter as this—bringing you up from Wollongong—after the interview you have told us of—that he would act so discourteously to you, to say the least, as to make the offer to other parties? No, I did not think he would behave discourteously; but I did not know how far it had been offered, for I had heard that others had been named. I heard, either before or since, that others had been offered the appointment; Mr. Faucett, I heard, had been offered it. I knew nothing about the truth of it. Mr. Cowper's letter did not bring me up from Wollongong. I had arranged to come up quite irrespective of it.

40. How could you imagine that Mr. Cowper could be negotiating in this way with you and still have other parties behind the scenes who might get the place? I cannot tell. Undoubtedly he said they were not in a position to make the offer to me at that moment.

41. And then he spoke of Parliamentary law, and stated that you would vacate your seat? He said it was the law of Parliament, as I have described. But I wish particularly to state my resolution about the matter. I had determined not to accept such a thing without I could make myself quite clear that I could do such duties with justice to the country. Whatever Mr. Cowper might think about it, I had my own opinion independently.

42. What means did you take to get the information you required? I will tell you. In the course of the morning I went to the file of Gazettes at the Club —

43. Tuesday morning? Yes.

44. *By Mr. Jones*: After you had seen Mr. Cowper? Yes; and not recollecting anything of the dates, I searched from the present time as far as the file went, which turned out to be only to the 31st December. After considering awhile where near at hand I could see the *Gazette* I thought there would be a file at Mr. Robertson's office. I therefore went to Mr. Fitzpatrick's room, asked him if he had a file, and whether he knew where to put his finger upon the proclamation. He sent out for the clerk to get the file, and I think while he was away for a minute or two, I said to Mr. Fitzpatrick—"Probably, from your confidential and official position with the Government, you may have heard that my name has been mentioned with regard to the office of one of the Judges of the District Courts?" He smiled, and said something rather indistinctly, which I understood to mean something like assent—

that

Esq. Owen, that was the impression upon my mind. I said I wanted the proclamation, to see about the nature of the country; that I had a sort of general notion that it was perfectly impracticable. If an offer were made me — no, I do not think I said anything about if an offer were made me; all I said, I think, was, that he might have heard it in his official capacity that my name had been mentioned.

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45. *By the Chairman:* Did he say anything to that, whether he had or not? He said something so indistinctly that I could not hear what he said.

46. *By Mr. Jones:* But you understood him to say something that seemed to imply assent? Yes. By that time the clerk came in, and with his assistance I turned to the passage, and found the proclamation; I then sat down and took a pencil copy of it, and as I was coming away I said, "I do not wish this matter to be mentioned at all, as it is not a matter of my own; I take it for granted you will not give it publicity."

47. *By Mr. Flood:* Why did you speak to Mr. Fitzpatrick about it, if you did not desire it to obtain publicity? I thought from his official situation it would be as safe as if in my own breast. He added when I said that, "Oh! you need not mention that at all; whatever takes place in this office comes in at one ear and goes out at the other."

48. Was it necessary to speak to Mr. Fitzpatrick about the matter at all—was he in any way connected with it? Probably now, as it turns out, he is very likely the source of all the reporting and absurd talk there is about the matter; he is very likely the party who may have named it, which I think was not acting properly in his official capacity as Secretary in one of the Government Offices.

49. *By the Chairman:* As far as I am concerned, I think it due to Mr. Fitzpatrick to say, that I never heard his name mentioned, directly or indirectly, and, from my knowledge of Mr. Fitzpatrick for so many years, I think he is the last man in the Government service who would be guilty of acting in the way you suppose? I never mentioned it to any other human being, except to one gentleman of high honor, on whom I can fully rely.

50. *By Mr. Jones:* I presume you mentioned the subject to Mr. Fitzpatrick with the view of introducing your application for the *Gazette*? Yes.

51. *By Mr. Hay:* Had you any other reason than that you have mentioned to suppose that Mr. Fitzpatrick repeated what you had said? No. I had never mentioned it.

52. Did you not name it to any other person? Yes; to one other person, for whose confidence and honorable feeling I would pledge my life.

53. *By Mr. Flood:* You are quite certain you did not mention the subject to any other person? To no other person.

54. Have you any objection to give the name of the other person to whom you have referred? The difficulty is that I have not had an opportunity of asking his consent. Unless some Member of the Government mentioned it, I am sure no other person could know it. I mentioned it to Mr. Fitzpatrick in these terms—I hope they have been correctly taken down—"From your position here as Secretary of one of the Government Offices—from your high position—you may know that my name has been mentioned, and that is the reason I want to look at the *Gazette*."

55. Who is the other gentleman you mentioned it to? Mr. Dalley.

56. *By the Chairman:* Had you any conversation with Mr. Jenkins upon the subject? No conversation, except that there were about a score of others who were coming to me, certainly very offensively, to congratulate me.

57. Where did you proceed after you left Mr. Fitzpatrick's office? I then took the opportunity after I had got the names to look at a map hanging up in our Club Room, to ascertain the distances as well as I could, and saw the fearful duties involved in this office; I did nothing more—nothing more was said in any way, except that I think on Wednesday evening at the time this vote was mentioned, a number of Members came to me saying "I congratulate you," upon this, and "I congratulate you," upon that; and I pledge myself that in every case, although I could not sit down and explain to everybody what had taken place, I said nothing that night, but laughed the matter off, as any gentleman would who was congratulated upon a matter not in any way true. As to my being a Judge, or having been appointed a Judge, it was quite out of the question.

58. Did nothing occur from the time you left Mr. Fitzpatrick's office that rests particularly upon your memory until this time? Not until this evening.

59. When did you first mention it to Mr. Dalley? On Tuesday morning.

60. What passed between you and Mr. Dalley on Tuesday morning? I said that I thought such an office was not suitable to my age.

61. Was it before or after you saw Mr. Cowper? After I saw Mr. Cowper. I must mention that I have the pleasure to acknowledge a very strict intimacy with Mr. Dalley, and indeed I was very proud to consult him upon the matter. He was inclined to say that I should consider the matter if an offer were made; he knew perfectly well from me that there was no offer made. I told him there was no offer made—on the contrary.

62. Did you shew him the letter of the 18th? No; the latter was in the country.

63. How was it you told him no offer was made—what was the necessity for telling Mr. Dalley? In connection with my general consideration of the matter, I said there was no offer made, and therefore nothing binding between us in any way. I wished to speak to him about it, as I had many reasons for considering the matter, on account of my age and previous professional habits.

64. You gave your age as a reason to Mr. Dalley for hesitating? Yes.

65. Was Mr. Dalley aware of any negotiation with you on the part of the Government? I would rather you asked Mr. Dalley himself. I think it would be trenching upon a matter with which I have no right.

66. What passed between you and Mr. Dalley respecting this particular? I refer to Mr. Dalley. I think it is not an honorable point to be pressed upon, as it involves another. I do not know what communications he had with the Government.

67. *By Mr. Jones:* Are we to understand that you consulted Mr. Dalley confidentially as a friend? As a friend.

68. *By the Chairman*: All I want to know is whether you collected from Mr. Dalley on that occasion that he was aware any offer had been made to you? I will tell you one reason why I went to Mr. Dalley immediately. He and I had been on very intimate terms, and it occurred to me—so surprised was I at the offer—so surprised that my name, living retired as I had, never dreaming or thinking of taking any public appointment of that kind, should be mentioned—it occurred to me that from Mr. Dalley's previous connection with the Government my name might have been in some way suggested, by him. It was so completely a surprise —
69. Did you collect from that interview whether he was a stranger to the proposal being made to you or not? I could not collect that he knew Mr. Cowper had written to me, but thought it was rather with reference to something else.
70. Do you recollect what passed between you and Dr. Jenkins; because we had it from Dr. Jenkins yesterday that there was some conversation between you and him on the subject? Conversation! Dr. Jenkins, like every one else, was coming to me to congratulate me upon this appointment.
71. Where? I do not know.
72. *By Mr. Faucett*: Perhaps it was at the Club, when you were referring to the roads? Perhaps it was then; I do not know when that was. I had in my list the names of places where the Courts were to be held, Armidale—
73. *By Mr. Jones*: Tamworth, perhaps? Yes; I knew that Dr. Jenkins came from Tamworth, and I asked him what distance Tamworth was from Maitland, and some other questions, but there was nothing at that period. I do not think there was any report spread about at that time. There was no conversation as to any appointment, or anything of the kind.
74. *By the Chairman*: Did you not tell Dr. Jenkins that you had been offered a Judgeship? No.
75. Did you tell him the reason—? I positively deny that I told any human being, or anyone else.
76. *By Mr. Jones*: Except Mr. Fitzpatrick? No, not Mr. Fitzpatrick. I said my name had been mentioned, but I flatly deny that I ever mentioned to Dr. Jenkins, or Mr. Dalley, or anyone else, that an offer had been made. I could not have done it. Dr. Jenkins, like many other persons, came to offer their congratulations to me; that would be on Wednesday evening—
77. *By the Chairman*: Dr. Jenkins did not fix the day, but said two or three days before the day of the vote? I must give a complete and positive contradiction to Dr. Jenkins; it was never named. I carefully locked it up in my own breast. I merely asked him about Armidale.
78. *By Mr. Faucett*: You were cautious, in fact, in not mentioning it? Yes; I did not consider it a matter of my own. If a person mentions a thing confidentially to you it is not your own.
79. *By the Chairman*: You remember Dr. Jenkins congratulating you on that appointment? Yes, with twenty or thirty others.
80. At the Club? I had to meet it in every way I could: to some I said "Pooh! pooh!"; "nonsense," sometimes, "there is nothing in it at all"—these were the answers I gave.
81. Was this on Tuesday you are speaking of? No; I did not hear of it then.
82. I collected this from you, that after leaving Mr. Fitzpatrick's office, you went to your Club, where you had a map, that you sought out Tamworth upon it, and asked some questions of Dr. Jenkins, knowing that he was from Tamworth, in order to get some information about the roads; will you confine yourself to that occasion, and state, if you can, all that took place between Dr. Jenkins and yourself? We talked about the country and the roads.
83. Did you talk about Grafton, as being within the district? I think I was asking him what was the way to such and such a place.
84. Did he say anything about the District Courts or Judge? Nothing; he could not, for I had said nothing to a human being.
85. He might have spoken to you? He did not till the public bruit, when he with others came with open mouth to congratulate—
86. Did other persons congratulate you upon this appointment on Tuesday? I really cannot tell at this moment whether it was on Tuesday, but I can mention that the first person who came to me absolutely gave me a shock. I think the House was counted out, or there were not enough Members to form a House on Tuesday.
87. *By Mr. Jones*: There was no House on Tuesday? Whether it was then or on Wednesday evening I cannot say; but I was walking along Castlereagh-street; I saw two or three gentlemen standing at the door of the Victoria Club, and Mr. Gordon, who was one of them, said in a joking way, laughing, "Oh! this is to be our new Judge." I started back—I do not know whether I turned pale—and said, "There is nothing of the kind, Mr. Gordon." That was the first time I was spoken to respecting it. Whether it was on Tuesday evening or not I would not be positive. This was said in the presence of half-a-dozen gentlemen, and you may conceive how it would spread.
88. *By the Chairman*: When was it that Dr. Jenkins, with twenty or thirty other gentlemen, congratulated you? I think it must have been on Wednesday evening, in the Library.
89. *By Mr. Faucett*: On the evening of the vote? Yes.
90. *By the Chairman*: Was it before or after the proceedings of the House commenced? I dare say both before and after.
91. Both after and before the vote? Yes, very likely; but I beg to state most positively that in every case I denied the "soft impeachment."
92. Do you remember being congratulated by Mr. George Allen in the Refreshment Room? No, I have no recollection of that—that I ever spoke to him. I saw his name mentioned in

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the paper as having been summoned as a witness, and I have been endeavouring to recollect, but cannot call to memory. I am sure if you see him you will find that it was merely something in passing. I have no recollection of seeing him, but certainly if he did ask me anything I have no doubt that I did, in the same way, as to anyone who congratulated me, have denied it.

93. You are aware that Mr. Deniehy stated in the House that you told him some hours before this vote that you had been offered a place? I am quite sure Mr. Deniehy will not say so; and I repeat that I never said an offer had been made to me. (*The evidence of Mr. Deniehy, in answer to questions 5, 6, and 7, was read.*) With reference to Mr. Deniehy's evidence, the first part is to Mr. Deniehy's asking if it was true. I think I have some recollection of that, but I most positively deny that I said it had been offered—most positively. It was so clear upon my mind that there was no offer. No doubt the matter of the conversation among many Members has mixed itself up in Mr. Deniehy's mind. I am quite clear that I never could say what was untrue in my own mind. I never said anything of the kind.

94. Was there any communication between you and Mr. Cowper after Tuesday, when you left his office, as you have before stated, and Wednesday evening? Not a word.

95. Was there any understanding at all as to how long the negotiation was to be in abeyance? Never, in any way, directly or indirectly, was there any intimation at all.

96. He did not say that you should make up your mind within a certain time, or that the offer was to be kept open a certain time? No.

97. What was the next communication you had with Mr. Cowper on the subject? When the House broke up—I do know what time it was—on Thursday, I was going out of the gate within the precincts of the House, between the door and the gate; Mr. Cowper—who was at some little distance from me—said, "Owen, I wish you would see me to-morrow." I said, "Very well."

98. Did you see him? Yes, the next morning—Friday morning.

99. Had you any written communication, or did you see him personally? I had none but what I have told you—just in so many words.

100. Where did you see him? At his own office—the Colonial Secretary's Office.

101. Will you state what took place? He said that he had determined to make me an offer of the Judgeship. As far as I can recollect the course of the proceedings, I said, "My mind is very much against it; I do not think it is possible for any one gentleman to do the duties. I will not—I cannot undertake to be responsible for duties of so wide a description; but as you now propose to make an offer of the appointment, I will mention two conditions upon which alone I can accept it. One is, that if I try to do the duties, and—as I assuredly feel—fail, that the Government will undertake to apply to Parliament for the division of the district?" That is one condition I made—a pre-condition. The other was, that if I found, from circumstances connected with myself personally, and the district locally, that I did not like the district, and there were a vacancy, would he promise that I should have that vacancy.

102. *By Mr. Piddington:* A vacancy where? In another circuit.

103. A vacancy as Judge under the District Courts Act? Yes.

104. *By the Chairman:* Were these two conditions assented to? Mr. Cowper said, "The Government feel it will be impossible for one gentleman to do these duties, but they have had great reluctance to incur larger expenses, or to bring a larger estimate before Parliament; but I promise you if such is the case, and you make such a report, as far as the Government is concerned it shall be done." I said, "Write me a letter, and I will accept it upon these conditions."

105. *By Mr. Piddington:* Does the letter contain these conditions? I have not a copy of the letter I wrote to him.

106. My question was to elicit from you whether you expected that the two conditions precedent should be conveyed to you by Mr. Cowper in a letter, or whether you were satisfied with his verbal assurance? I was satisfied with his verbal assurance. My reply did not reach him till the evening, but in my mind I had accepted his offer. In my reply I mentioned the extent of the circuit, but it occurred to me that it would scarcely be proper to put the other condition in, therefore I omitted that as a matter of delicacy.

107. *By the Chairman:* How soon after that interview did you receive a communication from Mr. Cowper in writing? I said to Mr. Cowper, "You must make me the offer in writing," and he sat down and wrote this note, which I did not open for an hour afterwards. (*The witness handed in a note, which was read as follows:*—

"Sydney, 25 February, 1859.

"My Dear Sir,

"The office of District Court Judge in the Northern District has become vacant by the resignation of Mr. Hargrave, who has accepted the appointment of Solicitor General.

"Considering your standing as a Legal Practitioner, and your long experience in the Colonial Courts, the Government are of opinion that you would fill the office to the satisfaction of the public, provided you are willing to accept it. I beg, therefore, to offer it to you, and shall be obliged if you will communicate to me your decision as early as you can conveniently do so.

"I beg to remain, &c.,

"CHARLES COWPER."

"Robert Owen, Esq., M.P.

I will mention what I did upon that, in order to refute what I consider a very unfair statement in the papers and in the House. I mentioned the matter to Mr. Murray this morning, and he said he would take pains to correct it. I was sitting writing at one of the tables at the Club Room when Mr. Murray passed me, when I said, turning to him, that I had accepted the Judgeship; and the reason I had selected him to mention it to was, that he was kind enough on a previous day that Mr. Plunkett was going to mention the matter of the

vote

vote to the House. He and I have always been on very pleasant terms. That was the reason I took the earliest opportunity of mentioning it to him before I had sent any written answer; but I had made up my mind on the subject, and I considered that as much as twenty thousand writings. The reason I call the attention of the Committee to this, that I fear there is some misapprehension on the subject in the House; and in a leading article in the *Herald* upon the subject, it is said that I had "even acknowledged it to Mr. Murray on Friday," which I think is a very unfair imputation.

108. We have nothing to do with that? I did not acknowledge. I mentioned it to him.

109. *By Mr. Jones*: What are you said to have acknowledged? The implication is that I had been charged with it, when the fact is I mentioned it without any question having been put to me. I then went to Mr. Deniehy's office; he was unwell; he was not up, or at any rate I could not see him—that was between twelve and one o'clock. I called afterwards; it must have been at nearly the time of the meeting of the House. I called expressly to tell him, as we had been on terms of close intimacy, of what had occurred. Finding him in for the first time I said, "Deniehy, the offer of the Judgeship has been made this morning by Mr. Cowper to me, and I have accepted it." "Well, my dear fellow, I congratulate you," were his words. He was anxious to make a House, or at any rate he said, he might be required, in order to make a House, and I said, "Do not fail to do that for God's sake, but give me a little paper, I want to write a letter," and it was at his desk, at three o'clock or half-past three, that I wrote an answer to Mr. Cowper.

110. *By the Chairman*: Did Mr. Cowper ever after Tuesday explain to you why the Government were not in a position to make an offer to you before? No, he never said a word to me about it, and I never asked him.

111. Is it true that it is under your auspices that Mr. Hargrave has gone down to Illawarra? It is quite untrue.

112. When did you first know that he was to go down there to succeed you? The first I knew of it was—I do not know when I am sure—somebody told me that his address was in the paper. Somebody asked me about it. I really forget now how it was.

113. Before you left Sydney on Friday night did you know that Mr. Hargrave was to offer himself to your late constituents? No, I did not, but I spoke to Mr. Garrett, a leading man in these matters, and he said he thought Mr. Hargrave would very likely stand. I said, "I have nothing to do with it, directly or indirectly."

114. You had no communication with Mr. Hargrave yourself? None. I never spoke to him in my life till he was going down to Kiama. I was on the wharf very early in the morning, on Tuesday last, (at that time he was canvassing the county), when I saw about to embark for Kiama a gentleman whom I only knew to be Mr. Hargrave from having seen him sitting in the House once or twice. He came to me, and said "Good morning, Mr. Owen; I am going to Kiama"—that was the first time I spoke to him in my life.

115. Do you know there was a rumour on Friday that Mr. Hargrave was to go to Illawarra to offer himself to the constituency you lately represented? No, I did not know that; I had no one to communicate it to me.

116. I can state that there was such a rumour—how do you think such a rumour could have got abroad? I had most particularly avoided meddling in any such matters; several of my constituency had asked me, and I had said I would not recommend them one way or another.

117. You had no communication with any one about Mr. Hargrave going down? None; and at whose suggestion he went down I cannot tell: he is utterly unknown to me.

118. *By Mr. Jones*: Did Mr. Cowper say anything to you on the morning of Friday, when you and he were speaking about your acceptance of office, that Mr. Hargrave was likely to offer himself in your place? Not a single word, that I recollect. I may mention that I felt surprised that the offer was made on Friday.

119. *By the Chairman*: How long did you expect it would be kept in abeyance? I formed no opinion on the subject; the only thing that occurred to me was, that if any offer were made to me at all it would necessarily be before the Act was required to be carried into effect—that was a mere passing thought.

120. It came upon you by surprise, you say, on Friday? Yes, quite by surprise. On Thursday night Mr. Cowper asked me to call at his office on the following day; he did not say what he wanted.

121. How long did that interview last between you and Mr. Cowper? I am very short in my interviews with gentlemen in such positions—not more than five or six minutes.

122. If you were taken by surprise you did not take long to make up your mind? I had considered these two points on the previous afternoon, and had made up my mind that if the offer were made—if it were made at all—I would not accept it except on those two conditions.

123. *By Mr. Piddington*: The subject of Mr. Cowper's offer was alluded to by him in his letter of the 18th, in these words,—“Are you likely to be in Sydney soon? If not, may I inquire whether you would feel disposed to accept an appointment as District Court Judge?” Yes; that led to our interview on Tuesday.

124. How could you have been so much surprised at the offer being made after receiving this letter stating the intention of the Government to make you an offer, and after having had a personal interview with the Colonial Secretary upon the subject? For this reason, that it was clear to me that there was no offer made on Tuesday—that I had discharged the Government from all obligation; it therefore rather excited my surprise on Friday to receive a distinct offer.

125. *By Mr. Hay*: What were you surprised at? At the Government having made up their minds to do that on Friday which it appeared they had not made up their minds to do on Tuesday. I had had no communication from Mr. Cowper, either directly or indirectly.

126. *By Mr. Piddington*: I collect from your evidence, that on Tuesday Mr. Cowper said if he made you a distinct offer of an appointment then you would necessarily vacate your seat

Esq.

10 Mar., 1869.

Robert Owen, Esq.
10 Mar., 1859. 172. Is it not a natural inference from such a statement coming from the head of the Government under such circumstances? Yes; but the conversation had not reference to that proposition—the one was separate from the other. Mr. Cowper said the Government were not prepared to make the offer; and then, at some subsequent period—some words having intervened—he said this to me (as if I were a very tyro in parliamentary matters), “ Even if we were to make an offer, you could no longer sit.”

173. Notwithstanding that Mr. Cowper did not feel himself at liberty to make a distinct offer on Tuesday, he did make a distinct offer two days after? On Friday morning.

174. You have no idea what made so great a change in the feelings of the Government in two days? No; it merely crossed my mind that it might perhaps be done to relieve me from the unpleasant position in which I was placed with these reports spreading about the town, as I must go on to vote, feeling a full right to do so; and as these reports were spreading about, it placed me in a very invidious position. I thought that might possibly have hastened the matter, but I have no knowledge on the subject.

175. *By Mr. Hay:* You have mentioned that Mr. Cowper did make some remarks with regard to vacating your seat, and I think you said you did not originate any remarks of the sort yourself? I am sure I did not, for I was not thinking of the subject.

176. The remarks fell from Mr. Cowper and not from you? Not from me—most positively. I am clear that it never passed my mind about not voting. If it had, I should at once have consulted my honorable friend opposite (*Mr. Jones*), who has been always kind enough to give me advice.

177. I think you said although you were surprised by the offer made to you on Friday morning that you had no difficulty in giving an answer, because you had turned over the several points, and made your mind quite clear on the matter? Yes. I had abundance of indifference to the appointment, but I at last came to the conclusion that if the offer were made I would accept it on the footing I have mentioned.

178. Can you state to the Committee when you had made up your mind to that effect? I think it was in the course of Thursday afternoon.

179. You do not think you had come to a conclusion of that sort on Wednesday? Clearly not. I had not thought about the matter.

180. After your vote had been given you turned the matter over on Thursday, and on the succeeding day made up your mind that if Mr. Cowper should make you an offer and give you a satisfactory answer upon these two points you would accept the offer? Yes. I was surprised that he gave his assent to them; I hardly expected it.

181. At the time when you were making up your mind you did not expect the offer would be made? I have told you I had no communication with the Government, either directly or indirectly.

182. There is one thing which perhaps you would explain—I asked the question before, but I had some difficulty in understanding your reply—why you should be taken by surprise by the offer having been made you on Friday? I thought I answered the question. The only reason that occurs to me is this: There was a clear statement made on Tuesday that the Government were not then prepared to make an offer, and so soon after as Friday morning the offer was made. The circumstance that took place in the House in the meantime occurred, and it did occur to me that that might possibly have weighed with the Government.

183. How did you account for the extraordinary number of congratulations you received on Wednesday—how did you account for so many people seeming to know that there had been negotiations going on in reference to this appointment? I had no means of knowing, but if it were mentioned by one person, I knew that a hundred people would be likely to hear it in an hour. I do not wish to impute anything to Mr. Fitzpatrick, but I know of no other way in which it could have been known, if it were not mentioned by some person connected with a Government office.

184. You have said you had mentioned it to Mr. Dalley? Yes; but I am quite certain he did not mention it. I am quite sure it was as safe with him as if it were locked up in my own breast.

185. *By Mr. Flood:* Did you mention it to Mr. Dalley before you spoke of it to Mr. Fitzpatrick, or afterwards? I think before.

186. *By Mr. Hay:* Why do you think Mr. Fitzpatrick was more likely to speak of it than Mr. Dalley? Because I am on very different terms with the two gentlemen. Mr. Fitzpatrick is an acquaintance, Mr. Dalley is a friend; and if you knew Mr. Dalley as I do you would not suspect him.

187. You know that Mr. Fitzpatrick was for a long time clerk to the Executive Council? Yes.

188. Is not that an office which requires secrecy? No doubt.

189. In which the officer is sworn to secrecy? I did not swear him to secrecy.

190. Do you not think a habit of secrecy is likely to be formed in a man who is accustomed to keep secrets? Yes; I know that by myself.

191. It becomes easy with such persons to keep secrets? Quite easy. I do not wish to impeach Mr. Fitzpatrick, but I know of no other channel by which it could have become known.

192. Is there not a possibility of Mr. Dalley having mentioned it to his intimate friends? I do not think there is.

ADDENDUM.

*Australian Club,
Bent-street.*

Robert Owen,
Esq.

10 Mar., 1859.

Sir,

I have the honor to request the following may be appended to my evidence:—

Being suddenly referred to some communications with Dr. Jenkins, I did not clearly recollect for the moment the precise times they occurred. I can now state them correctly.

1st. On Tuesday, about noon (the day of my first interview with Mr. Cowper), being at the time referring to a map at the Club, I saw Dr. Jenkins in the room, whom I thought familiar with that part of the country. I asked him how far Tamworth was from Maitland, and what kind of roads for a poor traveller like myself. He informed me—asking was I ever likely to visit New England—if so, he would like to go with me. [I should mention Dr. Jenkins and I had been on very friendly terms.]

Nothing was said but the above—not the most distant allusion to any reason for visiting New England.

I had not any conversation whatever with Dr. Jenkins other than the above, till near one o'clock on Friday morning, (the day I was first offered the appointment); I then told him of it. He asked me to lunch with him on that day, and then sought amongst some papers for information which might be useful to me.

Any other impression on Dr. Jenkins' mind must be from other persons, and reports about.

2nd. With respect to my conversation with Mr. Deniehy, (with whom I am on the most confidential and intimate terms,) I am enabled to recollect, from various circumstances, that the conversation with him was while passing hastily in a crowd at the foot of the Table of the House during a division, each of us giving opposite votes.

He placed his arms affectionately around me, asking was it true that I had been appointed a District Judge? I answered no—that the matter had been mentioned to me. There was not one word said about an offer. I said, "Besides, I would not think of putting my constituents to any inconvenience." This was momentary; we were on such terms of entire friendship that had there been time it is probable I would have told him exactly how the matter stood.

3rd. In the report of my evidence there is some confusion in respect of my complaint on two matters.

In the report of the debate for the appointment of this Committee, Mr. Murray was reported to have said that he saw me turn to Mr. Cowper and speak to him, as if I was asking him what to say. I know not whether the report is correct, but being a most offensive and gratuitous suggestion, I could not help characterising it in severe terms, and which I think any gentleman would do possessed of any respect for himself.

The other point was an allusion to a leader in the *Herald*, stating I had acknowledged to Mr. Murray on the Friday that I had accepted the appointment; from wherever derived I considered this conveyed a most offensive imputation, and an erroneous one.

To question 159 and answer, I wish added at the end, "but that no offer had been made."

To question 158 and answer, I wish to be added, "I never said or implied that Mr. Allen would joke, sneer, or jeer, in asking a question. It appears the Honorable Chairman's suggestion—not mine, in any way."

I have, &c.,

ROBT. OWEN.

To the Honorable J. H. Plunkett, Esq.,
Chairman of Privilege Committee.

FRIDAY, 11 MARCH, 1859.

Present:—

MR. FLOOD,
MR. FORSTER,
MR. HAY,

MR. JONES,
MR. PIDDINGTON,
MR. PLUNKETT.

J. H. PLUNKETT, Esq., Q.C., IN THE CHAIR.

The Honorable George Allen, M.L.C., examined:—

1. *By the Chairman*: You are the Chairman of Committees in the Legislative Council? I am. The Hon. George Allen, M.L.C.
2. Do you know Mr. Owen, the Member for East Camden? I do.
3. Are you aware that he has been appointed one of the District Court Judges? I know it by report. I am not certain whether I have seen the *Gazette*, or whether he has been gazetted, but I know it by report. 11 Mar., 1859.
4. When did you first hear that he was to be appointed? I can only answer the question in this way:—I heard it on the day the debate took place in the Legislative Assembly about the new Ministers; it must have been on that day, from the circumstance that our House met on that day and did not meet on the next.
5. That was Wednesday, the 23rd? Upon reference to the papers I find it was Wednesday, but I do not know that it was Wednesday, except from that.
6. You fix the day you speak of by the vote respecting the new ministerial arrangements? By seeing from the newspapers, or by our papers, that we met on Wednesday, and not on Thursday.
7. Did you see that any question was put to Mr. Owen? I saw that there had been a dispute about his vote the day before. I heard as I passed through the Library of the Legislative Council that Mr. Owen either was appointed, or was to be appointed.

The Hon.
George Allen,
M.L.C.

11 Mar., 1859.

8. At what hour of the day did you hear it? That I could not tell; it must have been somewhere between the hours of half-past three and half-past four, because we go into the House about that time; it could not have been earlier than three or later than half-past four.
9. From whom did you first hear it? I do not recollect. I have no idea.
10. Did you happen to see Mr. Owen in the course of the evening? I did, in the Refreshment Room—when, I think, both Houses were in the Refreshment Room together—I saw him sitting at one of the tables.
11. What occurred on that occasion? I merely went up to him. I cannot say the words I used; but I congratulated him upon the circumstance of his being appointed one of the District Court Judges. I should observe that Mr. Owen is a very old friend of mine, and I was very glad he had got the appointment, and I went up, very naturally, and congratulated him upon it.
12. Did he say, or do anything? He said nothing.
13. Did he hear you distinctly? Yes; there could be no doubt of that.
14. Was there any one else present at the time who might have engaged his attention? There were other persons sitting at the refreshment table, but I cannot charge my memory with certainty who happened to be present; but I do not think it likely anyone there heard me, for I think, if I remember rightly, I whispered into his ear, but it was a matter I have thought so little of that I cannot say.
15. I understand that you have no doubt he heard your congratulation? Yes, no doubt. I was exceedingly pleased to hear he had got the appointment, or rather to believe he had got it, knowing him, as I have done, for nearly twenty years.
16. From his look or manner did you draw any inference? I would rather have nothing to do with inferences. I tell you the naked facts, and leave you to draw your own inferences.
17. A bow, or a nod of acquiescence or of dissent, you know may convey a great deal without speaking—did you observe anything of that kind? All I can tell you is simply what I have told you. I congratulated him, and he made no remark.
18. Did anything occur to lead you to suppose that your congratulation was premature? I did not imagine that he had got the appointment when I congratulated him, but I believed there was truth in the statement that he was to have it, and he did not gainsay it. He did not say anything, and I took it for granted that it was true.
19. *By Mr. Jones*: He did not say either that he was obliged to you, or that he was not obliged to you, for the congratulation? As far as my recollection goes, that was all that took place. I thought he was a very fit person for the office, and was very glad to find that he had got it, or that he was to have it.
20. *By Mr. Piddington*: Did you imagine from his manner that he was deprived of the power of speech? Certainly not.
21. Were you not surprised at his silence? No. What had he to talk about? I congratulated him, and I thought, according to the old adage, "Silence gave consent." At the time there was nothing to make me believe there was anything untrue in the report.
22. *By the Chairman*: Is it not usual on such occasions when one friend congratulates another to receive some acknowledgment, as "Thank you," or "It is premature"? I should have thought if it had been premature he would have told me so.
23. But in fact he said nothing? Nothing.
24. *By Mr. Jones*: Did he look anything? He looked pleased; certainly that was the impression upon my mind.
25. *By Mr. Piddington*: Did you ever congratulate any gentleman before upon a probable appointment? I cannot say whether I have or not, but I do not suppose I have lived nearly sixty years in the world without doing so.
26. You cannot recollect any particular instance? It is utterly impossible to say.
27. Have you any recollection of having received such treatment from any gentleman to whom you have offered such congratulation? I think I had no reason to complain.
28. Have you ever before been treated by a gentleman whom you have congratulated with this extraordinary silence? I can scarcely answer that.
29. It appears to me that you do not understand the bearing of the question—it appears to me that the extraordinary silence of Mr. Owen is rather unusual conduct on the part of a gentleman who is congratulated, and, from the fact of your having lived so long in the world, and the probability that you have congratulated other gentlemen upon other occasions, I wish to know whether you were ever treated in a similar way? There might have been reasons; there were a number of persons sitting around, and he could not have entered into any explanation.
30. Do you think it nothing unusual for a gentleman who is congratulated not to say a word? I suppose if I had received an appointment and you came to congratulate me, I should thank you for it; but I have no reason to complain of Mr. Owen.
31. *By Mr. Jones*: You do not think Mr. Owen acted in an ungentlemanly manner towards you? Not at all. I think Mr. Owen is incapable of acting in an ungentlemanly manner. He and I were brother Aldermen; I have known him for twenty years, and, from all I have known of him, I consider him incapable of acting in an ungentlemanly manner. The impression upon my mind when I heard this report was, that it was true; but it does not follow that Mr. Owen had the appointment.
32. *By the Chairman*: You heard the report between three and four o'clock? Between three and half-past four.
33. How long was it before you saw Mr. Owen? When the House retired for refreshment, between the hours of half-past six and half-past seven. I think the two Houses were out together; I am not sure of that—at all events I think our House was out for refreshment.
34. That is all you know about it? I do not think I have seen Mr. Owen since.

TUESDAY, 15 MARCH, 1859.

Present:—

Mr. FLOOD,	|	Mr. HAY,
Mr. FORSTER,	|	Mr. PIDDINGTON,
Mr. PLUNKETT.		

J. H. PLUNKETT, Esq., Q. C., IN THE CHAIR.

Michael Fitzpatrick, Esq., Under Secretary for Lands and Public Works, called in and examined:—

1. *By the Chairman:* What office do you hold? I am Under Secretary for Lands and Public Works. M. Fitzpatrick
Esq.
15 Mar., 1859.
2. Do you know Mr. Owen, the late Member for East Camden? I do.
3. Do you recollect seeing that gentleman on the 22nd February last at your office? I cannot fix the last time I saw Mr. Owen, with reference to the day of the week or of the month, but I saw him on the morning preceding the debate in the Legislative Assembly upon the departmental arrangements—on the morning of the same day.
4. I have issued a summons for you, in consequence of some evidence which the Committee have had from Mr. Owen, respecting the interview he had with you on that occasion. Have you had any communication with anybody respecting your interview with Mr. Owen before the debate or the division to which you refer that took place on the 23rd? I have not—most decidedly not.
5. Before I ask you what took place between you and Mr. Owen, I feel it to be my duty to ask whether you recollect Mr. Owen enjoining any secrecy upon you, with reference to what occurred between you? He did; and hence my decided recollection that I did not speak to anybody till after the debate, at which time I considered the necessity for secrecy and the confidence at an end.
6. Do you remember in what terms he spoke to you? I do; and perhaps the Committee will allow me to give my recollection of the whole of the circumstances, as they would then appear in a more connected shape than in any other way. On the forenoon of the day on which the debate took place Mr. Owen came into my room —
7. That was on Tuesday, the 22nd? I have not referred to any papers as to the date, but it was the morning of the day on which the debate took place—preceding the debate. He came into my office that day. He had frequently been there before upon public matters of one kind or other. I knew him personally. He asked me to give him access to the *Government Gazette*, that he might see the Proclamation of the District Courts, and I think he referred particularly to the Northern District. He wished to see the boundaries or the extent of the district. I gave him access to the *Gazette*, and he alluded, in a conversational way, to the extent of the district, as I recollect, and to the possibility or otherwise of one Judge performing the duties of so large a district. At this time I had heard not even a rumour that Mr. Owen was appointed, or that it was said that he was appointed. I knew nothing on that subject; I merely afforded him the official convenience he asked, and which I would have afforded to anyone else who had asked it. In the course of conversation, he introduced the subject himself of the rumour, or the allegation, that he was to be Judge of the Northern District Court; and I recollect most distinctly that he introduced it, not as a substantive matter of discussion between him and me, or as a thing he was confiding to me, but he introduced it by way of complaint. He complained that the night before that again, Mr. Gordon, the Honorable Member for Durham, in the presence of four or five people, standing at the gate of the Victoria Club, to use his own expression, “blurted out,” that he was to be Judge of the Northern District Court—that was the first I heard of that subject; that is to say, the complaint that this matter had been already “blurted out” to four or five persons in the streets. He used, or purported to use, the words, or to describe the action or manner of Mr. Gordon, and stated that Mr. Gordon said jocosely, as Mr. Owen approached, “Gentlemen—the Judge of the District Court,” and complained of the want of reticence of his friends. Being mentioned in that way to me, I beg to impress upon the Committee that the matter was not confided to me as original or substantive information, but as a matter of complaint that it should already have gone to the four winds of Heaven. He then, after concluding the conversation in a general way, with reference to the want of reticence of his friends who had so spoken, made some such suggestion to me as this, “Could I conceive by what means it had got abroad?” and of course I had no means of knowing, and could suggest nothing, for I had never heard of the subject till he had mentioned it by way of complaint. He then said at the conclusion of the conversation, “Do not let it go any further,” to which I assented by a gesture, and although I did not ask his confidence, I should have considered myself bound in honor to preserve the confidence so thrust upon me; but I found that it had become the public property the next morning. I fix the hour as being in the forenoon from the circumstance that Captain M’Lerie came into my office, and asked me to go and lunch with him at the Victoria Club; I did so, and it was somewhat late; I remember from the fact that there were not many people in the room, at the luncheon table—there may have been some six or eight. I sat between Captain M’Lerie and the Honorable Mr. Broadhurst. Mr. Greer came into the room, and said, in a loud voice, publicly to the whole table, “Did you hear the news?” He then added, “Mr. Owen is to be Judge of the District Court.” I made no reply, though the supposed secret was evidently made public, because I was still bound by Mr. Owen’s injunction, “Do not let it go further.” That evening the debate took place in the House. I was not there during the debate, but—as is my custom when I am not present—I was reading carefully on the following morning the discussion on the question of the departmental arrangements, and had followed the discussion till I came to the point where the question was put by yourself;

M. Fitzpatrick Esq.
15 Mar., 1859. I believe, as to the fact of Mr. Owen having received this appointment; and when I read his answer to the effect that he had not accepted it, because it had not been offered him, I threw down the paper with some expression of surprise, which excited the attention of my family. I said, "Good Heaven! can this be true," or some such words. Since then I have spoken to four or five people on the subject, but not till late in the evening of the day following, for it was not till that day that I was aware he had denied what I had before conceived to be the fact, that this appointment was at his acceptance.

8. Had you ever any conversation with me on the subject, or did you ever communicate with me, directly or indirectly, on the subject, before the last night of the meeting of the Assembly—that is, up to Friday last? Certainly not; I do not remember any conversation with you on the subject.

9. I mean, did you ever give me any information about the interview between you and Mr. Owen? I did not. I named what took place to four or five people, after the debate in the House, that is, within a day or two days *after* the debate.

10. *By Mr. Hay*: That was after the debate? All this was after the debate.

11. *By the Chairman*: Reverting to the interview between you and Mr. Owen, can you remember the precise terms in which he made known to you how he became interested in getting information about the Judgeship for the Northern District? I cannot pretend to remember the precise words, but I have a very clear recollection of the tenor of his remarks, which were vividly recalled to my recollection the next morning when I read that he had said the appointment was not under offer to him, my conviction having been strong from what had taken place the day before that it was under offer to him. Mr. Owen did not say that it was under offer to him, and he did not say that it was not under offer to him. He complained that it was said the night before that he was to be the District Court Judge, whilst the object of his visit to me was to obtain information as to the boundaries of the district.

12. *By Mr. Piddington*: You are quite sure that when he made that complaint he referred to the night previously? Yes.

13. You are sure that he mentioned Mr. Gordon as the individual? Yes—as the individual who, to use his own expression, "blurted out" the information in the presence of four or five people at the gate of the Victoria Club. I do not know the names of the gentlemen who were present; but Mr. Gordon was the person he complained of.

14. By name? By name.

15. *By the Chairman*: You do not remember the precise terms in which he spoke to you of the office of District Court Judge? I have stated the purport and manner of it, but not the words. He sought information as to the boundaries of the district; he did not say what he wanted it for; he did not say whether he was Judge or not. Then, ensuing upon a conversation as to the possibility of the duties being performed by one Judge, this subject was introduced by him in the way of complaint of the want of reticence of his friends—his Parliamentary friends—of the circumstance having been "blurted out" the night before. I had not even heard the rumour. I did not, when asked for the *Gazette*, suspect the motive. I knew nothing about it.

16. Are you quite certain it was the very day of the discussion, or could it have been the day before? I am as certain as a man can be of any subject from memory that it was the morning preceding the discussion—that is my belief.

17. *By Mr. Piddington*: In the morning of the day on which the discussion took place? In the morning of the day on which the discussion took place; that is my belief. (*Mr. Owen's evidence with reference to this point was referred to.*) Mr. Owen may have better means of fixing the day more precisely than I, because the leading idea in my mind is simply that the conversation preceded the debate. My firm belief is that it was the same day—that it was the morning of the day the debate took place.

18. You say Mr. Owen referred to Mr. Gordon having "blurted" it "out" near the Victoria Club? Yes.

19. When? The night before the conversation with me.

20. That would be Tuesday night, according to your recollection of the date of the conversation? That would have been the night preceding the debate in the House.

21. Are you precise in your recollection that it was on the same day on which you had this conversation that you heard Mr. Groer in the Victoria Club? Yes; I have a very distinct recollection, and that perhaps will determine whether Mr. Owen or I am right.

22. *By the Chairman*: Was Mr. Owen more than once at your office to see the *Gazette*? No, only once; I have not seen Mr. Owen since.

23. *By Mr. Piddington*: Whether Mr. Owen called upon you on the morning of the day on which the debate took place, or on the morning preceding the day upon which the debate took place—are you quite satisfied you did not divulge anything respecting this appointment till afterwards? Perfectly so.

24. *By the Chairman*: I believe you held the office of Clerk of the Executive Council for many years? I did—for more than five years.

25. In that office, I believe, you were sworn to secrecy? I was sworn to keep secret those things that were directed to be secret, not to a general secrecy.

26. In that office did you or not acquire a habit of keeping secrets? I believe I did; perhaps you, who were long a member of the Executive Council, would be a better judge of that than I am. I must say, as a general principle, that whilst I held that office there was not much to be kept secret with respect to the Government of this country. I have not had the injunction placed upon me above once or twice during four or five years; but it was considered a matter of official prudence that while things were in progress they were not to be talked of at the corners of the public streets. I think, however, that without reference to that habit, I should, as a gentleman, have regarded Mr. Owen's injunction to secrecy, although I did not ask his confidence.

27. When did you, after that, hear anything further of his appointment? I think the next time I heard about it was when the motion was made by yourself for inquiry.
28. It did not come officially before you in your department? No; I never heard anything of it officially; I knew it from Mr. Owen, and from Mr. Owen only.
29. *By Mr. Hay*: Did Mr. Owen in the course of that conversation make the remark to you that probably from your official position you might have become aware of the fact of some negotiation being pending regarding this matter? I do not think he did. I do not recollect that he did. My recollection of the conversation is that he referred to the matter as a complaint, in the way I have stated; he might have made that remark, but it would have made very little impression upon me, because I was not aware of it officially.
30. Therefore you are not aware of having given any assent to the remark? No, I could not, because it would not have been consistent with the fact.
31. You were not in your official position aware of the fact? No, nor in any other position. I was not aware of the rumour till Mr. Owen told me of it himself.

M. Fitzpatrick
Esq.
16 Mar., 1859.

The Honorable Robert McIntosh Isaacs, M.L.C., examined:—

1. *By the Chairman*: You are a Member of the Legislative Council? I am.
2. A memorandum came to me, stating that Mr. Owen was desirous of having you examined before this Committee: did he communicate with you on the subject? He has done so. Mr. Owen having heard me make a statement of something that took place between himself and myself, asked if I had any objection to repeat that statement to the Committee.
3. Then you know the point respecting which he desired that you might be examined? Merely to repeat the statement he heard me make. I remember on an occasion—but I cannot speak accurately as to the time—I think about three weeks ago, meeting Mr. Owen at the front door of the Australian Club; he was coming in; I think there were one or two other gentlemen present. I spoke to him, and asked him if I had to congratulate him on being a Judge, to which he replied in the negative, adding, “I have not accepted the office, indeed it has not been offered to me; but I may say that I know it will be if I express any desire or feeling on the subject.” I do not profess to give his exact words, but I think they are what he used as nearly as possible.
4. Do you recollect what day of the week it was? I do not know the day of the week, but at the conclusion of my statement I will mention a circumstance which will fix it with those who were more interested in the circumstance than I was then, or am now, except, of course, as a member of the community. He added, “Nor do I think it likely that I shall accept it—certainly not;” I cannot give his words, but what he conveyed to me was—“certainly not, if the district were to remain as large as at present; I consider the duties too much for one man, and I do not think I should be justified in accepting it unless it is divided, and I shall require a promise or guarantee to that effect”—(I do not know which word he used)—“before I accept it.” Upon which I jocularly remarked, “You had better get the promise in writing,” or “the guarantee.” Of course I need not explain my reason. I believe that was all that passed between us. The circumstance which I stated I should mention, and which will serve to fix the date, was this: I had no knowledge of Mr. Owen having been offered the situation, except what I derived from seeing some observations in the report of the proceedings in the House of Assembly on the preceding evening, in which the circumstance of his voting was called in question; therefore this conversation must have occurred on the day after the vote which I understand is now complained of was given; I have no other means of fixing the time. I believe that is all I have to state.
5. That is the evidence which Mr. Owen wished you to give? That is, I believe, almost verbatim what I stated in his presence some time ago; I think it must have been on Thursday or Friday last.
6. When did you first hear Mr. Owen’s name in connection with the office of District Judge? I never heard of it previously to the date of this conversation; I had only seen it in the report of the proceedings in the House of Assembly on the preceding evening—at least that is my impression—it is that which fixes the date of it in my mind; I had certainly not heard of it before. (*After a few moments’ reflection.*) It strikes me I may have heard some rumour previously. I have some indistinct recollection of having heard some rumour upon the subject, but I cannot speak positively of that. My impression until this moment when you asked the question was that I had never heard of it till I saw the paper containing the report, but upon reflection I am not quite certain. I have an indistinct impression of having heard a rumour.
7. In that conversation was any reference made to the report in the newspaper of the proceedings in the Assembly? Yes. There were some others present, if I am not mistaken, Mr. George Macleay was one, and some remark was made by one of the other gentlemen as to what had taken place in the House; upon which I remember making this remark—“As I see you have stated that the office had not been offered to you when you voted, I think you have gone far enough. I think every member of a deliberative assembly ought to be looked upon as a gentleman, and his statement ought to be received by his fellows as true and conclusive.” Of course I do not mention this as an opinion binding upon others; it was an observation of my own, not applicable merely to the present case, and it involves a principle which may be disputed by others, and I should not have repeated it now if the question had not been put to me.
8. That is the whole of the conversation? Yes, I believe it is; in fact I am sure nothing else occurred.
9. Mr. Owen has not suggested any other point to you? No; all I have stated, except my answer to the last question, was what I repeated in Mr. Owen’s presence the other night, and what he expressed a wish I should state to the Committee. I do not remember mentioning that last to him.

The Hon.
R. M. Isaacs,
M.L.C.
16 Mar., 1859.

- The Hon. R. M. Isaacs, M.L.C.
15 Mar., 1859.
10. *By Mr. Flood*: You are quite sure that the conversation which took place was subsequent to the discussion wherein Mr. Owen's vote was questioned? Yes, certainly that is the impression upon my mind; but I believe there were two occasions when the matter was canvassed in the House. I think that conversation must have occurred on the day after the first discussion.
11. When Mr. Owen's vote was questioned by the Chairman? Yes, certainly the day after that.
12. Was it in consequence of what you saw in the paper that you congratulated Mr. Owen? Yes, it was I might have heard a rumour of the intention to offer him the situation, but I am not certain. If I did, that was not the occasion of my addressing him on the subject.
13. *By Mr. Piddington*: This conversation was by no means of a private nature? Certainly not.
14. But was held in the presence of other gentlemen? Two other gentlemen were present; I think Mr. George Macleay was one of them. It was at the door of the Club.
15. It was not a confidential conversation, but in the presence of others? Certainly.
16. Mr. Owen expressed himself confidently that the offer would be made if he expressed a desire? Yes. He said, "I feel bound to say that the offer would be made if I expressed any desire or feeling on the subject."
17. He did not say the grounds on which he based that confident expectation? No.
18. Did he refer to any interview he had had with the Prime Minister? No; the Prime Minister's name was not mentioned. I presume he was referred to by Mr. Owen when he said that he would not accept the office unless he had a promise or guarantee. That must have referred either to the Premier or to the Attorney General—I do not know who has the bestowal of the office.
19. He did not refer to having had a letter from the Premier? No, he did not; at least, I have no recollection of it.
20. *By the Chairman*: At what hour was this? I cannot state the hour precisely; I had lunched at the Club, and was leaving to go back to Court; it might possibly have been as late as two, but not later, I think.

WEDNESDAY, 16 MARCH, 1859.

Present:—

MR. FLOOD,
MR. HAY,
MR. JONES,

MR. FORSTER,
MR. MURRAY,
MR. PIDDINGTON,

MR. PLUNKETT.

J. H. PLUNKETT, Esq.; Q. C., IN THE CHAIR.

Terence Aubrey Murray, Esq., M. P., Member of the Committee, examined in his place:—

T. A. Murray,
Esq., M.P.
16 Mar., 1859.

1. *By the Chairman*: The Committee understand that you wish to make some explanation respecting an answer of Mr. Cowper to question 17, where your name appears, as you were not present on the day he was examined? On the morning of the 15th I received this note from Mr. Cowper. (*The Honorable Member handed in the following note*):—

"15 February, 1859.

"My dear Murray,

"Will you do me the favor to call upon me, at your convenience?"

"Yours faithfully,

"The Honorable

"T. A. Murray, Esq., M. P."

"CHARLES COWPER."

In consequence of this I went to his office, when he mentioned to me that he wished to consult me about the office of Solicitor General; that Mr. Hargrave had come forward in the most handsome manner offering to relieve the Government from the difficulty in which it happened to be with regard to that appointment, and that in consequence his office of Judge of the District Court was vacant. He said it occurred to him that either Mr. Walsh, of Goulburn, or Mr. Faucett, would be very proper persons for the office, and that he wished to have my opinion. I told him I had not the pleasure of being intimately acquainted with Mr. Faucett, but that I knew Mr. Walsh very well, and that I considered that he was not only fit for that office, but even for a seat on the Bench of the Supreme Court; that I thought he was one of the ablest men in the Colony, and that there certainly could not be a better got for the office of District Court Judge, if he would accept it, but I did not think he would; his professional income was so great that he would not think of giving up the comforts of a highly respectable home, of removing his family, and of knocking about the country, as he would be required to do, for the sake of a salary not one-third or one-fourth of what he was now deriving from his private practice. He said, "Will you make the offer to Mr. Walsh?" Upon this I said, "The Government should make the offer." Mr. Cowper said, "As you are intimate with him it would come very properly from you." I then undertook to send a message by the telegraph, communicating the offer; and on the same day I received an answer by the telegraph, declining the offer, with thanks.

2. Was it an absolute offer? Mr. Cowper dictated verbally the offer I was to make, but for brevity I did not use his words. Mr. Cowper's dictation went to this effect—if an offer were made to him would he accept it. This was my message to Mr. Walsh, "There
"is

- "is vacancy of a District Court Judgeship, not in south, will you accept it?" That is all I said. I received an answer in the course of the day, saying he declined it, with thanks. With regard to Mr. Faucett, I had no further conversation than I have mentioned; and in no way whatever was I requested to be the bearer of a message to him on the subject; in no way whatever was I authorised to make him an offer; for if it had been so, in not communicating with him on the subject, I should have shewn some disregard to that gentleman's feelings, and perhaps his interest. I may mention, that during the various Governments that have existed since I entered the Legislature—from the old time to the present—I have scrupulously avoided mixing myself up in any way with the appointments of Government. I never solicited a favor from Mr. Thomson in the old days, nor from those who succeeded him—Mr. Donaldson, Mr. Parker, nor from Mr. Cowper—in order that my independence as a member of the legislature should not be in any way compromised; and I was rather surprised to find that Mr. Cowper wished to have some consultation with me upon this matter. It is a thing I have avoided, for I cannot understand how a man can accept a favor one day from the Government and oppose that Government the next day. I was not authorised to hold any communication with Mr. Faucett upon the subject. That is all I want to clear.
3. Then this is a mistake of Mr. Cowper so far as the inference arises, that you were authorised to make any offer to Mr. Faucett, or that you did communicate with Mr. Faucett? I had no authority whatever; I was not even requested to make any communication to Mr. Faucett; all that passed between us with regard to Mr. Faucett is what I have mentioned. Mr. Cowper said that two gentlemen had occurred to him as proper persons—Mr. Walsh of Goulburn, and Mr. Faucett. He asked me what I thought of Mr. Faucett. I said my acquaintance with him was very slight—that he seemed an intelligent gentlemanlike man—but that I knew Mr. Walsh intimately.
4. Did you understand that there was any hurry in the matter, and therefore communicated by telegraph? I communicated by telegraph because Mr. Cowper requested me to do so; it was he who suggested it.
5. How soon did you get an answer? In the course of the afternoon.
6. What interval was there between your message and the reply? I should think two or three hours—perhaps more—three or four hours. I sent the message I think between eleven and twelve, and I had the answer while the House was sitting in the afternoon, and handed it over to Mr. Cowper. I think I may mention also, in reference to the particular matter submitted to this Committee, that when on the propriety of Mr. Owen's vote being questioned in the House on the 23rd of February, I saw him whisper Mr. Cowper, it seemed to me a reasonable and legitimate inference, however offensive or erroneous it may have been, that he was consulting him, before he gave his answer to the question put.
7. *By Mr. Flood:* Was that during the time he was acting as one of the tellers, or afterwards? It was immediately before he answered the question. The question I think was put when the division was announced. When the question was put, I saw Mr. Owen go to the Colonial Secretary, stoop down and whisper something, and then immediately after give his answer. I think other Members must have seen it likewise. There is another thing I would mention: I object to any communication being sought with Members of the Assembly with reference to any of these appointments; it has the effect of compromising the independence of public men.
8. *By the Chairman:* Would it not have been better to have told Mr. Cowper at once that he had better communicate with Mr. Walsh at once? I was satisfied that Mr. Walsh would not take the offer, and said, "If you wish to satisfy yourself further I will make the communication; but when a man is making four or five thousand a year at home it is not likely that he will make the sacrifice of breaking up his home for one-fourth the amount." I did not see the use of making the offer at all.
9. *By Mr. Flood:* You state that, in your opinion, Government ought not to consult Members of the Legislature in matters connected with the appointment of public officers? It of course may happen that the Government may want information, and therefore it is difficult, perhaps, to lay down any absolute rule upon the subject; but I think it is a practice liable to great abuse.
10. Was that your opinion previous to your interview with Mr. Cowper? It has been my opinion since I entered public life. I have avoided every Government.
11. Did you give Mr. Cowper to understand that that was your view of the matter on the occasion of this interview? No. Mr. Cowper sought me. That was the first visit I paid him in his office. I think I was in his office once before, but not upon any matter of business; it was upon my return to Sydney, when I had been absent for some time, I made him a morning call at his office.
12. *By the Chairman:* Did you ever go into his office when you were one of the Ministers? Then it was a different case; it was then my duty to speak to him upon various matters. I mean when wholly unconnected with the Government.
13. *By Mr. Flood:* Notwithstanding that you felt strongly that Members of the Assembly, not Members of the Government, ought not to be consulted upon these appointments, you did act for Mr. Cowper in reference to Mr. Walsh? Yes, but with the assurance that it was useless to make the offer. I told him that it was useless, and he himself suggested the telegraph, because it would involve no delay. I then said, "If you wish the message to be sent I will send it."
14. Do you not think it would have been better to have advised Mr. Cowper at the time he solicited your intervention as to your views on this subject? Perhaps so; but it is not for me to advise him or anyone else on any subject.
15. *By Mr. Piddington:* In your opinion, if a Minister desired by little arts to influence a Member of the Assembly, would not a system of going indirectly to a Member to advise with him about the probable appointment of certain individuals by name, have a tendency to influence a Member unconstitutionally in the course of his public duty? I think so; I think

T. A. Murray,
Esq., M.P.

16 Mar., 1859.

there is so much weakness in human character that it is difficult to say what it might lead to. Parties may be vain of being consulted, and even the best intentioned men may be weak on this point. I see my name is mentioned in answer to question 14 in Mr. Owen's evidence. Mr. Owen there states, in reference to the assertion that he *leaned* towards Mr. Cowper before he gave his answer to the question put to him on the evening of the 23rd February, "such an insinuation is unjust, ungenerous, and untrue:" namely, that he had been asking him what to say; and in answer to a question put by Mr. Flood, No. 142, he says "I do not know what took place in the House, but I am alluding to the report that I had *acknowledged* on Friday morning that I had accepted the office. I consider that that word implied an unjust imputation. I have spoken to Mr. Murray this morning about it, and he says he will take any means he can to alter the impression—that he will take any step he can to disabuse the public mind on the subject." Now the words "unjust, ungenerous, and untrue," seem to be applied to two different things in the two different answers given to these two questions. He applies them in the first instance to the statement that he *leaned* towards Mr. Cowper, as though he were asking what he should say—as to whether he did or not, that was a matter of mere inference—at first, when he was seen to lean towards Mr. Cowper, after his right to vote had been challenged, and before he gave his answer, his object in so doing was a matter of mere inference. I am quite satisfied, as far as I am concerned, to accept Mr. Owen's explanation, but there could be nothing "unjust or ungenerous" in that. The inference was a fair and legitimate inference, and would be drawn by any person paying attention to what was passing in the House. Then, in answer to the first question, Mr. Owen seems to apply the words "unjust, ungenerous, and untrue," to quite a different thing to that to which he applies them in answer to question 142. He there says, "I am alluding to the report that I had *acknowledged* on Friday morning that I had accepted the office." The whole statement shews that he did accept the office on Friday morning, and how the mere use of the word "*acknowledged*" can be so offensive with reference to a matter of fact, I cannot understand. The fact appears to be, that he did accept the office on Friday morning, and in conversation with myself he told me—I did not solicit any information from him, but he told me of his own accord—that he had accepted the office on Friday morning. Very little further passed between us.

16. *By the Chairman*: Do you not think this answer to question 142 shews that the acknowledgment which Mr. Owen repudiates has reference to his acceptance of office before the Wednesday, and not to his acceptance on Friday morning? What I understood Mr. Owen was that he had that morning accepted office.

17. Looking to the evidence here, do you not think Mr. Owen was under the impression that the acknowledgment referred to the acceptance of office before Friday morning? Possibly he was, but what I understood him to say was, that he had that morning accepted the office, and I made a statement to that effect in the House—that on Friday morning he had sent a note accepting the office. I remember correcting Mr. Cowper when he said that Mr. Owen had accepted it on Saturday morning, and Mr. Cowper's explanation was, that although the letter accepting the offer was written on Friday, it was not received till Saturday. What I said was said openly in the House in the debate that took place, and as to my being the medium of communication with newspapers on the subject, I deny it "in toto."

18. You are now referring to Mr. Owen's answer to question 147? Yes; and in 142 he says, "I have spoken to Mr. Murray this morning about it, and he says he will take any means he can to alter the impression—that he will take any step he can to disabuse the public mind on the subject." I was under the impression that Mr. Owen would put a question to me in the House as to how it occurred, and that question I went prepared to answer; but I had not the slightest intimation that it was supposed I had any communication with the papers; the papers, of course, took their information from the remarks I made in the House. I see again, in answer to the 107th question, he says, "I will mention what I did upon that, in order to refute what I consider a very unfair statement in the House. I mentioned the matter to Mr. Murray this morning"—that is, I suppose the morning of the 26th—"and he said he would take pains to correct it. I was sitting writing at one of the tables at the Club Room when Mr. Murray passed me, when I said, turning to him, that I had accepted the Judgeship; and the reason I had selected him to mention it to was, that he was kind enough"—Here there is a blank for some words—"He and I have always been on very pleasant terms, that was the reason I took the earliest opportunity of mentioning it to him before I had sent any written answer, but I had made up my mind on the subject, and that I considered as much as twenty thousand writings. The reason I call the attention of the Committee to this is that I fear there is some misapprehension on the subject in the House; and in a leading article in the *Herald* upon the subject, it is said that I had '*even acknowledged* it to Mr. Murray on Friday,' which I think is a very unfair imputation." No doubt Mr. Owen must be under the impression that the acknowledgment referred to the offer having been accepted before, but he clearly stated to me that he had made up his mind to accept it that morning. In the report of my speech published in the *Sydney Morning Herald* of the 4th March, and delivered in the House on the 3rd—indeed these reports are generally very incorrect—there is a misreport, which no doubt has led to the misunderstanding. The report is as follows,—"The vote referred to was given on Wednesday night, and Mr. Owen was then asked whether he had accepted office; his vote being thus challenged, he (Mr. Murray) observed that the Honorable Member stepped aside to the Colonial Secretary before he answered the question, no doubt in order to obtain his advice as to the answer he was to give." Well, I believe, I did speak to that effect. The answer then was, that no offer had been made. On the Thursday following there was no House, but on the Friday." On the Friday, it is said—but it ought to have been Thursday—"He (Mr. Murray) told the Honorable Member, that if it was understood that he was to have the office, his vote was irregular. The virtual acceptance of office was

"the

"the point, and it being understood that he was to have an office incapacitated him voting in Parliament. After that conversation in a friendly spirit on Friday morning, the Honorable Member said he had accepted office." But the acceptance was actually made, I believe, on the Friday morning. "Those things shewed clearly that it was the duty of the House to make the inquiry, not only in a friendly spirit towards Mr. Owen, but to report and make some assertion as to what was to be the practice of the House in future on like occasions." The impression on my mind was that Mr. Owen was to put a question to me in the House, and I promised to give a full explanation of the circumstances in answer to any question of the kind.

19. I understand from you that you did not intend to convey that he acknowledged to you on Friday morning that he had accepted it before? No; I understood that he had that morning accepted office. On the Thursday after the vote was given I told him that I would put a question to him in the House, and gave him the notice that he might be prepared to answer it. We had a long conversation on the subject, and the next morning he told me that he had accepted office. It is no doubt the ambiguity of the thing that has caused Mr. Owen so much unpleasant feeling.

T. A. Murray,
Esq., M.P.
16 Mar., 1859.

SEPARATE APPENDIX.

A.

(No. 2.)

*Legislative Assembly Offices,
Sydney, 14 March, 1859.*

Sir,

I am directed by the Chairman of the Select Committee on "Vacant Seat—Question of Privilege," to request that you will be good enough, at your earliest convenience, to supply the Committee with the note stated by Mr. Owen in his evidence given before them on the 10th instant to have been addressed by him to you from Wollongong, in reply to your first communication to him of date 18th ultimo.

The Honorable
Charles Cowper, Esq., M. P.,
Principal Secretary.

I have, &c.,
R. O'CONNOR,
Clerk of Legislative Assembly.

B.

*Colonial Secretary's Office,
15 March, 1859.*

Sir,

I am unable to comply with the request of the Chairman of the Select Committee on Vacant Seat—Privilege Question, which you communicated to me in your letter of yesterday, as Mr. Owen's note was destroyed by me almost immediately upon its receipt.

My practice is, that when I have read any note which I do not consider of importance I destroy it, to prevent the needless accumulation of valueless papers.

R. O'Connor, Esq.,
&c., &c., &c.

I have, &c.,
CHARLES COWPER.

C.

To the Hon. J. H. Plunkett,
Chairman of the Vacant Seat Privilege Committee.

Sir,

As one or more of the Committee appear to attach some importance to the passing remarks of intruders in my confidence, on my smiles, look, and even my silence or inattention to alleged remarks of gentlemen—strangers to my business—I have the honor to request that your Committee will not close your proceedings before examining the Hon. W. Dalley, now at Bathurst; his absence hitherto has prevented me requesting his attendance. I make this request, should your Committee think any such circumstances as above alluded to have the smallest weight in affecting or controlling solemn and clear acts of official intercourse.

I have, &c.,
ROBT. OWEN.

Memo. :—

This letter, received by me at 10½ a.m. on 18 March, was handed to the Chairman at 11¼ a.m., and by him at once laid before the Committee.

JOHN J. CALVERT,
Clerk of Select Committees.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

SIR ALFRED STEPHEN, KNIGHT.

(RESIGNATION OF HIS SEAT AS A MEMBER OF COUNCIL.)

Ordered by the Legislative Assembly to be Printed, 10 March, 1859.

RETURN to an *Address* of the Honorable the Legislative Assembly of New South Wales, dated 8th March, 1859, praying that His Excellency the Governor General would be pleased to cause to be laid upon the Table of this House :—

“ All Correspondence between the Government and Sir Alfred
 “ Stephen relative to his resignation of his Seat as a Member
 “ of the Legislative Council.”

*(Mr. Murray.)***SCHEDULE.**

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Sir Alfred Stephen to the Governor General, 12 November 1858, resigning his Seat in the Legislative Council	2

SIR ALFRED STEPHEN, KNIGHT.

SIR ALFRED STEPHEN to THE GOVERNOR GENERAL.

Hyde Park,

12 November, 1858.

SIR,

With reluctance, but under a sense of what appears to me to be a duty, I resign into your Excellency's hands my Seat in the Legislative Council.

Nothing short of a belief that I was bound to retain it for the purpose of assisting in the preparation or revision of laws useful to the community could have tempted me to remain so long in a position which, while it exacted from me every hour that otherwise would have been my own, I knew was distasteful to a large portion of my fellow colonists, and was, under any circumstances, little likely to induce either thankfulness or acknowledgment.

The time, however, which I have devoted to the task, necessarily after the daily termination of my judicial labors, and the frequency of my attendance on the debates during the protracted sittings of the present Session, have at length—added to those labors—affected my strength and health; and, as I feel that I can no longer hope efficiently to discharge the duties of both my offices, I entertain no doubt that I ought to retire from one of them.

Although deeply regretting the severance of my connexion with the Legislature before time has permitted the introduction by me of certain measures which have been for some years under my consideration, I am consoled in no small degree by reflecting, that circumstances are not at present, and I fear will not soon become, favorable to the discussion of questions of that character; and that, possibly, one measure at least of practical utility and importance, involving the interests of suitors in the Court over which I preside, may, for reasons into which I will not here enter, be expedited by my absence.

I have, &c.,

ALFRED STEPHEN.

HIS EXCELLENCY

THE GOVERNOR GENERAL,

&c.,

&c.,

&c.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

PARLIAMENTARY ACCOMMODATION.

REPORT FROM THE SELECT COMMITTEE

ON

PARLIAMENTARY ACCOMMODATION,

TOGETHER WITH

THE PROCEEDINGS OF THE COMMITTEE,

AND

MINUTES OF EVIDENCE.

ORDERED BY THE LEGISLATIVE ASSEMBLY TO BE PRINTED,

29 *March*, 1859.

SYDNEY :

PRINTED BY WILLIAM HANSON, GOVERNMENT PRINTER,
PHILLIP-STREET.

1859.

PROCEEDINGS OF THE COMMITTEE.

TUESDAY, 22 MARCH, 1859.

MEMBERS PRESENT :—

The Speaker,	Mr. Hay,
Mr. Cowper,	Mr. Piddington,
Mr. Murray,	Mr. Gordon.

Mr. Plunkett.

The Honorable the Speaker was called to the Chair.

Resolution of the House, appointing the Committee on the 17th instant, read by the Chairman.

The Chairman laid before the Committee a Plan, prepared by Mr. Charles Jessop, house steward, shewing the whole accommodation on the ground floor of the Parliamentary Buildings, and specifying the alterations and additions proposed thereto by the Colonial Architect, as well as certain other alterations urgently required in that part of the building more immediately in connection with the Refreshment Room.

Committee then deliberated as to the advisability of adapting the present Council Chamber for the accommodation of the New Assembly.

The Colonial Architect was thereupon called in, and having produced *five* plans, shewing certain alterations and additions proposed by him to be made in the Parliamentary Buildings for the purpose of fitting the Assembly Chamber for the accommodation of the increased number of Members, was questioned by the Committee as to the respective dimensions of the two Chambers.

Motion made (Mr. Piddington) and Question,—“ That the Committee do now proceed to the Council Chamber for the purpose of ascertaining, by personal inspection, the accommodation contained therein ”—*agreed to.*

Committee accordingly proceeded to and inspected the said Chamber, and having returned therefrom,—deliberated.

Mr. Cowper suggested to the Committee the expediency of providing a room to be used by the Reporters of the public press in the transcription of their notes.

Mr. Alexander Dawson, Colonial Architect, then examined.

Witness withdrew.

Motion made (Mr. Piddington) and Question proposed,—“ That this Committee having inspected the Council Chamber, and examined the Colonial Architect, is of opinion that the Legislative Council Chamber is best adapted for the accommodation of the new Legislative Assembly.”

Amendment proposed, (Mr. Cowper),—“ To omit all the words after the word, ‘ That ’ at the commencement, with a view to add the words ‘ In the opinion of this Committee the Chamber at present occupied by the Assembly may be altered so as to afford accommodation for the increased number of Members under the New Electoral Act without enlarging its dimensions, and that it is desirable that such an arrangement should be made at a moderate cost.’ ”

Committee deliberated.

Question put,—“ That the words proposed to be omitted stand part of the Question.” Committee divided.

Ayes, 3.	Noes, 4.
Mr. Piddington,	Mr. Cowper,
Mr. Murray,	Mr. Jones,
Mr. Hay.	Mr. Plunkett,
	Mr. Gordon.

Question then put,—“ That the words proposed to be added in place of the words ‘ omitted be so added.’ ”

Committee divided.

Ayes, 4.	Noes, 3.
Mr. Cowper,	Mr. Murray,
Mr. Jones,	Mr. Piddington,
Mr. Plunkett,	Mr. Hay.
Mr. Gordon.	

Deliberation resumed.

Whereupon Question put,—“ That in the opinion of this Committee the Chamber at present occupied by the Assembly may be altered so as to afford accommodation for the increased number of Members under the New Electoral Act, without enlarging its dimensions; and that it is desirable that such an arrangement should be made at a moderate cost.”

Committee divided.

Ayes, 4.	Noes, 3.
Mr. Cowper,	Mr. Murray,
Mr. Jones,	Mr. Piddington,
Mr. Plunkett,	Mr. Hay.
Mr. Gordon.	

Committee

Committee deliberated.

Motion then made (Mr. Cowper) and *Question proposed*,—"That the Colonial Architect be requested to prepare a Plan and Estimate of the cost for providing the increased number of sittings required on the floor of the Assembly, and for improving the ventilation and lighting of the Chamber."

Deliberation resumed.

Question put.

Committee divided.

Ayes, 5.	Noes, 2.
Mr. Cowper, Mr. Plunkett, Mr. Hay, Mr. Jones, Mr. Gordon.	Mr. Piddington, Mr. Murray.

Committee then further deliberated, and it was *Resolved* :—

"That it is expedient that the last Resolution agreed to by the Committee be forthwith communicated to the Colonial Architect, with a request that he will, if possible, cause the preparation and transmission, for the use of the Committee, of the Plan and Estimate referred to therein, prior to their next sitting."

[Adjourned till Friday next, at *Eleven o'clock*.]

FRIDAY, 25 MARCH, 1859.

MEMBERS PRESENT :—

The Honorable the Speaker in the Chair.

Mr. Plunkett, Mr. Jones, Mr. Murray.	Mr. Piddington, Mr. Gordon, Mr. Hay.
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Committee deliberated.

Mr. *Alexander Dawson*, Colonial Architect, further examined.

And in the course of his examination the witness having handed in a Plan and Estimate prepared by him in compliance with a Resolution agreed to by the Committee at their last meeting,—

Committee inspected the same.

Motion made (Mr. Jones), and *Question proposed*—"That in the opinion of this Committee it is expedient to recommend the erection of a room, as suggested by the Architect, and shewn in the Plan submitted by him, for the use of the Under Secretaries and such other persons as may be in attendance on the Ministers during the sitting of the House, at a cost not exceeding £200."

Committee deliberated.

Question put.

Committee divided.

Ayes, 4.	No, 1.
Mr. Jones, Mr. Plunkett, Mr. Piddington, Mr. Gordon.	Mr. Murray.

Committee considered as to the advisability of moving the Speaker's Chair to the centre of the House on the north side; and having proceeded to, and inspected the House, and having returned therefrom,—

Committee further deliberated.

Motion made (Mr. Jones), and *Question*—"That prior to coming to any determination on this matter, the Colonial Architect do prepare a Plan, shewing the arrangements for seats, and the accomodation which would be afforded to Members and strangers by the alteration of the Speaker's Chair to the centre of the north side of the House"—*agreed to*.

[Adjourned till Tuesday next, at *Eleven o'clock*.]

TUESDAY, 29 MARCH, 1859.

MEMBERS PRESENT :—

The Honorable the Speaker in the Chair.

Mr. Cowper, Mr. Flood, Mr. Piddington.	Mr. Hay, Mr. Plunkett, Mr. Jones.
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Mr. *Alexander Dawson*, Colonial Architect, further examined,—

And during his examination Mr. Dawson having handed in a Plan prepared under a Resolution agreed to by the Committee at their last meeting,—

Committee inspected the same, and deliberated.

Motion made (Mr. Piddington), and *Question put*—"That it is the opinion of this Committee that the position of the Speaker's Chair be changed to the centre of the north side of the present Assembly Chamber."

Committee divided.

Ayes, 2.
Mr. Piddington,
Mr. Hay.

Noes, 4.
Mr. Flood,
Mr. Plunkett,
Mr. Jones,
Mr. Cowper.

Deliberation resumed.

Motion made (Mr. Jones), and *Question*—"That in the opinion of this Committee the whole cost of these proposed alterations ought not to exceed £700."—*agreed to*.

Whereupon Motion made (Mr. Cowper), and *Question put*—"That the foregoing Resolutions be reported to the House."

Committee divided.

Ayes, 5.
Mr. Cowper,
Mr. Plunkett,
Mr. Jones,
Mr. Flood,
Mr. Hay.

No, 1.
Mr. Piddington.

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1859.

Legislative Assembly.
NEW SOUTH WALES.

MINUTES OF EVIDENCE

TAKEN BEFORE

THE SELECT COMMITTEE

ON

PARLIAMENTARY ACCOMMODATION.

TUESDAY, 22 MARCH, 1859.

Present:—

THE SPEAKER,	MR. HAY,
MR. COWPER,	MR. MURRAY,
MR. GORDON,	MR. PLUNKETT,
MR. PIDDINGTON,	MR. JONES.

THE HONORABLE THE SPEAKER IN THE CHAIR.

Alexander Dawson, Esquire, Colonial Architect, examined:—

1. *By the Speaker*: You are aware that the Legislative Assembly have negatived the vote proposed for the enlargement of their present Chamber? Yes. A. Dawson,
Esq.
2. What would you suggest as the next best temporary arrangement? It is difficult to say. 22 Mar., 1859.
If there are to be more members, of course they will require an additional area of floor.
3. You do not think it possible that the present room can hold eighty members unless it be enlarged in some way? I think it must be enlarged, if it is to do so.
4. *By Mr. Cowper*: You have been round the Legislative Council Chamber with the Committee? Yes.
5. Do you think it would be desirable to provide for the accommodation of this large number of members in that room, or would you rather recommend that the other Chamber be fitted up for the accommodation of the members? I would recommend that the Council room should be made the Assembly room.
6. What would you propose to do to make it convenient for the members of the new Assembly? The alterations required would be very trifling. The ventilation would be the main item, but that can be done with little expense; and the present floor of the room is large enough to contain the enlarged number of members.
7. The roof is in a bad state, is it not? The roof is in a bad state, but it is proposed to re-cover it with slate.
8. Would you propose to do anything else to protect the iron walls from the sun? I would propose to protect the side wall from the sun with verandahs, and that portion of the front which is exposed to the sun can be done in the same way.
9. *By Mr. Plunkett*: Do you not think the back part of the iron building, when heated by the morning sun, conducts the heat all through the rest of the building for the rest of the day? I do not think it does; there is so much passage room with a continuous current of air passing through them, that I think the heat from the back building very little affects the main wall of the Council room.
10. Do you contemplate re-covering the back part of the iron building that is open to the morning sun? No; only the roof of the Council Chamber.
11. *By the Speaker*: You are aware that the clerks of the Legislative Council are strongly of opinion that the back buildings do conduct the heat all through the main building? I am not of that opinion. The clerks' offices are heated in summer, of course, as well as the other part of the building, but I do not think it can affect the main wall of the Council room.

- A. Dawson,
Esq.
22 Mar., 1869.
12. What do you think, roughly, would be the expense of altering the Legislative Council Chamber, putting a new roof on it, and protecting the wall, to make it fit for the Legislative Assembly? I have already estimated the expense of doing so at about £700.
 13. *By Mr. Cowper*: Irrespective of the alterations necessary for the clerks' accommodation? Yes—simply the Council room.
 14. *By the Speaker*: Some expense would have to be incurred in altering the Assembly room for the Council? Yes.
 15. The front would have to be thrown open again? The front access altered, and the ventilation would have to be increased. The cost would amount to about a similar sum as that estimated for the Council room.
 16. And then there would be temporary alterations for the clerks of the Assembly behind? That, of course, would be an additional expense.
 17. *By Mr. Plunkett*: What would be the expense of enlarging the present Assembly Chamber, by throwing the Speaker's Gallery into it, and taking the whole length of the floor for the accommodation of members? That alteration of itself would not cost more than about £200.
 18. Do you think eighty members could then be accommodated? I think the Speaker's Gallery would hold about twenty members by extending the seats to the wall.
 19. *By the Speaker*: Do you think that, by doing away with one of the fireplaces, in addition, and throwing the Speaker's chair a little further back, you could get accommodation for the other six additional members? There might be room got, but it would curtail your accommodation very much. It is necessary to get behind the chair, and that could only be done by taking off the passage from your present room, and making the entrance direct into the House, so that members could get behind the chair in the passage.
 20. *By Mr. Plunkett*: Do you see any objection to putting a gallery at the side for strangers admitted by the Speaker's order? No.
 21. Do you think it would add much to the warmth of the House? No; it would require simply to extend the present Reporters' Gallery at each side to the extent required.
 22. Could you warm the room in winter without fireplaces? Yes; by heated flues.
 23. Would that be expensive? It is not considered healthy. By taking in the present Speaker's Gallery, placing the Speaker's chair back to the wall, and adding a back passage by curtailing the Speaker's Room, I think sufficient room would be obtained. The construction of hot-air flues in an old building is always attended with difficulty. The expense of stoves, fuel, and attendance, would be in proportion to the extent required.
 24. *By Mr. Jones*: Would you be able to get three seats where the Speaker's Gallery now is? Two rows only will be necessary.
 25. Would not each of those additional seats contain eight persons? Not more than seven. I calculate twenty or twenty-one seats would be thus obtained.
 26. *By Mr. Piddington*: Would not those seats be raised one above another? As they receded, each seat would be placed on a higher level.
 27. Would not the back seats be much nearer the ceiling of the upper gallery than they are now? There would not be more than two rises of about a foot in the width of the seats.
 28. Would there be as much ventilation as would be desirable when the seats were raised so high? I should increase considerably the ventilation underneath the gallery.
 29. Would the surrounding air be so wholesome if the seats were raised so high? It would if the ventilation were sufficient.
 30. Would not the ventilation on the floor of the present Council Chamber be likely to be more wholesome? No; for this reason—that from the underground flues entering the floor there is generally an unwholesome smell from below the joisting, and that is in fact the reason why the present ventilators in the floor are not used in the Assembly.
 31. Taking into consideration the lofty ceiling of the Council Chamber, do you not think the ventilation there might be expected to be purer? Quite so. The cubical capacity of the one chamber being greater than the other.
 32. *By Mr. Cowper*: You propose to make some improved ventilation at the back of the seats on the right hand of the Speaker? Fresh air flues are proposed to be introduced in the north wall.
 33. *By the Speaker*: What do you suppose would be the expense of carrying out the alterations now suggested in the room at present occupied by the Legislative Assembly, erecting additional galleries at the sides, improving the ventilation, doing away with the Speaker's Gallery, throwing the Speaker's Chair back to the wall, and providing additional seating for the space thus obtained? I could not say less than £1,000. The ventilation itself would cost a considerable sum, and it is a difficult work to get at; this amount includes the building of a Ministers' Room.
 34. What would be the cost without the including the ventilation? The expense of the alterations would be £500 or £600.
 35. *By Mr. Piddington*: Would the room, with these alterations, present a very agreeable appearance as a public room? I think it would have a better appearance than it has now.
 36. I mean with the addition of the side galleries? The side galleries need not be so wide as the present one. I think if erected they would be an advantage to its appearance.
 37. *By Mr. Plunkett*: What is the height of the Assembly Chamber? Twenty-eight feet.
 38. *By the Speaker*: Do you not think some less expensive mode of ventilation might be contrived than is proposed in the plans before us? I do not think there is any that would be so effectual. You observe I have kept all the ventilation throughout above the heads of the members beneath the gallery, and the principal part of it is in the ceiling.
 39. *By Mr. Cowper*: In the plan you proposed the other day, there was included considerable accommodation for reporters, which is now very much required? There was additional accommodation, but not in the House.
 40. You proposed to have a room, did you not? Yes, a retiring room. There is another room

room, called a Ministers' Room, which I had provided for; and if it should be determined to put the Speaker's chair back to the wall, I think this room would be very necessary—indeed indispensable.

A. Dawson,
Esq.

22 Mar., 1869.

41. *By Mr. Piddington*: What would be the cost of slating the roof of the present Legislative Council Chamber? £250. Simply slating the present roof would cost less than that.
42. *By the Speaker*: You would have to put a frame over it, would you not? It would not be necessary to strip the present roof.
43. *By Mr. Hay*: I presume Mr. Piddington means putting a slated roof over the present roof? That would cost £250.
44. *By Mr. Piddington*: What expense need you go to, to provide seats for eighty members on the present floor of the Council Chamber—could you not increase the number of rows of benches on each side from two to three? Yes; those benches would cost about £20 each.
45. How many would be required in addition to those now there? Those would hold about five members each. I should say £128 for additional seats.
46. Then for £128 you could provide accommodation for eighty members on the floor of the present Council Chamber? Yes.
47. That would not occasion any interference with the cross benches now appropriated for the public outside the Bar? No.
48. And for £250 the roof could be slated over and made secure against the weather? Yes.
49. And you think that additional roof would also secondarily improve the atmosphere? Certainly—by protecting the iron from the sun.
50. So that for providing accommodation for eighty members the sum of £378 would be sufficient in the Council Chamber? Independently of the ventilation.
51. What would be the further cost of ventilation for the Council Chamber? I should say £200 would do it.
52. That makes altogether £578 for good ventilation, secure roof, and ample accommodation for eighty members? Yes.
53. To secure all these objects in the present Assembly Chamber, what do you think the expense would be? I do not think it could be done under £1,000, without additional building.
54. Therefore similar objects could be accomplished in one room for £500 less than in the other? Yes.
55. *By Mr. Gordon*: Do you mean that the whole of the iron building could be re-roofed for £250, or only the hall? Merely above the hall, not the clerks' offices.
56. *By Mr. Hay*: That must be done at any rate for the accommodation of the Legislative Council? It is necessary, for the purpose of carrying out the principle of ventilation.
57. And to keep the room dry? Yes—the present roof being leaky.
58. It is necessary in any case to make some repair on the roof? Yes.
59. And the only effectual repair is by putting this additional slated roof over it.
60. *By Mr. Cowper*: We could not use the Council Chamber without some improved access for the clerks to get to it? I presume it would be necessary to exchange the clerks' offices as well.
61. *By Mr. Piddington*: What would be the expense of a staircase from the back verandah to the covered way below, so as to facilitate access, supposing the clerks of the Assembly retain their present quarters? I should think £30 or £40; this sum includes a covered-way.
62. *By Mr. Cowper*: There would be no increased committee accommodation in either case? No.
63. There was a proposal to give some increased committee accommodation? Yes, an additional Committee Room; but as far as I can learn an additional Committee Room is not much required.
64. *By Mr. Gordon*: If it is determined upon to slate the Council Chamber, would it not be better to slate the whole building at the same time—I presume that is not the only part that is defective? The roof over the clerks' offices is not so defective as the other.
65. *By Mr. Piddington*: Would the complete re-roofing of the building add much to the expense? It would cost a similar sum—£250; there is about the same length of building. It would also be very necessary to have verandahs or roofs over the windows next the Infirmary, to protect them from the weather. In wet weather they cannot be kept open.
66. *By the Speaker*: Does not the rain beat through them, even when shut? Yes. Iron buildings are generally defective in that respect.
67. *By Mr. Piddington*: Is that expense included in your estimate? No; I would recommend it should be added.
68. *By Mr. Hay*: What would be the cost? I dare say two rows would cost £120.
69. That would protect that wall very much, not only against the rain, but against the sun? Yes. That would make the total amount between £600 and £700.
70. *By the Speaker*: And you think £1,000 would alter the Assembly Chamber, so as to give equal accommodation, without any additional building? Yes.
71. The only difference would be, that there would not be so much room—that is to say, the cube of the present Council Chamber is larger than the cube of the present Assembly Chamber, and would give more air for the same number of Members to breathe? Yes; the cubical capacity of one room is much greater than that of the other.
72. But with an outlay of £1,000 you think there would be no inconvenience felt from the atmosphere in the present Assembly room? I am sure of it.
73. *By Mr. Plunkett*: Would £1,000 expended on the Council buildings extend the ventilation to the offices behind the Council Chamber? Each room might be simply ventilated.
74. *By Mr. Cowper*: I understood you distinctly to state, that for about £700 you could accommodate the Assembly in the present Council Chamber? Yes.
75. *By Mr. Gordon*: That is without ventilation? The ventilation is included.

- A. Dawson, Esq.
22 Mar., 1859.
76. *By Mr Piddington*: £700 would provide for re-roofing the Council Chamber, ventilation, and increased accommodation for members? Yes.
77. *By Mr Gordon*: To make the offices habitable would it not be necessary to slate the whole of the Council building? I should recommend that to be done. It would cost £250 more to do it all.
78. *By Mr. Murray*: Under any circumstances you recommend that to be done, if the Council remain sitting there? Yes.
79. *By Mr Cowper*: If the proposed alterations to the Council Chamber be adopted, all the Offices and Committee Rooms will be left just as they are? Yes.
80. *By the Speaker*: If the Assembly remove to the Council Chamber, the eighty members of the Assembly will only have the small Library at present attached to the Council Chamber? Yes, and already there is a necessity for increased Library room.
81. *By Mr. Murray*: You stated just now that some expense would be incurred in altering the present Assembly room, in the event if its being used for the Council—is there any actual necessity for such alteration? There must be some expense for ventilation, and also for re-roofing it.
82. If these alterations are required for the Legislative Council, I presume they would be equally required for the Legislative Assembly? Yes.
83. There would therefore be no additional expense in this respect on account of any change such as we contemplate? No, only in the one case the alterations would be greater than in the other. The alterations required for the members of the Council would be very trifling compared with those for the Assembly.
84. Ventilation and new roofing would be required in either case? Yes.
85. Then, do you see that there would be any change whatever required in the present Assembly room, in consequence of its being henceforth occupied by the Legislative Council? It would be very trifling—I apprehend the seating would be sufficient for the members of the Council.
86. *By the Speaker*: The cross benches would have to be re-arranged, and an entrance opened for the Governor General? The expense of that would be very trifling.
87. *By Mr. Jones*: How could you arrange for the accommodation of the members of the Assembly when the Governor General came down to open or prorogue Parliament? That would be no difficulty. An entrance could be made in the centre of the Chamber instead of, as at present, at the side. The accommodation for visitors would have to be slightly curtailed.
88. *By the Speaker*: Supposing a large and comprehensive plan were to be approved of by Parliament, what time do you think it would take to erect suitable buildings? I have already given that consideration—I should say it would not be less than two years before the Parliamentary buildings and offices would be in a sufficiently forward state to be occupied for business purposes.

FRIDAY, 25 MARCH, 1859.

Present:—

THE SPEAKER,
MR. JONES,
MR. PIDDINGTON,

MR. PLUNKETT,
MR. MURRAY,
MR. GORDON,

MR. HAY.

THE HONORABLE THE SPEAKER IN THE CHAIR.

Alexander Dawson, Esquire, Colonial Architect, called in and further examined:—

- A. Dawson, Esq.
25 Mar., 1859.
1. *By the Speaker*: You have received copies of two resolutions come to by the Committee at their last meeting? Yes.
2. Have you prepared an Estimate in accordance with those resolutions? I have, and also a Plan, which I submit to the Committee. (*The witness produced the Plan referred to.*) This Plan shews the additional sittings that the removal of what is now called the Speaker's Gallery will afford to the House. There will be two rows of seats, each accommodating twelve members, and by extending the second of the present cross-benches to the wall two other sittings can be provided, making in all an addition of twenty-six sittings for members of the House.
3. Have you also taken into consideration the ventilation? Yes, that I have estimated too. I think the additional lighting, the increased ventilation, and the increased sitting-room of the hall will cost something under £500—say £475.
4. Then the narrowing of the old seats —? That is not included. There is another matter which I would impress upon the Committee—it would relieve the Speaker's accommodation very much if it were possible to erect what may be termed a Ministers' Room at the side of the Chamber.
5. What do you think that would cost? About £200. It is an arrangement much to be desired; it would relieve the Chamber much, and also prevent the interruption that naturally arises from visitors passing through the Speaker's Room.
6. *By Mr. Piddington*: Where do you propose to place that new room? At the side of the building; it would assume the form of a porch; there would be an entrance to it from the outside.
7. What is the intended size of the room? Sixteen by fourteen.
8. Will not the removal of the Speaker's Gallery enable you to add more than two benches? I think not; the distance between the wall and the back of the present seats is only 7 feet 8 inches, and the distance between each seat now is 4 feet.

9. *By Mr. Jones*: What do you propose with respect to the ventilation? The ventilation will be increased by introducing a ventilating flue above those seats, to pass along and through the ceiling or soffit of the Strangers' Gallery up into the flues placed in the roof. The ceiling of the Chamber to have perforated opes through which the foul air would pass.

A. Dawson,
Esq.
25 Mar., 1859.

10. *By Mr. Hay*: Where are you going to draw the air from? Through the north wall of the Chamber.

11. *By Mr. Jones*: How are the lights to be arranged—we want a better arrangement more than anything else? The power of the suspended lights in the centre of the room will be increased and placed higher in the Chamber, and a canopy or shade placed over them; and to the shades I propose to connect a flue to carry off the heat from the lights up through the ceiling.

12. *By Mr. Gordon*: Would it not be better to introduce gas? That has been tried before and done away with, on account, I believe, of its excessive heat, and the frequent escape of the gas in the body of the Chamber.

TUESDAY, 29 MARCH, 1859.

Present:—

THE SPEAKER,
MR. COWPER,
MR. PLUNKETT,

MR. HAY,
MR. FLOOD,
MR. PIDDINGTON,

MR. JONES.

THE HONORABLE THE SPEAKER IN THE CHAIR.

Alexander Dawson, Esquire, Colonial Architect, called in and further examined:—

1. *By the Speaker*: Since the last meeting of the Committee, have you considered the suggestion which was then made to alter the position of the Speaker's chair to the north wall? I have

A. Dawson,
Esq.
29 Mar., 1859.

2. Have you made a plan to show the effect of that alteration? I have prepared a plan, which I submit to the Committee. (*The witness produced the same.*)

3. Does that plan give as much accommodation as if the Speaker's chair were to remain in its present position? Equally the same. Either way ample accommodation for the twenty-six additional members will be secured.

4. *By Mr. Cowper*: Do you think this a preferable arrangement to the other? I think not.

5. You prefer the old arrangement? I prefer the chair at the end of the room, as at present.

6. *By the Speaker*: By the new arrangement £200 would be saved, as the Under Secretaries' or Ministers' Room could be obtained at the end of the Speaker's Gallery, without any additional building? Yes, there would be that saving no doubt. But I think it will be a very awkward arrangement to have a large number of the members seated under the Reporters' Gallery.

7. *By Mr. Piddington*: Do you not think any member who wished to be reported would speak from the south side of the House in that case? I think members generally speak from the seats they happen to occupy.

8. If any member wished to make a speech which he desired to have reported do you not think he would take the most convenient place for being heard? No doubt he might do so by approaching the Table of the Chamber.

9. It would not be necessary that he should sit under the Reporters' Gallery? No. If there were sufficient seats in other parts of the Chamber it is most likely that members who wished to be reported would occupy them.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

SEWERAGE AND WATER SUPPLY.

(SECOND REPORT OF MUNICIPAL COUNCIL.)

Ordered by the Legislative Assembly to be Printed, 18 March, 1859.

THE MUNICIPAL COUNCIL have the honor to submit, for the information of the Parliament of New South Wales, in compliance with the provisions of the 75th section of the Sydney Corporation Act of 1857, a Report of their Proceedings, and Statements of their Accounts, under the Sydney Sewerage Act, 17th Victoria, No. 34, and the Sydney Water Act, 17th Victoria, No. 35, for the year 1858.

SEWERAGE.

The works undertaken by the Council during the present year in connexion with the sewerage of the City have been limited in their extent, and confined principally to the completion of the drainage of those streets having a fall toward the main sewers constructed under the direction of the late City Commissioners. In the execution of these works, the balance of the amount of two hundred thousand pounds (£200,000), originally appropriated by the Parliament for sewerage purposes has been expended, in addition to which a further sum of five thousand pounds (£5,000) has been obtained from the Australian Joint Stock Bank, as a temporary loan.

The completion of the following sewers has been effected during the year 1858.

Contract No. 8, Section No. 1, entered into by Mr. Hugh Murphy, for constructing sewers in George-street North, and in Argyle, Essex, Harrington, Cambridge, and Gloucester Streets. The following quantities remained unfinished in 1857:—

817 feet of 2-feet sewer,
1,506 feet of 18-inch sewer,

and were satisfactorily completed in March last.

Contract No. 12, Section No. 1, entered into by Messrs. Gibbons and Brian, for the construction of sewers in Park, King, and Hunter Streets, comprised:—

122 feet of 3-feet sewer,
855 „ 2-feet 6-inch ditto,
1,212 „ 2-feet ditto,
146 „ 12-inch pipe drain,
17 gullies and pipe connections with sewers,

and was satisfactorily completed in May last.

Contract No. 13, Section No. 1, entered into by Messrs. Bubb and Son, for the construction of two pieces of iron-sewer, for crossing the Tank Stream in King and Hunter Streets, comprising 32 feet of cast-iron 2-feet 6-inch sewer, was satisfactorily completed in April last.

Contract No. 14, entered into by Thomas Sinclair, to construct 1,058 lineal feet of 2-feet sewer, and 15 street gullies in Erskine-street, from York-street to Darling Harbour, was being executed unsatisfactorily by the contractor, and was therefore ordered to be carried out by day labor, in accordance with the conditions of the contract. These works were completed in June last.

Contract No. 16, entered into by Mr. Thomas Donohoe, for a piece of sewer across Riley-street, forming part of the Surry Hills district of drainage, comprising 100 feet of 4-feet sewer, was satisfactorily completed in July last.

A contract, entered into by Mr. William Burton, for the construction of a piece of Woolloomooloo main sewer, at the foot of Palmer-street, 90 feet in length, was completed satisfactorily in August last.

Contract No. 18, entered into by Messrs. Donohoe and Cox, for a sewer in Bourke-street, from Woolloomooloo-street to Woolloomooloo Bay, comprising 642 feet of 2-feet 6-inch sewer, was satisfactorily completed by them in August last.

The number of trapped street gullies constructed and connected with the new system of sewerage during the past year is 168, which makes the total number, in connection with the new sewerage, 239.

WATER.

PERMANENT SUPPLY.

The progress during the past year of the works for securing a permanent supply of water for the City has not been so satisfactory as the Municipal Council could have desired, great delay having arisen from the inability of some of the contractors to complete the works they had undertaken. The difficulties in connexion with these contracts have, however, been now removed; and it is hoped by the Council, that within a very short period the residents in every part of the City will be enabled to obtain an abundant and a constant supply of water from Botany.

The contractors for the engine, boiler, and coal houses, engine and sluice wells at Botany (Messrs. Ramsay & Burt), having notified to the late Mayor, on the 28th September last, their inability to carry on their contract, the City Engineer received instructions early in October to take charge of and carry on the works by day labor, in accordance with the conditions of the contract. This has been done, and the works are now rapidly approaching towards completion.

The contract entered into by Messrs. Ramsay & Burt, for the erection of a smithy and workshop at Botany, was completed by them, with the exception of the hips and ridges of the roof. This work has since been completed by day labor.

The remaining parts of the machinery for the pumping engines (contracted for by Mr. William Randle), and the shipment of which was stopped in England, that they might be altered and adapted to the work for which they were required, have arrived in the Colony; and the erection of the whole of the engines within the building is progressing satisfactorily, and will, it is anticipated, be completed by the end of February next.

The air vessels which were ordered from England have arrived, and are being erected upon the foundations prepared for them. A defect was discovered in the base of one of them which rendered the piece useless; and as it was impossible to replace it in time from England, a contract was entered into by Mr. Dawson, the iron-founder, of Sydney, who has supplied the deficiency in a most satisfactory manner.

The 10-ton traveller crane which was ordered from England has been erected in the engine house, where its employment in lifting the heavy parts of the machinery has facilitated the operations considerably.

The laying of the 30-inch conduit from Botany to the reservoirs in Sydney and adjacent to the Military Barracks is completed, excepting the closing of the joints at the meeting place outside the City boundary. This it is deemed advisable to keep open for a short time, until the connections at the engine house end of the line are completed. The

Schedule A. total length of 30-inch main laid is 8,522 yards.

The contract for the excavation of the site for the low level reservoir, let to John Tighe for the sum of £3,895, though not completed to time was in other respects satisfactorily done.

The contract for the drainage of the site of the above reservoir, and the excavation and tunnelling of the ground for laying the emptying and other mains in Riley-street, let to George M'Callum, has, after much trouble with the contractor, been satisfactorily completed.

The contract for the low level reservoir, situate between Crown, Campbell, Gipps, and Riley Streets, was let to Messrs. Donohoe and Vaughan for £14,929, to be completed in ten months from the date of order to commence (9th November, 1858.) The works have commenced, and have so far been performed by the contractors in a highly satisfactory manner; the quality of the whole of the large quantity of bricks and cement brought upon the ground is of the best description. The reservoir when completed will be capable of holding about three and a quarter millions of gallons.

The

The contract entered into on the 5th May, 1858, by Messrs. Rabone, Feez, & Co., to procure from England, and supply upon a wharf in Sydney within nine months, the iron girders required for the covering of the low service reservoir is, it is understood, progressing favorably, excepting as to delivery in the time stipulated. Advices have been received of the shipment of some of the girders in England, and that several extra girders have been shipped with them to supply the place of any of the girders which may be broken in the hold of the vessel.

The whole of the bricks ordered from England for the purpose of lining the interior of the reservoir have arrived in the Colony, and been delivered into the depôt near the reservoir, with the exception of about 31,000, which are detained by the wharfingers at the respective wharves upon which they were landed, pending a decision with reference to a claim for freight thereon.

The contract which was entered into by Mr. John Woods for removal of the 30-inch, 20-inch, and 12-inch mains from the quays to their several destinations, has been completed satisfactorily.

The contract entered into by Messrs. P. N. Russell & Co. for the further supply of 30-inch mains, and the required quantity of 20-inch and 12-inch mains, has been completed satisfactorily.

The contract entered into by Messrs. Hammond & Bocking for a double row of piling at Botany, to form a dam across the mouth of the stream, so as to cut off communication with the sea, has been completed by the contractors in a very satisfactory manner.

The contract entered into by Mr. George Morris for the supply of piles for the Water Works during the year 1858 has been satisfactorily completed.

The contracts entered into by Messrs. P. N. Russell & Co. for the supply of small and heavy castings, and for the supply of water locks during the year 1858, have been very satisfactorily performed.

The erection of fencing along the line of water mains from Botany to Sydney has been confined to those places where an embankment has been made over the pipes, in order to cover them, and not throughout the whole length of the line, as originally intended.

CITY SERVICE.

In connection with the City service, the Municipal Council have determined upon the erection of drinking fountains in various localities throughout the City, to the number of forty, and have instructed the City Engineer to make immediate arrangements for their construction, in accordance with a design submitted by that gentleman. The fountains will be opened for public use simultaneously with the new water works, and will it is hoped be of great benefit to the citizens.

The precautions adopted in former years for economising water during the dry season have been found necessary this year, and put in force; the water in the lowest levels of the town has consequently been shut off periodically, and thus a moderate supply is afforded to all, excepting the very high services, which receive but a scanty supply when the water is not very high in the swamp. In order to secure a sufficient quantity for this partial supply even, it has been found necessary to keep the steam-engine at Lachlan Swamp constantly at work since the 1st November last.

During the past twelve months nine thousand and twelve yards of mains, of various sizes, have been laid throughout the City, as detailed in a return attached hereto.

Schedule B

FINANCIAL.

An Abstract of the Receipts and Expenditure of the Municipal Council on account of the Sewerage and Water Funds, from the 1st January to the 31st December, 1858, duly certified by the City Auditors, is hereunto appended.

GEORGE SMITH,

Mayor.

Passed the Municipal Council of the
City of Sydney, this 28th day of
February, A.D., 1859.

CHAS. H. WOOLCOTT,
Town Clerk.

SCHEDULE A.

RETURN of 30-inch Water Mains laid from the Engine House at Botany, to the sites for the Reservoirs, in Sydney.

	Lineal Yards.
From the air vessels at Botany, to the North side of Cleveland-street	6,703
From North side of Cleveland-street to the Crown-street Reservoir	1,245
In Albion-street	574
TOTAL	<u>8,522</u>

SCHEDULE B.

RETURN of Water Service Mains laid throughout the City of Sydney, during the year 1858.

20-INCH MAINS.

	Lineal Yards.
Riley-street	417
South Head Road	267
College-street and across Hyde Park to Park-street	400
TOTAL	<u>1,084</u>

12-INCH MAINS.

	Lineal Yards.
Across Park-street... ..	55
Bourke-street, from Albion-street to the South Head Road ..	400
Darlinghurst Road, from junction with Bourke-street to Upper William-street	796
TOTAL	<u>1,251</u>

9-INCH MAINS.

	Lineal Yards.
Darlinghurst Road, from Upper William-street to William-street	150
South Head Road, from Bourke-street to William-street	620
TOTAL	<u>770</u>

6-INCH MAINS.

	Lineal Yards.
Princes-street... ..	715
Pitt-street North	426
William-street	74
Campbell-street	464
Upper Forbes-street	94
South Head Road	275
Macquarie-street	745
TOTAL	<u>2,793</u>

4-INCH MAINS.

	Lineal Yards.
Abererombie-street	428
Elizabeth-street South and Devonshire-street	285
Erskine-street	330
TOTAL	<u>1,043</u>

3-INCH MAINS

	Lineal Yards.
May's Lane	216
Stephen and Judge Streets	402
Sarah Ann Street	30
Yurong-street	185
Charles-street	92
Castlereagh-street South	148
Albion-street	450
Brisbane-street	216
Junction-street	63
Wattle-street... ..	100
Cooper-street	92
John's Lane	77
TOTAL	<u>2,071</u>

ABSTRACT.

	Lineal Yards.
30-inch Mains, from Botany to Sydney	8,522

SEWERAGE AND WATER SUPPLY.

SERVICE MAINS.		Linear Yards.
20-inch	...	1,084
12 "	...	1,251
9 "	...	770
6 "	...	2,793
4 "	...	1,043
3 "	...	2,071
TOTAL		9,012

STATEMENT of the RECEIPTS and EXPENDITURE of the MUNICIPAL COUNCIL, on account of the WATER AND SEWERAGE FUNDS, from the 1st January to the 31st December, 1858.

RECEIPTS ON ACCOUNT OF THE WATER FUND.	30 JUNE, 1858.	31 DECEMBER, 1858.	TOTAL AMOUNT.
<i>Water Works.</i>			
Laid on to Houses in the City	2,004 6 0	8,709 17 6	10,714 3 6
Proceeds from Hyde Park Fountain ...	402 2 3	299 2 0	701 4 3
" Dockyard and Soldiers' Point	177 10 0	177 10 0	355 0 0
" South Head Road	15 15 0	5 5 0	21 0 0
	2,599 13 3	9,191 14 6	11,791 7 9
Proceeds of sale of old Material	2 18 3	.....	2 18 3
Repayment for Works... ..	26 12 9	.....	26 12 9
Interest on Bank Account	36 1 10	112 14 1	148 15 11
TOTAL AMOUNT OF RECEIPTS £	2,665 6 1	9,304 8 7	11,969 14 8
EXPENDITURE ON ACCOUNT OF THE WATER FUND.	30 JUNE.	31 DECEMBER.	TOTAL AMOUNT.
Salaries of Officers	982 2 11	1,009 8 0	1,991 10 11
Office Expenses	336 2 11	206 0 6	542 3 5
<i>General Works.</i>			
Wages... ..	2,699 15 8	6,991 16 6	9,691 12 2
Iron Pipes	606 1 3	2,195 19 4	2,802 0 7
Castings	767 0 0	1,507 19 3	2,274 19 3
Tools, Repairs, and Incidental Expenses	412 15 5	948 0 9	1,360 16 2
Bricks and Cartage	1,210 9 5	226 13 0	1,437 2 5
Works at Reservoir	1,612 6 1	1,476 0 2	3,088 6 3
	7,308 7 10	13,346 9 0	20,654 16 10
<i>Botany Works.</i>			
Wages	5,461 19 7	6,792 6 10	12,254 6 5
Timber, Fencing, and Piling	686 8 10	1,909 12 1	2,596 0 11
Engine House	6,357 0 8	3,985 8 1	10,342 8 9
Machinery	10,000 0 0	9,432 6 3	19,432 6 3
	22,505 9 1	22,119 13 3	44,625 2 4
Lachlan Swamp: Wages, Fuel, &c. ...	927 12 0	385 4 1	1,312 16 1
Interest ... ..	.....	5,471 6 10	5,471 6 10
Law Expenses	267 9 2	.....	267 9 2
TOTAL AMOUNT OF EXPENDITURE £	32,327 3 11	42,538 1 8	74,865 5 7
ABSTRACT OF THE ACCOUNT.			
DR.—To the Colonial Government, 31 Dec., 1857 ...	£136,587 0 0		
Expenditure for the year 1858	74,865 5 7		
Balance due by Joint Stock Bank, 31 Dec., 1858	13,864 8 8		
			225,316 14 3
CR.—By Balance due by Joint Stock Bank, 31 Dec., 1857	9 0 4		
Receipts for the year 1858	11,969 14 8		
The Colonial Government: Balance due 31 Dec., 1858	213,337 19 3		
			225,316 14 3

SEWERAGE AND WATER SUPPLY.

RECEIPTS ON ACCOUNT OF THE SEWERAGE FUND.	30 JUNE.	31 DECEMBER.	TOTAL AMOUNT.
Proceeds of sale of Pipes	93 15 8	245 15 4	339 11 0
Repayment for Works	6 8 0	.....	6 8 0
Proceeds of sale of Asphalte	662 14 6	.....	662 14 6
TOTAL AMOUNT OF RECEIPTS £	762 18 2	245 15 4	1,008 13 6
EXPENDITURE ON ACCOUNT OF THE SEWERAGE FUND.	30 JUNE.	31 DECEMBER.	TOTAL AMOUNT.
Salaries of Officers	948 10 11	871 18 0	1,820 8 11
Office Expenses	336 2 11	206 0 6	542 8 5
<i>General Works.</i>			
Wages of Workmen	182 19 9	103 19 0	286 18 9
Drains, Pipes, and Repairs... ..	33 1 8	191 9 6	224 11 2
	216 1 5	295 8 6	511 9 11
Main Sewers	5,490 11 9	765 1 8	6,255 13 5
Interest on overdrawn Account	145 0 6	157 1 4	302 1 10
TOTAL AMOUNT OF EXPENDITURE £	7,136 7 6	2,295 10 0	9,431 17 6
ABSTRACT OF THE ACCOUNT.			
DR.—To the Colonial Government, 31 Dec., 1857 ..	£189,425 0 0		
Joint Stock Bank	7,433 10 0		
Expenditure for the year 1858	9,431 17 6		
			206,290 7 6
CR.—By Receipts for the year 1858... ..	1,008 13 6		
The Colonial Government, 31 Dec., 1858 ...	200,000 0 0		
The Joint Stock Bank... ..	5,281 14 0		
			206,290 7 6

City Treasurer's Office,
Sydney, 14th January, 1859.

EDWD. LORD,
City Treasurer.

THE Accounts from the 1st January to the 30th June, 1858, connected with the WATER AND SEWERAGE FUND, of which the above is an Abstract, have been duly audited by us, and found to be correct.

ROBERT BYERS, }
JAMES SIMPSON, } *Auditors.*

THE Accounts from the 1st July to the 31st December, 1858, have been duly audited by us, and found to be correct.

ROBERT BYERS, }
ROBERT PHENNA, } *Auditors.*

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

CITY SEWERAGE ACT OF 1853.

(PETITION AGAINST ASSESSMENT UNDER.)

Ordered by the Legislative Assembly to be Printed, 7 April, 1859.

To the Honorable the Speaker and Members of the Legislative Assembly of New South Wales, in Parliament assembled.

The humble Petition of the undersigned Citizens of Sydney,—

SHEWETH, AS FOLLOWS :—

The Preamble to the Act of Council 17 Victoria, No. 34, entitled "*An Act for the better Sewerage and cleansing the City of Sydney, and portions of the Suburbs thereof,*" assented to on the 31st October, 1853, commonly known as the "City Sewerage Act," recites, that the City of Sydney and the suburbs thereof are at present greatly deficient in proper sewers and drains, and other means for effectually draining and cleansing the same.

By the second section of the said Act, the Governor, with the advice of the Executive Council, was empowered to borrow, upon the security of the General Revenue of the Colony, at a rate of interest not exceeding four per cent. per annum, any sums of money not exceeding in the whole two hundred thousand pounds, as should from time to time be required for carrying the said Act into execution; and all such sums were to be paid over to the then Commissioners for the City of Sydney, (who, by the fourth section, are appointed Commissioners for all the purposes of the Act,) as the same might be required, and to be by them placed to the credit of a separate fund, for defraying the cost of the sewerage of the said city and suburbs, and all such sums so borrowed were to be all charged upon the sewerage rates of the said city.

By the third section, the entire expenditure of moneys upon the said works, and otherwise in carrying out the purposes of the Act, (with certain exceptions,) were to be subject to the control of the Legislative Council, and regulated by votes and Acts of the said Council, in the same manner as the ordinary public expenditure of the Colony, and accounts of all income and revenues whatsoever received by the said Commissioners in relation to the works to be executed under the Act, and of the expenditure thereof, were to be annually laid before, and to be subject to examination by, the said Legislative Council, in the same manner as if the same were a part of the General Revenue of the said Colony.

By the sixth section the Commissioners were to make regulations for all or any of the purposes following, that is to say, for regulating in regard to drainage, the plans, level surface, inclination, and the materials of the pavement and roadway of public or private streets, highways, roads, ways, footpaths, lanes, passages, and places, and the plans and level of sites for building, and for regulating the drainage, the drainage of roads and streets into their sewers, for regulating the dimensions, form, and mode of construction, and the materials, and the keeping, cleansing, and repairing of the pipes, drains, and other means of communicating with sewers, and the traps and apparatus connected therewith, for the emptying, cleansing,

closing, and filling up of cesspools and privies, and for such other works of cleansing, and of removing and disposing of such refuse, as the said Commissioners were authorised to perform or require for regulating the form of contracts with the said Commissioners, and generally for carrying into effect the purposes of the Act, with a proviso that all such regulations should, before the same should be in force, be laid before the Governor and Executive Council, and be by them approved, and should be laid before the Legislative Council, if then in Session, within one month after the making thereof, and if not, then within the first month of the next ensuing Session thereof.

By the eleventh section, so soon as a public sewer, or any part thereof, should be completed, so as to be ready for use in any public street or other place within the said city or suburbs, so that the same might be communicated with by drains or sewers from the houses, buildings, or other premises in the neighbourhood thereof, or any of them, the Commissioners might require the owners and occupiers of such houses, buildings, or other premises to make such drains or sewers from such houses, buildings, or other premises to communicate with such public sewers, and such demand might be made by giving a notice thereof in writing, signed by one of the Commissioners to such owners or occupiers, or by leaving the same at the said houses, buildings, or other premises respectively; and such communicating drains or sewers should be made according to such plans and directions as the Commissioners might think most suitable for effectually carrying off all impurities from the said houses, buildings, or other premises respectively, and should be made either by such owners or occupiers, or at their expense, as hereinafter provided; and such owners or occupiers should also, when required so to do by the said Commissioners, alter such communicating drains and sewers as occasion might from time to time require.

By the twelfth section, the said Commissioners might, in and by such notice as aforesaid, require such communicating drains or sewers to be made by the said owners or occupiers within such time as they might reasonably limit in that behalf; and if the same should not be made within the prescribed time, or according to such plans and directions as aforesaid, it should be lawful for the said Commissioners to make or complete, or cause to be made or completed, as occasion may require, and for that purpose to excavate the ground, and to make, construct, and lay down such drains or sewers in, along, or over the land or ground of any person, and in such last mentioned case the said Commissioners were to be entitled to recover from every such owner or occupier, before any two Justices of the Peace, the full amount of the cost and expense of making such communicating drains or sewers, provided that no proceedings should, in any case, be taken for such recovery before such Justices until default should have been made in payment of such costs and expenses, for twenty days after demand made by the said Commissioners, or their duly authorised agent, or such owner or occupier, for the payment thereof: And, provided also, that in case such costs and charges should be recovered from, and paid by a tenant, occupier of any such house, building, or other premises, he should be entitled to be repaid by his landlord the amount so recovered and paid, unless he should be liable to pay the same, under and by virtue of his lease or agreement with his landlord.

By an Act of the Colonial Legislature, 20th Victoria, No. 35, intituled, "*An Act to re-establish a Municipal Council in the City of Sydney*," styled "*The Sydney Corporation Act of 1857*," section ten enacts that all the powers, authorities, privileges, immunities, and duties, vested in and imposed upon the said Commissioners for the City of Sydney by the said City Sewerage Act, were thereby transferred to and vested in, and were to be exercised and enjoyed and performed by the Council, and all the provisions then in force of the said Act, and, until repealed or altered by the Council, all rules, regulations, and by-laws duly made thereunder and then in force were, *mutatis mutandis*, to be as binding upon all persons affected thereby, or to whom the same might in any manner apply, as if such provisions were contained in, and such rules, regulations, and by-laws were duly made under and by virtue of the said Sydney Corporation Act, 1857.

By section six of the last recited Act, rate-payers, for the purposes thereof, were to be persons who were, in fact, at the time of claiming to vote assessed for the payment of some city rate, no portion whereof should at that time be in arrear; and every person named in the Electoral Roll whose qualification was not stated therein to be that of salary, lodging, or board and lodging, should *primâ facie* be deemed a rate-payer.

By the seventy-third section of the same Act, amongst other things, the Council might borrow, in aid of the sewerage fund, to carry out the sewerage of the said city, in addition
to

to the sums already borrowed for that purpose, sums not exceeding two hundred thousand pounds, provided the payment of all such sums already borrowed, or thereafter to be borrowed, for the several purposes therein mentioned, and the interest thereon, should be secured on the entire revenues of the said Council, from whatever source arising, and that the rate of interest payable thereon should not exceed six pounds per cent. per annum.

By the seventy-fourth section of the same Act the Governor, with the advice of the Executive Council, could also borrow, upon the security of the General Revenue of the Colony, any sum or sums of money not exceeding in the whole, inclusive of the sums already borrowed, the amounts sanctioned in the second section of the Sewerage Act of 1853, and, with the sanction of the Legislative Assembly, might pay over such sums to the Council as the same might be required by them from time to time, and the repayment of all such sums, and the interest thereon, were to be secured on the entire revenues of the Council, from whatever source arising.

By the seventeenth section of the Sewerage Act of 1853 it was provided that, so soon as a public sewer, or any part thereof, should have been completed, so as to be ready for use in any street or other place within the said city, or such suburbs as aforesaid, so that the same might be communicated with by drains and sewers from the respective houses, buildings, or other premises in the neighbourhood thereof, or any of them, the occupiers of such houses, buildings, and other premises respectively, should pay to the said Commissioners the rates per annum in the said section set forth respectively, and every such rate was to be payable according to the amount at which such house, building, or other premises should be assessed to the city rate, if the same should have been so assessed, but if not, then according to the actual value thereof; and such rate should be due and payable in advance on and from the day when such sewer should be so complete and ready for use and communication; provided that it should be lawful for the tenant of any messuage or tenement under the yearly rent of fifteen pounds per annum to deduct the amount of such rate from time to time from his rent, or for the said Commissioners to make such rate upon the owner of any messuage or tenement under such yearly rent as assessed, and to receive the same from such owner in such and the like manner as any rate for rent by this Act authorised to be made may be recovered.

Your Petitioners, or the greater number of them, received during the month of March now last past, notices in the following form:—

No.

CITY OF SYDNEY.

WARD,

Town Hall, King-street, Sydney,
16th December, 1858.

To the present Occupant,

Notice is hereby given, that by virtue of the Acts of the Governor and Legislative Council in such case made and provided, you have been assessed and rated in respect of the undermentioned property at the sums and for the purposes hereunder set forth.

Person Rated.	Property Assessed.	Net Value clear of Outgoings.	Nature of Rate.	Rate per cent. on Valuc.	Amount of Rate.
			Sewerage Rate, year ending 31st December, 1858.		£ s. d.

You are hereby required to pay the amount of the said rate into the office of the City Treasurer within fourteen days from the date of service of this notice; and if the same be not paid into such office within the period above prescribed, a warrant will be forthwith issued for the recovery of the same with costs.

Date of Service,

1859.

City Treasurer.

The notices so served upon your Petitioners are, as they submit, wholly illegal and beyond the authority of the Council, for the following reasons:—

1. The City Commissioners, as your Petitioners are informed and believe, never have revised and kept open for inspection in their offices any map as required by the fifth section of the City Sewerage Act, and no such map has ever yet been completed; at all events, your Petitioners, although frequently applying to

to the City authorities for a sight of such a map, in order to avail themselves if possible of the benefit of such sewerage, have never yet been able to see the same.

2. The directions of the sixth section of the Sewerage Act, relating to the framing of rules and regulations, have not, as your Petitioners are informed and believe, been complied with by the City Commissioners, and no such rules and regulations have ever even yet been framed or submitted to the Governor and Executive Council, or laid before the Parliament for approval.
3. The assessment which your Petitioners are now called upon to pay is retrospective for a period during which your Petitioners neither have derived, nor could derive, any benefit from the great outlay made upon the sewerage works of the city, and at a time when they are still unable to derive any such benefit. Whereas it is obvious, from the terms of the seventeenth section of the Sewerage Act, that the assessment contemplated was to be imposed with a view to, and at a time when, they could reap an immediate benefit, and was then to be, not a payment to cover the outlay of a past period, but a payment in advance, to be met by an immediate and prospective corresponding advantage.
4. The general sewerage works of the city, upon which so great, and, as your Petitioners fear, so ruinously wasteful an expenditure has been made, are, in the estimation of competent judges, and in the opinion of your Petitioners generally, a failure for the purposes for which they were designed, and are not, even now, (if the provisions of the law referred to by your Petitioners had been formally carried out) in such a state as to enable the Council practically to confer on your Petitioners any benefits commensurate with any assessment in advance which might be imposed.

For all these reasons your Petitioners are seriously aggrieved by the attempt to impose upon them the burden contemplated by the notices referred to, and will feel it to be their bounden duty to resist the enforcement of these notices by all lawful means in their power.

Your Petitioners are deeply impressed with the conviction, which they respectfully urge on the consideration of your Honorable House, that this Sewerage Act is, under all circumstances of the case, wholly inadequate to the carrying out of the great and vital purpose of cleansing the City of Sydney, and they dread the outlay of any more money under its authority, as only tending to throw an additional, heavy, and unprofitable burden on your Petitioners.

If the Session of your Honorable House had not been so near its end your Petitioners would have hoped that a new Bill might have been introduced for correcting the evils complained of in this Petition, but under existing circumstances,—

Your Petitioners humbly pray that your Honorable House will take the case into your serious consideration, and resolve to address His Excellency the Governor General to issue a Commission to some competent persons to inquire and report upon the subject, with a view to future legislation, or will give such other relief in the premises as to your Honorable House may seem just and expedient.

And your Petitioners will ever pray, &c.

[Here follow 959 Signatures.]

1858-9.

Legislative Assembly.
NEW SOUTH WALES.

LOANS TO THE CITY CORPORATION.

(CORRESPONDENCE RELATIVE TO.)

Ordered by the Legislative Assembly to be Printed, 7 April, 1859.

RETURN to an *Address* from the Honorable the Legislative Assembly of New South Wales to the Governor General, dated 8 March, 1859, praying that His Excellency would be pleased to cause to be laid upon the Table,—

“Copies of all Correspondence and Documents relating to all
“sums lent to the City Corporation, or raised for the benefit
“thereof on the credit of the Colony.”

(*Mr. Jenkins.*)

SCHEDULE.

No.	Page.
1. Auditor General to Colonial Secretary. 29 June, 1854	3
2. Colonial Secretary to Commissioners for the City of Sydney. 7 July, 1854	3
3. Do. to Colonial Treasurer. 7 July, 1854	4
4. Do. to Auditor General. 7 July, 1854	4
5. Secretary to City Commissioners to Colonial Secretary. 28 July, 1854	4
6. Do. to do. 17 August, 1854	5
7. Do. to do. 25 August, 1854	5
8. Colonial Secretary to Managing Trustee of the Sydney Savings Bank. 23 Sept., 1854	5
9. Do. to City Commissioners. 23 September, 1854	6
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13. Colonial Secretary to Auditor General. 14 December, 1854	7
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17. Do. to Auditor General. 5 March, 1855	8
18. Auditor General to Colonial Secretary. 20 April, 1855	9
19. Colonial Secretary to Secretary to City Commissioners. 27 April, 1855	9
20. Do. to Colonial Treasurer. 27 April, 1855	9
21. Do. to Auditor General. 27 April, 1855	10
22. Town Clerk to Colonial Secretary. 18 July, 1857	10
23. Under Secretary to Town Clerk. 22 July, 1857	10
24. Do. to Secretary to Treasury. 22 July, 1857	10
25. Do. to Under Secretary for Lands and Public Works. 22 July, 1857	11
26. Town Clerk to Colonial Secretary. 18 July, 1857	11
27. Under Secretary to Town Clerk. 22 July, 1857	11
28. Do. to Secretary to Treasury. 22 July, 1857	11
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30. Secretary to Treasury to Under Secretary. 29 July, 1857	12
31. Under Secretary to Town Clerk. 1 August, 1857	12
32. Under Secretary for Lands and Public Works to Under Secretary. 10 August, 1857	12
33. Do. to do. 10 August, 1857	13
34. Town Clerk to Colonial Secretary. 24 September, 1857	13
35. Under Secretary to Secretary to Treasury. 5 October, 1857	13
36. Secretary to Treasury to Under Secretary. 9 October, 1857	14
37. Town Clerk to Colonial Secretary. 19 October, 1857	14
38. Under Secretary to Town Clerk. 26 October, 1857	14
39. Town Clerk to Colonial Secretary. 19 October, 1857	15
40. Under Secretary to Town Clerk. 31 October, 1857	15
41. Town Clerk to Colonial Secretary. 27 January, 1858	15
42. Do. to do. 27 January, 1858	16
43. Under Secretary to Town Clerk. 3 February, 1858	16
44. Do. to do. 3 February, 1858	16
45. Town Clerk to Colonial Secretary. 19 February, 1858	16
46. Under Secretary to Secretary to the Treasury. 20 February, 1858	17
47. Town Clerk to Colonial Secretary. 24 February, 1858	17
48. Under Secretary to Town Clerk. 25 February, 1858	17
49. Town Clerk to Colonial Secretary. 22 March, 1858	17
50. Under Secretary to Secretary to Treasury. 26 March, 1858	18
51. Do. to Town Clerk. 10 April, 1858	18
52. Town Clerk to Colonial Secretary. 26 April, 1858	18
53. Under Secretary to Town Clerk. 3 May, 1858	19
54. Town Clerk to Colonial Secretary. 11 June, 1858	19
55. Under Secretary to Secretary to Treasury. 15 June, 1858	19
56. Secretary to Treasury to Under Secretary. 19 June, 1858	19
57. Under Secretary to Town Clerk. 22 June, 1858	20
58. Do. to Secretary to Treasury. 22 June, 1858	20
59. Town Clerk to Colonial Secretary. 11 August, 1858	20
60. Under Secretary to Secretary to Treasury. 17 August, 1858	20
61. Town Clerk to Colonial Secretary. 6 October, 1858	21
62. Under Secretary to Secretary to Treasury. 8 October, 1858	21
63. Secretary to Treasury to Under Secretary. 13 October, 1858	21
64. Under Secretary to Town Clerk. 15 October, 1858	22
65. Secretary to Treasury to Town Clerk. 23 April, 1858	22
66. Do. to the Mayor. 26 June, 1858	22
67. Do. to do. 5 July, 1858	23
68. Town Clerk to Secretary to Treasury. 17 July, 1858	23
69. Secretary to Treasury to Town Clerk. 20 July, 1858	24
70. Secretary to Crown Law Officers to Secretary to Treasury. 25 August, 1858	24
71. Secretary to Treasury to Town Clerk. 21 September, 1858	25
72. Do. to do. 29 December, 1858	26

LOANS TO THE CITY CORPORATION.

No. 1.

THE ACTING AUDITOR GENERAL to THE COLONIAL SECRETARY.

(No. 195.)

Audit Office, Sydney,

29 June, 1854.

SIR,

With reference to the Minute of the Executive Council dated 11th January, 1854, on the subject of raising loans to meet the expenses of the Water Supply and Sewerage of this City,—I have the honor to report, for the information of His Excellency the Governor General, that the sum of five thousand pounds, deposited in the Treasury for these purposes ^{£5,000} by the Trustees of the Sydney Savings Bank, on the 11th March last, was thence transferred to the City Commissioners on the 21st March, under Warrant of Government, dated 14th of same month.

As by the second paragraph of the Minute a payment of the interest on this loan falls due on the 1st proximo, I would beg to suggest that the instructions conveyed in the fourth paragraph of the same may be complied with, by your at once furnishing instructions to the Commissioners to pay into the hands of the Colonial Treasurer the following sums, in liquidation of the claims for the interest referred to, viz. :—

Sewerage Debentures, £2,500, from 11th March to	
30th June, at 4 per cent.	£30 13 8
Water Debentures, £2,500 do.	30 13 8
	£61 7 4

I have, &c.,

JOHN STIRLING.

THE HONORABLE

THE COLONIAL SECRETARY.

Acting Auditor General.

No. 2.

THE COLONIAL SECRETARY to THE CITY COMMISSIONERS.

(No. 67.)

Colonial Secretary's Office,

Sydney, 7 July, 1854.

GENTLEMEN,

With reference to my letter of the 27th February last, No. 37, I am directed by His Excellency the Governor General to transmit to you a copy of a letter from the Acting Auditor General, on the subject of the loans to meet the expense of the Water Supply and Sewerage of the City, and to request that, as therein suggested, you will make the payments required for the interest on the sums advanced on account of the loans to the Colonial Treasury, viz. :—

Sewerage Debentures, £2,500, from 11th March to	
30th June, at 4 per cent.	£30 13 8
Water Debentures, £2,500 do.	30 13 8
	£61 7 4

I have, &c.,

W. ELYARD.

THE COMMISSIONERS

FOR THE CITY OF SYDNEY.

No. 3.

THE COLONIAL SECRETARY to THE ACTING COLONIAL TREASURER.

(No. 488.)

*Colonial Secretary's Office,
Sydney, 7 July, 1854.*

SIR,

Adverting to my letter of the 8th of February last, No. 125, respecting the loans to meet the expense of the Water Supply and Sewerage of the City, I am directed by His Excellency the Governor General to inform you that the City Commissioners have been requested to make the payments required for the interest on the sums advanced on account of the loans to the Colonial Treasury, viz. :—

Sewerage Debentures, £2,500, from 11th March to 30th June, at 4 per cent.	£30 13 8
Water Debentures, £2,500, do.	30 13 8
	£61 7 4

THE HONORABLE
THE ACTING COLONIAL TREASURER.

I have, &c.,
W. ELYARD.

No. 4.

THE COLONIAL SECRETARY to THE AUDITOR GENERAL.

(No. 1070.)

*Colonial Secretary's Office,
Sydney, 7 July, 1854.*

SIR,

I am directed by His Excellency the Governornor General to inform you that a copy of your letter of the 29th ultimo, No. 195, on the subject of the loans to meet the expense of the Water Supply and Sewerage of the City, has been forwarded to the City Commissioners, with a request that they will make the payments required for the interest on the sums advanced on account of the loans to the Colonial Treasury, as suggested by you, viz. :—

Sewerage Debentures, £2,500, from 11th March to 30th June, at 4 per cent.	£30 13 8
Water Debentures, £2,500 do.	30 13 8
	£61 7 4

THE ACTING
AUDITOR GENERAL.

I have, &c.,
W. ELYARD.

No. 5.

THE SECRETARY TO THE CITY COMMISSIONERS to THE COLONIAL SECRETARY.

*City Commissioners' Office,
Sydney, 25 July, 1854.*

SIR,

By direction of the City Commissioners, I do myself the honor to acquaint you, for the information of His Excellency the Governor General, that the sum of two thousand five hundred pounds (£2,500) received by them on the 21st day of March last, under the Act of Council 17 Victoria, No. 35, for the supply of Sydney and portions of the suburbs thereof with water, has been expended, in accordance with the provisions of that Act, and that on the 30th June, 1854, the account kept by the Commissioners of the Water Fund shewed a debt of one hundred and eighty-nine pounds seventeen shillings and eight-pence, (£189 17s. 8d.) exclusive of a contract for one thousand pounds (£1,000) worth of iron water piping ordered by them from England.

2. As the preliminary surveys necessary for supplying the City with water are in a state of forwardness, the Commissioners are desirous of taking steps for the purchase of some portion of the iron mains and machinery required as eligible opportunities may occur, and I am therefore to request that you will be pleased to take the necessary steps, in accordance with the 1st section of the Act above referred to, to have the sum of twenty thousand pounds (£20,000) placed at their disposal to meet the expense of the Water Supply of the City.

THE HONORABLE
THE COLONIAL SECRETARY.

I have, &c.,
DONALD STEWART,
Secretary.

No. 6.

No. 6.

THE SECRETARY TO THE CITY COMMISSIONERS to THE COLONIAL SECRETARY.

*City Commissioners' Office,
Sydney, 17 August, 1854.*

SIR,

I have the honor, by the direction of the City Commissioners, to acquaint you, for the information of His Excellency the Governor General, that the preliminary surveys are advancing so rapidly that the Commissioners deem it advisable to request that a sum of twenty thousand pounds (£20,000) may be placed at their disposal, under the authority of the Act of Council 17 Victoria, No. 34, to enable them to carry out the provisions of that Act for the better sewerage and cleansing the City of Sydney and portions of the suburbs thereof.

I have, &c.,

THE HONORABLE
THE COLONIAL SECRETARY.DONALD STEWART,
Secretary.

No. 7.

THE SECRETARY TO THE CITY COMMISSIONERS to THE COLONIAL SECRETARY.

*City Commissioners' Office,
Sydney, 25 August, 1854.*

SIR,

I have the honor, by the direction of the City Commissioners, to solicit your early attention to their letter dated the 25th July, 1854, in which they preferred a request to His Excellency the Governor General that a sum of twenty thousand pounds (£20,000) might be placed at their disposal, under the provisions of the Act of Council 17 Victoria, No. 35, for the supply of Sydney and portions of the suburbs thereof with water.

I have, &c.,

THE HONORABLE
THE COLONIAL SECRETARY.DONALD STEWART,
Secretary.

No. 8.

THE COLONIAL SECRETARY to THE MANAGING TRUSTEE OF THE SAVINGS BANK.

(No. 940.)

*Colonial Secretary's Office,
Sydney, 23 September, 1854.*

SIR,

With reference to my letters of the 27th February and 6th March last, respecting the loans to be raised for the Water Supply and Sewerage of the City of Sydney, under the Acts 17 Victoria, Nos. 34 and 35, I do myself the honor to inform you that an application has been received from the City Commissioners for a further advance of £20,000 towards the expenses of the Water Supply of the City of Sydney, and an advance £20,000 of the like sum to enable them to proceed with the Sewerage of the City; and I am directed by His Excellency the Governor General to request that, provided the Trustees of the Savings Bank of New South Wales are disposed to advance the further sum of £40,000, £40,000 the amount may be paid into the Colonial Treasury, being, as above-mentioned, £20,000 as a loan under the Sydney Sewerage Act, and £20,000 under the Sydney Water Supply Act.

2. Debentures, as in the case of the former advance, will be issued in even sums of £500 and £1,000, as may be desired by the Bank and communicated to the Colonial Treasurer, and will bear a rate of interest not exceeding 4 per cent. per annum, and not be payable for a period of five years certain, but will be payable at any time thereafter, upon three months' notice being given to the Government by the holders, and be redeemable at any time, on giving twelve months' notice to the holder in the *Government Gazette*. The interest will of course be payable from the date of the amount being handed over to the Colonial Treasurer.

I have, &c.,

THE MANAGING TRUSTEE
OF THE SAVINGS BANK,
New South Wales.

W. ELYARD.

No. 9.

THE COLONIAL SECRETARY to THE CITY COMMISSIONERS.

(No. 85.)

*Colonial Secretary's Office,
Sydney, 23 September, 1854.*

GENTLEMEN,

£20,000.

I have the honor to inform you that the Governor General has laid before his Executive Council your letters of the 25th July and 17th August last, applying for an advance of £20,000 towards the expenses of the Water Supply to the City of Sydney, and an advance of the like sum to enable you to proceed with the Sewerage of the City.

The Council advised that the advances requested by you should be made accordingly in part satisfaction of the loans for Sewerage and Water Supply, under the Acts of Council 17 Victoria, Nos. 34 and 35, and that the necessary amount for this purpose be obtained on debentures from the Savings Bank, such debentures to bear a rate of interest not exceeding 4 per cent, and not to be payable for a period of five years certain, but to be payable at any time thereafter on three months notice being given to the Government by the holders, and to be redeemable at any time on giving twelve months notice to the holder in the *Government Gazette*.

3. A communication to this effect has accordingly been made to the Managing Trustee of the Savings Bank, and on the receipt of the money into the Colonial Treasury a further communication will be made to you.

£500.
£1,000.

4. The interest will of course be payable from the date of the amount being handed over to the Colonial Treasurer; and debentures will, as in the former advance, be issued in even sums of £500 and £1,000, as may be desired by the Bank.

I have, &c.,

THE COMMISSIONERS OF THE
CITY OF SYDNEY.

W. ELYARD.

No. 10.

THE COLONIAL SECRETARY to THE ACTING COLONIAL TREASURER.

(No. 469.)

*Colonial Secretary's Office,
Sydney, 23 September, 1854.*

SIR,

£20,000.

For your information, I have the honor to transmit the copy of a letter which has been addressed to the Managing Trustee of the Savings Bank of New South Wales, in respect to a further advance from that institution of £20,000 towards the expenses of the Water Supply of the City of Sydney, and an advance of the like amount to enable the City Commissioners to proceed with the Sewerage of the City, and to request that you will report the receipt of the amount from the Savings Bank.

I have, &c.,

THE HONORABLE

THE ACTING COLONIAL TREASURER.

W. ELYARD.

No. 11.

THE COLONIAL SECRETARY to THE AUDITOR GENERAL.

(No. 1463.)

*Colonial Secretary's Office,
Sydney, 23 September, 1854.*

SIR,

£20,000.

For your information, I have the honor to transmit the copy of a letter which has been addressed to the Managing Trustee of the Savings Bank of New South Wales, in respect to a further advance from that institution of £20,000 towards the expense of the Water Supply of the City of Sydney, and an advance of the like amount to enable the City Commissioners to proceed with the Sewerage of the City.

I have, &c.,

THE ACTING
AUDITOR GENERAL.

W. ELYARD.

LOANS TO THE CITY CORPORATION.

7

No. 12.

THE SECRETARY TO THE CITY COMMISSIONERS to THE COLONIAL SECRETARY.

*City Commissioners' Office,**Sydney, 5 December, 1854.*

SIR,

I have the honor, by direction of the City Commissioners, respectfully to request that, as the Legislative Council have now authorized the payment of money on account of the City Sewerage and Water Supply, the sum of twenty-five thousand pounds, (£25,000) being the remainder of the sum of £40,000 applied for in my letters of the 25th July and the 17th August last, may be placed at the disposal of the Commissioners for carrying on the above-mentioned works, viz., twelve thousand five hundred pounds for the City Sewerage and twelve thousand five hundred pounds for the Water Supply.

I have, &c.,

THE HONORABLE
THE COLONIAL SECRETARY.

CHAS. H. WOOLCOTT,

Secretary.

No. 13.

THE COLONIAL SECRETARY to THE ACTING AUDITOR GENERAL.

(No. 1947.)

*Colonial Secretary's Office,**Sydney, 14 December, 1854.*

SIR,

I have the honor to transmit to you a copy of a letter from the Secretary to 5 Dec. 1854. the City Commissioners, applying for the payment to them of twenty-five thousand pounds for the works for the supply of Water and Sewerage of the City; and with reference to the Act of Council, 18th Victoria, No. 30, sec. 9, which authorizes money to be obtained for these services at a rate not exceeding £5 per cent. per annum, or by the scale of debentures bearing that interest, and to the 18th Victoria, No. 36,—I am directed by His Excellency the Governor General to request your report and suggestions on the subject of the providing and issuing this money.

I have, &c.,

THE ACTING AUDITOR GENERAL.

W. ELYARD.

No. 14.

THE ACTING AUDITOR GENERAL to THE COLONIAL SECRETARY.

*Audit Office, Sydney,**18 December, 1854.*

SIR,

In attention to your letter of the 14th instant, No. 1947, requesting my report and suggestions on the subject of providing and issuing to the City Commissioners the sum of £25,000 for the purposes of the Supply of Water and of Sewerage, I have the honor to state, that of the amount of £43,576, authorized by the Legislative Council for the Water Supply during the present year, £10,000 has already been paid to the City Commissioners, leaving a balance of £33,576 still to be advanced to them; and of the £33,675 authorized for Sewerage, a similar amount of £10,000 has been paid, leaving a balance of £23,675 yet to be advanced for the present year.

2. As to the method of providing the sums now applied for by the Commissioners, viz., £12,500 for Water Supply and £12,500 for Sewerage, I would suggest that advantage should be taken of the power conferred on the Governor and Executive Council by the 9th section of the 18th Victoria, No. 30, and that tenders for debentures, bearing interest at the rate of 3½d. per diem per cent., should be called for by notice in the *Government Gazette*.

3. I would also recommend that the sums which these debentures shall represent should not be payable for the term of five years certain, but that they should be payable at any time thereafter upon three months notice being given to the Government by the holder. This would place these debentures on the same footing as was ultimately conceded by the Government to the Savings Bank, in respect of the first £20,000 borrowed from that institution for City purposes, and intimated to the Managing Trustee in your letter of the 6th March last, No. 54-223.

I have, &c.,

THE HONORABLE
THE ACTING COLONIAL SECRETARY.

JOHN STIRLING.

No. 15.

No. 15.

THE COLONIAL SECRETARY to THE ACTING COLONIAL TREASURER.

(No. 58.)

*Colonial Secretary's Office,**Sydney, 19 January, 1855.*

SIR,

In transmitting to you a schedule of tenders received in pursuance of a notice from this office, dated the 3rd instant, for Transferable and Remittable City Sewerage and Water Supply Debentures, I am directed by His Excellency the Governor General to inform you that the following tenders have been accepted on the terms therein stated, viz. :—

- (1.) Mrs. M. A. Burdekin for £10,000, at par.
- (2.) Captain J. Burn for £1,500, at par.

2. The parties have been apprised of the acceptance of their offers, and that the interest on the debentures will commence from the date on which they make payment of the money to you.

I have, &c.,

W. ELYARD.

P.S.—The offer of Mrs. Burdekin does not appear to be for Remittable Debentures.

THE HONORABLE

THE ACTING COLONIAL TREASURER.

No. 16.

THE COLONIAL SECRETARY to THE SECRETARY TO THE CITY COMMISSIONERS.

(No. 17.)

*Colonial Secretary's Office,**Sydney, 5 March, 1855.*

SIR,

With reference to your letter of the 5th December last, requesting a further payment on account of the City Sewerage and Water Supply, I have the honor to inform you that, in compliance with a suggestion made by the Auditor General, and in pursuance of the 9th section of the 18th Viet., No. 30, tenders for debentures, bearing interest at the rate of 3½d. per diem per cent., were called for by a notice of the 3rd January. The tenders were received on the 15th of the same month, and an amount of £11,500 accepted; and as the Colonial Treasurer, in a letter dated the 27th ultimo, has reported the payment of this sum into the Treasury, the Auditor General has been instructed to prepare a warrant for the issue of it to you.

Tenders for debentures for the balance of the amount of £25,000 applied for by you, namely £13,500, have been again advertised for, to be received on the 12th instant.

I have, &c.,

W. ELYARD.

THE SECRETARY TO THE

CITY COMMISSIONERS.

No. 17.

THE COLONIAL SECRETARY to THE ACTING AUDITOR GENERAL.

(No. 311.)

*Colonial Secretary's Office,**Sydney, 5 March, 1855.*

SIR,

The Acting Colonial Treasurer having reported the payment into the Colonial Treasury of the sum of £11,500 for City Sewerage and Water Supply Debentures, tendered under the notice of the 3rd of January last, in pursuance of the suggestion made in your letter of the 18th December, No. 401, I am directed by His Excellency the Governor General to request that you will prepare a warrant for the issue of the same to the City Commissioners.

2. Tenders for the balance of the £25,000 applied for by the Commissioners have been again advertised for, to be received on the 12th instant.

I have, &c.,

W. ELYARD.

THE ACTING AUDITOR GENERAL.

No. 18.

THE AUDITOR GENERAL to THE ACTING COLONIAL SECRETARY.

(No. 130.)

Audit Office, Sydney,
20 April, 1855.

SIR,

In reply to your letter No. 517, of the 18th instant, received this day, I have the honor to enclose a warrant for the payment to the City Commissioners of the sum of £2,880 (the proceeds of the sale of Water Debentures to the amount of £3,000), paid into the Colonial Treasury on the 13th March, 1855, and available for defraying the cost of supplying Sydney with water.

2. I take the opportunity of enclosing an abstract of interest due on the Sewerage and Water Debentures to 31st December last, the amount of which, it is suggested, the Commissioners should be requested to pay into the Colonial Treasury as soon as possible, in order that the same may be handed over to the Managing Trustee of the Savings Bank.

I have, &c.,

THE HONORABLE
THE ACTING COLONIAL SECRETARY.

JOHN STIRLING.

No. 19.

THE COLONIAL SECRETARY to THE SECRETARY TO THE CITY COMMISSIONERS.

(No. 37.)

Colonial Secretary's Office,
Sydney, 27 April, 1855.

SIR,

In transmitting to you the enclosed copy of a letter from the Auditor General, submitting a warrant for the payment to the City Commissioners of the sum of £2,880 (the proceeds of the sale of Water Debentures to the amount of £3,000) paid into the Colonial Treasury on the 15th March, 1855, and available for defraying the cost of supplying Sydney with water, I am directed by His Excellency the Governor General to request that the Commissioners will have the goodness to cause the interest due on Sewerage and Water Debentures to the 31st December last, of which a statement is enclosed, to be paid into the Treasury.

I have, &c.,

W. ELYARD.

P. S.—The warrant of the issue to you of £2,880 has been signed and forwarded to the Treasury.

THE SECRETARY
TO THE CITY COMMISSIONERS.

No. 20.

THE COLONIAL SECRETARY to THE ACTING COLONIAL TREASURER.

(No. 340.)

Colonial Secretary's Office,
Sydney, 27 April, 1855.

SIR,

The City Commissioners having been requested to pay the sum of £317 16s. 1d., being the amount of interest due on Sewerage and Water Debentures to the 31st December last, into the Treasury, I am directed by His Excellency the Governor General to request that you will have the goodness to receive the amount when tendered.

I have, &c.,

THE HONORABLE
THE ACTING COLONIAL TREASURER.

W. ELYARD.

No. 21.

THE COLONIAL SECRETARY to THE ACTING AUDITOR GENERAL.

(No. 593.)

*Colonial Secretary's Office,
Sydney, 27 April, 1855.*

SIR,

In acknowledging the receipt of your letter of the 20th instant, No. 130, submitting a warrant for the payment to the City Commissioners of the sum of £2,880 (the Water Debentures to the amount of £3,000) paid into the Colonial Treasury on the 15th March, 1855, and available for defraying the cost of supplying Sydney with water, and enclosing a statement of interest due on Sewerage and Water Debentures,—I am directed by His Excellency the Governor General to inform you, that the Commissioners have been requested to cause the interest due on Sewerage and Water Debentures, to the 31st December last, to be paid into the Treasury.

I have, &c.,

THE ACTING

W. ELYARD.

AUDITOR GENERAL.

No. 22.

THE TOWN CLERK to THE COLONIAL SECRETARY.

*Town Clerk's Office,
Sydney, 18 July, 1857.*

SIR,

I have the honor, by direction of the Right Worshipful the Mayor, to request that you will be pleased to issue the necessary instructions for an advance of the sum of Ten thousand pounds to the Municipal Council, to meet the expenditure on account of the Sydney Water Works for the present year.

£10,000.

I have, &c.,

THE HONORABLE

CHS. H. WOOLCOTT.

THE COLONIAL SECRETARY.

Town Clerk.

No. 23.

THE PRINCIPAL UNDER SECRETARY to THE TOWN CLERK.

(No. 28.)

*Colonial Secretary's Office,
Sydney, 22 July, 1857.*

SIR,

In acknowledging the receipt of your letter of the 18th instant, applying for the payment to the Municipal Council of £10,000 for purposes connected with the Sydney Water Works, I am directed to inform you, that a reference has been made to the Treasury, and that as soon as the necessary information is obtained for the purpose an answer will be given to your application.

I have, &c.,

THE TOWN CLERK.

W. ELYARD.

No. 24.

THE PRINCIPAL UNDER SECRETARY to THE SECRETARY TO THE TREASURY.

(No. 387.)

*Colonial Secretary's Office,
Sydney, 22 July, 1857.*

SIR,

In transmitting to you the copy of a letter from the Town Clerk, applying for the payment to the Municipal Council of £10,000 for purposes connected with the Sydney Water Works, I am directed to request that you will have the goodness to move the Honorable the Colonial Treasurer to apprise the Colonial Secretary whether there appears to be any objection to the issue of this money, and whether it is now available.

I have, &c.,

THE SECRETARY

W. ELYARD.

TO THE TREASURY.

No. 25.

THE PRINCIPAL UNDER SECRETARY to THE UNDER SECRETARY FOR LANDS AND PUBLIC WORKS.

(No. 228.)

*Colonial Secretary's Office,
Sydney, 22 July, 1857.*

SIR,

The Town Clerk having applied for the payment to the Municipal Council of £10,000 for purposes connected with the Sydney Water Works, I am directed to request that you will have the goodness to move the Honorable the Secretary for Lands and Public Works to cause the Colonial Secretary to be apprised whether he is aware of any objection to the application being complied with, as far as his department is concerned.

I have, &c.,
W. ELYARD.

THE UNDER SECRETARY
FOR LANDS AND PUBLIC WORKS.

No. 26.

THE TOWN CLERK to THE COLONIAL SECRETARY.

*Town Clerk's Office,
Sydney, 18 July, 1857.*

SIR,

I have the honor, by direction of the Right Worshipful the Mayor, respectfully to request that you will be pleased to order the necessary warrant to be prepared for the payment to the Municipal Council of the sum of ten thousand pounds out of the amount voted by the Legislature for Sewerage purposes for the present year.

I have, &c.,
CHS. H. WOOLCOTT,
Town Clerk.

THE HONORABLE
THE COLONIAL SECRETARY.

No. 27.

THE PRINCIPAL UNDER SECRETARY to THE TOWN CLERK.

(No. 27.)

*Colonial Secretary's Office,
Sydney, 22 July, 1857.*

SIR,

In acknowledging the receipt of your letter of the 18th instant, applying for the payment to the Municipal Council of £10,000 from the amount voted by the Legislature for Sewerage purposes for the present year, I am directed to inform you that a reference has been made to the Treasury, and that as soon as the necessary information is obtained for the purpose an answer will be given to your application.

I have, &c.,
W. ELYARD.

THE TOWN CLERK.

No. 28.

THE PRINCIPAL UNDER SECRETARY to THE SECRETARY TO THE TREASURY.

(No. 388.)

*Colonial Secretary's Office,
Sydney, 22 July, 1857.*

SIR,

In transmitting to you the copy of a letter from the Town Clerk, applying for the payment to the Municipal Council of £10,000 from the amount voted by the Legislative Assembly for Sewerage purposes for the present year, I am directed to request that you will have the goodness to move the Honorable the Colonial Treasurer to apprise the Colonial Secretary whether there appears to be any objection to the issue of this money, and whether it is now available.

I have, &c.,
W. ELYARD.

THE SECRETARY
TO THE TREASURY.

No. 29.

THE PRINCIPAL UNDER SECRETARY to THE UNDER SECRETARY FOR LANDS AND
PUBLIC WORKS.

(No. 227.)

*Colonial Secretary's Office,
Sydney, 22 July, 1857.*

SIR,

The Town Clerk having applied for the payment to the Municipal Council of £10,000 from the amount voted by the Legislature for Sewerage purposes for the present year, I am directed to request that you will have the goodness to move the Honorable the Secretary for Lands and Public Works to cause the Colonial Secretary to be apprised whether he is aware of any objection to the application being complied with, as far as his department is concerned.

I have, &c.,

THE UNDER SECRETARY
FOR LANDS AND PUBLIC WORKS.

W. ELYARD.

No. 30.

THE SECRETARY TO THE TREASURY to THE PRINCIPAL UNDER SECRETARY.

*The Treasury, New South Wales,
29 July, 1857.*

SIR,

With reference to your letters of the 22nd instant, Nos. 387 and 388, enclosing copies of applications from the Town Clerk for the payment to the Municipal Council of two sums of £10,000 each for Sewerage and Water purposes respectively, I am directed to inform you that both the Sewerage and Water Accounts are at present overdrawn.

I am to add, that the Right Worshipful the Mayor might, perhaps, be requested to state what amount in all it is contemplated to draw for each of the above services in 1857, in order that arrangements may be made to raise the money.

I have, &c.,

THE UNDER SECRETARY
TO THE GOVERNMENT

HENRY LANE.

No. 31.

THE PRINCIPAL UNDER SECRETARY to THE TOWN CLERK.

(No. 34.)

*Colonial Secretary's Office,
Sydney, 1 August, 1857.*

SIR,

With reference to my letter of the 22nd ultimo, respecting the application of the City Council for the payment of two sums of £10,000 each for Sewerage and Water purposes respectively, I am directed by the Colonial Secretary to inform you, that it appears by a communication received from the Treasury that the accounts for these services are at present overdrawn, and to request that the Right Worshipful the Mayor will have the goodness to state, for the information of the Government, the total amount which the City Council contemplate drawing for each of these services during the year 1857, in order that arrangements may be made to provide funds to meet their demands, as well as the sum required to cover the advance made in excess of the money raised for these purposes.

I have, &c.,

THE TOWN CLERK.

W. ELYARD.

No. 32.

THE UNDER SECRETARY FOR LANDS AND PUBLIC WORKS to THE PRINCIPAL UNDER
SECRETARY.

*Department of Lands and Public Works,
Sydney, 10 August, 1857.*

SIR,

Adverting to your letter of the 22nd ultimo, in which you request that the Honorable the Colonial Secretary may be apprised whether there is any objection on the part of the Secretary for Lands and Public Works to the sum of £10,000 being paid to the Municipal Council from the amount voted by the Legislature for Sewerage purposes for the present

present year,—I am directed to request that you will have the goodness to apprise the Honorable the Colonial Secretary that the Secretary for Lands and Public Works is not aware of any objection to the payment of the amount in question.

I have, &c.,

THE PRINCIPAL UNDER SECRETARY.

MICHL. FITZPATRICK.

No. 33.

THE UNDER SECRETARY FOR LANDS AND PUBLIC WORKS to THE PRINCIPAL UNDER SECRETARY.

*Department of Lands and Public Works,
Sydney, 10 August, 1857.*

SIR,

Adverting to your letter of the 22nd ultimo, in which you request that the Honorable the Colonial Secretary may be apprised whether there is any objection on the part of the Secretary for Lands and Public Works to the sum of £10,000 being paid to the Municipal Council for purposes connected with the Sydney Water Works,—I am directed to request that you will have the goodness to apprise the Colonial Secretary that the Secretary for Lands and Public Works is not aware of any objection to the payment of the amount in question.

I have, &c.,

THE PRINCIPAL UNDER SECRETARY.

MICHL. FITZPATRICK.

No. 34.

THE TOWN CLERK to THE COLONIAL SECRETARY.

*Town Clerk's Office,
Sydney, 24 September, 1857.*

SIR,

Referring to your letter of the 1st August last, on the subject of the Sewerage and Water Funds, I have the honor, by direction of the Right Worshipful the Mayor, to transmit herewith a statement shewing the amounts voted by the Legislature for Sewerage and Water purposes, the amounts which have been already received, and the balances at present to the credit of these funds, and a further statement of the probable receipts and expenditure on account of these funds to the end of the present year, and shewing the amounts which will be required from the Government to meet this expenditure.

2. In addition, however, to the sums set forth as being required for water purposes for this year, I am desired by His Worship to remind you that there is an amount of about £20,000 at present due to the Corporation—being the sum paid as compensation for land at Botany reserved for the Water Works—and that there will be, it is expected, a further demand of about £12,000 for the same purpose during the current year. These sums are not included in the estimates now submitted, as they form an item of claim against the Government altogether independent of the sums appropriated by the Legislature, and for the payment of which it is hoped provision will be made at an early period.

I have, &c.,

THE HONORABLE
THE COLONIAL SECRETARY.

CHS. H. WOOLCOTT,
Town Clerk.

No. 35.

THE PRINCIPAL UNDER SECRETARY to THE SECRETARY TO THE TREASURY.

(No. 509.)

*Colonial Secretary's Office,
Sydney, 5 October, 1857.*

SIR,

With reference to your letter of the 29th ultimo, respecting the applications made by the City Council for further payments on account of the City Sewerage and Water Works, I am now directed by the Colonial Secretary to transmit to you a copy of a letter from the Town Clerk shewing the amounts required in the present year, together with the statement therein referred to, and to request that you will bring these documents under the notice of the Colonial Treasurer, and favor me with a further communication on the subject, with a view to a reply being given to the City Council.

I have, &c.,

THE SECRETARY TO THE TREASURY.

W. ELYARD.

No. 36.

THE SECRETARY TO THE TREASURY to THE PRINCIPAL UNDER SECRETARY.

*The Treasury, New South Wales,
9 October, 1857.*

SIR,

In reply to your letter of the 5th instant, enclosing copy of a communication addressed to the Honorable the Colonial Secretary by the Town Clerk, shewing the amounts required during the present year for Sewerage and Water purposes, together with explanatory statements,—I am now directed to inform you that as the balance receivable from the Government by the Corporation on account of Sewerage Works (£20,575) will be required, it appears, by the 31st December next, and as the statement shews a balance to the debit of the Sewerage Fund of £5,943 2s. 7d., the Honorable the Treasurer has instructed the Auditor General to prepare a warrant for £10,000, leaving the balance to be drawn as required.

As regards the Water Works, the balance receivable from the Government is £63,413; but, as there appears to be a sum of £4,649 9s. 1d. at the credit of this fund, the Finance Minister is of opinion that the preparation of a warrant for the payment of any further amount had better be delayed until the Corporation actually require the money.

The Treasurer also thinks that the Corporation might be at once advised that the Government do not hold themselves bound to provide any further amount than this balance of £63,413,—adding, that if the Corporation require more for water purposes, they have the power, under the 73rd section of their Act of Incorporation, to raise a further loan to the extent of £150,000.

I am further directed to state that the amount paid as compensation for land at Botany is as much chargeable against the Water Works Loans as any other portion of the expenditure which has been or which may be incurred; this amount having been simply excepted from the control of the Legislature because neither the Commissioners nor the Legislature could regulate and determine it.

I have, &c.,

HENRY LANE.

THE UNDER SECRETARY
TO THE GOVERNMENT.

No. 37.

THE TOWN CLERK to THE COLONIAL SECRETARY.

*Town Clerk's Office,
Sydney, 19 October, 1857.*

SIR,

I have the honor, by direction of the Right Worshipful the Mayor, to renew the application made by my letter of 18th July last for an advance of the sum of (£10,000) Ten thousand pounds out of amount voted by the Legislature for Sewerage purposes for the present year.

I have, &c.,

CHS. H. WOOLCOTT,

Town Clerk.

THE HONORABLE
THE COLONIAL SECRETARY.

No. 38.

THE PRINCIPAL UNDER SECRETARY to THE TOWN CLERK.

(No. 53.)

*Colonial Secretary's Office,
Sydney, 26 October, 1857.*

SIR,

Having communicated to the Colonial Treasurer your letter of the 24th ultimo, No. 405, on the subject of the funds for the City Sewerage and Water Works, I am directed by the Colonial Secretary to state, for the information of the Right Worshipful the Mayor, that it has been intimated by the Secretary to the Treasury that a warrant has been prepared for the payment of the sum of £10,000 on account of the Sewerage Works, leaving the balance to be received by the Corporation under this head to be drawn as required.

2. With respect to the Water Works, the balance payable by the Government is £63,413, but as there appears, by the statement enclosed in your letter, to be a sum of
£4,649

£4,649 9s. 1d. at credit of the fund for these works, it is proposed to defer the issue of a warrant for a further payment from the Treasury until the money is actually required by the Corporation. At the same time, I am desired to remind the City Council that this sum of £63,413 will exhaust the amount to be provided by the Government—the Corporation, if more money is required for the Water Works, having the power, under the 73rd section of their Act of Incorporation, to raise a further loan of £150,000 for the purpose.

3. I am further directed to point out with reference to the second paragraph of your letter, that the amount of compensation for land resumed for Water Works is as much chargeable against the loan, which, as before stated, will be completed by the payment of the above-mentioned sum of £63,413, as any other portion of the expenditure for this service, the amount of such compensation having been simply excepted from the control of the Legislature because neither the Commissioners or the Legislature could regulate and determine it.

I have, &c.,

THE TOWN CLERK.

W. ELYARD.

No. 39.

THE TOWN CLERK to THE COLONIAL SECRETARY.

(No. 57-470.)

*Town Clerk's Office,
Sydney, 19 October, 1857.*

SIR,

I have the honor, by direction of the Right Worshipful the Mayor, to renew the application made to you on the 18th July last for payment of the sum of ten thousand ^{£10,000.} pounds to the Municipal Council, to meet the expenditure on account of the Sydney Water Works for the present year.

I have, &c.,

THE HONORABLE
THE COLONIAL SECRETARY.

CHS. H. WOOLCOTT,
Town Clerk.

No. 40.

THE PRINCIPAL UNDER SECRETARY to THE TOWN CLERK.

(No. 55.)

*Colonial Secretary's Office,
Sydney, 31 October, 1857.*

SIR,

In acknowledging the receipt of your letters of the 19th instant, Nos. 470 and 471, respecting the payment to the Municipal Council of further sums to meet the expenditure on account of the Sydney Water and Sewerage Works for the present year, I am directed to refer you to my communication of the 26th instant, No. 53, on the subject.

I have, &c.,

THE TOWN CLERK.

W. ELYARD.

No. 41.

THE TOWN CLERK to THE COLONIAL SECRETARY.

(No. 58-69.)

*Town Clerk's Office,
Sydney, 27 January, 1858.*

SIR,

I have the honor, by direction of the Right Worshipful the Mayor, to inform you that the City Water Fund is at present overdrawn at the Bank, and have, therefore, respectfully to request that you will be pleased to issue the necessary instructions for the payment to the Municipal Council of the sum of ten thousand pounds (£10,000) on account of the Water Works expenditure.

I have, &c.,

THE HONORABLE
THE COLONIAL SECRETARY.

CHS. H. WOOLCOTT,
Town Clerk.

No. 42.

THE TOWN CLERK to THE COLONIAL SECRETARY.

(No. 58-70.)

*Town Clerk's Office,
Sydney, 27 January, 1858.*

SIR,

£10,575.

I have the honor, by direction of the Right Worshipful the Mayor, respectfully to request that you will be pleased to direct the payment to the Municipal Council of the sum of ten thousand five hundred and seventy-five pounds, being the balance of the amounts voted by the Legislature for carrying out the Sewerage Works of the City, the said account being considerably overdrawn at the present time, and further contracts having been entered into by the Council, which will more than absorb the balance now applied for.

I have, &c.,

CHS. H. WOOLCOTT,

Town Clerk.

THE HONORABLE

THE COLONIAL SECRETARY.

No. 43.

THE PRINCIPAL UNDER SECRETARY to THE TOWN CLERK.

(No. 7.)

*Colonial Secretary's Office,
Sydney, 3 February, 1858*

SIR,

I am directed to inform you that it has been found necessary to refer to the Colonial Treasury respecting the application made in your letters of the 27th ultimo, Nos. 69 and 70; for £10,575 for Sewerage Works, and £10,000 on account of Water Works, and that when the required report has been received a further communication will be made to you without delay.

I have, &c.,

W. ELYARD.

THE TOWN CLERK.

No. 44.

THE PRINCIPAL UNDER SECRETARY to THE SECRETARY TO THE TREASURY.

(No. 45.)

*Colonial Secretary's Office,
Sydney, 3 February, 1858.*

SIR,

£10,575.
£10,000.

With reference to your letter of the 9th of October last, respecting the amount required by the Corporation of Sydney for Sewerage and Water purposes, I am directed by the Colonial Secretary to request that you will bring under the notice of the Colonial Treasurer the accompanying copies of applications made by the Municipal Council for the payment of ten thousand five hundred and seventy-five pounds for Sewerage Works, and ten thousand pounds on account of the Water Works expenditure, and that you will state whether these payments can now be made to the Corporation.

I have, &c.,

W. ELYARD.

THE SECRETARY TO THE TREASURY.

No. 45.

THE TOWN CLERK to THE COLONIAL SECRETARY.

(No. 58-128.)

*Town Clerk's Office,
Sydney, 19 February, 1858.*

SIR,

£10,575
£10,000.

I have the honor, by direction of the Right Worshipful the Mayor, to inquire whether instructions have been issued for the payment to the Municipal Council of the sums applied for by my letter of the 27th ultimo, on account of the Sewerage and Water Accounts.

I have, &c.,

CHS. H. WOOLCOTT,

Town Clerk.

THE HONORABLE

THE COLONIAL SECRETARY.

No. 46.

THE PRINCIPAL UNDER SECRETARY to THE SECRETARY TO THE TREASURY.

(No. 74.)

*Colonial Secretary's Office,
Sydney, 20 February, 1858.*

SIR,

With reference to my letter of the 3rd instant, enclosing the copies of applications made by the Municipal Council for the payment of £10,575 for Sewerage Works, and £10,000 on account of the Water Works expenditure, I am directed to transmit to you, for the information of the Honorable the Colonial Treasurer, the copy of a communication from the Town Clerk inquiring whether instructions have been issued for the payment to the Municipal Council of the sums in question.

I have, &c.,

W. ELYARD.

THE SECRETARY

TO THE TREASURY.

No. 47.

THE TOWN CLERK to THE COLONIAL SECRETARY.

(No. 58-151.)

*Town Clerk's Office,
Sydney, 24 February, 1858.*

SIR,

Referring to my previous applications for advances on account of the Sewerage and Water Funds, I have the honor, by direction of the Right Worshipful the Mayor, to inform you that, in expectation of having the required amounts at once paid by the Government, the Corporation has continued to make payments on account of the Sewerage and Water Funds up to the present time, so that the accounts are now overdrawn, the former to the extent of £9,800, and the latter to the extent of £2,500.

2. As the Council will not be in a position to meet these liabilities until the necessary advances have been made by the Government, and as it is uncertain at what time the Bank will require the balances to be paid off, His Worship would beg respectfully to urge your early attention to this matter, with a view to the amounts applied for being paid to the Corporation as soon as possible.

I have, &c.,

CHS. H. WOOLCOTT,

Town Clerk.

THE HONORABLE

THE COLONIAL SECRETARY.

No. 48.

THE PRINCIPAL UNDER SECRETARY to THE TOWN CLERK.

(No. 12.)

*Colonial Secretary's Office,
Sydney, 25 February, 1858.*

SIR,

In acknowledging the receipt of your letter of yesterday's date, referring to the applications made by the Corporation of Sydney for advances on account of the Sewerage and Water Works, to the extent of £10,575 for the former, and of £10,000 for the latter, I am directed to inform you, that the Colonial Secretary has been apprised by the Colonial Treasurer that the necessary steps have been taken for the issue of the above-mentioned sums to the City Council without delay.

I have, &c.,

W. ELYARD.

THE TOWN CLERK.

No. 49.

THE TOWN CLERK to THE COLONIAL SECRETARY.

(No. 58-209.)

*Town Clerk's Office,
Sydney, 22 March, 1858.*

SIR,

I have the honor, by direction of the Right Worshipful the Mayor, to inform you, that advices have been received from England that the remaining portion of the machinery for the Water Works at Botany has been shipped on board the "Kortemaur," which vessel was to leave about the middle of December, and may therefore be hourly

£20,000.

expected. Upon her arrival the Corporation, under a contract entered into by the late City Commissioners, will be called upon to pay the amount of the invoice for the engines complete, which will amount to £10,000 or £17,000, and His Worship would therefore feel obliged by the issue of the necessary warrant for the payment of a further sum of twenty thousand pounds on account of the City Water Supply.

THE HONORABLE
THE COLONIAL SECRETARY.

I have, &c.,
CHS. H. WOOLCOTT,
Town Clerk.

No. 50.

THE PRINCIPAL UNDER SECRETARY to THE SECRETARY TO THE TREASURY.
(No. 120.)

*Colonial Secretary's Office,
Sydney, 26 March, 1858.*

SIR,

The Town Clerk having applied for the issue of £20,000 to the City Council, on account of the City Water Works, I am directed to request that you will have the goodness to move the Honorable the Colonial Treasurer to state whether the amount in question can now be paid, and if so, and he sees no objection, to cause a warrant to be prepared for the issue of the amount to the Corporation.

THE SECRETARY
TO THE TREASURY.

I have, &c.,
W. ELYARD.

No. 51.

THE PRINCIPAL UNDER SECRETARY to THE TOWN CLERK.
(No. 15.)

*Colonial Secretary's Office,
Sydney, 10 April, 1858.*

SIR,

I am directed to inform you, in reply to your letter of the 22nd ultimo, that a warrant has been prepared for the issue to the Corporation of £10,000 on account of the City Water Works.

THE TOWN CLERK.

I have, &c.,
W. ELYARD.

No. 52.

THE TOWN CLERK to THE COLONIAL SECRETARY.
(No. 58-301.)

*Town Clerk's Office,
Sydney, 26 April, 1858.*

SIR,

I have the honor, by direction of the Right Worshipful the Mayor, to inform you that a communication has been received from Mr. Lane, of the Colonial Treasury, stating that the Government have a claim against the Corporation to the extent of £6,088 10s. 10d., for interest on debentures in London, falling due on the 30th of June next, and that it is proposed to deduct this amount from the £10,000, the balance of the £20,000 applied for on the 22nd of March last, on account of the Water Works, and to place the remaining sum of £3,911 9s. 2d. to the credit of the Corporation.

2. His Worship, fearing that some misunderstanding exists as to the position of the Municipal Council with respect to the further advance of moneys on account of the Water Fund, feels it necessary to state that the whole of the amount applied for by my letter of 22nd March, will, as therein explained, be immediately required to pay for the machinery now in course of delivery by Mr. Randle, and it will therefore be exceedingly inconvenient to deduct therefrom a sum for which the Council are not liable until the 30th of June. The arrangements made for the progress of the Water Works have been founded upon the belief that, until the total amount of £200,000, voted by the Legislature for the purpose of procuring a supply of water (exclusive of the sum required for the purchase of lands) had been obtained, advances thereon would be made by the Government to meet the liabilities incurred by the Corporation, and His Worship scarcely deems it necessary to refer to the difficulties which would arise should these payments not be made to the extent required in due course.

LOANS TO THE CITY CORPORATION.

19

I am, therefore, desired by His Worship respectfully to request that you will be pleased to issue the necessary instructions for the payment of the balance of £10,000 to the Municipal Council as soon as possible.

THE HONORABLE
THE COLONIAL SECRETARY.

I have, &c.,
CHS. H. WOOLCOTT,
Town Clerk.

No. 53.

THE PRINCIPAL UNDER SECRETARY to THE TOWN CLERK.

(No. 21.)

*Colonial Secretary's Office,
Sydney, 3 May, 1858.*

SIR,

In acknowledging the receipt of your letter of the 26th ultimo, No. 53-301, applying for the issue to the City Council of the sum of £10,000, being the balance of the £20,000 applied for in your communication of the 22nd March last, No. 209, for the purpose of paying for the machinery for the Water-works at Botany, expected by "Kartunan," I am directed to annex, for the information of the Right Worshipful the Mayor, the copy of the report of the Honorable the Colonial Treasurer on your letter.

THE TOWN CLERK.

I have, &c.,
W. ELYARD.

The object of demanding the £6,088 10s. 10d. of interest is to simplify the account, which now stands open in consequence of the advance made by the Treasury. Therefore I would prefer the payment of £3,911 9s. 2d. being received by the Corporation in full of the £20,000, leaving them to make an application for a further advance on the loan authorised.

R. C.
29 April.

No. 54.

THE TOWN CLERK to THE COLONIAL SECRETARY.

(No. 53-32.)

*Town Clerk's Office,
Sydney, 11 June, 1858.*

SIR,

I have the honor, by direction of the Right Worshipful the Mayor, respectfully to request that you will be pleased to issue the necessary instructions for a further advance of the sum of twenty thousand pounds to the Municipal Council on account of the City £20,000. Water Works, as the Council will be called upon almost immediately to meet some heavy liabilities in connection with these works.

THE HONORABLE
THE COLONIAL SECRETARY.

I have, &c.,
CHS. H. WOOLCOTT,
Town Clerk.

No. 55.

THE PRINCIPAL UNDER SECRETARY to THE SECRETARY TO THE TREASURY.

(No. 247.)

*Colonial Secretary's Office,
Sydney, 15 June, 1858.*

SIR,

The Town Clerk having applied for an advance to the Municipal Council for £20,000 on account of the City Water Works, I am directed to request that you will have the goodness to move the Honorable the Colonial Treasurer to cause a report to be made whether the money can be issued.

THE SECRETARY
TO THE TREASURY.

I have, &c.,
W. ELYARD.

No. 56.

THE SECRETARY TO THE TREASURY to THE PRINCIPAL UNDER SECRETARY.

(No. 584.)

*The Treasury, New South Wales,
19 June, 1858.*

SIR,

In reply to your letter of the 15th instant, requesting to be informed whether an advance of £20,000, applied for by the Municipal Council on account of the City Water Works,

Works, can be made, I am directed to state that the balance of the vote of £200,000 for this purpose is £33,413.

The Honorable the Treasurer is therefore prepared to make the advance now asked for

THE UNDER SECRETARY
TO THE GOVERNMENT.

I have, &c.,

HENRY LANE.

No. 57.

THE PRINCIPAL UNDER SECRETARY to THE TOWN CLERK.

(No. 29.)

*Colonial Secretary's Office,
Sydney, 22 June, 1858.*

SIR,

In reply to your letter of the 11th instant, No. 58-32, I am directed to inform you that the Secretary to the Treasury has been requested to move the Honorable the Colonial Treasurer to cause an advance of £20,000 to be made to the Municipal Council on account of the City Water Works.

I have, &c.,

THE TOWN CLERK.

W. ELYARD.

No. 58.

THE PRINCIPAL UNDER SECRETARY to THE SECRETARY TO THE TREASURY.

(No. 259.)

*Colonial Secretary's Office,
Sydney, 22 June, 1858.*

SIR,

With reference to your letter of the 19th instant, I am directed to request that you will have the goodness to move the Honorable the Colonial Treasurer to cause an advance of £20,000 to be made to the Municipal Council on account of the City Water Works.

I have, &c.,

THE SECRETARY
TO THE TREASURY.

W. ELYARD.

No. 59.

THE TOWN CLERK to THE COLONIAL SECRETARY.

*Town Clerk's Office,
Sydney, 11 August, 1858.*

SIR,

I have the honor, by direction of the Right Worshipful the Mayor, respectfully to request that you will be pleased to issue the necessary instructions for the further payment of the sum of twenty thousand pounds on account of the Sydney Water Works.

I have, &c.,

THE HONORABLE
THE COLONIAL SECRETARY.

CHS. H. WOOLCOTT,
Town Clerk.

No. 60.

THE PRINCIPAL UNDER SECRETARY to THE SECRETARY TO THE TREASURY.

(No. 349.)

*Colonial Secretary's Office,
Sydney, 17 August, 1858.*

SIR,

I am directed by the Colonial Secretary to transmit to you a copy of a letter from the Town Clerk applying for the issue to the City Council of a further sum of £20,000 on account of the City Water Works, and to request that you will bring the same under the notice of the Colonial Treasurer, with a request that he will communicate his views with reference to this application.

I have, &c.,

THE SECRETARY
TO THE TREASURY.

W. ELYARD.

No. 61.

THE TOWN CLERK to THE COLONIAL SECRETARY.

(No. 58-55.)

Town Clerk's Office,
Sydney, 6 October, 1858.

SIR,

I have the honor, by direction of the Right Worshipful the Mayor, respectfully to apply to you for a further advance of the sum of twenty thousand pounds on account of £20,000. the supply of Water to the City.

I have, &c.,

THE HONORABLE
THE COLONIAL SECRETARY.

CHS. H. WOOLCOTT,
Town Clerk.

No. 62.

THE PRINCIPAL UNDER SECRETARY to THE SECRETARY TO THE TREASURY.

(No. 400.)

Colonial Secretary's Office,
Sydney, 8 October, 1858.

SIR,

The Town Clerk having applied for the further advance to the City Council for the sum of £20,000, on account of the Supply of Water to the City, I am directed to request that you will have the goodness to move the Colonial Treasurer to cause the Colonial Secretary to be informed whether the amount in question can be paid.

I have, &c.,

THE SECRETARY
TO THE TREASURY.

W. ELYARD.

No. 63.

THE SECRETARY TO THE TREASURY to THE PRINCIPAL UNDER SECRETARY.

The Treasury, New South Wales,
13 October, 1858.

SIR,

I have the honor to acknowledge the receipt of your letter of the 8th instant, respecting an application from the Municipal Council for a further advance of £20,000 on account of the Water Supply.

In reply, I am directed to acquaint you, for the information of the Honorable the Principal Secretary, that the balance to credit of the Water Fund, which, including the vote of £25,843 5s. 8d. for compensation for land resumed by the Government, amounted to £29,256 5 8 has been charged with the amount of the several claims for interest on City Debentures, as follows:—

On Water Debentures, to 30th June, 1858—Balance	£1,846	15	10		
On Sewerage Debentures	7,987	5	5		
Amount remitted to England for Interest duc 1st January, 1859, on Sewerage Debentures.....	£1,558	18	6		
Water Debentures.....	2,959	2	6		
				4,518	1 0
					14,352 2 3
and has, therefore, been reduced to.....	£14,904	3	5		

to which extent the Honorable the Treasurer is prepared to make payments.

I have, &c.,

THE UNDER SECRETARY
TO THE GOVERNMENT.

HENRY LANE.

No. 64.

THE PRINCIPAL UNDER SECRETARY to THE TOWN CLERK.

(No. 58.)

*Colonial Secretary's Office,**Sydney, 15 October, 1858.*

SIR,

In acknowledging the receipt of your letter of the 6th instant, No. 58-55, applying for a further advance of the sum of £20,000 on account of the Supply of Water to the City, I am directed to inform you that the Secretary to the Treasury has reported that the balance to the credit of the Water Fund, which, including the vote of £25,843 5s. 8d. for compensation for land resumed by the Government, amounting to £29,256 5s. 8d., has been charged with the amounts of the several claims for interest on City Debentures, as follows:—

On Water Debentures, to 30th June, 1858—Balance.....	£1,846	15	10
On Sewerage Debentures	7,987	5	5
Amount remitted to England for Interest due 1st January, 1859, on Sewerage Debentures ..	1,558	18	6
Water Debentures	2,959	2	6
		£14,352	2 3

and has, therefore, been reduced to £14,904 3s. 5d., to which extent the Colonial Treasurer is prepared to make payments.

I have, &c.,

W. ELYARD.

THE TOWN CLERK.

No. 65.

THE SECRETARY TO THE TREASURY to THE TOWN CLERK.

(No. 391.)

*The Treasury, New South Wales,**23 April, 1858.*

SIR,

Referring to your application for the issue of £20,000 on account of the Water Works, and to a payment in acknowledgment thereof of a first instalment of £10,000 to the credit of the Corporation, I am now directed to inform you, with regard to the balance applied for, that the Government have a claim against the Corporation to the extent of £6,088 10s. 10d., being the amount of interest on the City Debentures in London falling due on the 30th June, which was transmitted to London on the 23rd March last.

The Treasurer proposes to deduct this amount from the remaining instalment of £10,000, and to place to the credit of the Corporation the balance, viz., £3,911 9s. 2d.

I have, &c.,

HENRY LANE.

CHAS. WOOLCOTT, Esq.,

Town Clerk.

No. 66.

THE SECRETARY TO THE TREASURY to THE MAYOR.

*The Treasury, New South Wales,**26 June, 1858.*

SIR,

With reference to your application for an advance of £20,000 on account of the City Water Works, I am directed to inform you that the Treasurer is now prepared to issue the amount asked for.

Adverting, however, to my letter of the 23rd April last, on the subject of interest falling due on City Debentures in London on the 30th of the present month, for which provision had been made by the Government,—

I am now instructed to enclose a statement of such interest, and to request that a cheque for the same may be forwarded to this office at your earliest convenience, when the £20,000 will at once be placed at the disposal of the Corporation in the Australian Joint Stock Bank.

I have, &c.,

HENRY LANE.

THE RIGHT WORSHIPFUL

THE MAYOR.

STATEMENT

STATEMENT referred to in foregoing Letter.

Interest due on City Debentures from 1st January to 30th June, 1858 :—

Sydney Sewerage...	..	..	..	..	..	..	..	4,550	17	8
Do. Water Works	...	...	...	...	...	...	...	3,624	11	0
								<u>£8,175</u>	<u>8</u>	<u>8</u>

HENRY LANE.

No. 67.

THE SECRETARY TO THE TREASURY to THE MAYOR.

*The Treasury, New South Wales,
5 July, 1858.*

SIR,

Having submitted to the Honorable the Treasurer your proposition that the £20,000 asked for water purposes should be placed at the disposal of the Corporation, on repayment into the Treasury of the interest due to the 30th ultimo on Water Debentures, (£3,624 11s.) leaving the repayment of the interest due on Sewerage Debentures for after consideration,—I am directed to inform you that the demand made for interest due is to be met from the General City Funds, and not from those of Water, or Sewerage, or any particular class of City Revenue, and in making the demand Mr. Campbell had no other intention than that it should be met from that source.

He considers that the interest due on both classes of debentures should be paid as proposed in my letter of the 26th ultimo.

I have, &c.,

THE RIGHT WORSHIPFUL

HENRY LANE.

THE MAYOR.

Proposal referred to in foregoing Letter.

*The Treasury, New South Wales,
1 July, 1858.*

Interest to 30 June on Sewerage Debentures	...	...	4,550	17	8
" " Water Debentures	...	...	3,624	11	0
<u>£8,175</u>					
<u>8</u>					
<u>8</u>					

The Right Worshipful the Mayor proposes, that, as the £20,000 are asked for Water purposes, he shall receive the amount on re-payment to the Treasury of the interest on Water Debentures, viz., £3,624 11s.—leaving the repayment of the interest on Sewerage Debentures (£4,550 17s. 8d.) for after consideration.

The Treasurer has advanced the whole of the £20,000 for the Sewerage, and there remain to be raised £29,054 17s. 6d., overdrawn on account of these advances.

H. L.

1 July.

What were the particulars of last advance when I asked for interest due?

Rt. C.

2 July.

£10,000 was paid on 18 May, for water.

When applied for, the Treasurer directed that the amount of interest sent for payment in London (£6,088) should be deducted.

The Treasurer afterwards waived the claim until the half-year expired and application for a further amount was made.

H. L.

2nd.

No. 68.

THE TOWN CLERK to THE SECRETARY TO THE TREASURY.

(No. 58-500.)

*Town Clerk's Office,
Sydney, 17 July, 1858.*

SIR,

With reference to your letter of the 5th instant, on the subject of the payment of the interest due on Sewerage Debentures out of the amount lately applied for on account of the Water Fund, I have the honor, by direction of the Right Worshipful the Mayor, to state, that His Worship is not in a position to make any payment on the Sewerage Account without

without a vote of the Municipal Council, but that the matter will be brought under the consideration of the Council on the 19th instant—the usual application having been made by the Auditor General for the payment of the interest due on both the Sewerage and Water Debentures for the past half-year. His Worship has in the meantime directed a warrant to be prepared for the sum of £3,624 11s. 1d. on Water Account, and the amount will be paid, upon the £20,000 already applied for being placed to the credit of the Corporation.

I am further desired to state that the Water Fund is now very considerably overdrawn at the bank, and that unless the amount above referred to be shortly paid, His Worship fears that it will be necessary to stop the further progress of the works connected with the supply of water—of such vital importance to this City.

I have, &c.,

THE SECRETARY
TO THE TREASURY.

CHS. H. WOOLCOTT,
Town Clerk.

No. 69.

THE SECRETARY TO THE TREASURY to THE TOWN CLERK.

*The Treasury, New South Wales,
Sydney, 20 July, 1858.*

SIR,

In reply to your letter of the 17th instant, No. 500, I am directed to acquaint you, for the information of the Right Worshipful the Mayor, that, pending the decision of the Municipal Council on the subject of the payment of interest due on the Sewerage Debentures, the Honorable the Treasurer has directed the issue of £10,000 on account of the Water Fund.

I have, &c.,

THE TOWN CLERK,
Sydney.

HENRY LANE.

No. 70.

THE SECRETARY TO THE CROWN LAW OFFICERS to THE SECRETARY TO THE TREASURY.
(No. 58-356.)

*Crown Law Offices,
Sydney, 25 August, 1859.*

SIR,

Having submitted the enclosed papers relative to the matter of the interest due by the City Corporation on Sewerage Debentures, received at this office under blank cover, 18th instant, for consideration by the Law Officers, I have now the honor to forward herewith a copy of the Solicitor General's opinion thereon.

I have, &c.,

THE UNDER SECRETARY
TO THE TREASURY.

W. E. PLUNKETT,
Secretary to Law Department.

[*Enclosure in No. 70.*]

In the matter of the interest due by the City Corporation on Sewerage Debentures:—

This subject has been brought under the consideration of the Law Officers, in consequence of a resolution recently passed at a meeting of the Municipal Council of Sydney, directing that the interest now due on the Sewerage Debentures be paid out of the Sewerage rates when the amount received from that source will allow of such payment. This resolution of course implies a direction to the City Treasurer not to pay such interest out of amounts received from any other source.

2. I am of opinion that the resolution is contrary to law. By the Sewerage Act of 1853 (17 Vic., c. 34, s. 2), the sum of £200,000, authorized to be borrowed by that Act, was made "a charge upon the Sewerage rates of the City;" but for reasons, which the Legislature deemed sufficient in 1857, the Sydney Corporation Act made a change in the nature of the security, and provided (s. 73) that the payment of all sums borrowed, or to be borrowed, for Sewerage purposes, and the interest thereon, should be secured on the entire revenues of the Council, from whatever source arising; and the 10th and 11th sections of the last named Act, while transferring to the Municipal Council the powers previously vested in the City Commissioners, make the Council responsible for all moneys owing by the Commissioners, and for all contracts entered into by them.

3. The Honorable the Colonial Treasurer will therefore act in conformity with the law by withholding, as a set-off, any amount not exceeding the sum due for interest on Sewerage Debentures which may now be in his hands, or which may hereafter reach them, on account of the Sydney Corporation, and if there be any deficiency, the amount may be recovered by an action of debt against the Corporation.

25 August, 1858.

ALFRED P. LUTWYCHE,
Solicitor General.

No. 71.

THE SECRETARY TO THE TREASURY to THE TOWN CLERK.

*The Treasury, New South Wales,
21 September, 1858.*

SIR,

With reference to a resolution passed at a meeting of the Municipal Council on the 16th ultimo, as reported in the *Sydney Morning Herald* of the 17th August, authorizing the payment of the interest on City Water Works Debentures, I am instructed by the Honorable the Treasurer to apply for a cheque for the sum now due, amounting to £5,471 6s. 11d., as per statement enclosed.

As regards that part of the proceedings wherein the Council resolved that the interest on Sewerage Debentures shall be paid out of the Sewerage Rates when the amount received from that source will allow of such payment, I am directed to acquaint you, for the information of the Right Worshipful the Mayor, that the Government submitted the question at issue to the Crown Law Officers, and that it appears from the opinion of the Solicitor General, a copy of which is enclosed, that the Colonial Treasurer will act in conformity with the law, by withholding, as a set-off, any amount not exceeding the sum due for interest on City Sewerage Debentures.

The balance to Cr. of the Water Fund, including the sum of £25,843 5s. 8d. paid for compensation for land resumed by the Government, now amounts to £29,256 5s. 8d., and, in conformity with the above decision, it is intended to charge the sum due on account of interest on Sewerage Debentures, amounting, as per statement, to £7,987 5s. 5d., against the above balance, which will thereby be reduced to £21,269 0s. 3d.*

You will have the goodness to cause similar entries to be made in the books of the Corporation.

I have, &c.,
HENRY LANE,
Under Secretary.

THE TOWN CLERK.

*The Treasury, New South Wales,
21 September, 1858.*

STATEMENT shewing the amounts of Interest due on the City Sewerage and Water Debentures to 30th June, 1858:—

CITY SEWERAGE.	
Interest on Debentures payable in London to 30th June ...	£4,550 17 8
Further claim for Interest, &c., as per Auditor General's statement, (copy herewith)	3,436 7 9
	<u>£7,987 5 5</u>

WATER SUPPLY.	
Interest, to 30th June, on Debentures payable in Sydney ...	£3,624 11 1
Further claim for Interest, &c., as per Auditor General's statement... ..	1,846 15 10
	<u>£5,471 6 11</u>

HENRY LANE.

	£	s.	d.
* Balance of Appropriation	3,413	0	0
Compensation for Land	25,843	5	8
Deduct,	29,256	5	8
Claim for Interest—Sewerage	7,987	5	5
BALANCE	£21,269	0	3

No. 72.

THE SECRETARY TO THE TREASURY to THE TOWN CLERK.

29 December, 1858.

SIR,

I am directed to state, for the information of the Right Worshipful the Mayor and Municipal Council, that the undermentioned Debentures, secured upon City Funds, become due on the dates stated against them respectively, viz:—

Sydney Water Works Debentures.

Nos. 1 and 2, of £1,000 each, on 11th March, 1859.

Nos. 3 to 10, of £1,000 each, on 27th September, 1859.

Sydney Sewerage Debentures.

Nos. 1 to 3, of £1,000 each, on 11th March, 1859.

Nos. 4 to 10, of £1,000 each, on 27th September, 1859.

With reference to the Debentures which mature in March, 1859, I am to observe, that the holders thereof have given notice to the Government that they will be presented for payment on the 15th of that month.

The Honorable Treasurer would, therefore, be glad to learn whether it is the intention of the Council to retire these securities on presentation; if not, perhaps they will favor him with their views on the subject.

I have, &c.,

HENRY LANE,

Under Secretary.

THE TOWN CLERK,
Sydney.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

RULES OF COURT.

(PROMULGATED ON 5 FEBRUARY, 1859.)

*Ordered by the Legislative Assembly to be Printed, 8 March, 1859..*IN THE SUPREME COURT OF }
NEW SOUTH WALES. }*Saturday, the fifth day of February, 1859.***REGULÆ GENERALES.**

The following Rules are hereby established for the despatch of Business in the several Departments of the Supreme Court, during the present year:—

Sittings for Causes.

1. There shall be Four Sittings for Causes, commencing respectively on Monday, the 14th day of February, the 9th day of May, the 8th day of August, and the 7th day of November; and ending severally on Thursday in the fourth week following.

Common Juries.

2. At those Sittings, the last Thursday in the Jury Court shall exclusively be for the trial of Common Jury Causes, if there be any.

Special Juries.

3. The first three days at each Sittings in the same Court shall be exclusively for Special Juries of Twelve.

First Thursday.

4. No Cause, therefore, for trial in that Court by a Jury of Four shall be set down for any day earlier than the first Thursday.

Remanets.

5. Remanets may be set down, in future, (each according to its appropriate List, and the Class of Jury to which it belongs,) for the first, second, or third day of the Sittings, at the discretion of the Prothonotary.

The like.

6. On each day Remanets will have precedence over all other Causes.

Saturdays.

7. There will be no Sitting of the Court in Sydney in any branch of its Jurisdiction (except for the trial or disposal of Prisoners) on any Saturday.

Causes, &c., partly heard.

8. Provided that any Argument or Trial partly heard but not concluded on Friday, may continued on the next day, if the Court or Presiding Judge shall think fit.

Fourth Term.

9. Provided also, that the Court will sit on Saturdays in the Fourth Term.

Four Terms.

10. There shall be Four Terms; commencing respectively on Monday, the 11th day of April, the 13th day of June, the 10th day of October, and the 12th day of December; and ending severally on Wednesday in the fourth week following, excepting the Fourth Term, which will end on the 24th day of December.

Mondays, Wednesdays, and Thursdays in Term.

11. On every Monday, Wednesday, and Thursday in term, New Trial Rules and Motions will have precedence of all other Business; except that on the first and last days of Term, other Motions will have precedence.

Tuesdays and Fridays in Term.

12. On every Tuesday and Friday (two Judges only then ordinarily sitting) Motions, including Rules to show Cause—not being New Trial Motions or Rules—and afterwards Demurrers and Special Cases, will have precedence.

Equity and Insolvency.

13. The Primary Equity Judge will sit on every Tuesday and Friday in Term at 11 o'clock—on the former day for Equity, and the latter day for Insolvency, and such other Matters as by the late Act may be taken by one Judge only.

Equity and Insolvency out of Term.

14. He will sit also at the same hour, on every Tuesday, Wednesday and Friday out of Term:—the two former days for Equity, and the last mentioned day for Insolvency, and such other Matters as aforesaid.

Appeals.

15. Appeals in Equity, and Appeals from the Allowance or Disallowance of an Insolvent's Certificate, will be heard on such days as shall be for that purpose specially appointed.

Fines and Estreats.

16. Schedules of Fines and Estreated Recognizances shall be returnable on some Friday in Term, at 11 o'clock, to be then heard before one Judge only.

Chamber Business.

17. Chamber Business will be taken on Tuesdays and Fridays at 10 o'clock, in Term and Vacation alike; and Summonses in Vacation, in Cases of Urgency, shall be returnable on Fridays only.

1858.

Legislative Assembly.

NEW SOUTH WALES.

BUSINESS OF THE SUPREME COURT.

(RETURN SHEWING THE STATE OF.)

Ordered by the Legislative Assembly to be Printed, 21 December, 1858.

RETURN to an *Address* of the Honorable the Legislative Assembly of New South Wales, dated 17 December, 1858, praying that His Excellency the Governor General would be pleased to cause to be laid upon the Table of this House,—

“ A Tabular Return, shewing the number of Causes, Motions,
 “ and Petitions now set down for hearing on the Equity side of
 “ the Supreme Court, specifying the nature of each cause,
 “ matter, or petition, when the same was set down, and whether
 “ postponed by consent or otherwise; also, a Return shewing
 “ the number of causes or matters remaining undisposed of on
 “ the Common Law side of the Court, and when set down.”

(*Mr. Hart.*)

BUSINESS OF THE SUPREME COURT.

THE RETURN of the MASTER in EQUITY, pursuant to direction of the Crown Law Officers, dated 18th December, 1858.

CAUSES.	NATURE OF SUITS.	WHEN SET DOWN.	POSTPONED OR OTHERWISE.
Wass v. Lec Hearing.	To set aside sale	30 June, 1858	{ At request of Counsel of Plaintiff and Defendant on 26th October, 1858, for Judgment in Appeal, Cockcroft v. Hancy, still pending.
Cooper v. Hellyer & another Hearing.	{ Supplemental Bill for Fore- closure	30 June, 1858	{ At request of Counsel, 26th October, 1858, and stands over generally to enable the Cause of Cooper v. Hellyer to be entered for hearing on further directions same time as new suit.
Rattray v. White Hearing.	For account	13 July, 1858	{ In Paper, 16th November, 1858, but stands over generally as the Causes occupied that day—the last on which Primary Judge Milford sat.
Grovenor v. Williams Exceptions.	{ To establish Will of Joseph Park, and for account against Executor	17 September, 1858..	{ Part heard, 9th November, before Mr. Justice Milford, but postponed on account of illness of Mr. Cary, Counsel for Defendant.
Scott v. Australian Trust Co. Hearing.	To redeem	19 October, 1858....	{ Not yet put in Cause List, as further evidence taken under Order of 16th November, 1858.
Byers v. Brown..... Hearing.	{ Declaration of trust and for account	3 November, 1858..	{ For hearing 19th November; never yet in Cause List, as no paper made for Court since that day.
Dawhuist v. Simmons Hearing.	{ To execute trusts of Will and Administer, &c. }	5 November, 1858..	{ For hearing 19th November; never yet in Cause List, for same reason.
Johnson v. Ingall Hearing.	To redeem	8 November, 1858..	{ For hearing 30th November, and never in Cause List, for same reason.
Allen v. Fairfax Hearing.	Specific performance	15 November, 1858..	{ For hearing 19th November, and never in Cause List, for same reason.
Campbell v. Josephson..... Hearing.	For an account	19 November, 1858..	{ For hearing 10th December, instant, and never in Cause List, for same reason.
Erwin v. Thurlow Motion for decree.	For trustee to account.....	30 November, 1858..	{ For 3rd December instant, and never in Cause List, for same reason.
Jones v. Walsh and others ..	{ Demurrer to Bill for Admin- istration of Estate	3 December, 1858..	{ For hearing 10th instant, and fixed by consent on 17th instant for 22nd instant.
Peacock v. Hanson Further directions and costs.	Partition suit	6 December, 1858..	{ For hearing 14th December, and fixed by consent for 22nd instant.
Wilshire v. Wilshire..... Further directions and costs.	Partition suit	18 December, 1858..	{ For hearing 22nd instant.

RULES NISI IN EQUITY BEFORE THE FULL COURT.

Venour v. Rundle.....	To redeem and for receiver..	{ 3 August, 1857. Re-entered 12 December, 1857 }	{ Stands over for Return of Commission under order of 10th May last.
Oriental Bank v. Small	Foreclosure	24 February, 1858..	Not moved by complainant.
Cohen v. Brodie	Specific performance	17 September, 1858..	Not moved by complainant.

PETITIONS.

Kennedy v. Shuttleworth ..	For maintenance	23 November, 1858..	{ For hearing 30th November, fixed on 17th instant by consent for 22nd instant.
In the matter of Leonora Cleary, a person of un- sound mind.....	{ For Committee of estate and person of lunatic .. }	17 December, 1858..	For hearing 22nd instant.

MOTIONS.

Johnson v. M'Crohan	{ For liberty to draw up Decree. <i>Nunc pro Tunc.</i> }	20 December, 1858..	For hearing 23rd instant.
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GEORGE HIBBERT DEFFELL,
Master in Equity.
20 December, 1858.

A RETURN, shewing the number of Causes and Matters remaining undisposed of on the Common Law side of the Supreme Court this day (20th December), with the dates of their being set down for hearing.

PLAINTIFF.	DEFENDANT.	WHEN SET DOWN.
O'Neil	Aitken	8 June, 1858.
Carney	Carruthers and another	4 September, 1858.
Hamilton	Wallace	29 " "
Snowdon	Wawhop	4 October, 1858.
Houison and another	McKay	4 " "
Rossiter and another	Bennett and another	6 " "
Rossiter and another	Moir	6 " "
Davis	Beazeley	7 " "
Brierley and others	Simmonds	8 " "
Mullendorff and another	Vickery	13 " "
Sayers	Bowker	13 " "
Cavanagh and Wife	Irving	25 " "
Randle	Bennett	26 " "
Gregg	Ross	28 " "
Ellery	Moore	29 " "
Lentz	Kosten	29 " "
Cubin	Lynan	29 " "
Metcalf	Mitchell	29 " "
Cropper	Cottingham	29 " "
Leathes and another	Morris	3 " "
Quick	Champion	1 November, 1858.
Rochester	D'Arcy	8 " "
Lee	McWilliams	8 " "
Simmons	Brierley and others	8 " "
Simmons	Brierley and others	8 " "
Wilshire	Dearing	9 " "
Rossiter	Nicholson	9 " "
Lawson	Patrick	12 " "
Stilsby	Kerrigan	12 " "
Grose and another	McCrossin, senior	12 " "
Grose and another	McCrossin, junior	12 " "
Lane and another	Meyer	12 " "
Sandoe	Pickering and another	13 " "
Morris	O'Carroll	16 " "
Kellick	Jeanneret	17 " "
Hunt	Kersey	24 " "
Bowden and another	Johnston	25 " "
Johnston	Jordan	27 " "
Wilson and others	Stockdale	27 " "
McIntyre	McDonald	29 " "
Asser	Laurence	1 December, "
Reid and another	Onus	2 " "
Hogan	Upton and others	3 " "
Warren	McMinn	6 " "
Goold	Fairfax	6 " "
Cullen	Purchase	14 " "
McCullough	Kosten	16 " "
Hollinshed	Ash	16 " "
Hutton	Cook	18 " "
Steele	Anderson	18 " "

NEW Trial Motions, and other Matters for Argument before the full Court.

PLAINTIFF.	DEFENDANT.	WHEN SET DOWN.
Nicholson	Healy	5 October, 1857.
Nicholson	Healy	5 October, 1857.
Wilson	Cooper	27 May, 1858.
Moore	Patrick	1 June, 1858.
Stockdale	Hargraves	22 " "
Aitken	Shea	23 " "
Eales	M'Dougall	30 " "
Walsh	Robertson	30 " "
M'Bean	Gwynne	12 July "
Ross	Forbes	14 August "
Guy	Holt	16 " "
Scholtz	Richardson	17 " "
D'Aram and another	Harpur	18 " "
Nowland	Humphrey and another	23 " "
Stuart	Mitchell and others	24 " "
Murphy	The Municipal Council	24 " "
Havenith and others	Mullendorff and another	17 Sept. "
Parnell and another	Coberft	2 October "
Arndt	Dickson and others	4 " "
Hawkins	Byrne	4 " "
Richards	M'Intosh	7 " "
Kinna	Hansard	8 " "
Rigney	Dangar	8 " "
Baldwin	Morgan	9 " "
Hayes	Macansh	11 " "
Galvin	Bardwell	11 " "
Solomon	Hore	15 " "
Sullivan	Jenner	18 " "
Wilson	Coberft and another	19 " "
Wilson	Coberft and another	20 " "
Spears	Filewood	21 " "
Montgomery and another	Lord	22 " "
Potts	Cohen	23 " "
Speeding	Smith	25 " "
Brodie	Ogilvy	25 " "
Wood and Wife	Nunn	25 " "
Armstrong	O'Brien	26 " "
Hogan	Hand and others	27 " "
Armstrong	O'Brien	28 " "
Hogan	Hand and others	29 " "
Emery	Sharpe	29 " "
Brown	{ The Newcastle Coal and } Copper Company	3 Nov. "
Preston	M'Kay	8 " "
Byrne	Chippendale	22 " "
Darley	M'Mabon	23 " "
Wilson	Beattie	24 " "
Darley	M'Mahon	24 " "
Nichols	{ The Liverpool and London } Fire and Life Assurance } Company	25 " "
Sharpe	Emery	27 " "
Roberts	Belcher	29 " "
Glover	Cole	29 " "
Emery	Harding	29 " "
Cook	Howard	2 Dec. "
Cowan	Cape	2 " "
Russell and others	Alston	18 " "

SUMMARY.

50 Causes.
44 New Trial Motions.
3 Motions for Nonsuit.
7 Demurrers.
1 Special Case.

Total.... 105

1858.

Legislative Assembly.
NEW SOUTH WALES.

BUSINESS OF THE SUPREME COURT.

(RETURN RELATIVE TO.)

Ordered by the Legislative Assembly to be Printed, 23 December, 1858.

RETURN showing the amount involved in the Causes now set down for Trial in the
 Supreme Court.

25 are for sums above £200.
 15 „ under £200.
 3 for exactly £200.
 6 are Actions in Ejectment.
 1 a feigned issue from the Equity side of the Court.

50

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

PROPOSED VOTE OF CENSURE ON THE ATTORNEY GENERAL.

REPORT FROM THE SELECT COMMITTEE

ON THE

PROPOSED VOTE OF CENSURE ON THE
ATTORNEY GENERAL;

TOGETHER WITH

THE PROCEEDINGS OF THE COMMITTEE,

MINUTES OF EVIDENCE,

AND APPENDIX.

ORDERED BY THE LEGISLATIVE ASSEMBLY TO BE PRINTED,
6 April, 1859.

SYDNEY :

PRINTED BY WILLIAM HANSON, GOVERNMENT PRINTER,
PHILLIP STREET.

1859.

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EXTRACTS FROM THE VOTES AND PROCEEDINGS OF THE
LEGISLATIVE ASSEMBLY.

VOTES No. 56. FRIDAY, 25 MARCH, 1859.

5. Proposed Vote of Censure on the Attorney General:—Mr. Deniehy moved, pursuant to notice, "That" in the opinion of this House the conduct of the Attorney General in leaving the recent criminal prosecutions at Maitland in the hands of a Mr. Somerville, and thereby bringing the administration of justice, even in the superior Courts of Law, into ridicule and contempt, deserves the censure of this House.

Debate ensued.

Mr. Martin moved, That the Question be amended by the omission of all the words thereof following the word "That" at the commencement, with a view to the insertion in their place of the words, "a Select Committee be appointed to inquire into and report upon the conduct of the Attorney General in leaving the recent criminal prosecutions at Maitland in the hands of Mr. Somerville, with power to send for persons and papers, and leave to sit on Mondays and Saturdays.

"(2.) That such Committee consist of the following Members, viz.:—Mr. Deniehy, Mr. Murray, Mr. Plunkett, Mr. Faucett, Mr. Macarthur, and the Mover."

Debate continued.

Question,—That the words proposed to be omitted stand part of the Question—put and negatived,—

And Mr. Weskes having required that the proposed Committee be appointed by Ballot,—

Question.—That, in place of the words omitted there be inserted the words "a Select Committee be appointed to inquire into, and report upon, the conduct of the Attorney General in leaving the recent criminal prosecutions at Maitland in the hands of Mr. Somerville, with power to send for persons and papers, and leave to sit on Mondays and Saturdays,"—put and passed;—

Whereupon Question,—That a Select Committee be appointed to inquire into, and report upon, the conduct of the Attorney General in leaving the recent criminal prosecutions at Maitland in the hands of Mr. Somerville, with power to send for persons and papers, and leave to sit on Mondays and Saturdays,—put and passed;— Upon which the House proceeded to the Ballot, and the Speaker declared the following Members to be, with the Mover, the Committee duly appointed, viz.:—Mr. Deniehy, Mr. Jones, Mr. Macarthur, Mr. Murray, and Mr. Plunkett.

VOTES No. 57. TUESDAY, 29 MARCH, 1859.

2. Attendance of Members of Legislative Council:—

(1.) Mr. Martin moved, That the following Message be carried to the Legislative Council:—

MR. PRESIDENT,

The Legislative Assembly having appointed a Select Committee "to inquire into the conduct of the Honorable the Attorney General, in leaving the recent criminal prosecutions at Maitland in the hands of Mr. Somerville," and that Committee being desirous to examine the Honorable Lyttelton Holyoake Bayley, Esquire, in reference thereto, begs to request that the Legislative Council will give leave to its said Member to attend accordingly, on such day and days as shall be arranged between him and the said Committee.

*Legislative Assembly Chamber,
Sydney, 29 March, 1859.*

Speaker.

Question put and passed.

(2.) Mr. Martin moved, That the following Message be carried to the Legislative Council:—

MR. PRESIDENT,

The Legislative Assembly having appointed a Select Committee "to inquire into the conduct of the Honorable the Attorney General, in leaving the recent criminal prosecutions at Maitland in the hands of Mr. Somerville," and that Committee being desirous to examine the Honorable Edward Wise, Esquire, in reference thereto, begs to request that the Legislative Council will give leave to its said Member to attend accordingly, on such day and days as shall be arranged between him and the said Committee.

*Legislative Assembly Chamber,
Sydney, 29 March, 1859.*

Speaker.

(3.)

(3.) Mr. Martin moved, That the following Message be carried to the Legislative Council:—

MR. PRESIDENT,

The Legislative Assembly having appointed a Select Committee "to inquire into the conduct of the Honorable the Attorney General, in leaving the recent criminal prosecutions at Maitland in the hands of Mr. Somerville," and that Committee being desirous to examine the Honorable Robert M'Intosh Isaacs, Esquire, in reference thereto, begs to request that the Legislative Council will give leave to its said Member to attend accordingly, on such day and days as shall be arranged between him and the said Committee.

*Legislative Assembly Chamber,
Sydney, 29 March, 1859.*

Speaker.

Question put and passed.

5. Attendance of Members of Legislative Council:—The Speaker reported that whilst the House was in Debate of the Question last before it, the following Message was received from the Legislative Council,—

MR. SPEAKER,

In answer to the Messages from the Legislative Assembly, dated the 29th instant, requesting leave for the Honorable Lyttelton Holyoake Bayley, the Honorable Robert M'Intosh Isaacs, and the Honorable Edward Wise, Members of the Legislative Council, to attend and be examined before a Select Committee of the Legislative Assembly, appointed to inquire into "the conduct of the Honorable Lyttelton Holyoake Bayley in leaving the recent criminal prosecutions at Maitland in the hands of Mr. Somerville," the Council acquaints the Legislative Assembly that leave has been granted to Messrs. Bayley, Isaacs, and Wise, to attend and be examined by the said Committee, if they think fit.

*Legislative Council Chamber,
Sydney, 29 March, 1859.*

W. W. BURTON,
President.

VOTES No. 62. WEDNESDAY, 6 APRIL, 1859.

1. Proposed Vote of Censure on the Attorney General:—Mr. Martin, as Chairman, brought up the Report from, and laid upon the Table the Evidence taken before the Select Committee appointed on the 25th March last, to inquire into and report upon the conduct of the Attorney General in leaving the recent Criminal Prosecutions at Maitland, in the hands of Mr. Somerville, with power to send for persons and papers, and leave to sit on Mondays and Saturdays,—
And a Debate arising on a point of Order in reference to payment of the expenses of the Witnesses examined before the Committee,—
And the Speaker ruling that, under the 44th Standing Order, and a former ruling, it was not in the power of any Officer of the House to pay the expenses of any but Witnesses professionally employed, but suggesting that the Government might, in this case, probably feel at liberty to pay these expenses, trusting to the next Parliament for a vote for the amount,—
Report, Evidence, and Minutes of Proceedings, on motion of Mr. Martin,—
Ordered to be printed.
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1858-9.

PROPOSED VOTE OF CENSURE ON THE ATTORNEY GENERAL.

REPORT.

THE SELECT COMMITTEE of the Legislative Assembly, appointed on the 25th ultimo, "to inquire into, and report upon, the conduct of the Attorney General in leaving the recent Criminal Prosecutions at Maitland in the hands of Mr. Somerville, with power to send for persons and papers, and leave to sit on Mondays and Saturdays,"—have agreed to the following Report:—

The inquiry which your Committee were directed to make having necessarily involved the question whether or not Mr. Somerville was a competent person to intrust with the conduct of any of the criminal prosecutions, at the late Maitland Circuit Court, it was thought highly desirable to obtain the attendance before the Committee of witnesses whose position entitled them to offer an opinion on such a matter. His Honor Mr. Justice Milford—the Judge who attended the Circuit in question—and several members of the Bar, were accordingly summoned, as well as the reporters of two Maitland newspapers, and two of the jurymen who sat in the case "*Regina v. Madgwick*," the most important of the cases which Mr. Somerville conducted. The Attorney General was informed of the times when the Committee proposed to proceed with their inquiry. He attended all their sittings, and was allowed to put questions through the Chairman to each of the witnesses examined, and at the conclusion of the examination to address such observations to the Committee as he thought fit.

Your Committee having heard the statement of the Attorney General, and having fully considered the evidence taken before them, have come to the conclusion that Mr. Somerville did not shew by his management of the cases placed in his hands that he was a person to whom they ought to have been intrusted. Mr. Somerville, so far as your Committee is aware, was wholly without experience in the conduct of cases in Court; but your Committee, taking into consideration the nervous anxiety which most people labor under who are called upon to speak in public on any matter of importance for the first time, and more especially if they should, like Mr. Somerville, find themselves placed in a situation of great responsibility, do not feel justified in attributing Mr. Somerville's failure to any want of knowledge or ability, legal or otherwise. From the Attorney General's statement, it appears that Mr. Somerville had distinguished himself in his academical career, and had enjoyed the advantage of studying the law under a gentleman of considerable eminence in his profession. These circumstances were sufficient, your Committee think, to justify any one acquainted with them in entertaining a favorable opinion of his ability; and your Committee desire most carefully to avoid saying anything calculated to prejudice Mr. Somerville in his future career at the Colonial Bar. Your Committee are, however, of opinion that the Attorney General evinced great imprudence and want of discretion in appointing as his substitute a gentleman who, whatever might have been his acquirements or his opportunities, had not had that practical experience which alone could justify the confiding to him the serious and important duty of conducting criminal prosecutions. Of the three trials in which he appeared as prosecutor one of them was peculiarly difficult and complicated, and must have been known to be so by the Attorney General before he appointed Mr. Somerville. Your Committee cannot think that the plea of want of knowledge of the fitness of other members of the Bar is any excuse or justification for

the Attorney General. His limited knowledge of the Colonial Bar, by reason of his recent arrival in this Colony, was, of course, a circumstance for which he cannot be blamed; but your Committee think that he should have availed himself of the experience of others, and have made such inquiries as would have enabled him to secure the services of a competent barrister to act for him during his absence from the Circuit. The actual presence during the whole of the criminal trials of at least one gentleman of great experience in his profession, though a recent arrival in the Colony, and the anticipated presence in Maitland within two or three days of the commencement of those trials of several leading members of the Bar, as well as the practicability of the Attorney General's return to Maitland himself after attending the Legislative Council in time to conduct Madgwick's case, leave the Attorney General without sufficient excuse in taking a course so calculated to interfere with the efficient administration of criminal justice.

In the course of his statement to the Committee the Attorney General took occasion to refer to certain objections made to his own appointment on the ground that he had but lately arrived in the Colony, and was, therefore, almost wholly unknown, and he submitted for the consideration of the Committee in justification of his appointment certain testimonials and certificates obtained by him when an applicant for a legal appointment in England. With respect to these matters thus submitted your Committee offer no opinion, as no such question as the propriety of the Attorney General's own appointment was submitted to them. Had your Committee been directed to inquire into that question, they think that the testimonials read by the Attorney General would have been of no importance, as it has never, so far as your Committee are aware, been the practice in the Mother Country to appoint an Attorney General on the strength of his testimonials. The high office of Attorney General is there invariably conferred on those only who have shewn by a course of successful practice that they are not unworthy to take the lead in their profession, and an appeal by an English or Irish Attorney General to testimonials would be equally unnecessary and inappropriate. Your Committee think that the practice which regulates these matters in the Mother Country might be pursued with great advantage here.

To render the inquiry as complete as possible, your Committee were under the necessity of summoning from the country certain witnesses, named in the margin, and would recommend that the necessary steps be taken by your Honorable House to ensure to them the payment of the Expenses, amounting in the aggregate to £28, incurred by them in attending before your Committee in obedience to such summonses, at the rate set opposite to their respective names, as shewn in the Schedule of "Expenses of Witnesses" annexed to the Proceedings of Your Committee.

Mr. T. T. Ward, Reporter
to Maitland Mercury.
Mr. J. Ewan, Reporter to
Northern Times.
Mr. J. Robinson, } Jury-
Mr. T. B. Rossetter, } men.

Legislative Assembly Chamber,
Sydney, 6th April, 1859.

JAMES MARTIN,
Chairman.

PROCEEDINGS OF THE COMMITTEE.

SATURDAY, 26 MARCH, 1859.

MEMBERS PRESENT:—

Mr. Martin,	|	Mr. Plunkett,
Mr. Jones,	|	Mr. Deniehy.

Mr. Martin was called to the Chair.

Resolution of the House of yesterday's date, appointing the Committee, empowering it to send for persons and papers, and to sit on Saturdays and Mondays,—read by the Clerk.

Committee deliberated, and it was *Resolved*:—

- " 1st. That for the purpose of enabling the Attorney General to be present at the taking of evidence, if he think fit, a communication be *this day* made to him, apprising him that the Committee will commence the examination of witnesses on Monday next, at 12 o'clock.
- " 2nd. That a communication be *this day* addressed to the Police Magistrate at Maitland, transmitting *five* forms of summons, duly signed by the Clerk of the Legislative Assembly, with a request that Mr. Day will at once cause the issue of *three* of the said summonses to three of the most intelligent of the jury who sat on the case of the Queen *v.* Madgwick for perjury; and of the remaining *two*, one to the Reporter of the *Northern Times and Newcastle Telegraph*, and the other to the Reporter of the *Maitland Mercury*, who reported the proceedings in those cases which Mr. Somerville conducted at Maitland, on behalf of the Attorney General; filling them in himself for those days on which they may respectively be able to attend before the Committee, and informing the Committee of the dates of such proposed attendances; and further requesting that Mr. Day will, at the same time, supply the names of all the jurymen who sat in the case of the Queen *v.* Madgwick."

The Chairman requested the members of the Committee to furnish him with the names of any persons whose evidence might be found serviceable in furthering the inquiry,—And the members of the Committee having suggested certain names, and a list thereof having been taken,—

Committee further deliberated, and it was *Resolved*:—

- " 1st. That His Honor Mr. Justice Milford, W. C. Windeyer, and C. Blakeney, Esquires, be summoned before this Committee, as witnesses, for Monday next.
- " 2nd. That P. Faucett, Esq., M. P., be informed of the meeting of the Committee on Monday next, with a request that he will attend on that day, for the purpose of affording the Committee any information in his power on the subject of the inquiry.
- " 3rd. That W. E. Plunkett, Esq., Secretary to the Crown Law Officers, be summoned before the Committee for Monday next, for the purpose of producing the depositions and papers in the criminal cases at Maitland intrusted by the Attorney General to Mr. Somerville.
- " 4th. That a Motion be made in the House, to the effect that a Message be sent to the Legislative Council, requesting that leave may be given to the Honorable R. M. Isaacs and the Honorable Edward Wise, Esquires, to attend before the Committee for the purpose of being examined, on such day and days as may be arranged between them and the Committee."

[Adjourned till Monday next, at *Twelve* o'clock.]

MONDAY, 28 MARCH, 1859.

MEMBERS PRESENT:—

The Honorable James Martin, Esquire, in the Chair.

Mr. Jones,	|	Mr. Plunkett,
Mr. Macarthur,	|	Mr. Murray.

The Honorable the Attorney General present in the room during the examination of the witnesses.

The Chairman informed the Committee that letters had, on the 26th instant, been addressed to the Honorable the Attorney General and the Police Magistrate at Maitland, in conformity with the Resolutions agreed to by the Committee on these subjects at their last meeting.

Ordered to be printed in Appendix (*Vide* "Separate Appendix A & B.")

The Chairman also informed the Committee that a letter had, on the 26th instant, been addressed to W. H. Mullen, Esquire, Solicitor, of Maitland, requesting him to name the earliest

earliest day on which he would be able to attend before the Committee for the purpose of being examined.

Mr. *W. E. Plunkett*, Secretary to the Crown Law Officers, examined.

The witness in the course of his examination handed in the depositions, papers, &c., in the cases intrusted by the Attorney General to Mr. Somerville for prosecution at Maitland.

His Honor Mr. Justice *Milford*, and Mr. *Peter Faucett*, M. P., examined.

During Mr. Faucett's examination the Chairman, at the request of the Attorney General, put certain questions to him.

Mr. *W. C. Windeyer*, Crown Prosecutor, examined.

During Mr. Windeyer's examination the Chairman, at the request of the Attorney General, put certain questions to him.

Committee deliberated, and it was *Resolved*:—

“That George Milford, Esquire, Judge's Associate, be summoned before the Committee on Wednesday next, for the purpose of producing the Judge's Note Book, and all Exhibits in the case of the Queen *v.* Madgwick, for perjury at Maitland; and also all Papers, &c., in the civil action, Holmes *v.* Madgwick.”

The Chairman informed the Committee that he had been given to understand that Mr. C. Blakeney, who was also summoned before them as a witness for *this day*, was at the present time, and would be for some days, absent from Sydney on Circuit.

[Adjourned till Wednesday next, at *half-past Ten o'clock.*]

WEDNESDAY 30 MARCH, 1858.

MEMBERS PRESENT:—

The Honorable James Martin, Esquire, in the Chair.

Mr. Jones, | Mr. Plunkett,
Mr. Macarthur.

The Honorable the Attorney General present in the room during the examination of the witnesses.

The Chairman laid before the Committee,—Letter from Mr. W. H. Mullen, dated 28th instant, stating his willingness to attend before the Committee on any day during the present week, for the purpose of being examined, and inquiring whether in event of such attendance his expenses would be paid.

Letter read.

Committee deliberated as to their power to award payment to witnesses, under the ruling of the Speaker on the 19th August, 1858, with respect to the bearing of the 44th section of the Standing Orders; and it was *Resolved*:—

“That Mr. Mullen be informed that in the event of his attendance before the Committee, as a witness, his expenses will be paid by the Government.”

The Chairman laid before the Committee,—Letter from the Police Magistrate at Maitland, dated 28th instant, in reply to the Clerk of the Assembly's communication to him of 26th instant.

Letter read.

Ordered to be printed in Appendix. (*Vide* “*Separate Appendix C.*”)

Mr. Jones then laid before the Committee,—Letter from Mr. Edward C. Madgwick, dated 28th instant, requesting in the event of any evidence being taken by the Committee on behalf of the prosecution in the case of the Queen *v.* Madgwick, that he might be examined by the Committee.

Letter read.

Ordered to be printed in Appendix. (*Vide* “*Separate Appendix D.*”)

Committee deliberated.

Motion made (Mr. Jones) and *Question*.

“1. That it is the opinion of this Committee, that as the question of Mr. Madgwick's innocence or guilt is in no way under their consideration, it is unnecessary to take his evidence with respect to this inquiry.”

“2. That Mr. Madgwick be apprised to this effect.”

—*agreed to.*

Ordered, that letter in reply to Mr. Madgwick be printed in Appendix. (*Vide* “*Separate Appendix E.*”)

The Honorable *R. M. Isaacs*, Esquire, attending by permission of the Legislative Council, then examined.

At the close of the witnesses examination,—

The Attorney General informed the Committee that, in the absence from Sydney of the late Attorney General, (Mr. Justice Lutwyche) he was desirous that the Committee should examine the Secretary to the Crown Law Officers, with respect to certain points arising out of the evidence already taken by the Committee.

Committee thereupon *Resolved*:—

“That Mr. Plunkett be now examined, as requested by the Attorney General.”

Mr. *W. J. Plunkett* further examined.

During the examination of the witness the Chairman put certain questions to him, at the request of the Attorney General.

Mr.

Mr. George Milford, who was summoned before the Committee to produce certain documents on *this day*, not being in attendance,—

Committee *Resolved* :—

“That Mr. Milford be summoned before the Committee for to-morrow.”

The Chairman then laid before the Committee,—Joint Letter from Editors of *Maitland Mercury* and *Northern Times*, dated 28th instant, requesting that the evidence of their two Reporters might, on their arrival in Sydney, be taken without delay, in order to facilitate as much as possible their return to Maitland.

Committee deliberated, and it was *Resolved* :—

“That the evidence of the Reporters of the *Maitland Mercury* and *Northern Times* be taken to-morrow morning.”

[Adjourned till to-morrow, at *Eleven o'clock*.]

THURSDAY, 31 MARCH, 1859.

MEMBERS PRESENT :—

The Honorable James Martin, Esquire, in the Chair.

Mr. Jones, | Mr. Plunkett,
Mr. Macarthur.

The Honorable the Attorney General present in the room during the examination of the witnesses.

The Chairman laid before the Committee,—Further letter, dated 29th instant, from the Police Magistrate at Maitland, in reply to the Clerk of the Assembly's communication to him of 26th instant.

Letter read.

Ordered to be printed in Appendix. (*Vide* “*Separate Appendix F*.”)

Mr. *George Milford*, Judge's Associate, examined.

During his examination the witness handed in the Judge's Note Book, and all Exhibits in the case of the Queen *v.* Madgwick, for perjury, at Maitland; and also all papers, &c., in the civil action *Holmes v.* Madgwick.

Mr. *Thomas T. Ward*, Reporter to the *Maitland Mercury*, examined.

And during the examination of the witness, a question having been put, at the request of the Attorney General, with a view to elicit Mr. Ward's opinion as to the public impression with respect to Madgwick's innocence or guilt, prevalent at Maitland, prior to his trial,—

Mr. Plunkett objected to such question, on the ground of its irrelevancy and tendency to enter upon the question of Madgwick's innocence or guilt.

Committee deliberated.

Question allowed to stand.

Mr. *Ward's* examination continued.

And during such examination, the Chairman having handed a paper to the witness, purporting to be Mr. Somerville's written reply to the jury in the case of the Queen *v.* Madgwick for perjury, was proceeding to question the witness thereupon,

When Mr. Jones objected to any questions being put to the witness upon the document, inasmuch as it had come into the possession of the Committee solely through inadvertence on the part of the Secretary to the Crown Law Officers when handing in the depositions, &c., in the case, and was consequently not properly or formally before the Committee.

The room was cleared.

Committee deliberated.

The Chairman pointed out that questions with respect to this document had previously been put to one of the witnesses before the Committee (Mr. W. C. Windeyer), and had been answered by him in the presence of the Attorney General, who had allowed such questions and answers to remain unchallenged.

The Shorthand Writer in attendance (Mr. Palmer) then read from his transcript of Mr. Windeyer's evidence the questions and answers referred to. (*Vide questions and answers*, 31 to 34 inclusive.)

Deliberation continued.

Motion made (Mr. *Plunkett*) and *Question*,—“That the Attorney General be now called in, and asked if the document referred to had been inadvertently and unintentionally handed in to the Committee, without Mr. Somerville's knowledge and consent”—*agreed to*.

Parties thereupon called in.

The Chairman stated the purport of the Resolution agreed to by the Committee.

The Honorable *L. H. Bayley*, Esquire, Attorney General, attending by permission of the Legislative Council, examined accordingly.

The room was again cleared.

Committee deliberated.

Motion made (Mr. *Jones*) and *Question*,—“That after hearing the evidence of the Attorney General the Committee are of opinion that it is not expedient to put any questions to the witnesses with respect to this document, without first ascertaining Mr. Somerville's willingness to put the Committee in formal possession thereof”—*agreed to*.

Parties called in.

143—c

The

The Chairman stated the purport of the Resolution agreed to by the Committee, and handed the document in question to the Attorney General, with a request that he would communicate with Mr. Somerville for the purpose of ascertaining if he was willing to put the Committee in formal possession thereof, and

The Attorney General having promised to make such communication,—

Mr. Ward's examination concluded.

Witness withdrew.

Mr. James Ewan, Reporter to *Northern Times*, examined.

Witness withdrew.

During the examination of these witnesses the Chairman put certain questions to them, at the request of the Attorney General.

Committee deliberated, and it was *Resolved* :—

“ That it is not expedient to forward the evidence of the witnesses residing in the
“ country to them for revision.”

Committee further deliberated.

[Adjourned till to-morrow, at *Eleven o'clock*.]

FRIDAY, 1 APRIL, 1859.

MEMBERS PRESENT:—

The Honorable James Martin, Esquire, in the Chair.

Mr. Jones,

Mr. Plunkett,

Mr. Macarthur,

Mr. Denichy.

The Honorable the Attorney General present in the room during the examination of the witnesses.

The Chairman laid before the Committee,—Further letter, dated 30th ultimo, from Mr. W. H. Mullen, to the Clerk of the Assembly, stating his inability to comply with the summons of the Committee of the 29th ultimo, in consequence of its reaching him at too late an hour on the 30th ultimo to enable him to come to Sydney so as to attend the Committee at the time, and on the day, specified thereon.

Committee deliberated, and it was *Resolved* :—

“ That as the examination of witnesses by the Committee must be brought to a
“ close during the present week, Mr. Mullen be informed that his evidence
“ will not now be required.”

The Chairman also laid before the Committee,—Letter from W. M. Arnold, Esq., M.P., to the Chairman, covering a communication from C. Reynolds, Esquire, J.P., to the effect that he had received from the Clerk of the Assembly, through the Police Magistrate at Maitland, a summons to attend before the Committee, and stating, as a reason for not complying therewith, his inability to give any evidence in furtherance of the inquiry, and that he was not one of the jurymen in the case of the *Queen v. Madgwick*.

Mr. I. Robinson and Mr. T. B. Rossiter, jurymen in the case of the *Queen v. Madgwick*, for perjury, examined.

Witnesses withdrew.

During the examination of the witnesses the Chairman put certain questions to them, at the request of the Attorney General.

The Attorney General, with the permission of the Committee, then read a letter received from Mr. Somerville, stating that the document purporting to be a written reply read by him to the jury in the case of the *Queen v. Madgwick* consisted only of certain notes in reference to the opening portion of such reply, and expressing his (Mr. Somerville's) willingness to put the Committee in formal possession of the said document, provided they think fit.

Committee deliberated, and it was *Resolved* :—

“ 1. That in the opinion of this Committee the possession of this document is in
“ no way essential for the purposes of the inquiry.

“ 2. That no further evidence is required by the Committee.”

The Chairman thereupon informed the Attorney General to this effect, and inquired whether he was in a position to have his examination entered upon at once, and having received a reply in the affirmative,—

The Honorable L. H. Bayley, Esquire, M.L.C., attending by permission of the Legislative Council, examined.

Committee then further deliberated, and it was *Resolved* :—

“ That the Committee do meet on Monday next, for the purpose of considering the
“ heads of a Report.”

Ordered :—

“ 1. That the information, depositions, &c., in the case of the *Queen v. Madgwick*, for perjury, be printed.” (*Vide* “ *Separate Appendix G & H.*”)

“ 2. That the exhibits in the same case, handed in to the Committee by the
“ Judge's Associate, be printed so as to form part of Appendix A to the
“ evidence given by Mr. Justice Milford on 28th ultimo.

“ 3. That the addendum attached to his evidence by the Honorable R. M. Isaacs,
“ Esquire, M.L.C., when such evidence was with him for revision, be printed
“ therewith.”

[Adjourned till Monday next, at *Two o'clock*, p.m.]

MONDAY,

MONDAY, 4 APRIL, 1859.

MEMBERS PRESENT :—

The Honorable James Martin, Esquire, in the Chair.

Mr. Jones, | Mr. Macarthur,
Mr. Plunkett, | Mr. Denichy.

The Chairman laid before the Committee,—Further letter, dated 31st ultimo, from the Police Magistrate at Maitland, explaining the misapprehension which had led to his issuing one of the summonses signed by the Clerk of the Legislative Assembly to attend before the Committee for the purpose of giving evidence to C. Reynolds, Esq., J.P.

Letters dated 1st instant, from T. T. Ward, Esq., Reporter of the *Maitland Mercury*, and James Ewan, Esq., Reporter of *Northern Times*, who were examined before the Committee on the 31st ultimo, requesting payment of certain expenses incurred by them in attending from Maitland for the purpose of giving evidence before the Committee, at the rate specified opposite their respective names, as shewn in the annexed Schedule, viz. :—

Name of Witness.	Profession or Condition.	Number of days under examination by Committee, or acting specially under their orders.	Expenses of journey to Sydney and back.	Expenses in Sydney.	Other Expenses.	Total Expenses allowed to Witness.
Thomas T. Ward.	{ Reporter for <i>Maitland Mercury</i>	{ 1 day under examination; 2 days engaged under orders. March 31 and April 11	£ s. d. 2 10 0	£ s. d. 1 5 0	£ s. d. •	
James Ewan	{ Reporter or Sub Editor of the <i>Northern Times</i> , West Maitland	{ Three days at £1 per day = £3	£ s. d. 3 0 0	£ s. d. 1 10 0	.....	7 10 0

* NOTE.—No allowance specified.

J. J. CALVERT,

Clerk of Select Committees.

The Chairman also informed the Committee that no application for payment of expenses had as yet been received from Mr. I. Robinson or Mr. T. B. Rossiter, although blank Schedules had been handed to them, with an intimation that it was necessary to return them to the Clerk of the Assembly duly filled in, as speedily as possible.

Committee deliberated, and it was Resolved :—

“ That in the opinion of this Committee it is expedient to recommend the sum of £14, to meet the *estimated* expenses incurred by Mr. I. Robinson and Mr. T. B. Rossiter, in attending before this Committee for the purpose of giving evidence, at the rate shewn opposite to their respective names in the annexed schedule.”

Mr. I. Robinson	{ <i>Jurymen in the case of</i> }	£7 0 0
Mr. T. B. Rossiter ...	{ <i>the Queen v. Madgwick</i> }	7 0 0
		14 0 0

Committee further Resolved :—

“ That a paragraph be inserted in the Report recommending that the necessary steps be taken to ensure to these witnesses the payment of their expenses, amounting to £28.” (*Vide Schedule of “Expenses of Witnesses” annexed hereto.*)

Committee then deliberated on heads of Report.

[Adjourned till to-morrow, at Twelve o'clock.]

TUESDAY, 5 APRIL, 1859.

MEMBERS PRESENT :—

Mr. Jones, | Mr. Macarthur,
Mr. Plunkett, | Mr. Denichy.

Committee having waited the prescribed time, and the Chairman not being in attendance,—

[Adjourned till to-morrow, at half-past Eleven o'clock.]

WEDNESDAY, 6 APRIL, 1859.

MEMBERS PRESENT :—

The Honorable James Martin, Esquire, in the Chair.

Mr. Plunkett, | Mr. Denichy,
Mr. Jones, | Mr. Macarthur.

The Chairman laid before the Committee,—Letters, dated 5th instant, and received by the Clerk of the Assembly *this day*, from Mr. I. Robinson and Mr. T. B. Rossiter, who were

were examined before the Committee on 1st instant, requesting payment of certain expenses incurred by them, in attending from Maitland for the purpose of giving evidence before the Committee, at the rate specified opposite to their respective names, as shewn in the annexed Schedule, viz. :—

Name of Witness.	Profession or Condition.	No. of days under Examination by Committee, or acting specially under their orders.	Expenses of journey to Sydney and back.	Expenses in Sydney.	Other Expenses.	Total Expenses allowed to Witness.
			£ s. d.	£ s. d.	£ s. d.	£ s. d.
Thos. Boyd Rossiter	Squatter ..	{ 3 days, at £2 2s. per day }	3 0 0	2 0 0	.....	11 6 0
Isaac Robinson	Builder	{ 3 days, at £2 2s. per day }	3 0 0	2 0 0	.....	11 6 0

Committee deliberated, and it was *Resolved* :—

“ That in the opinion of this Committee sufficient provision has been made to meet the expenses of these two witnesses under the Resolution agreed to by the Committee on this head, at their meeting on the 4th instant.”

Mr. Jones laid before the Committee,—Further letter from Mr. E. C. Madgwick, dated 4th instant, explaining certain circumstances with respect to a Memo. on the face of the note for £117 10s.

Letter read.

Ordered to be printed in Appendix. (*Vide Separate Appendix I.*)

Motion made (Mr. Jones) and *Question*,—“ That Mr. Madgwick be apprised that this letter will be printed as part of the *Separate Appendix* to the Proceedings of the “ Committee,”—*agreed to.*

Proofs of Draft Report proposed by the Chairman laid before the Committee.

Motion made and *Question*,—“ That the Draft Report proposed by the Chairman “ be now read and considered paragraph by paragraph,”—*agreed to.*

Introductory paragraph read, and agreed to without amendment.

Paragraph 1 read, considered, and agreed to without amendment.

Paragraph 2 read, viz. :—

“ Your Committee having heard the statement of the Attorney General, and having fully considered the evidence taken before them, have come to the conclusion that Mr. Somerville did not shew by his management of the cases placed in his hands that he was a person to whom they ought to have been intrusted. Mr. Somerville, so far as your Committee is aware, was wholly without experience in the conduct of cases in Court; but your Committee, taking into consideration the nervous anxiety which most people labor under who are called upon to speak in public on any matter of importance for the first time, and more especially if they should, like Mr. Somerville, find themselves placed in a situation of great responsibility, do not feel justified in attributing Mr. Somerville's failure to any want of knowledge or ability, legal or otherwise. From the Attorney General's statement, it appears that Mr. Somerville had distinguished himself in his academical career, and had enjoyed the advantage of studying the law under a gentleman of considerable eminence in his profession. These circumstances were sufficient, your Committee think, to justify anyone acquainted with them in entertaining a favorable opinion of his ability; and your Committee desire most carefully to avoid saying anything calculated to prejudice Mr. Somerville in his future career at the Colonial Bar. Your Committee are, however, of opinion that the Attorney General evinced great imprudence and want of discretion in appointing as his substitute a gentleman who, whatever might have been his acquirements or his opportunities, had not had that practical experience which alone could justify the confiding to him the serious and important duty of conducting criminal prosecutions. Of the three trials in which he appeared as prosecutor one of them was peculiarly difficult and complicated, and must have been known to be so by the Attorney General before he appointed Mr. Somerville. Your Committee cannot think that the plea of want of knowledge of the fitness of other members of the Bar is any excuse or justification for the Attorney General. His limited knowledge of the Colonial Bar, by reason of his recent arrival in this Colony, was, of course, a circumstance for which he cannot be blamed; but your Committee think that he should have availed himself of the experience of others, and have made such inquiries as would have enabled him to secure the services of a competent barrister to act for him during his absence from the Circuit. The actual presence during the whole of the criminal trials of at least one gentleman of great experience in his profession, though a recent arrival in the Colony, and the anticipated presence in Maitland within two or three days of the commencement of those trials of several leading members of the Bar, as well as the practicability of the Attorney General's return to Maitland himself after attending the Legislative Council in time to conduct Madgwick's case, leave the Attorney General wholly without excuse in taking a course so highly calculated to interfere with the efficient administration of criminal justice. Your Committee, under all the circumstances, are of opinion that the conduct of the Attorney General in appointing Mr. Somerville is deserving the censure of your Honorable House.”

Committee deliberated.

Paragraph verbally amended.

Motion

Motion made (Mr. Jones) and *Question proposed*,—"That after the words 'criminal justice,' all the words to the end of the proposed paragraph be omitted."

Committee deliberated

Question put,—"That the words proposed to be omitted, stand part of the proposed paragraph."

Committee divided.

Aye, 1.

Mr. Denichy.

Noes, 3.

Mr. Jones,
Mr. Plunkett,
Mr. Macarthur.

Words struck out accordingly.

Motion then made, and *Question*—"That this paragraph, as amended, stand part of the proposed Report"—*agreed to*.

Paragraph 3 read, viz. :—

"In the course of his statement to the Committee the Attorney General took occasion to refer to certain objections made to his own appointment on the ground that he had but lately arrived in the Colony, and was, therefore, almost wholly unknown, and he submitted for the consideration of the Committee in justification of his appointment certain testimonials and certificates obtained by him when an applicant for a legal appointment in England. With respect to these matters thus submitted your Committee offer no opinion, as no such question as the propriety of the Attorney General's own appointment was submitted to them. Had your Committee been directed to inquire into that question, they think that the testimonials read by the Attorney General would have been of no importance, as it has never, so far as your Committee are aware, been the practice in the Mother Country to appoint an Attorney General on the strength of his testimonials. The high office of Attorney General is there invariably conferred on those only who have shewn by a course of successful practice that they are not unworthy to take the lead in their profession, and an appeal by an English Attorney General to testimonials would be equally unnecessary and inappropriate. Your Committee think that the practice which regulates these matters in the Mother Country might be pursued with great advantage here."

Committee deliberated.

Motion made (Mr. Jones) and *Question proposed*,—"That after the words 'been of no,' all the words to the end of the proposed paragraph be omitted, with a view to insert in lieu thereof the words—'value, except as bearing on his legal eligibility for the office.'"

Committee deliberated.

Question put,—"That the words proposed to be omitted stand part of the proposed paragraph."

Committee divided.

Ayes, 3.

Mr. Plunkett,
Mr. Macarthur,
Mr. Deniehy.

No, 1.

Mr. Jones.

Deliberation on paragraph resumed.

Paragraph *verbally* amended.

Motion made, and *Question*,—"That this paragraph, as *verbally* amended, stand part of the proposed Report,"—*agreed to*.

Paragraph 4 read, considered, and agreed to without amendment.

Whereupon Motion made, and *Question*,—"That the Report, as amended, be the Report of the Committee,"—*agreed to*.

Chairman requested to report to the House.

EXPENSES OF WITNESSES.

Name of Witness.	Profession or Condition.	Number of days under examination by Committee, or acting specially under their orders.	Expenses of journey to Sydney and back.	Expenses in Sydney.	Allowance per Diem.	Total Expenses allowed to Witnesses.
			£ s. d.	£ s. d.	£ s. d.	£ s. d.
* T. T. Ward, Esq.	{ Reporter of Maitland Mercury. }	3	2 10 0	1 10 0	3 0 0	7 0 0
* James Ewan, Esq.	{ Reporter of Northern Times. }	3	2 10 0	1 10 0	3 0 0	7 0 0
* I. Robinson, Esq.	Juryman ..	3	2 10 0	1 10 0	3 0 0	7 0 0
* T. B. Rossiter, Esq.	Juryman ..	3	2 10 0	1 10 0	3 0 0	7 0 0
						£28 0 0

* Vide "Minutes of Proceedings" on 4th and 6th April, 1859.

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1858-9.

Legislative Assembly.

NEW SOUTH WALES.

MINUTES OF EVIDENCE

TAKEN BEFORE

THE SELECT COMMITTEE

ON THE

PROPOSED VOTE OF CENSURE ON THE
ATTORNEY GENERAL.

MONDAY, 28 MARCH, 1859.

Present:—

MR. JONES,		MR. MARTIN,
MR. MACARTHUR,	|	MR. MURRAY,
		MR. PLUNKETT.

THE HON. JAMES MARTIN, ESQ., IN THE CHAIR.

[The Honorable the Attorney General present in the Room during the examination of the witnesses.]

William Edmond Plunkett, Esq., called in and examined:—

1. *By the Chairman*: You are Secretary to the Law Department? I am Secretary to the ^{W.E. Plunkett} Crown Law Officers. _{Esq.}
2. Do you produce the depositions in certain cases which were placed by the Attorney General in the hands of Mr. Somerville for prosecution at the late Maitland Circuit? Yes, 28 Mar., 1859. I produce three cases:—The Queen against Edward Charles Madgwick, on a charge of perjury; the Queen against Thomas Smith, for assaulting a child; and the Queen against Robert Grant and James Brian, for stealing money; also against William Mackie and John Mackie, for horse stealing. There is another case against William Mackie, one of the persons mentioned in the previous case, but it was not proceeded with—that was also on a charge of horse stealing. The depositions against William and John Mackie, I believe, were left with Mr. Somerville; there were five left with him altogether.
3. *By Mr. Plunkett*: I suppose you were not at Maitland yourself? I was not. Mr. Moore Dillon, the Criminal Crown Solicitor, was there.
4. From whom, I suppose, you got those papers? He is on Circuit at Goulburn, and his clerk is also away in attendance at the Bathurst Assizes. I went to his office and found these papers, and the Attorney General informed me that these were the cases entrusted to Mr. Somerville.
5. *By the Chairman*: When is Mr. Moore Dillon expected back to Sydney? The Assizes commence this morning at Goulburn, and I suppose he will not be back till the end of the week, or even later.

His Honor Samuel Frederick Milford called in and examined:—

- His Honor
S. F. Milford.
28 Mar., 1859.
1. *By the Chairman*: You were the Judge attending at the late Circuit Court at Maitland? I was.
 2. Have you with you your note book of the criminal trials? No, but I can send for it in a moment.
 3. Some of the criminal trials were conducted by Mr. Somerville? They were.
 4. Do you remember how many? The impression upon my mind is that they were only three; but I may be wrong upon that.
 5. Were any of those cases of more than ordinary difficulty? There was one a difficult case certainly; one for perjury.
 6. Can you state generally the circumstances that rendered it a difficult case? I can describe the nature of it. There had been an action in the Supreme Court tried at Maitland on a promissory note, and a question arose whether it was an accommodation note or not: the defendant swore that it was, and for that he was indicted for perjury. The defence set up by the defendant, Madgwick, was a good deal involved in questions as to accounts between him and a man of the name of Latimore—they were very complicated accounts, relating to bill transactions and land purchases. When the criminal proceedings came on there was evidence given of the transaction which took place at the giving of the bill in question, upon which the principal witness and another shewed, if they were to be believed, that it was not an accommodation bill. The defendant, as the chief ground for saying that it was an accommodation bill, went into evidence of these business transactions and accounts, in order to shew that there was nothing due, and that, therefore, the bill was without consideration. The evidence for the Crown was confined almost to the conversation which took place when the bill was given, and to confirmatory matter as to something that took place between the defendant and one Dark, in which the defendant admitted a subsisting debt. The defendant elicited that a number of statements made by the principal witness on the trial, and in the depositions before the magistrates, were totally different from his present account of the same thing: for instance, he said, he never gave a receipt, when the receipts were produced—twice that occurred. He said he had never said certain things before the magistrates, and upon looking at the depositions there they were. He was a man who could not read nor write. He was the principal witness. So that if his evidence were not believed by the jury, there was a very faint case against the defendant. I charged the jury that the conversation when the bill was given was the main point; that if they disbelieved that it took place, there was scarcely, I thought, a case for them to find him guilty, still it would be a matter for their consideration. I said, although the evidence was very complicated, I thought, though not at all confidently, that the defendant had made out that he had paid the money, but it did not follow because there were dealings and transactions between the parties that there might not still be given an accommodation note. I referred to the effect of confirmatory evidence, and especially to that of Dark. That was the nature of the case, and the jury found a verdict of "Not Guilty." I think, if I had been in their place, I should have done the same.
 7. Are we to understand that the case was rendered more than ordinarily difficult by reason of the multiplicity of facts—? By reason of the multiplicity of accounts, and purchases of land, between the principal witness and defendant.
 8. Are perjury cases usually more or less difficult than other cases? As a rule they are difficult.
 9. Was this more or less difficult than the general run of perjury cases? I should say more difficult than the ordinary run, in consequence of the line of defence that was taken, owing to this complication of accounts. The line of defence was, that it must have been an accommodation bill because there was nothing due.
 10. Can you offer any opinion as to whether that case was conducted by Mr. Somerville in such a manner as to put it clearly and satisfactorily before the jury? I cannot say it was, for there appeared to be a nervousness and hesitation about him; without imputing ignorance, there was a hesitation and nervousness about him, such as is frequently manifested by a young man when he first goes into Court. This he shewed, I think, to a very great extent.
 11. Then, without imputing any want of ability or legal knowledge to Mr. Somerville, is it your opinion that he did not shew, by the way in which he conducted that case, that he was thoroughly competent to conduct it? Certainly I did not think he was thoroughly competent; his nervousness appeared to be the reason; he was too much overcome with the new position in which he was placed to conduct the case properly, as I believe it was one of his earliest attempts. Whether he is a lawyer or not I cannot tell.
 12. *By Mr. Jones*: You mean I suppose a lawyer as distinguished from a barrister? From a person conducting a cause—he might understand law without being able to conduct a case in Court.
 13. *By the Chairman*: He might not have the coolness, experience, and tact necessary to conduct a case? That struck me as the cause of his failure.
 14. Can you state whether a case like that—that is to say, a perjury case, and one of more than ordinary difficulty—was one which in your opinion it was prudent to entrust to an inexperienced barrister like Mr. Somerville? I think not, if a better could have been had; it depended entirely upon that. If a man that was well known to be capable of conducting it could have been had, Mr. Somerville ought not to have been entrusted with it; it depends upon that entirely.
 15. When you say that if a better man had been available, do you mean a better one available on the spot, or in the Colony? On the spot where required to conduct it.
 16. Would you then go the length of saying that a case like that should be left to the mere chance of a competent person being at Maitland to conduct it? Not to mere chance, of course; if it were possible to get a competent person to conduct the case that person ought to be got.
 17. Provided beforehand? Provided beforehand.

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S. F. Milford.
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18. Did Mr. Somerville shew himself competent in a satisfactory degree to deal with the points of evidence that arose in the course of the trial? Really he appeared to me to have so little confidence that I can hardly tell whether it was ignorance or nervousness, but I am inclined to attribute it to nervousness.

19. In either case the effect, so far as the public are concerned, would be the same? No doubt.

20. Although in the one case, the case suggested by yourself, no imputation would be cast upon his legal knowledge? No.

21. Were there many controversies about the admission or rejection of evidence in the course of that particular trial? I do not think there were many. They arose chiefly, if I recollect rightly, from myself. There were some, no doubt; but I think not so many as are usual in defended cases of a complicated kind.

22. Madgwick defended himself? Yes, very ably.

23. *By Mr. Plunkett*: There was no counsel in the case but Mr. Somerville? None but Mr. Somerville. I may mention one question that arose at the very commencement of the case, as to the production of the record being necessary in order to prove what the issue was. It was not produced, and I suggested that it should be produced, and then, if I recollect rightly, Mr. Somerville said that, under the recent Evidence Act, the certificate was sufficient. There was a little hesitation as to whether that would do—whether it would shew the issue—so I sent for the Act, and read the certificate to see whether the certificate contained, and whether the Act authorised, the insertion of what the issue was, and finding it not to be so, I said there must be evidence of what the issue was. I was unwilling to stop the proceedings at that time apparently simply upon an oversight. I did nothing, therefore, but Mr. Somerville looked among his papers, and at last he produced an exemplified copy of the proceedings, and the matter was put right.

24. *By the Chairman*: Then it did not occur to him that it was necessary to produce any such evidence till it was pointed out to him? He produced this certificate under the new Evidence Act. Whether he thought it sufficient I do not know; however, he produced it as sufficient evidence of what took place at the trial and I suppose of the issue too.

25. *By Mr. Plunkett*: What new Act do you refer to? The Act passed this session, 22nd Victoria. There was another matter arose which I would mention: there was a good deal of evidence gone into as to consideration between subsequent parties to the Bill, which I stopped, as not material to the issue, which was whether the Bill originally was an accommodation bill or not. I do not know that there was any material point with regard to the evidence beyond these two, though no doubt some questions arose.

26. *By the Chairman*: I understand you to say that the alleged perjury depended upon the credibility, or otherwise of two witnesses? Of two witnesses, between whom the conversation I have referred to took place.

27. Do you remember whether Mr. Somerville referred to any recent cases, to shew that two witnesses are not necessary, but that one is sufficient where there are corroborative circumstances? I do not know that he did, but I know it was mentioned to the jury by myself, that it was not necessary that there should be two witnesses, as one was sufficient where there were strong corroborative circumstances. Whether Mr. Somerville mentioned it or not I am not aware; still, if the evidence was to be believed, there was the evidence of two witnesses that the bill was given for a consideration.

28. Except in the event of one being disbelieved? Yes; there was also what I have already referred to—the corroborative evidence with regard to his having dealt with the debt as a subsisting debt.

29. Did anything occur as between Mr. Somerville and the jury in the course of any of the other trials that were conducted by him? I do not know; there was in one of the trials—but I think that was during the same trial—one of the jurymen, I think the foreman, got up after the opening of the case, and said he did not understand the statement, but whether it was in that case or in one of the others I cannot say.

30. Did any other juryman make any remark? No, only one.

31. Did it occur to you that there was any reasonable foundation for that complaint on the part of the juryman? I think the statement was confused; it appeared to me that Mr. Somerville followed the depositions, and, of course, the same thing would be repeated by two witnesses speaking to the same point; and as Mr. Somerville did not inform the jury that he was quoting from the depositions there was some confusion.

32. Are we to understand that Mr. Somerville, in stating the case, stated it from the depositions, without informing the jury that the facts which were stated by him twice over were deposed to by different witnesses? I will not say what he said upon the subject, for I do not recollect, but the impression upon my mind was that he was reading from the depositions instead of consolidating them, and making a collected story out of them.

33. And that tended to confuse? And that tended to confuse. I cannot say that it was so; but it struck me so. On consideration, I recollect that this circumstance took place in one of the other cases.

34. Did any observations reach you which could convey to your mind whether or not it was the fact that other persons besides the jury and yourself were not satisfied with the mode in which Mr. Somerville conducted the case? I saw some members of the Bar who seemed not satisfied with it.

35. Did any representation to the like effect reach you from any other quarter? No, I did not hear it from anyone else; there might have been rumours about it, but nothing I can fix in my mind.

36. Were the other cases that Mr. Somerville conducted easy or difficult cases? There was no great difficulty. In one case there were two prisoners tried for the joint crime of horse stealing, and the evidence tended as to the stealing of one horse by one prisoner, and another by the other. Under such circumstances, it would have been necessary, as it was a joint indictment,

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indictment, to have discharged one in order that judgment might have been given against the other. That was the only question of importance that arose in the proceedings, in any of the cases.

37. *By Mr. Jones:* You have stated that this case of perjury was particularly difficult from the multiplicity of facts? From the multiplicity of accounts, purchases of land, and payment in and renewal of bills; though that was not the main point: the main point was as to the belief in this conversation which was said to have taken place when the bill was originally given. The other was only leading by implication to the belief that it was or was not an accommodation bill.

38. To what are you inclined to attribute the acquittal of Madgwick? I think it was a proper verdict; if I had been on the jury I should have come to the same conclusion.

39. The main ground, as I understood you, was the discrepancies between the statements made on that trial and on the previous trials before the magistrates? I should not have believed the principal witness.

40. You did not think him worthy of belief? I did not.

41. Did Mr. Somerville, in the conduct of the case, examine this witness in such a way as to lead to unnecessary discrepancy? No; he was the witness for the Crown, and he had merely to say what took place at this conversation; in cross-examination all the discrepancies came out. The defendant put this question—"Did you not say when you were before the "magistrates" so and so, and he having brought the matter to the witness' memory, and the witness denying it or admitting it, then put in the deposition to shew that what he had stated was not according to what he now stated, or what he alleged that he had stated before the magistrates; he also produced the attesting witnesses to receipts, which receipts the man denied he had ever given.

42. Proving that he stated what was not correct? Proving that he stated what was not correct, and that he was either very ignorant or perjured; he could neither read nor write.

43. Did I understand you to say that the main ground on which the defendant in this case relied was that he could shew that the whole amount of the debt in which this bill was involved was paid? That was the chief line of defence.

44. Did the defendant succeed in making out satisfactorily that the amount alleged to be due had been paid? I could not satisfactorily make it out, but I was inclined to think he had paid the whole debt, a portion of which was alleged to be due.

45. You are disposed to believe that Mr. Somerville did not conduct the case as satisfactorily as a more experienced practitioner would have done? I am.

46. Do you think there was any failure of justice in this particular case, by reason simply of want of experience or of capacity? Neither of one or other, because I believe the verdict was right.

47. You believe, if the most experienced lawyer had been employed in the case, with such a witness as this there would have been an acquittal? I am inclined to think so.

48. In regard to the other two cases tried before you of which Mr. Somerville had charge, what was the result of those cases? One was for highway robbery by two men, who were found guilty, and the other was for horse-stealing; when the question I have described arose. The parties were found guilty.

49. Are you disposed to say that, owing to Mr. Somerville having been employed, there was in either one of those cases a failure of justice? I do not think there was.

50. Your opinion is, that, however experienced or able a lawyer might have been employed in Madgwick's case, with the evidence produced in Court he must have been acquitted? I think so; if I had been on the jury I should have acquitted him.

51. You have stated that you heard from certain members of the Bar —? Not heard from them; I spoke merely of what I saw in Court.

52. I thought you said you had heard remarks made by some members of the Bar in the Court? No; what I said was, that from what I saw in the Court I thought the impression in the minds of others besides myself was that the proceedings were not conducted as they should be.

53. I did not then correctly understand you to say that some of the members of the Bar made some statement? No; I spoke only of what I saw take place in Court. Some members of the Bar did make suggestions.

54. Do you remember what members of the Bar were present at the time the trial was going on? They were in and out of the Court during the time. Mr. Faucett was there part of the time; Mr. Windeyer was there part of the time; and Mr. Blakeney, I think, the greater part of the time. I do not remember who else was there.

55. *By the Chairman:* You say that you think the verdict was a correct one; are we to understand that in giving that opinion you speak with reference to the evidence before you, and the way in which it was before you? Yes.

56. If it had been put before you in a different way—if the case had been conducted efficiently, you cannot say what would have been the effect upon the verdict? If there were other evidence I cannot say what its effect might have been; but the evidence, such as it was, being before me, I think the verdict was right.

57. But can you say how the evidence would have been altered, in what a different view or manner it would have been presented, if the case had been properly conducted, or the witnesses had been differently examined? That would not have altered my opinion unless other evidence had been produced; but the evidence as it was before me, or in any other shape, authorised the acquittal.

58. The alleged perjury was stated to have taken place in the course of a trial, "*Holmes v. Madgwick*," for a promissory note? Yes.

59. Was Holmes examined at the trial? He was.

60. Was he a Justice of the Peace? Yes.

61. Did anything strike you in his evidence? There were discrepancies in his evidence, but it went chiefly to transactions subsequent to the bill being given. 62.

62. Are you aware that he recovered on that bill in an action? Yes.
63. So that the jury must then have believed his statement, and disbelieved Madgwick's? Yes; but at that time there were none of those discrepancies that were afterwards shown in Latimore's evidence.
64. *By Mr. Jones*: I suppose that no amount of ability on the part of the prosecuting counsel in this case could have prevented the defendant from drawing out, by cross-examination, the discrepancies in Latimore's evidence? None, unless the witness was thrown overboard altogether.
65. And the discrepancies in that evidence was the immediate cause of the case breaking down? Yes, I think so; the impression upon my mind was that you could not believe a man who did not seem to know what he had said before, or who else wilfully perjured himself.
66. *By Mr. Plunkett*: Were there any circumstances independently of his evidence that might go in the scale in corroboration of any other witness? As I have stated there was the evidence of the defendant's having treated the debt as a subsisting debt in corroboration.
67. *By the Chairman*: That is to say, his own admission? His own admission. There was a dealing with a man named Dark, an auctioneer—a treaty for the purchase of an inn—and the negotiation went on upon the supposition that this was an existing debt at the time.
68. *By Mr. Plunkett*: Was that put to the jury independently of this evidence? Yes; I mentioned that to the jury among other things.
69. Was it put by Mr. Somerville? I cannot say; I cannot recollect whether it was or was not.
70. Did Mr. Somerville make any statement in opening the case? Yes; I think it was in that case he was so confused; but it might have been in one of the other cases—on recollection it was in another case.
71. Did you see the depositions before the case was opened? No.
72. How did you get to a proper understanding of the case if it was not properly opened by the prosecuting counsel? With regard to these dealings and transactions I had not a proper knowledge even at last; but they were so very complicated that it would be very difficult to understand them, unless they had been properly investigated by counsel, and a clear statement of them made.
73. You do not know then whether you got a proper insight into the case? Not with regard to that point; but that was not the chief point; the chief point was whether this witness was to be believed.
74. But if you could not get a proper insight into the case, how could you say how many points there were involved, or what was the importance of those points? I can only speak to the evidence before me, of course.
75. Were there any other members of the Bar besides those you have mentioned—Mr. Faucett, Mr. Windeyer, and Mr. Blakeney—at Maitland? I forget now who was present; they were in and out of the Court. There were some other members of the Bar present; I do not know whether Mr. Dangar was there.
76. Was Mr. Darvall? I think not.
77. Mr. Broadhurst? He came on civil business.
78. *By the Chairman*: Were not these gentlemen there on Thursday morning? Yes. This trial took place on Thursday and Friday. I think they came in on Thursday morning.
79. *By Mr. Plunkett*: Did it appear to you that there was any reason for delaying this case to the last instead of causing it to come on before? I cannot say anything about that; I cannot give any reason for that.
80. You cannot judge whether the unsatisfactory way in which this case was conducted arose from mere nervousness—which all of us, or almost all of us, recollect when we first went into Court—or to want of confidence? My opinion is, that it was want of confidence and want of capability of knowing what to do, in consequence of nervous timidity.
81. Could you judge from his manner that he was quite inexperienced and unpractised? Only in that way. He may be a most excellent lawyer, but it appeared to me that he was quite lost.
82. Did Mr. Somerville make any speech in reply? He did, a short one.
83. Did he dwell on any circumstances independent of those that upset the credibility of one of the witnesses? I really do not recollect what the substance of the reply was.
84. *By the Chairman*: Have you any objection to favor the Committee with a copy of your notes taken at this trial at Maitland? I will do so. (*Vide Appendix A.*)

His Honor
S. F. Milford.
28 Mar., 1859.

APPENDIX A.

THURSDAY, 19TH MARCH, 1859.

Coram Milford, J.

The Queen v. Edward Chalton Madgwick.—Plea, not guilty.

Evidence for the Crown.

Certificate of trial under hand of the Prothonotary produced.

William Henry Mullen:—I am a solicitor at West Maitland; I was attorney in *Holmes v. Madgwick*; it was on a promissory note for £117 10s.; I look on note; it is the one; it is indorsed by a man called William Latimore; he admitted at the trial that he had indorsed it; Madgwick was duly sworn; he swore that this note was given to Latimore as accommodation bill out of pure kindness; he denied having received value for it; that was the issue to try. (*I here said the pleadings should be produced to shew the issue.*) The certified copy of the proceedings in the cause *Holmes v. Madgwick* put in; the question if accommodation or not material to the trial; I look upon paper writing now produced; it was produced and proved at the trial.

His Honor
S. R. Milford.
28 Mar., 1859.

Cross-examined:—I think I came into Court by myself, shortly after Mr. Smith; I heard you sworn on the Bible; the venue was changed, as appears by the record, with Biggs' consent; I gave evidence at Dungog when this matter was before the magistrates; I can't remember if I wrote letter to you before these proceedings; if produced I will tell you; I wrote you a letter; I was in Court 24th March; there was something said about the right to begin; I remember no other dispute at the commencement of the trial; I left the Court once or twice during your cross-examination; I was in Court during most of the time Holmes was examined; I do not remember his using the words "We held the bill for £100 due to Hancock, besides his own claim"; he used the words he held the bill for £100 due to Hancock; I may have used the expression before the magistrates, as you suggest; I remember Holmes using the words "It was given to me by Latimore as security for money owing to me on a general account", or to that effect; he used the words as before, and added, "as for rent, and other things"; he used some words about £13; he said of this £11 10s. was for rent due by Hancock to him; he said he lent you £1, or about that; he went on to say that the note was handed over by Latimore to Holmes for what Hancock owed Holmes; I do not remember Holmes saying whether Hancock was present when the note was handed over; he said if I had received the £117 10s. I should have considered myself as a trustee of the surplus for Hancock; William Latimore gave evidence; a receipt was produced with William Latimore's mark, about the sale of some land by Latimore to Madgwick; Latimore denied the mark being his; I can't say whether he used the word "forge," but he implied it; I don't remember Latimore denying that he gave the note to Holmes as security for Hancock; I remember Latimore said the £274 note was a renewal of a former note; I remember giving evidence at Dungog; I said, "I knew your signature by a promissory note of your's passing through my hands eight or nine times"; I did not say "Renewed," when I received the note; I saw it; I got it again when dishonored, and again when taken to Madgwick, so I saw your signature often; it was for £13, odd; I know Mr. Broderick's signature; I left it at the Bank; I can't say whether it was discounted at the Bank; I look on paper now produced; it is Mr. Broderick's handwriting; the notes attached endorsed by Mullen and Brodrip—£20 and £13 6s.; I look on the deposition taken at Dungog as mine; it is mine.

William Smith:—I was clerk to Mr. Mullen on the 24th March, '48; I was present at trial of Holmes v. Madgwick; it was an action on a promissory note; I heard the defendant sworn; he stated that the note was given without consideration, and out of pure kindness to Latimore; I heard verdict; I saw the note; the one produced now is the one that was produced at the trial.

Cross-examined:—I came into Court by myself; I did not come with Mullen; I don't remember any dispute; immediately after you were sworn at Dungog you asked who was sworn first; I answered that the plaintiff was sworn first, and then corrected myself before it was put in my deposition; Mr. Chambers corrected me, and that called it to my memory, and I corrected it.

Thomas Holmes:—I am a magistrate and reside near Clarence Town; I look on the note produced for £117 10s. signed by defendant; the whole note is in his handwriting; it was given by Latimore, as agent for Hancock, who was ill; the consideration of the note between Latimore and Madgwick was the purchase of land; Latimore handed to me, as agent for Hancock, without any consideration; I gave nothing for it; Hancock owed me money, but I did not take the bill as security; the defendant offered to pay me £13 or £14 on account on the 14th August, 1849; at the latter end of July, when the bill was put into my hands, I wrote to defendant, and on the 14th August he stopped me in Dungog, and said, "What about this note, Mr. Holmes?" he said, "If you will come up to my house I will pay you what Hancock owes you;" I said, "Mr. Madgwick, I must have the whole or none;" he repeated it again, referring to the bill, £30 paid off one bill; I took the bill for £117 10s. less £30; the defendant never said anything to me about its being an accommodation bill except at Dungog; after the trial Hancock bought some land from Latimore; I was agent for Hancock; it was to be paid for in bills; the land was given up again; it was paid for by four or five notes; I made the arrangement; when the second note became due Hancock could not meet it; Hancock became very poorly; Hancock, Latimore, and I met at Clarence Town about the bill; I promised to pay £100 for Hancock to meet the second bill; I am not positive if I was to be security for the rest; the bill was given to me.

Cross-examined:—I received the note for £117 10s. less £30; I claimed in the suit the whole amount; I have had a station; I sold it; I received notice to produce some letters; they are written by defendant (*put in two notes, July and August*); I did not ask you as to the nature of the note at Dungog; in answer to a question I put to you, you said there was an understanding between you and Latimore that I had nothing to do with; I don't remember this; you said you would call on Latimore; Latimore said he had received a cheque from Madgwick for £25 and £5, either from Madgwick or one of the family; I think Hancock was present; no one was present when the note was handed over to me; Mr. Roberts was present; the arrangement was not made in his presence; I left it all in the hands of my solicitor; the £30 would of been handed back; I mentioned to my solicitor that £30 had been paid; I did not state in the Court that I held the bill for any claim I had against Hancock, if I did I did not understand it; I did not say at the Circuit Court that I took that bill from Latimore for security of general account; if I did I did it by mistake; I stated the bill was given to me for £100; I do not remember saying the note was given for general security, for general account, and other things; I don't know whether the bill was accommodation or not; I did not swear that the bill was not accommodation; If I said that I knew full consideration was given for the bill it was not true; I must have stated it in an unguarded moment (*Deposition read*). When the note was given to me, the note was given for land to Latimore; I never took the note as a security.

William

William Latimore:—I live at William's River; I know the defendant; I sold land to the defendant; I look on paper; I can't read; I know the paper, the mark to it is mine; I have had the document; I remember the trial it was produced (*The agreement put in.*)

His Honor
S. P. Milford.

Thomas Holmes:—I know Madgwick's handwriting; the signature to the agreement is his.

28 Mar., 1859.

By the Defendant:—I have seen you write several times; your returns for the National School were signed by you, in my presence.

Latimore's examination continued:—That is the agreement for sale to defendant, 347 acres; I received £100 in money or cheques and two bills, part of one was paid, £200 was paid, there was some wheat which I had sold to defendant and the remainder of the bill and interest counted up, and made up so that £125 was coming to me; this was between Madgwick and me; the bill for £117 10s. drawn for these things; I told Madgwick next morning that it should be for £125; he asked me to shew him the bill; he said he had made a mistake; he did not know how he came to do that; it looked bad on his side; he said when he went to Maitland he would give me another bill; he never did; if he swore it was accommodation bill he swore false; it was for the whole matter, bags and all.

Cross-examined:—I have never given evidence on a criminal case before I gave evidence on cattle stealing; I remember 1855; I was about to purchase property from Mr. Cape; before I purchased you did not agree to take any; I purchased in 1856; before I paid all the money you agreed to purchase part of the land called Cape Ville Estate; Mr. Cannon lived on the piece you gave me £200 for; you gave no promissory note for it at that time; you sold it to Mr. M. Moss; you paid for the land before I paid for the land I purchased; I left Cape Ville on the 2nd January, 1855, to go to Sydney; the land I purchased cost £2,000; I had not £1,000 when I went to Sydney; I might have had £300 or £350; I had more, I can't say how much; I got money on the road; I got a cheque for £1,100 from Mr. Galley; I went to Bank of Australasia, but I can't remember how many cheques I had; I got some money from the Bank; I remember being paid for McKinnon's farm; I will not swear there were not three cheques; it was not paid in notes; you purchased the land mentioned in the agreement; you paid £100 in a cheque or cheques; I can't read; I have made several affidavits since March last (*Affidavit put in. It stated that the deponent had read two affidavits. I see a mark; it is mine; I have no doubt of it. (Receipt for £100 put in.)*) That £100 was in part payment of the second piece of land; when I got that £100 I was not short of money; I said I had money of Mr. Galley to put in the Bank for him; I said before I got the £100 that I was afraid I should have to take the money I had to pay in for Galley; I was not short after I received the £100 from you; you never gave me any money on account of that agreement after the £100; I do not remember you paying me any money in Chambers' office; I will not swear that we went alone; you did not give bills or money in Chambers' office before I went to pay for the land; I cannot remember receiving £200 cheque in Chambers' office; I remember Thomas Hibbard; I met him somewhere about my place; he had been looking at a piece of land I wanted to sell; I went to Hinton with him; I have seen him since; I don't know that I should have known him twelve months back; I am not sure whether Hibbard was present when we had money transactions between us; I don't know that he was present at any money transactions after the agreement between us; you bought another piece of land, that in 1855, a piece on the opposite side of the creek, the nearest side to Maitland; you had to pay £1 17s. 6d. per acre; you have to pay £135 10s.; I did not owe Galley anything at that time; you paid me £40 in part payment of the last land; I was paid for the first and last piece of land; you may have rode with me at O'Neil's Creek; you may have gone to my house; you did not pay me £100 after the land in the agreement was surveyed; I might have gone to your house; you did not pay me any money; the land was surveyed on the 17th March; I was not in Dungog on 17th March, 1855; within the last three years I don't remember giving you any notes in Dungog; I got the £318 at your house in Dungog about March, 1857; I got another bill from you in Dungog; I never mortgaged the land I bought from Cape; I deposited the deeds as security to Mr. Galley in 1855; I don't know how long after I returned from Sydney; I think he had the deeds when I sold you the piece of land; I kept the note for £117 10s. till after it became due; I gave it to Mr. Holmes in July, for Hancock to get his £100 back; I owed Hancock £100, and I gave the bill on Holmes to get the money from Madgwick; there was no arrangement as to the balance; I never borrowed money of John Roberts, or told you I had; the £117 10s. is a renewal for the £274 10s. bill, the original, and for wheat and for bags; I remember making an affidavit respecting the £117 10s. bill; I stated it was given for land and wheat, I believe so; I mentioned about wheat in the affidavit I believe (*not in the affidavit when read*); I did not think anything would arise about wheat; I have not been paid for the wheat; the £117 10s. bill was made at Hancock's, at Glen William, about twelve miles from Dungog; there was a mistake of about £7 10s.; I am not aware of any other mistake; it was made in the evening past dark; on the 5th of May Robert Hancock, John Cannon, and I were together; I am not sure Cannon was present, but some remarks were made in his presence about it; we were in the kitchen; in the front room; I gave up the bill for £274 10s.; I got it I think at Dungog on 17th March; you gave me another bill there at the same time; I don't know who was present; when at Hancock's, we were sitting at his table; I am not positive if you got the paper from Hancock; you wrote it there; I don't remember what you did with the old bill; the conversation about the mistake in the bill took place at Hancock's, in the verandah, round the corner, after breakfast; you gave nothing then; you did not give me back the £274 bill; one of the £274 10s. bills was renewed; the first was never renewed, except by the £117 10s.; I did not swear before the Chief Justice that the £274 10s. bill was a renewal; I have a place called the Alma; I proposed to Mr. Dark to buy it of me in January, 1857; it was about the beginning; I think it was near his own house; I think

His Honor S. F. Milford. think it was not in his house; I told him I held some bills of yours, and I would not object to make an offer, as you took up your bills as cash; I don't know that Dark told me anything; I remember Dark, you, and I were out at the back, had some conversation; you agreed to take up the bills, and said you would do so if I should purchase the public; I don't think the amount was mentioned; I don't remember what I proposed to give for the property; I think about £800; remember last Circuit Court; I don't remember denying several items alleged to have been paid by you; I know Thomas Hibbard; I am not positive that money transactions passed between us in his presence; I know something about an affidavit made by Hibbard about these; I made an affidavit also; remember when you were before Maitland Bench; a receipt was not put before the Bench witnessed by Thomas Hibbard; I may have said I don't remember giving receipt witnessed by Thomas Hibbard. (*Deposition put in and read.*) I did not say I never received the £200. (*In depositions he said he never received the money.*) (*Affidavit of witness put in.*) As to the £650 12s. 6d. (*the receipt for £650 12s. 6d. put in*) I do not think the mark on the receipt is mine; I did not make affidavit that I had received the £650 12s. 6d. (*Affidavit read.*) I don't remember saying that it is not my mark, it is a forgery; I don't know if I said before the Maitland Bench that it is not my mark; I received from you a cheque for £200, or cheques.

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Edward Hughes:—I am Accountant of Bank of Australasia; I produce three cheques of Miles Moss; they are signed by him;—1st, £100 drawn by Moss; 2nd, £140, same; 3rd, £12, same; they were paid in seventy £5 notes, and two £1 notes; they were paid 4th January, 1855.

Latimore continued:—I had cheques of Miles Moss; I don't recollect what money I got for them, or how many I had.

Stephen Neate Dark:—I live at Clarence Town; miller; I know Madgwick; I carried on the business of auctioneer; I offered for sale property of Madgwick, at Broomfield, about 7th or 8th July, 1857; it before belonged to Latimore; he said he purchased it from William Latimore; I saw him at the time of the sale; had conversation about the property; about a week before sale Latimore called on me; I had a conversation with the defendant about two bills held by Latimore, drawn by defendant in favor of Latimore; I asked defendant if he would take these bills in part payment for the Alma Inn, if Latimore purchased it; he said Latimore had agreed to give him time, that he had put the property in my hands to realize it, at 25 per cent. cash, as he had some intention of starting his son in business, and it would not suit him to take the bill in payment, because he wanted cash; defendant came out of front door whilst I was talking to Latimore; this was before the sale; defendant went towards the stable; we followed; we three had conversation; defendant, after a little, consented to take two bills in part payment of Alma Inn property if purchased by Latimore, amounting to about £400; defendant never said they were accommodation bills; I did not sell by auction that day.

Cross-examined:—There is no ill feeling between us; I was sworn before the Dungog Bench; I said I looked on you with contempt; I know Thomas Holmes; his son married my daughter; I caused the advertisement in the paper to be inserted. (*Paper put in.*) You gave different instructions before the sale; at the time of the sale there were other alterations made; William Latimore told me the amount, one £220, and the other of £170; Latimore said you owed him the bills; when Latimore proposed to buy the inn it was at my mill; my residence is 40 yards from the mill; I had no offer *bona fide* for the mill; I look on paper produced, it was signed by me. (*Letter put in.*) I was never offered £800 for the inn; according to the terms, Latimore offered £800 for the sake of getting this promissory note.

Walter Galley:—I live at Hinton; I know Latimore; I have had dealings; I know defendant; I lent Latimore money on property for him to purchase it at Tedfill; I had no other security; I never asked Latimore to get defendant's name on any notes for further security.

Cross-examined:—I will not swear that Latimore did not ask you to give him a promissory note; Latimore bought the property, January, 1855; he gave the deeds some few months after he came up; I had the deeds, and have them now; I did not give him any permission to sell; I know he sold it.

George Mackie:—I live at Melly, near Dungog; I know defendant; I was in Court here in March last.

George B. Church:—I reside at Clarence Town; I am a miller; I know Latimore and defendant; I remember 26th January, 1856; I received 60 bushels of wheat from Latimore for defendant; I was ordered to grind for defendant, who paid me for grinding; I bought the remainder of his wheat.

Cross-examined:—I can't say if you paid for the wheat.

The case for the Crown concluded, Friday, March 18th, 1859.

A witness being omitted to be examined by mistake was allowed to be called.

Robert Handcock:—I know Latimore and defendant; the bill for £117 10s. was drawn at my house, about 5th or 6th May, 1856; Latimore and defendant were in my house, at first an agreement was drawn for building a house, after that £200 was paid by defendant to Latimore, being part of a note due before that; I am not certain whether the note was produced; I saw another bill drawn by defendant; there was £70 odd due on the old bill, so much for interest (I don't remember what there was), 50 bushels of wheat, 12½ new bags; I could not swear to the note; I never saw it; the amount was mentioned for which it was to be given, £117 10s.; I saw defendant give it to Latimore; I saw them next morning at my place; Latimore in presence of defendant said, "There was a mistake in the note last night"; the defendant said, "Is there?" he said, "Let me look at it?"; he handed him the note, and defendant said, "There is, and this looks very bad on my side;" he said, "I will give you another when we go to Maitland;" Madgwick handed the bill back to Latimore.

Cross-examined:—I am Latimore's father-in-law; I am a tenant of Thos. Holmes, the witness; I bought land of Latimore; I gave nothing at the time of the purchase; I gave

gave him notes afterwards, but no cash; the note for £117 10s. was drawn in my house about 12 or 14 miles from Dungog; I can't swear to the note, or whether it was drawn in Dungog; I never saw the old note at my house; I remember giving evidence at Maitland; I never said that defendant returned the old bill to Latimore; I never said the old bill was for £270. (*Depositions put in*) I know nothing of the old bill for £270; I was sitting at my table when bill for £117 10s. was drawn; I never stated I only overheard the conversation; I can't remember if you got the paper from my wife or brought it with you; I can't swear whether the £200 was paid in notes and cheques; you said I will pay you £200 part of the old bill; Latimore was alongside of you; you did not read anything when you paid the £200—I think not; you did not read the £117 10s. note that night; you said it is £117 10s.; I won't swear what it was you gave him; he was satisfied; I swear you added up the amount there; I can't swear the wheat was not previously paid for.

His Honor
S. F. Milford.

28 Mar., 1859.

The Defendant addressed the jury.

His evidence.

John Morrison :—I keep an account at Bank of New South Wales, and for the years '54 and '55; I have your cheque in favour of Latimore; I paid one dated 4th January, 1855, for £48; I don't know who presented it; another 4th January, 1855, £100; 16th January, '56, for £72 10s.; £25 dated 2nd April, 1857.

Thomas Hibbard :—I am miner; I was farmer; I know Latimore; I had business with him in 1854; I treated to buy a farm from him; I was in his company early in 1855; I was in his company all one day till he left at Hinton; I was with him once before; he knew me; remember 3rd January; I witnessed a receipt by him for £200; I look on one produced; I saw him mark it, and saw the money paid in three cheques, two of them drawn by Moss and the other by you; on the 5th January, 1855, I was in Moss' kitchen in the evening—you, I, and Latimore; I and Latimore went away on the 6th; when you and Latimore went into the kitchen, you said you had been to Mr. Chambers', and you gave Latimore a cheque for £200; you told me as I was a witness to the £200 already paid, it was nothing but right that I should be acquainted with the other affair; defendant and Latimore told me that the defendant had given Latimore a cheque for £200 in Chambers' office for land; defendant told me Latimore was present; Latimore did not say anything in particular; he assented; it was arranged that the £200 should go for some land about which Moss witnessed the agreement.

Cross-examined :—I can't tell the particulars of the last matter; it was four years last January; the way they described the land was that which was comprised in an agreement witnessed by Moss.

Edward Madgwick :—I know Latimore; he was a witness in this case; I remember seeing him in Dungog many times in May, 1855; I saw him there often; I remember he was there when you were making some arrangements about some land; I think in May; it might be before that; I remember going for Mr. Jones; you and Latimore were reading over some papers; I saw you give him money after that; you asked him if he would have a witness; Latimore said he did not think any need for it; after some conversation Latimore asked me to go for Jones, that he might witness a receipt; I went for him; he came to the house; I went to Latimore with my mother; it was in March, 1856; I saw mother give him an envelope, and told him there was money for the wheat; between £25 and £30; mother told him it was money for the wheat; Latimore said he was thankful, and in want of it; shortly after I went to Latimore with my sister; he was not at home; I gave a note to Mrs. Latimore in beginning of May, 1856; Latimore came to Dungog a day or two after.

Cross-examined :—I may have mentioned the smaller sum as paid for the wheat.

Richard Jones :—I lived in Dungog in 1854, 1855; I was storekeeper; I remember Edward Madgwick, your son, came to my house in 1855; I am not certain he called me to sign a receipt by Latimore; I saw him put his mark; I asked if he had received, and if the receipt was correct; he said he had received the money in cash, and the bill was quite correct; I was in Court in March; Latimore said it was not his mark, it was a forgery; you asked me to certify as to the payment; afterwards you asked me to write what I remembered; I am certain that Latimore put his mark.

Cross-examined :—I don't recollect what money was paid; Latimore said it was sterling money; I don't know if by bill, but he said he was paid in money; I look on receipt produced; that is the one.

Thomas Cook :—I am a magistrate; have been since 1834; I reside near Dungog; I know Latimore; I believe he was a witness; I remember defendant and Latimore calling in my office about the transfer of some land; only once at my office; they shewed me a deed; I asked you to read it over, and you read it over; I saw Latimore mark it; I asked Latimore if he understood the deed; he said, "Yes"; he made no objection to the deed, or some endorsement upon it; he said the matter was all settled; he had received the money; this occurred in May, 1855, the 7th; I witnessed these papers because I was a Commissioner of the Supreme Court; I look upon the deed produced; it is executed by Latimore; I am the attesting witness; I look on the receipt. (*Deed put in, and read.*) I have known you five or six years; your character I never heard any ill of till this occasion.

Cross-examined :—Defendant was Registrar of Deaths and Marriages; he left it when the report got up; I don't know that he received intimation that he would be turned out.

Mr. Somerville in reply.

Latimore called by the Court :—The contract was first negotiated on January 3rd for the sale of the land for £680; there was another piece, for £200, sold also.

Verdict—Not Guilty.

His Honor £117 : 10 : 0
S. F. Milford.

Dungog, 5th May, 1856.

Six Months after date I promise to pay Mr. William Latimore, or order, the sum of One hundred and seventeen pounds ten shillings sterling, for value received.

28 Mar., 1859.

EDWD. C. MADGWICK.

Payable at Mr. Latimore's }
residence, Cape Ville. }

Bearing interest at the rate of 8 per cent. per annum.
E. C. M.

Dungog, 20th March, 1857.

£318 : 10 : 0

Twelve Months after date I promise to pay Mr. William Latimore, or order, the sum of Three hundred and eighteen pounds ten shillings, for value received, bearing interest at the rate of 8 per cent. per annum.

EDWD. C. MADGWICK.

Payable at Mr. Madgwick's }
residence, Dungog. }

Dungog, 17th March, 1855.

Received of Mr. Edward Chalton Madgwick the sum of (£650 12s. 6d.) six hundred and fifty pounds twelve shillings and sixpence, sterling, being the amount of money in purchasing the undermentioned land, viz. :—

In the county of Durham, New South Wales, parish of Wallarobba; contains three hundred and forty-seven acres three roods and thirty-seven perches; commencing at the north-west corner of Fowler's three hundred acres, and bounded on the east by the western boundary of that land, bearing south thirty chains, to the south-west corner of same land, thence by a line due west to the Uwarrabim Creek; on the south and south-east by the said Uwarrabim Creek; on the west by the eastern boundary of a Crown village reserve, bearing north from the creek fifty-nine chains; and on the north by southern boundary of Rodd's property, originally Walker's Grant, bearing east seventy-three chains, to the point of commencement, at the north-west corner of Fowler's three hundred acres aforesaid—exclusively of the main road from Clarence Town to Dungog, which passes through the west part of this land in a northerly direction, the area of which has been deducted from the total area.

The deeds to be signed and delivered by me according to this description, as soon as they may be ready.

his
WILLIAM + LATIMORE.
mark

Witness—RICHARD JONES.

This is to certify that the above is a *bona fide* receipt for due payment in cash of the money specified, and acknowledged by him previous to signing the same. I remember something of an accommodation note, but the particulars of which I am not aware, and had nothing to do with, being a private matter between themselves.

RICHARD JONES.

Maitland, 7 January, 1855.

30th July, 1857.

Sir,

I hold a Bill of yours for £117 10s., One hundred and seventeen pounds ten shillings. Your immediate attention is requested.

Edwd. Madgwick, Esq.,

I am, &c.,
THOS. HOLMES.

ANSWER.

Dungog, 5 August, 1847.

Sir,

In answer to your note, I beg to say that I owe no one such an amount as you state, but will call the first opportunity and make inquiries as to its nature.

Thomas Holmes, Esq., J.P.,
Oakendale.

I am, &c.,

Clarence Town, 17 December, 1856.

Dear Sir,

I have sent my son up with the placards (20) to you, according to promise. I will post to-day and to-morrow this neighbourhood, Stroud, Paterson and Raymond Terrace—Maitland, Hinton, Morpeth, &c., will be posted this week. As you will have more hand bills to spare than I shall, I think you had *better* post *Brookfield*. Several parties have been making inquiries of me and viewing the lots. I have offers at present for—

- Lot 1, £800, one-half cash.
- „ 2, £3 per acre, one-half cash.
- „ 3, £2 per acre, cash.
- „ 4, £2 10s. per acre, one-half cash.

I will feel obliged by your forwarding me your reserve price for each lot, as I have promised to communicate with Messrs. Robinson & Wenman, of Raymond Terrace, by *to-morrow's* post, previous to their attending a sale in Maitland.

His Honor
S. F. Milford.

I am, &c.,

28 Mar., 1859.

Mr. E. C. Madgwick,
Dungog.

STEP. N. DARK.

Dungog, 18th December, 1856.

My dear Sir,

I have the pleasure to acknowledge the receipt of your kind letter of the 17th instant, relative to the placards, and offers for the property at Ewarrabbin. In reference to the former, I have to express my satisfaction for the extensive circulation you are giving for the sale.

In reference to the offers you have been pleased to submit to me, I have to regret they are not more liberal. Respecting the lots as a whole, I have offered terms in a business point of view, in that whilst I would be satisfied, on the one hand, at a fair price, I have, on the other hand, considered that any purchaser should also have the prospect of purchasing to advantage. In this respect I have thought that lot 1, when balancing in one scale the rent of £100, and the insurance of the premises for £818, I ought to have such a price as to allow the purchaser, on any terms of sale, to save 25 per cent. of the rent. As it would be unfair in business for me to ask a price by which a purchaser could not save any rent while the bills were pending, so it is unreasonable that I would sell so as to allow the purchaser $12\frac{1}{2}$ per cent. interest for his outlay, and I only ask 6. I have not yet settled in my own mind what reserve to place on any lot; I may however state that I will pledge myself to fulfil the following engagements to any person who offers before the sale, viz. :—

For Lot 1, such a price for the whole as shall, on my own terms of sale, published by you, leave a margin of about 25 per cent. of the rent to the advantage of the purchaser.

For Lots 2, 3, and 4—as I understand by your letter that it is an offer of one party for all—I will sell the whole three lots, on my own terms, as published by you, for and at the rate of £4 per acre right through, one with the other.

I have to acquaint you that the surveyor did not mark out Mr. McDonald's 100 acres as directed, but left him only $91\frac{3}{4}$. Mr. McDonald will however have the 100 acres for which he originally agreed with me; lot 4 therefore will be $8\frac{1}{4}$ acres less the quantity in the map. I hardly know how such a difference can exist between two distinct surveys, for the land has been surveyed twice. McDonald, you must understand, gave £4 per acre unimproved, and he has lately agreed, as I understand, to re-sell some at £12.

I think the 20 acres will be offered for satisfactorily at the sale.

S. N. Dark, Esq.,
Auctioneer, &c., &c.

Brookfield, 25th June, 1855.

MEMORANDUM of an Agreement made this day, between the undersigned, William Latimore, of Cape Ville, William River, and Edward Chalton Madgwick, of Dungog, both in the Colony of New South Wales. The said William Latimore agrees to sell to the said E. C. Madgwick, and the said E. C. Madgwick agrees to purchase of said William Latimore, the following portion of land, with or on the terms hereinafter set forth :—

In county of Durham, parish of Wallarobba, Colony of New South Wales; commencing at the south-west corner of Hillier's grant, by a line due east (30) thirty chains, and bounded by Government land, thence by a line due north, bounded by a portion of said Hillier's grant to the Uwarrabin Creek, thence in a westerly direction, bounded by the north side of same creek, or the boundary of a measured portion of land sold to said E. C. Madgwick on 1st January, 1855, to the western boundary of said Hillier's grant, thence by a line due south to the point of commencement aforesaid—for the sum of (£112 10s.) one hundred and twelve pounds, ten shillings, payable by (£40) forty pounds cash, and the remainder by a promissory note payable on 15th January, 1856.

Providing that before said 15th January, 1856, either of the above named parties may have the said ground measured, and if found to contain more or less than (60) sixty acres, the difference to be added or deducted accordingly by calculating at per acre the same price as that agreed for by the above-named agreement of 1 January, 1855, and in either case deducting the area of the high road from Clarence Town to Dungog, which passes through this land in a northerly and southerly direction.

The said William Latimore to sign the deeds for the above described land whenever they may be ready, and give up possession of the same above described land to said E. C. Madgwick this day.

In witness whereof we hereunto set our hands this 25th day of June, 1855.

his
WILLIAM X LATIMORE.

mark.
EDWARD C. MADGWICK.

Witness—J. M'FARLANE.

Brookfield, 25 June, 1855.

£40 : 0 : 0

Received this day from Mr. E. C. Madgwick the sum of Forty pounds, sterling, being the cash portion of the purchase money mentioned in foregoing agreement.

his
WILLIAM X LATIMORE.
mark.

Witness—J. M'FARLANE.

East

His Honor
S. F. Milford.

(Indorsement on Declaration.)

Wednesday, 24th March, 1858.

Coram Stephen, C.J.

28 Mar., 1859.

Arthur M. M'Kenzie, Cyrus A. M'Dougall, Charles R. Middleton, Osmond E. Middleton.

Verdict for Plaintiff, £120.

EDWD. LEE, C. of A.

I certify that this page and the four preceding pages are true copies of the original proceedings filed in the cause of Thomas Holmes, Plaintiff, and Edward Chalton Madgwick, Defendant. Given under my hand, and the seal of the Supreme Court Office, this fifteenth day of April, A. D. 1858.

D. B. HUTCHINSON,
Chief Clerk of Supreme Court.

Brookfield, 25th June, 1855.

MEMORANDUM of an Agreement made this day between the undersigned, William Latimore, of Cape Ville, William's River, and Edward Chalton Madgwick, of Dungog, both in the Colony of New South Wales.

The said William Latimore agrees to sell to the said E. C. Madgwick, and the said E. C. Madgwick agrees to purchase of the said William Latimore, the following portion of land, on the terms hereinafter set forth:—

In county of Durham, parish of Wallarobba, Colony of New South Wales; commencing at the south-west corner of Hillier's grant, by a line east 30 chains, and bounded by Government land; thence by a line due north, bounded by a portion of said Hillier's grant to the Uwarrabin Creek; thence in a westerly direction bounded by the same creek or the boundary of measured portion of land sold to said E. C. Madgwick, on 1st January, 1855, to the western boundary of said Hillier's grant; thence by a line due south to point of commencement aforesaid,—for the sum of £112 10s., (one hundred and twelve pounds ten shillings,) payable by £40 (forty pounds) cash, and the remainder by promissory note, payable 15th January, 1856.

Providing, that before the said 15th January, 1856, either of the abovenamed parties may have the said ground measured, and if found to contain more or less than 60 acres, the difference to be added or deducted accordingly, calculating at per acre the same price as that agreed for by abovenamed agreement of 1st January, 1855, and in either case deducting the area of the high road from Clarence Town to Dungog, which passes through this land in a northerly and southerly direction.

The said William Latimore to sign the Deeds for the above-described land whenever they may be ready, and gives up possession of the same above-described land to said E. C. Madgwick this day.

In witness whereof we hereunto set our hands this 25th day of June, 1855.

his
WILLIAM X LATIMORE.
mark.
EDWD. C. MADGWICK.

Witness—J. M'FARLANE.

Dungog, 5th August, 1857.

Sir,

In answer to your note, I beg to say that I owe no one such an amount as you state, but will call the first opportunity and make inquiries as to its nature.

Thos. Holmes, Esq., J.P.,
Oakendale.

I am, &c.,
EDWD. MADGWICK.

£200 : 0 : 0

East Maitland, 3rd January, 1855.

Received of Mr. E. C. Madgwick the sum of Two hundred pounds, being the amount due to me on promissory notes of back dates, which I engage to hand to him within this month.

Witness—THOMAS HIBBERD.

his
WILLIAM + LATIMORE.
mark

*Cape Ville, William River,
4th Nov., 1854.*

MEMORANDUM of an Agreement between William Latimore, of Cape Ville, on the one part, and of Edwd. C. Madgwick, of Dungog, on the other part.

Whereas the undersigned Willm. Latimore do hereby agree to sell to the undersigned E. C. Madgwick all that ground now occupied by Alexander M'Kinnon, being that part of the Cape Ville Estate fronting the William River and abutting on to the land known as Mr. Kaley's ground, and also *thirty* acres of ground butting on to that ground, now occupied by said Mr. M'Kinnon and divided from Mr. Kaley's land by a line extending from the back end of the fence now dividing Mr. M'Kinnon from Mr. Kaley's land as far as necessary to include the thirty acres to butt on to that now occupied by Mr. M'Kinnon, for the sum of (£200) Two hundred pounds sterling, to be paid on the day when Mr. Latimore shall get

get his deeds from Mr. Cape. The said Willm. Latimore to sign the deeds of said E. C. Madgwick, giving good title at same time. The land described aforesaid to be taken possession of by Mr. E. C. Madgwick now, and to receive the rents therefrom from the 1st Jan'y., 1855.

His Honor
S. F. Milford.
28 Mar., 1859.

And on the part the undersigned Edwd. C. Madgwick do agree to the terms aforesaid.

Also the said Willm. Latimore agrees that if the whole of the land aforesaid do not measure (46) forty-six acres he will make up the deficiency.

EDWD. C. MADGWICK.
WILLIAM LATIMORE.

In the Supreme Court of }
New South Wales. }

I, Samuel Raymond, Prothonotary of the Supreme Court of New South Wales, the officer having ordinarily the custody of the Records, Documents, and Proceedings in the said Court, do, in pursuance of the Act 22 Victoria, No. 22, s. 8, hereby certify, that a cause or action, wherein Thomas Holmes was plaintiff, and Edward Chalton Madgwick was defendant, was on the 25th day of September, 1857, brought in the said Supreme Court to recover the sum of One hundred and seventeen pounds ten shillings, and interest thereon, being the amount of an overdue promissory note, bearing date the 5th of May, 1856, payable six months after date, and made by the abovenamed Edward Chalton Madgwick in favor of one William Latimore, or order, and indorsed by the said William Latimore to the abovenamed Thomas Holmes: and that the said cause or action was, on the twenty-fourth day of March, one thousand eight hundred and fifty-eight, tried at the Circuit Court holden at Maitland, before His Honor Sir Alfred Stephen, Knight, Chief Justice of the said Supreme Court, and a special jury of four jurors, and a verdict was had and found in favor of the said Thomas Holmes, the plaintiff aforesaid, in the sum of One hundred and twenty pounds.

Given under my hand and the Seal of the Supreme Court Office, this twenty-fourth day of February, A. D. 1859.

S. RAYMOND,
Prothonotary.

QUEEN v. MADGWICK.

Maitland, March Assizes, 1859.

To Thomas Holmes, of Oakendale, near Clarence Town, in the Colony of New South Wales.

Take notice, that you are hereby required to produce to the Court and Jury upon the trial of this indictment a certain letter, dated 5th August, 1857, and directed to you by the defendant, in answer to a letter of yours directed to the defendant, and dated 30th July, 1857, and all other letters, writing papers, &c., relating to the matters in question in this prosecution.

EDWD. C. MADGWICK,
the abovenamed Defendant.

Dated at Maitland, this 28th }
day of February, 1859. }

Highly important Sale of Houses and Land.

S. N. DARK has received instructions from E. C. Madgwick, Esq., to sell by auction, on Monday, the 5th January, 1857, at Eleven o'clock, A. M., at the "Alma Inn," midway between Clarence Town and Dungog:—

Lot 1 comprises 100 acres of land, on which are situated the "Alma Inn," kitchen, stables, &c., all newly erected, at considerable cost to the proprietor. It contains about 20 acres fit for cultivation. The whole lot has been lately fenced in, and a portion of it cleared, and is leased to a respectable tenant at £100 per annum, having twenty-one months of the lease unexpired.

Lot 2 contains 75 acres, about one-half of which is fit for cultivation.

Lot 3 contains 20 acres, a few of which are fit for cultivation. This lot is admirably adapted as a site for a mill.

Lot 4 contains 56 acres, one-half of which is fit for cultivation.

Title perfect.

A map of the property can be seen, and all particulars ascertained, on application to the Auctioneer, or E. C. Madgwick, Esq., Dungog.

The above lots are situated on or near the public thoroughfare leading from Clarence Town to Dungog; are well watered, and present good openings for tradesmen, agriculturists, and others; and without doubt this locality presents a desirable site for a township.

Terms for Lot 1:—15 per cent. on the fall of the hammer, 10 per cent. at 3 months, and the remainder by bills at 6, 12, 18, 24, and 30 months from date of sale, bearing interest at 6 per cent per annum, which interest will be deducted for cash payments.

Terms for Lots 2, 3, and 4:—25 per cent cash on fall of the hammer; the remainder by bills at 6, 12, 18, and 24 months, from the day of sale, bearing interest at 6 per cent. per annum. 6 per cent. deducted for cash payments. Immediate possession can be given of these lots.

Security on either of the four lots if required.

Clarence Town, Dec. 8th, 1856.

His Honor }
S. F. Milford. }
In the Supreme Court of }
New South Wales. }

28 Mar., 1859.

Between Thomas Holmes, Plaintiff,
and
Edward Chalton Madgwick, Defendant.

ON this eleventh day of November, in the year one thousand eight hundred and fifty-seven, Thomas Holmes, of Clarence Town, in the Colony of New South Wales, Esquire, being duly sworn, maketh oath and saith as follows:—I am plaintiff in this action. I have read two paper writings purporting to be affidavits sworn by the defendant herein, on the twentieth day of October last and the second day of November now iustant. The promissory note sued upon herein was indorsed to me for valuable consideration, and the same is held by me for an amount equal to the amount of the note. The said defendant never tendered me any amount whatsoever for the said note.

THOS. HOLMES.

Sworn by the deponent on the day first }
above-mentioned, at Clarence Town, }
before me.

OWEN C. BEARDMORE,
A Commissioner for Affidavits.

In the Supreme Court of }
New South Wales. }

Between Thomas Holmes, Plaintiff,
and
Edward Chalton Madgwick, Defendant.

ON the eleventh day of November, in the year one thousand eight hundred and fifty-seven, William Latimore, of Cape Ville, in the Colony of New South Wales, farmer, being duly sworn, maketh oath and saith as follows:—I have read two paper writings, purporting to be affidavits sworn by the defendant herein, on the twentieth day of October last and the second day of November instant. I never received at any time any accommodation bill from the defendant. The note sued upon herein I received from the defendant in part payment of land which I sold him, and which he has since re-sold. The defendant often requested me to allow time for the payment of this bill, which I did. I endorsed the bill to the plaintiff. The said bill sued on herein was given by the defendant to me for valuable consideration. The defendant is now selling off the greater portion of his landed property.

Sworn by the deponent on the day first }
above mentioned, at Clarence Town, }
before me,

WILLIAM X LATIMORE
his
mark

OWEN C. BEARDMORE,
A Commissioner for Affidavits—the deponent having heard the contents read, and
appearing to me to understand the same.

In the Supreme Court of }
New South Wales. }

Thomas Holmes, plaintiff,
and
Edward Chalton Madgwick, defendant.

ON this twenty-fourth day of November in the year one thousand eight hundred and fifty-eight, William Latimore, of Cape Ville, in the Colony of New South Wales, farmer, being duly sworn, maketh oath and saith:—

1. I have heard read a paper writing purporting to be a copy affidavit of Thomas Hibbard, sworn herein on the thirtieth September last.

2. I did receive from the above defendant the sum of two hundred pounds, and never did deny the receipt of it.

3. The said sum of two hundred pounds was received by me for forty-six acres of land at Cape Ville, and it was the full amount of the purchase money, and before I received the payment of the said sum he, defendant, sold the said land to one Miles Moss for the sum of three hundred pounds, as I believe.

4. This transaction was distinct and separate from the promissory noted sued upon herein, and no relation to it.

5. I have heard read a paper writing purporting to be a copy affidavit of Eliza Madgwick, sworn herein on the second November instant.

6. I believed I did put my mark to a paper writing purporting to be a receipt for six hundred and fifty pounds twelve shillings and sixpence, but I never did receive any such sum from the defendant but the sum of one hundred pounds, and the rest in bills, a renewal of which is sued upon in this cause.

7. This receipt was not signed in the year one thousand eight hundred and fifty-six, as sworn by Eliza Madgwick, but in the early part of one thousand eight hundred fifty-five, as sworn to by Edward David Madgwick, in his affidavit sworn herein on the second November instant.

8. I never required any accommodation note from the defendant; I never had an accommodation note in my life from the defendant or any other person, and Mr. Galley never required such a note from me.

9. With reference to the affidavit of Eliza Madgwick, in which she swears that she believes the note sued upon herein was given at her husband's house at Dungog, such statement is false, as the said note now sued upon herein was written at and given by the defendant to me at the residence of Robert Handcock, at Glen William, about thirteen miles from the defendant's residence, and Eliza Madgwick was not present.

His Honor.
S. F. Milford.
28 Mar., 1859.

10. Robert Handcock and Priscilla Handcock were present when the defendant wrote and gave me the note sued upon in this cause.

Sworn by the deponent on the day and year }
first above written, at Clarence Town, before }
me, the same having been previously read }
over and explained to the deponent, and he }
appeared to me to understand the same. }

his
WILLIAM + LATIMORE.
mark

OWEN C. BEARDMORE,
A Commissioner for Affidavits.

Peter Faucett, Esquire, M. P., examined:—

1. *By the Chairman*: You are a barrister? Yes.
2. Were you in attendance at the late Circuit Court at Maitland? Yes.
3. During the criminal trials? During most of them—a considerable number of them.
4. Were you present on any of the occasions when Mr. Somerville conducted some of those trials? I defended the prisoner in the first case that he appeared in; I think it was the first case.
5. With reference to the other trials, were you present during the whole or any part of those trials? I was present occasionally during Madgwick's trial, not, I think, during the others, and not during the whole time of that—merely occasionally.
6. Can you state whether these cases were conducted, and particularly whether the case of Madgwick was conducted by Mr. Somerville in a clear and satisfactory manner, in your opinion? I have an unwillingness to express an opinion as to the manner in which a brother barrister conducted his case. I think Mr. Somerville shewed a want of experience—principally a want of experience. I think Mr. Somerville is a gentleman of high education; I am clearly of that opinion, and I do not at all think of mean abilities, from what I have seen.
7. But, without offering an opinion as to his general or legal acquirements, or as to his ability in any way, did it appear to you that the cases conducted by him were conducted in such a way as to give satisfaction? On the whole I would say not.
8. Was Madgwick's case stated in a manner sufficiently clear to bring it faithfully and powerfully before the jury? Of Madgwick's case I am unwilling to speak with anything like particularity, because I have been employed as counsel for Madgwick in the civil action out of which this case arose; I am conversant with all the facts of the case, and am, therefore, unwilling to express any opinion that might clash with my opinion as counsel.
9. I am not asking you whether the evidence shewed that Madgwick was guilty, but whether the facts were brought forward by Mr. Somerville with that clearness which in such a prosecution was desirable? That I cannot say; I think I was present at the opening statement which, as far as I recollect, was short; I think he told the jury that the real question, and the only question they would have to try was whether this note spoken of was an accommodation note or not. My impression is, that he told them other matters might come out in evidence, but that that was the real fact, the almost only fact to which they would have to direct their attention; so far I think the opening statement was correct; I think he scarcely went into the facts, as far as my recollection goes.
10. Did the statement you have now referred to convey any more definite information to the jury than the information as to what was the point at issue? Perhaps not much more. I do not think it could have conveyed any knowledge of the facts of the case likely to come out in evidence.
11. Would not that be a necessary allegation in the information filed? Yes, no doubt.
12. Therefore the re-statement would convey no knowledge to the jury? Certainly not, if he confined himself to that.
13. Was the case in any degree a complicated one? Yes, it was. It was a case which I think might possibly have been made clear by an experienced and skilful counsel; but it was certainly a complicated case.
14. Was it a case that in your opinion ought to have been entrusted to an inexperienced man? I think not.
15. And it appeared to you that Mr. Somerville was an inexperienced man, without offering any opinion as to his ability? Just so.
16. Were you present when any discussions on the admissibility of evidence arose during the trial? The only question of the admissibility of evidence that I recollect was the question quoted by His Honor Mr. Justice Milford about the production of the record. On that occasion there was a certificate produced under the recent statute. I did not see the certificate, but as it was read it appeared to me to contain merely a statement to give the result, and not the pleadings or the issue.
17. Under those circumstances it was obviously of no value? Of no use.
18. Was that certificate put forward by Mr. Somerville for the purpose of proving what the issue was? I think by Mr. Somerville; of course, it could not have been put forward for proving what the issue was, for it could not be so used. So far as I understood, I think it was the Judge who suggested that the production of the record was necessary, and I have a recollection that as I was standing in the Court without my robes I suggested that it was necessary to produce the record to prove what the issue was, because otherwise the materiality of

P. Faucett,
Esq., M.P.
28 Mar., 1859.

- P. Fancett, Esq., M.P.
- 28 Mar., 1859.
- the action could not be seen. The certificate was afterwards found among Mr. Somerville's papers, and produced.
19. That is to say, a certified copy of the proceedings? Yes.
20. But that was not produced by Mr. Somerville till after this discussion had taken place? No.
21. Do you remember any other controversy about the admission of evidence? Not particularly. I did not stay in Court during the entire trial, as I had other matters to attend to; indeed I rarely stay in Court unless I am engaged.
22. Did anything occur on the part of the jury during the progress of that trial, or of any other trial conducted by Mr. Somerville, while you were present? Yes; I remember the circumstance which has been referred to by Mr. Justice Milford.
23. Will you state what that was? It was in the first case. Mr. Somerville had made rather a long opening statement—I think that was an error, and an error into which many juniors fell in their first attempts—and was somewhat confused, and the foreman of the jury, I think it was, said he did not understand what Mr. Somerville had stated. He seemed to be saying the same thing over three or four times. I think that arose from Mr. Somerville referring to the depositions without stating that the different witnesses were merely stating the same thing. I think it was an error arising altogether from inexperience.
24. Whether from inexperience or any other cause, the effect, so far as the public were concerned, would be the same? No doubt.
25. Perjury cases, I believe, are generally more difficult to conduct than other cases? They are a class of cases generally difficult, from their very nature.
26. Can you state whether this was one more than ordinarily difficult? I should say this was a case of at least ordinary difficulty; from my own knowledge of it I should say so.
27. Were the facts in any degree complicated or involved? The facts that appeared on the depositions certainly were complicated. The depositions themselves were complicated; and I think it required considerable care to unravel the depositions, and to place the facts as they appeared on the depositions in a clear manner. I recollect at the time, knowing a great deal about the case, I found some difficulty in placing the facts in my own mind in a clear way.
28. Then are we to understand that in your opinion even an experienced man would require some little time to master the facts of a case like this? I should say so.
29. The thing could not be satisfactorily done on the spur of the moment? I think not. The difficulty counsel would have in the case, would be to separate those facts that were complicated from the real merits of the case, which in themselves were short; but there was some difficulty from their being mixed up with a mass of matter that might have been altogether set aside, and that could not be done without the person took care to understand the facts.
30. Did the same inexperience you have spoken of as shewn in the case of Madgwick evince itself in the conduct by Mr. Somerville of the other cases? From the manner in which he conducted the cases during the time I was present he appeared to me very inexperienced in such cases, and I say that without expressing the slightest opinion as to his ability or information.
31. Upon the whole did he appear to you—still without offering any opinion as to his ability or information—to be a gentleman to whom such a case as that of Madgwick's ought to be entrusted? I think if the Attorney General had considered the difficulty of the thing, or looked upon it as I do as a difficult case, he ought not to have entrusted it to an inexperienced man—to a gentleman who would then hold a brief for the first time.
32. You offer that opinion without casting any imputation upon Mr. Somerville's ability or information? Without casting any imputation upon his ability or information; on the contrary, I would say I think Mr. Somerville is a gentleman of high education and not without ability—with sufficient ability to enable him to succeed at the Bar hereafter. There was a want of ordinary tact, which is only acquired by experience.
33. Had you the means while you were in Maitland of ascertaining the opinion of other members of the Bar as to the manner in which Mr. Somerville conducted these criminal trials? Yes; I have spoken to some of the members of the Bar who were present, but not very much; I do not think I have expressed any very strong opinion—they have spoken to me on the subject.
34. Do their opinions, as far as you have gathered them, coincide with your own? I think so, to some extent. There were not many members of the Bar present.
35. Did you hear any opinion expressed by magistrates, jurors, or other persons in Court? Yes; I heard opinions expressed by gentlemen who were in Court during a portion of the time.
36. Were they in any degree different from your own? No; they were rather stronger than my own—stronger than any opinion I ever expressed.
37. Then you have heard the expression of but one opinion—that Mr. Somerville was not competent to conduct the case? Yes, I have heard that opinion.
38. And no other opinion? No other opinion.
39. Did you hear the opinion expressed by many persons? I think by several, but I rather avoided talking to others about it.
40. Nevertheless, you heard what was said? I heard what was said.
41. Were the opinions you heard—I am not now speaking of members of the Bar—generally the opinions of persons of intelligence? Yes, decidedly.
42. Can you state whether or not, as far as your observation went, there was any strong feeling in Maitland as to the mode in which Mr. Somerville conducted these cases? In my opinion a very strong feeling.
43. And a general feeling? I would have thought the feeling was very general.
44. *The Chairman (at the request of the Attorney General):* The case being a complicated one, ought the depositions to have been placed as long before the trial as possible in the hands of the person intrusted with its conduct? I should say so.

45. What members of the Bar expressed their opinions as adverse to Mr. Somerville? I should rather decline to answer that question; personally I have no objection, so far as I am concerned; I have expressed my opinion now, and I am quite sure the members of the Bar who were present, if examined, will have no hesitation in expressing theirs. The members of the Bar present during a portion of the trial were Mr. Blakeney, Mr. Windeyer, Mr. Simpson, and Mr. Forster. These, I think, were present. I cannot say to how many of these I spoke, or how many spoke to me, but I have no doubt that any of these gentlemen would not have the slightest difficulty in expressing his opinion. I may say that our conversations at the Bar are considered so much under confidence that I should object to repeat any of them.
46. Do you know that Mr. Blakeney only joined the Colonial Bar on the 7th February? I do not remember the exact day; I know he joined it very lately. I think he is a later admission to the Bar than Mr. Bayley, the present Attorney General. Mr. Blakeney is a gentleman of very high standing at the Bar, and of very large experience in criminal matters in Ireland.
47. What are the standings of the three other gentlemen? Mr. Foster is, I think, of from a year to eighteen months, or two years, I cannot be accurate; I think his circuit at Maitland was his second circuit; he is probably of about a year's standing, more or less. Mr. Simpson is quite a new admission to the Bar. Mr. Windeyer is of some two or three years standing, or more; he is one of the Crown Prosecutors.
48. *By Mr. Plunkett*: Do you happen to know that Mr. Blakeney has been one of the leading counsel upon circuit in Ireland for nearly twenty years? I did not go on circuit, but I have reason to believe that Mr. Blakeney had considerable practice in Ireland, more particularly in criminal matters.
49. *By the Chairman*: Do you know him to be a gentleman of long standing at the Bar? Of very long standing.
50. *(At the request of the Attorney General)*: Are you of opinion that Madgwick was wrongly acquitted? That is an opinion I could not express; I would not feel myself justified in expressing an opinion, for the reason I have before stated—that I have been engaged as his counsel.
51. Was there not a strong feeling that Madgwick was innocent? Not with those I spoke to—certainly not.
52. You were not aware of it? I was not aware of it. I have heard, however, that there was a meeting of his friends for the purpose of raising some fund to defray his expenses in some way or other. I do not know exactly what; of course, therefore, his friends must have supposed him innocent.
53. *By Mr. Plunkett*: You think with respect to Mr. Somerville that his nervousness was such as marks the first entrance upon the career of most of us? I think so. I saw nothing more in Mr. Somerville's conduct of the case than I think is seen in the conduct of half the juniors at the Bar.
54. How long has Mr. Somerville been at the Bar? A very short time; I think he has been here not more than three or four, or perhaps five months.
55. Did you ever before this see him conduct a case? No; I never saw him act in Court before.
56. I understand from you that this case of Madgwick's was one that would require great attention on the part of the most experienced advocate? I think it would require considerable attention to understand the facts of the case, and to separate the mass of matter that might not bear upon the immediate question from that question; that, I think, was the principal difficulty in the case.
57. Were you sufficiently long in Court during the trial to say whether all the facts were before the jury when they delivered their verdict? I could not say that; I was not long enough in the Court during the trial; I remained in the Court a short time in the commencement, and afterwards was in the Court when one of the principal witnesses was giving his evidence—Mr. Holmes; he was I think the first witness called, and I think I heard his evidence, or a portion of it.
58. Did you hear the Judge's charge? Yes, I think I did. I missed a portion of it; I heard some portion of it.
59. Judging from that, can you say that the whole of the case was then before the jury as it ought to have been, in order to enable them to give a satisfactory verdict? The Judge's charge, I think, would not give me sufficient information whether it was or not.
60. He told us himself that he was not certain whether he understood the case clearly at the last? My impression from hearing the Judge's charge was in accordance with what His Honor stated here—that he did not understand the facts at the time.
61. Do you think it at all likely, if the Judge did not understand the facts of the case, that the jury could understand them so as to give a satisfactory verdict? I suppose it is rather likely if the Judge did not understand the case that the jury did not.
62. *By the Chairman*: You were counsel in the case of *Holmes v. Madgwick*; and in that case a verdict was given against Madgwick, with reference to this very promissory note? Yes.
63. Do you remember whether the jury were long in deliberating on that occasion? I think they were some time.
64. Was the verdict an unanimous one? I think so; but at that time I must say that these facts came out, so far as I was concerned, entirely by surprise upon me—these documents and other matters. I was counsel for Madgwick on that occasion, and these documents and facts were brought out by the plaintiff's counsel without my having any knowledge of them. I was taken by surprise, and had some difficulty in seeing through the facts.
65. If the jury had believed Madgwick, their verdict must have been the other way? No.
66. *By Mr. Plunkett*: How long did the trial last? I think Thursday and Friday; I think it was over on Friday evening, but I am not quite sure.

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67. The whole of those days? I think so; I think the civil business was not commenced till Saturday.
68. *By Mr Jones*: Alluding to the case of *Holmes versus Madgwick*, what was the nature of that case—for what did Holmes sue Madgwick? Holmes sued for a promissory note for the sum of about £117.
69. Made by whom? By Madgwick, in favor, I think, of a person of the name of Latimore.
70. Then, whether that were an accommodation bill or not, Madgwick would be bound to a third person, just the same as if it had been given for an actual debt? Yes.
71. And Holmes was a third person? Yes; Madgwick would be liable unless the third person had given no consideration, and was aware that it was an accommodation note, as between the first parties.
72. *By the Chairman*: That was pleaded, was it not? That was the plea. I must say on that point, so far as Holmes' evidence went, it did appear to me, as Mr. Justice Milford stated with regard to another witness, that there were some discrepancies between the statements made on the trial and those made in the civil action; how far these might be reconciled I cannot say. These discrepancies have always a great effect with juries in such cases.
73. *(At the request of the Attorney General)*: So far as your experience goes, are not acquittals more frequent upon informations for perjury than convictions? I think very much more so.
74. In many of these cases the public have every reason to believe that the parties are guilty? I should say so, in many cases.
75. In fact, are not they of all cases the most unsatisfactory ever presented to a criminal jury? Yes—and there is, therefore, a strong feeling when a person is tried for perjury and acquitted for various reasons.
76. If, at a Criminal Assize, there were two cases in which the penalty was death, should you not have given these the preference to a case of perjury? How do you mean?
77. Do you not think a case where the penalty is death should be conducted by the highest public officer, and not entrusted to a junior? Yes; I should say the highest officer ought always to conduct a capital case, in preference to giving it to a junior.
78. I believe you yourself defended a capital case for rape, which I prosecuted on Monday? Yes, I think so.
79. The Queen against John Page I allude to? Yes.
80. When witnesses were called for the defence, and the man was acquitted? Yes.
81. Did you not also on Monday defend two cases of manslaughter, the punishment of which was transportation for life—the Queen against Mathison—when the Coroner's jury had returned a verdict of wilful murder? Yes.
82. Also the case of Reynolds, were a man was killed in a fight? Yes.
83. Do you think those cases ought to have been handed over to a deputy, or prosecuted by the highest Crown Officer? I think, as a rule, capital cases ought to be conducted by the highest officers.
84. Was not the sole point in this information for perjury whether this was an accommodation bill or for value received? That was the point of course.
85. The sole point on which perjury was assigned? Yes, I think so. I do not recollect hearing the information read; but I believe that was the sole point, in fact I think it must have been so, for there was only one plea in the civil action, that it was an accommodation bill.
86. Do you see anything wrong in the counsel for the prosecution in a case where that simple fact is the only one to be tried not making a very long speech? Certainly not; on the contrary.
87. Especially when it is known witnesses will be called for the defence? I think the circumstance of his making a short address might in some measure be attributed to myself, for in the first case I took the liberty of suggesting to Mr. Somerville, whom I did not know intimately, as a junior member of the Bar, that he should in future cases that might be conducted by him connect the facts, and merely place the case before the jury without going through the evidence, and my impression is that in the next case he adopted that suggestion.
88. Did you not see him on the Monday and Tuesday in the Court attentively studying the depositions and making abstracts of the evidence? I think so. Now that it is brought to my mind I think he took a great deal of care in making himself up in those cases.
89. Not only in the case of perjury, but in the cases of horse stealing? I cannot say; but in the cases generally. I recollect also on Thursday night—that was the first evening of the trial of Madgwick—we went out to dinner, either at the Judge's or elsewhere, and he stopped at home, and on our return, at eleven or half-past eleven, we found him engaged with the papers. I have no doubt he took great care, great pains.
90. Did the Judge ask to see the depositions in Madgwick's case? I cannot say; I was not there all the time.
91. When you were there did you hear him make the request for them to be handed up to him, or did you see him reading them? I think on one occasion I saw him looking at the depositions; I rather think I did during the cross-examination of Madgwick.
92. Did you see him at any time during the criminal trials looking at the depositions, either before or after the case? I am not aware that I did.
93. Are you aware that Judge Dickinson is in the habit of never looking at the depositions? I am not aware that he is in the habit of never doing so.
94. Do you not think that a Judge ought in any complicated case to peruse the depositions? It is a question about which I have very great doubt.
95. Is it not the invariable practice in Ireland for them to do so? I think it is the practice in Ireland.
96. Have you any experience at the English Bar to enable you to say whether the Judges do so there? I have no experience at the English Bar.
97. Then, although the Judge has told the Committee that he did not understand the case,
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the depositions were there to which he might have referred if he had pleased? I think if he had taken the depositions on the Bench, and referred to them there he would have had great difficulty in unravelling the case. My impression is that during the cross-examination of one of the witnesses by Madgwick there were some variations pointed out, or attempted to be pointed out, by Madgwick, and I think then the depositions were handed up to the Judge, or were referred to; whether he took them in his hands, or whether they were read to him, I cannot say.

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98. Then, although you decline to answer the question as to whether Madgwick was properly or improperly acquitted, you have no fault to find with the other cases in which convictions were obtained? Of course not.

99. I think you defended one of them? Yes.

100. You stated that Madgwick's was a case of at least ordinary difficulty; I suppose by that you meant to say that it was not more difficult than perjury cases always are? Some perjury cases are very difficult; some are of peculiar difficulty; some are very simple, where the matter is short. This, I think, was a case of difficulty.

101. You have said of at least ordinary difficulty? I think so; I think it was.

102. You have been asked about the opinion of other people with whom you have talked; have you not reason to believe that there is a very strong feeling in Maitland against new-comers? Well, I cannot say that.

103. Can you say that there is not? I can say that when I went there myself, some five or six years ago, I did not find the feeling to be stronger there than in the Colony generally; of course I felt the disadvantage of being unknown—

104. But there is a strong feeling all over the Colony against a new-comer? I would rather say not; on the contrary, I think there is a great deal of kindly feeling.

105. And you think there is more kindly feeling at Maitland than elsewhere—would you go so far as that? I would not say that; but I would say that I found the people everywhere most kind, most hospitable, towards new-comers. At first, I admit, that the circumstance of my being a stranger here, and knowing no one, did not lead to my getting rapidly into practice; but that might arise from other circumstances, because there are a number of gentlemen in the profession, well known, who from their ability, long standing, acquaintance, and connection, cannot be displaced. That, of course, must cause a great difficulty in obtaining practice; but I do not think there is any feeling against a new-comer, as a new-comer.

106. Not at Maitland? I do not think so.

107. If others think so are you disposed to say they must necessarily be wrong? Certainly not. I speak merely from what I myself have experienced.

108. I suppose you read the article in the newspaper against the Attorney General? The only article that alludes to you, I believe.

109. No article has appeared in the other Maitland newspapers? I believe not; at least I have not seen any.

110. Are not all the Maitland newspapers furnished to the members of the Bar at Maitland? Yes, I believe so.

111. If there had been any other article you would have seen it? No doubt—I imagine so. The reporters of the newspapers would be better able to give evidence upon that point.

112. *By Mr. Jones*: Going back to the case of Holmes, for a moment—do you consider that that the verdicts in the two cases are quite irreconcilable? I think they are irreconcilable to a certain extent, but I think the verdicts might very well coexist.

113. As I understand the charge against Madgwick when he was indicted for perjury was, that he had sworn a certain bill given by him to Latimore was not an accommodation bill? Yes.

114. In the trial between Holmes and Madgwick the jury might have believed that it was an accommodation bill, and not that Holmes knew it and gave no consideration for it? I think that was impossible; either the note was an accommodation note, or it was not. If it were not an accommodation note, Madgwick must have perjured himself: if it were an accommodation note, one of the other witnesses must have perjured himself. I see no intermediate course.

115. Might not the jury in the civil case—in Holmes' case—have believed it was an accommodation note as from Madgwick to Latimore, without believing that Holmes gave no consideration for it, or that he knew it was an accommodation bill, thus entitling him to recover from Madgwick, even though it were an accommodation bill from Madgwick to Latimore? That might be the case. They might find it was an accommodation bill as between Madgwick and Latimore, but not between Madgwick and Holmes, and Holmes might have given a consideration for it.

116. The immediate point involved in this charge was, that the bill was not a bill as between himself and Latimore, and did not involve the other question as to whether Holmes was a party to the accommodation bill? The question did not arise in the civil action as to whether Holmes was a party to the accommodation bill. He knew nothing of the transaction between Madgwick and the payee of the note.

117. And might thus be entitled to recover from either of the parties, whether it was an accommodation bill or not? Holmes might have been entitled to recover if he had given consideration for the note; but I think it is quite possible that a jury in a civil action might have found for the plaintiff, against the plea, that it was an accommodation note, and yet, that a jury in the criminal action might have acquitted Madgwick of perjury, because they might have considered there was not legal proof; and I think it very frequently happens where perjury is assigned, upon evidence given in a trial where the jury find against the party giving evidence, and the party is afterwards prosecuted for perjury, that the jury acquits the person charged with perjury, although the verdict in the civil action is allowed to stand good, and is maintained.

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118. *By Mr. Plunkett*: Do you think this case was a case of such difficulty that it should not have been entrusted to an inexperienced junior, unaided? I think it was a case that ought not to have been entrusted to any one whose experience was not known.
119. Was it fair to the junior himself to put him in such a position? No, I do not think it was.
120. *By Mr. Murray*: Do you know at all the expense incurred to the public in such a case as this, where a private barrister is retained for the prosecution of a criminal? I have been once or twice retained at Darlinghurst, and I think I received ten guineas a day; I think that is the fee the Crown gives in such cases.
121. But I presume the charge is higher if a gentleman goes to any town in the interior to attend a Criminal Court? If he gets a commission to conduct all the criminal business his fee is higher; I think the fee is £80, with travelling expenses.
122. *By the Chairman*: That is for conducting all the cases? Yes; then he has a commission to act as Crown Prosecutor—in fact he has the same authority as the Attorney General.
123. *By Mr. Macarthur*: I understood you to say this was a case that required a degree of professional tact to conduct it that can only be acquired by experience? I think it was a case of that kind.
124. That Mr. Somerville did not appear to you to possess that experience, whatever may have been his ability in other respects? Without speaking of his abilities—with which, however, I was rather favorably impressed than otherwise—he did appear inexperienced.
125. So that if he had had opportunities of acquiring that professional experience he might have conducted the case differently? Quite so; and I think it would be most unfair to pronounce an opinion upon the probability of his success in his profession from the manner in which he conducted those cases; I think it would be most unfair and most unjust.
126. *By Mr. Plunkett*: In fact, I understand you that it was a failure such as might happen in the case of any junior? Yes.
127. *By the Chairman (at the request of the Attorney General)*: Supposing he had been asked whether he felt himself competent to undertake a case of that kind, and he had said he did, would you, if you had been ignorant of the qualifications of the other barristers present, have hesitated to intrust the case to him? That would depend upon what I knew of Mr. Somerville. I think I should have known him before I should have asked him to conduct a case of that kind.
128. If you had known him for several months, and formed a high opinion of his ability, would there be anything to justify you in saying you would not entrust him with such a case? That would depend altogether upon the opinion I had formed of his ability. I might know a gentleman who had very little business, but who I might believe to be very competent to conduct a case, but I should think it quite necessary to know something about a gentleman's experience and ability before intrusting such a case as this to his hands. Mr. Somerville is quite a junior at the Bar.
129. You think such a case as that ought not to have been intrusted to a person with whom the intruster had not some previous acquaintance? Yes, and some means of information as to his competence.
130. Supposing that person to be a perfect stranger to the other members of the Bar present upon the first day of the trial, and not to have an opportunity of forming an opinion as to their capacity, do you think he would then do wrong to intrust a case of this kind to one whom he believed to be competent to conduct it? On that point my opinion is simply this,—if there were a probability of that case lying over after the Attorney General was obliged to proceed to Sydney, he should have provided from Sydney, if he could not have obtained from some nearer source some gentleman in whom confidence could have been reposed.
131. Do you think if the Attorney General reposed confidence in the gentleman to whom he intrusted these cases he was bound to put the country to the heavy expense of obtaining other legal assistance from Sydney? If he reposed confidence, unless that confidence were misplaced, the Attorney General was perfectly justified.
132. *By Mr. Plunkett*: Do you know whether Madgwick was out on bail? Yes.
133. Do you not think it would have been better if a competent person could not have been got to conduct the case then, to have had it postponed? That, of course, might have been done; but I have no doubt it would have been resisted by Madgwick, and, I think, might have been fairly resisted.
134. *By the Chairman (at the request of the Attorney General)*: You have, in Ireland, I believe, a system of Public Prosecutors? Yes.
135. There all are conducted by Public Prosecutors, or, as in England, by the junior members of the Bar? There are generally County Prosecutors; I think, through the entire country, the Attorney General rarely prosecutes, except in serious cases.
136. He nominates the persons to conduct the cases? Yes—Assistant Crown Prosecutors.
137. In Ireland, are political cases usually taken before felonies? I do not think so.
138. Is it not a matter purely discretionary? I think it is a matter of arrangement on the part of the Crown. I presume the arrangement in this country depends upon the witnesses turning up. I know here it is difficult to ascertain when a particular criminal trial is coming on. It is only by the courtesy of the Criminal Crown Solicitor or of the Attorney General.
139. Were you in the Court when the case of the Queen v. Smith—carnally abusing a child of eight years old—was postponed? I do not think I was.
140. Did you see nothing of the Criminal Crown Solicitor? Yes.
141. Did he not suggest anything about the production of the issue? I do not know.
142. Are you aware that in Crown prosecutions there are no briefs, so that counsel has to abstract and make his story from the depositions? Yes.
143. Which frequently are very inefficiently got up? Yes.

- 144. And you have to search them from one end to another, as in the case of Mathison—do you remember that in that case there were five and twenty or thirty witnesses bound over to prosecute? I remember. It was a case of murder.
- 145. Do you remember my pointing out that the only two material ones were the first and last, and saying that I should not call the intermediate ones? Yes, I recollect.
- 146. And that I opened partly for an acquittal? Yes, and most fairly.
- 147. And the man was properly acquitted? Yes.
- 148. *By the Chairman*: Do you remember whether the jury expressed any opinion about Madgwick, when they gave their verdict in the civil case *Holmes v. Madgwick*? I do not think so.
- 149. You do not remember? I do not think the jury expressed any opinion.
- 150. Did the Judge? The Judge, I think, in his charge to the jury, said—as I myself put it to the jury, when acting for Madgwick—that there was very gross perjury on one side or other; I think that was the substance.
- 151. Do you remember whether he made any observation after the verdict had been returned, about Madgwick? I do not.
- 152. Or did the jury add any rider to their verdict? I do not think they did. They found it was not an accommodation bill. I do not think they added any rider.
- 153. *By Mr. Plunkett*: How long did the capital cases occupy in their trial—the rape and murder cases attended by the Attorney General? Not very long; I think we got over some four, five, or six cases the first day.
- 154. On what day of the week did you commence? On Monday.
- 155. What was done on Tuesday? I do not recollect; I think all the defended cases were tried on Monday and Tuesday, except one.
- 156. When did the Attorney General leave? I think on Tuesday morning.
- 157. When was this case of Madgwick brought on? I think on Thursday morning; it occupied Thursday and Friday.
- 158. Do you not think it would have been better if this difficult perjury case had been brought on by the Attorney General, or postponed, if he could not have attended it? I think it would have been better; but Mr. Byley seems to say that he had confidence in the ability of Mr. Somerville, and, under those circumstances, I suppose he could not have expected that anything would have taken place that would have at all affected the public interest. The other cases were not difficult in their nature.
- 159. *By the Chairman (at the request of the Attorney General)*: Do you believe I should have intrusted any case to a man in whom I had not confidence? I should be exceedingly sorry to think you would. I would not suppose for a moment you would do so knowingly. I should be sorry to believe that any gentleman at the Bar would do so.

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William Charles Windeyer, Esquire, called in and examined.

- 1. *By the Chairman*: You are a barrister? Yes.
- 2. And Crown Prosecutor for what district? For the Northern District. At present I also discharge the duty for the Western District.
- 3. About when were you appointed? Some time in January—the 21st I think. That was when I received my commission. I had before received an intimation from yourself, when you were Attorney General, that I should be appointed.
- 4. Were you concerned in the case of *Holmes v. Madgwick*? Yes; I was junior counsel for the plaintiff, *Holmes*. I appeared at the Maitland Circuit Court, and on the new trial motion before the Supreme Court.
- 5. Do you remember what was the point in controversy in that action? It was whether a promissory note for £117 10s. was an accommodation note or not. That was the sole point of the case.
- 6. The verdict was for the plaintiff? The verdict was for the plaintiff, and the jury added expressly that they found the note was not an accommodation note. I think that will appear on the record.
- 7. Did they say anything more? Whether they said anything more I do not recollect, but I recollect the Chief Justice made some strong remarks to the defendant, and said that in consequence of what had taken place he should take steps to have him removed from all the offices he held in the district.
- 8. *By Mr. Plunkett*: What offices? I believe he was Registrar of Births, Marriages, and Deaths, and that he held some other small Government appointment.
- 9. *By the Chairman*: Were you in Maitland at the last Circuit? I was.
- 10. At what time did you reach there? I reached there on Tuesday morning. I was up at Bathurst, discharging my duty there; but before I went to Bathurst I called upon the Attorney General and told him I should certainly be at Maitland at the Circuit. I did so because I was given to understand by the Government that when there was any prosecuting work to be done the Crown Prosecutors would be employed. I therefore called upon the Attorney General, who made a remark about this trial, to the effect that it was a heavy case. I said I knew it was, as I had been the junior counsel in it before; also, when I arrived at Maitland I made the same remark.
- 11. Did you see the Attorney General at Maitland? I saw him at Maitland as soon as possible after my arrival.
- 12. Did the Attorney General ask you to conduct the case of Madgwick? No.
- 13. Or any other case? Nor any other case. In fact I was surprised to find that Madgwick's case had not been tried, as it was the heaviest one in the calendar.
- 14. Did you know anything about the other cases? The Attorney General told me there were some other cases, but made the remark that most of them were trumpery cases.

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15. You have no actual knowledge of what the other cases were—whether they were difficult or otherwise? No, except that the Attorney General said the majority of them were trumpery cases. He said so also at Maitland.
16. From your having been concerned in this case of *Holmes v. Madgwick*, both at the trial at Maitland and also at the argument for a new trial in the Supreme Court afterwards, you were familiar with the circumstances of the case? I was familiar with them, as familiar as a person would be after having seen a brief and attending a new trial argument. I knew the general outlines of the case, and could have soon got it up.
17. How long did you remain at Maitland during the last Circuit? Till the whole of the Bar came down at the end of the Circuit. I was engaged in business after the criminal business was over.
18. Were you in Court during the time Mr. Somerville conducted the criminal prosecutions? Yes, I was in it pretty constantly.
19. Did anything, while you were there, occur on the part of the jury with reference to the way in which Mr. Somerville was stating a particular case? I think it was in the first case—a case of highway robbery. He was a long time opening the case to the jury—I think about three-quarters of an hour—although I am of opinion it might have been opened in ten minutes. His opening of the case was very confused, and one of the jurymen, I think the foreman, who seemed quite angry, said “Please your honor you have said that three times before, and we do not understand you now”—addressing Mr. Somerville.
20. Do you remember whether the fact was as the jurymen had stated, or how the remark was drawn forth? I was sitting by Mr. Somerville, and attending to the case, attempting to make it out, but I could not understand it; and I said to Mr. Faucett, who was sitting beside me, that if I were in the case I should say to His Honor “Does your Honor think there is a case for the jury.” I should not, if I had not seen the depositions, have been able to have formed any opinion about the case.
21. Were you in Court when Mr. Somerville opened the case against *Madgwick*? I may state that in the course of opening that case Mr. Somerville spoke of a conversation that had taken place behind the prisoner’s back, when Mr. Faucett, the prisoner’s counsel, objected to his learned friend opening to the jury statements made behind the back of the prisoner. Mr. Somerville contended that they would be evidence against him; he said they were in the depositions, and that when the time came to give them in evidence they would be evidence. It appeared to me that Mr. Somerville read the depositions through, as has been stated by my learned friend Mr. Faucett.
22. What did the Judge say to the statement of Mr. Somerville? I think there was some commotion in the Bar about such a doctrine being put forth.
23. Do you remember whether the Judge said anything? I think the Judge shook his head, and there the matter stopped.
24. With respect to *Madgwick’s* case, were you present when Mr. Somerville opened the case? I was not present when he opened it; on account of the length of his address in a former case, I left the Court, thinking I should hear a portion of it on my return; but when I went into Court I found it was all over; it must have been very short. I may say, that being Crown Prosecutor, and present myself, I felt some interest in the proceedings, and was concerned to see the business mismanaged in the way I thought it was, and for that reason I went to Mr. Moore Dillon and to Mr. Somerville, and advised them to postpone this case of *Madgwick*.
25. What did they say? I told both gentlemen it was a difficult case, and said that although I had had some experience myself, both in defending and prosecuting, I should have had some difficulty in undertaking it; that I thought they had better postpone it, for there would be considerable feeling on the part of the public if the man got off. Mr. Dillon was rather short with me upon the matter, and I then went to Mr. Somerville and told him the same thing. They both declined to put off the case. I wished to have helped Mr. Somerville in the case, as in fact I do not doubt any member of the Bar would have helped him if he had been asked.
26. Did it appear to you, while you were in the Court, that the facts of the case were properly put by Mr. Somerville to the jury? I do not think so—that is, they were not properly got out in evidence before the jury.
27. Were there any controversies as to the admission or rejection of evidence in that case? Yes, there were some.
28. Do you remember any of them? Yes: in the first place, Mr. Somerville, instead of opening the case by producing the record of the trial, proceeded to examine Mr. Mullen as to what had taken place at the trial, and to ask whether the evidence given by the defendant was material to the issue. The Judge interposed, and said, “We cannot get on without we have the record of the trial.” Some delay took place, and Mr. Somerville did not appear exactly to know what to do. Mr. Moore Dillon, I think, was out of Court at the time, and when he came in the certificate was produced; then I think Mr. Somerville asked again whether the question was material to the issue. Mr. Faucett then objected, and, as *amicus curiæ*, said that would appear by the record. I think Mr. Somerville said the certificate would shew it. The certificate was referred to, and though I believe in point of law that might be made evidence by the certificate, there was no statement about it; and then the certified copy of the record was put in evidence. Another discussion arose as to the evidence; I was out of Court at the time it commenced, but when I came in I found Mr. Somerville arguing that a conversation that took place between Latimore and Holmes, behind the prisoner’s back, was evidence against him, because Holmes was the agent of one Hancock in getting the note from Latimore.
29. What did the Judge say to that? The Judge was not saying much either one way or other. I was alarmed, and interfered, as *amicus curiæ*, to shew that there was no criminating a man by agency. The matter was overruled at once. There is another

another thing with respect to the evidence I would state: Madgwick was endeavouring to contradict the witnesses by putting in part of a deposition a line of a deposition. I think part of a deposition was put in before I interfered. I did not like to interfere with Mr. Somerville, but I felt it to be an important matter, and I insisted that the whole of the deposition should be put in, as I said the best witness for the Crown might be contradicted if such a practice were permitted. Mr. Somerville said it was a matter of favor and grace on the part of the Crown. I said "You cannot make it a matter of grace; it is a matter of strict law, and it is your bounden duty to have the whole of the deposition put in." Mr. Blakeney also interfered at the time, and said such a thing was never heard of, and that he must insist upon the whole of the deposition going in. Then, I think, the whole of the deposition was put in.

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30. Do you remember any other particulars connected with the conduct of that case? I remember that Mr. Somerville read his reply to the jury.

31. Can you state whether that is the document? (*Handing a paper to the witness.*) I remember the opening sentence.

32. Run your eye over that, and see whether that is the reply he read? I must confess I did not stay to hear the whole.

33. It was read to the jury? Yes.

34. Was the opening similar to that? Yes. I remember the words "I should wish to put from you all extraneous matter," and several of the jurymen will be able to prove that the whole of it was read.

35. Do you remember any circumstances besides those you have alluded to connected with the conduct of any of these cases? I remember, as an additional reason for advising Mr. Somerville to put this case off, that he told me he did not understand the case; he said that he thought the Attorney General ought not to have put such a case in his hands, and that if he had known what it was he would not have undertaken it. I may state, as I am pronouncing an opinion upon Mr. Somerville, that I am Mr. Somerville's senior at the Bar.

36. Have you had practice in the various jurisdictions of the Court during the last two years? I think I have had more practice in the Criminal Courts during the last eighteen months than any other member of the Bar except Mr. Dalley.

37. You have also been engaged in other cases, in other jurisdictions? Yes.

38. Where you must have had opportunity of becoming familiar with the rules of evidence? Yes.

39. Upon the whole, did it appear to you that Mr. Somerville was capable of conducting such a case as that of Madgwick's satisfactorily? I do not think he was; I found that opinion upon the facts I have mentioned.

40. Have you any other observation to make? I would make one or two farther remarks. It appears to have been represented that I refused to undertake this business without fee; I have only to say to that, that no question with reference to this or any other case was put to me at all.

41. *By Mr. Jones:* When did the Maitland Assizes begin? On Monday morning, I think, the 14th.

42. When did you say you arrived at Maitland? On Tuesday morning, the 15th.

43. The Attorney General was aware that you had reached Maitland? I went to him the first thing, for the very reason I have stated.

44. I gather from what you have said that any case which the Attorney General could not conduct ought to have been intrusted to you as Crown Prosecutor? I was under that impression, from what I was given to understand.

45. And you made a point of seeing him immediately on your arrival at Maitland on that account? Yes. With reference to what was said about the fees, the Attorney General on Tuesday—whether in the morning or afternoon I will not say—without reference to any case at all, asked me, "Do you consider yourself bound to prosecute at Circuit without receiving the usual fees—without being paid for it?" I laughed, and said, "Most certainly not." It was not said with reference to this case, nor to any case, and the business was already in the hands of Mr. Somerville. If the Attorney General had known the arrangement made by the Government with me as Crown Prosecutor he would have been aware of the fact. I was given to understand at the time I was appointed that I should not be called upon to prosecute at any Circuit, or the Central Criminal Court, without receiving the usual fees, though one other Prosecutor was not on the same footing. Still, so far from refusing to take this case, as I understood it, and entertained a strong opinion of Madgwick's guilt, I should have been most ready to have done so without fee.

46. *By the Chairman:* In point of fact nothing was said about a fee? Nothing was said; I would have offered to take the case only I thought fees were involved.

47. Nothing was said about fees one way or other with reference to this particular case? No; the case was given to Mr. Somerville at this time.

48. *By Mr. Jones:* At the time you arrived at Maitland? At the time I was speaking with the Attorney General, because I saw the depositions in Mr. Somerville's hand, and he told me that he had the case to prosecute when he made this general observation with reference to fees. I was under the impression that I should have had the prosecuting at that particular Circuit if the last Attorney General had remained in office—that I should have received a commission. I state this to shew that the Government did not consider me in any way bound to prosecute. I should, however, have been most happy to have done it in this instance, as I should have felt some pride in having the honor of conducting such a case, as I thought the case was a difficult one, and I thought a conviction might have been obtained.

49. Did I understand you to say that you had an impression from something said to you that you would have received a commission to attend this Circuit? It was from a private friend I learned it, and not in any way officially.

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50. From something you had heard you expected a commission to prosecute at Maitland? Yes; but I had given up that idea, for I had gone up to Bathurst, and a proposal was made that I should be employed to prosecute there. I was only doing business for the Government in the Western District as a matter of convenience, and it was suggested that I might remain up there to conduct the prosecutions. I had, therefore, given up the idea of going to Maitland to prosecute.

51. *By the Chairman*: Can you state what the impression was upon other members of the Bar who were present as to the mode in which Mr. Somerville conducted the business? Their opinions agreed with my own; they in fact acted as *amici curiæ*.

52. Was there any opinion different from your own? Not that I heard.

53. Was there any opinion expressed in Maitland as to his mode of conducting the business? There was a strong feeling—the public pitying Mr. Somerville, and blaming the Attorney General for appointing him. That feeling was expressed even by supporters, I may say, of the present Government.

54. Was that opinion expressed by persons of intelligence? Yes. I am well acquainted with the people of Maitland and the district generally; I know most of them.

55. To what classes did those who expressed the opinion belong? Medical men, magistrates.

56. Any jurors? Jurors.

57. You say you are well acquainted with the Maitland District? Yes.

58. Are you aware whether any prejudice exists there towards new-comers? I do not think there is. I believe if a new-comer goes there and proves himself to be a man of ability, they will shew a kindly feeling towards him.

59. *By Mr. Jones*: You think they take him at what he is worth? Yes; I think they would have profited very little by Mr. Jones' schooling if they would not do so. There is one matter I wish to mention with reference to the statement as to there being no barrister present: Mr. Foster who, I believe, was Mr. Bayley's junior in some murder case, was present.

60. Do I understand you to say that you went to Bathurst to prosecute as Crown Prosecutor at Quarter Sessions? Yes.

61. Was your return somewhat uncertain? Somewhat, but I rode down to Maitland.

62. It was somewhat uncertain whether you would reach Maitland Circuit Court in time? It was somewhat; but with reference to that, Mr. Bayley was told by a brother barrister that I should be at Maitland.

63. *By the Chairman (at the request of the Attorney General)*: By whom? Mr. Foster told me that, and he also told me that you had said, when asked whether I should get the prosecutions in the event of your going away, that you replied, "I don't know about that."

64. What is the date of your call to the Bar? March 7th, 1857.

65. Are you aware that Mr. Somerville was called the same year? I am aware that he is three months my junior.

66. I suppose you have read your commission as Crown Prosecutor? Yes; I think I am aware of its contents.

67. Are you aware that it is limited to prosecuting in Quarter Sessions and District Courts—that it has nothing whatever to do with the Circuits? I am perfectly aware of that, or else I suppose I should not think I could be paid for work done at the Circuit. The commission appoints me to prosecute in all Courts of Quarter Sessions throughout the Colony.

68. When you saw me in Sydney did I give you the slightest expectation that I should intrust you with any criminal business? Not the slightest.

69. Did you write to me, or direct any person to communicate to me that you would be at Maitland early in the Criminal week? No, except that I said I should certainly be in Maitland.

70. Did you fix the time when you should be in Maitland? That I should endeavour to come down to Sydney and go up the same night you would.

71. Are you aware we all went up on Saturday night and arrived there on Sunday morning? Yes, I believe you did.

72. Did you come from Sydney on Tuesday, or overland, or did you come to Maitland across the country? It was impossible to come across the country in the short time left me; any one who knows the country must know that. I rode to Sydney, and then proceeded by the steamer.

73. How many years did you study for the Bar? (*Mr. Jones objected to the question. The question was withdrawn.*)

74. Touching the office of Crown Prosecutor: you were appointed about two months ago? Yes.

75. Where have you prosecuted as Crown Prosecutor besides Bathurst? At Maitland I prosecuted one session, and once before for Mr. Dowling.

76. I mean since your appointment? I prosecuted at Maitland once and at Bathurst once. The late Attorney General gave me to understand that if he had been in Sydney I should have prosecuted at Darlinghurst last time.

77. Are you aware that the late Attorney General desired to be put down in writing the terms on which Mr. Butler was employed, in order that there might be no misunderstanding? Yes.

78. Are you aware that there is nothing in writing as to your prosecuting in Circuit Courts, but merely as to the right of taking you from the Northern and employing you in the Western District? Yes; but he wrote me a letter of instructions, stating that I was to prosecute in the Northern, and but temporarily in the Western Districts.

79. You told us you were not bound to prosecute at any Circuit or Criminal Court without a fee; do you not think it would have been unfair to other members of the Bar to have allowed you to prosecute there without a fee, which you say you would have done? Of course; that is why I did not ask you.

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80. You said to the Chairman you would have offered to have undertaken the case without a fee; if you had offered would not that have been a little contrary to the etiquette of the Bar? Not if I was bound as a matter of duty.
81. But I understood you to say you were not bound as a matter of duty? Therefore I did not offer.
82. Your statement—"I would have offered to have done the case without fee"—means then that you would not? I do not see that logic.
83. Explain what you mean by telling the Chairman "I would have offered to have done the case without fee"? If any one had represented to me that there was any necessity or any difficulty in the matter, I would have offered to have done it without fee.
84. Did you get any criminal prosecutions or defences at Maitland? No, I did not.
85. Do you not attribute that partly to not having been there at the commencement? I think it was; and for that reason I thought, as I was away from duty at another place, there was the more reason why I should be employed.
86. You prosecuted at Bathurst under the strict terms of your commission? No.
87. How then could you have prosecuted at Bathurst at all? The Government gave me expressly to understand that this would occur only once or twice, or at least for a short time.
88. *By the Chairman*: Are we to understand that you had a commission to prosecute in the Western Districts? It is a general commission. In case Mr. Butler should be ill, to save the trouble of a special commission this was made general; it was to facilitate matters that we might be sent anywhere.
89. Are the commissions all in that form? I believe they are. (*The witness produced his commission.*)
90. (*At the request of the Attorney General*): In previous Criminal Assizes at Maitland, during the Circuit, I suppose you have been largely employed? Do you mean in defending?
91. In defending? I defended five prisoners for murder at the last Maitland Assizes, and had other briefs in criminal cases.
92. Have you not had more cases at Maitland in defending than anyone else? No; my learned friend, Mr. Faucett, has had more. I was only just coming into business at the Assize Court; I was constantly defending at Quarter Sessions.
93. I think you stated distinctly that I did not give you to understand, in the slightest degree, that I should intrust the prosecutions to you? I did not expect you would.
94. You did not inform me that you would be there at the commencement? I stated that I should go up with you on Saturday night.
95. There is no steamer on Sunday night? No. Of course when you saw I was not there, you might know I could not come till Monday evening or Tuesday morning.
96. Transit across the country is impossible? It is difficult; and impossible in the time in which I had to reach Maitland.
97. When did you leave off business at Bathurst? On Thursday evening. I started from Bathurst on Friday.
98. *By Mr. Jones*: Hoping to arrive in Sydney on Saturday night? It was then too late, and I thought it almost impossible.
99. *By the Chairman (at the request of the Attorney General)*: I think you stated you do recollect my mentioning to you whether you considered yourself bound to do business without a fee? Without the slightest reference to this case, which was then in the hands of Mr. Somerville. If I had had the slightest idea that my services would have been accepted, I should have been willing to have given them, as I am friendly with the Government.
100. I suppose it is your opinion that no person would have conducted this case so well as yourself? No, indeed, I am not so vain.
101. You seem to have interfered with Mr. Somerville? Of course, as an officer of Government, in the position I held, and as friendly to the Government, I thought I had a right to interfere when I saw the business of the country misconducted, and heard the public opinion so strongly expressed on the matter.
102. Do you recollect when I was conducting a prosecution you made some observations which were not particularly palatable to myself? Yes, and I was surprised you should have taken offence at it. I will mention the circumstance: I was sitting alongside of Mr. Bayley, who was conducting a case of cattle-stealing. I thought the man would get off, from my experience of such cases, and knowing Mr. Bayley to be inexperienced—from his short residence here—in such cases, I laughed, and said I knew the man would get off; and the honorable and learned Chairman knows I have often made similar remarks when he has been present. Mr. Bayley turned round and said, "Why are you accusing me—it is not my fault?" I said, "Who is accusing you—what do I care whether the man is acquitted or not?" I was surprised to see Mr. Bayley shew any animus, whether the man got off or not.
103. At all events you made some remarks when I was conducting the business that were unpalatable to me? Yes; I was surprised at it, for I made them in a perfectly friendly spirit.
104. I suppose you were considerably disappointed to find that the little criminal business there was had been given to a gentleman who was your junior—you thought you had the first claim? From what I had been given to understand by the Government, I considered I had some claim to be asked to conduct the prosecutions.
105. Not by me? Not by you. I think my brother juniors felt more than I did, for I had had opportunities of shewing the country what I could do, and they had had none; for they naturally felt that if the business was being conducted in this way by juniors they would get nothing.
106. Are you not aware that reflections are constantly being made in the Legislative Council to the effect that Crown Prosecutors are paid £500 a year and have nothing to do for it? I do not know that that has anything to do with the matter.

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107. Are you aware of that? I am perfectly aware of it.
108. You thought your claims were paramount, and expected, from what you had heard from other parties, that these cases would be given to you? Not from other parties—from the Government.
109. From Mr. Lutwyche—it was not put in writing? It was not put in writing.
110. You are aware that the strict arrangement made with Mr. Butler was put in writing, but this understanding with you was not? I am not aware that it was put in writing, but Mr. Butler told me he was under the obligation.
111. And you believe that was the case? Yes; I have said already that one Crown Prosecutor was bound.
112. *By Mr. Macarthur:* You said you made the remark to Mr. Somerville, because you were aware that a considerable degree of feeling would be excited if the prisoner got off? Yes; I warned Mr. Somerville that it was a difficult case—a case in which I should feel a considerable degree of responsibility myself, although I knew the facts of the case; and that there would be considerable public indignation if the man got off.
113. How were you aware of that—had you heard it spoken of at Maitland? I had heard it. People were saying Madgwick would get off because Somerville was prosecuting. I heard people express an opinion about Madgwick.
114. It was a case about which a considerable degree of public feeling existed, particularly in the Maitland district? Yes; he was resident near Maitland.
115. Parties there were conversant with all the circumstances of the case? I will not go so far as that.
116. Generally the public took more interest in it—it was a Maitland case? To a certain extent—it was a case belonging to that district.
117. The Chief Justice, I believe, spoke of gross perjury having been committed by one or other of the parties on the previous trial? Yes, I believe he did.
118. *By Mr. Ptunkett:* I understood you to say you were counsel against Madgwick in the civil case? Yes.
119. Therefore you were well acquainted with the case? Yes.
120. Your feelings, if you had any, as counsel must have been enlisted against Madgwick? Of course.
121. Do you speak of your own feelings, or of the feelings of the community generally? Both; there is a general feeling against him on other matters, and on this in particular.
122. A document was put in your hands by the Chairman, and you said that was the reply read by Mr. Somerville—was there time to write a reply? I believe the reply was written over night; I apprehend it was written before Madgwick's evidence was heard.
123. Did it appear to be a reply collecting all the facts of the case, and putting them before the jury as they ought to be for the Crown? I did not hear any part of it but the opening, and was not much interested in that.
124. You have a general commission for Courts of Quarter Sessions throughout the Colony? Yes.
125. What is your peculiar district? The Northern; at present I discharge the duty in the Western. I offered my services to the Government for the Northern, and afterwards found I was gazetted to the Western. Of course I could not continue to perform the duties, but as the arrangements were not made for carrying out the criminal business for the Northern District, I consented to practice in both districts till further arrangements were carried out.
126. Are you aware that the former Crown Prosecutors—Mr. Checke, Mr. Callaghan, and Mr. Dowling—were considered to be at the service of the Government to prosecute without the payment of a fee? I heard it said by yourself the other night, but I never heard it before.
127. How is it that you think you are entitled to fees if you are called upon to prosecute at the Assizes at Maitland? Because it was part of the arrangement that was made with me on taking office.
128. It was an understanding with the Government? Yes; when the Government made an express arrangement with one Crown Prosecutor and not with the other I think it might be inferred —
129. Then it is by express arrangement you think you are entitled? Yes. The other Crown Prosecutors, except Mr. Butler, are on the same footing as myself.
130. On the understanding of your position, do you think you might defend prisoners at the Sessions where you were not employed as Prosecutor? Yes, I think I should do so either at the Central Criminal Court, or at any Circuit Court, when not employed to prosecute.
131. Do you think that is compatible with your duties as Crown Prosecutor? I think so, because the Recorders do so in England. I asked the Chief Justice his opinion on the subject, and he said he could see no objection. I asked also the leading members of the Bar, and finally Mr. Bayley, and they all said they saw no objection to it, because that was the practice of Recorders in England.
132. You are aware that Recorders in England do not exercise the powers of Grand Jury? I am aware of that.
133. As I understand you, by your commission you have the power of Grand Jury over the whole Colony? Decidedly not.
134. By your commission? No.
135. What limitation have you in your commission? The Attorney General is the Grand Jury of the country, and there is no other Grand Jury.
136. Cannot you at this moment, under the commission you hold, prosecute in any Court of Quarter Sessions in the Colony? Yes.
137. Is not that exercising the power of a Grand Jury? When you questioned me as to the power of the Crown Prosecutor as the Grand Jury, I understood you to mean as to the power

power of deciding whether I would put a man on his trial, or whether I would not put him on his trial.

138. Can you at this moment prosecute in any Court of Quarter Sessions in the Colony? Yes.

139. Do you think it would be consistent with your duty as Crown Prosecutor to defend prisoners? No, I do not think it would be consistent, and I never contended for a moment that it would be consistent to defend in any Court where by virtue of my commission I could be called upon to prosecute.

140. Do you think it would be expedient or proper that you should defend prisoners so long as you hold the office of Crown Prosecutor? I think it would.

141. Do you think, looking to the public interest, and a proper regard for the administration of justice, that it would be consistent that you should one day uphold the constabulary, and the next day beat them down, by defending prisoners—Do you think that would be an exhibition compatible with the discharge of your duty, or proper? As I do not think that the most material point in defending prisoners is the abuse of the constabulary, as some seem to think, I do not see the incompatibility. I think as a witness is to be considered as the witness of truth, on whichever side he may be called, there would be no inconsistency. Besides I am of opinion that a person who is at times engaged in the defence of a prisoner is likely to be better enabled to see the points in a criminal case, and to prosecute fairly and impartially, than one who is solely employed in prosecuting. I have heard that a Crown Prosecutor was prevented defending prisoners on the ground that he was always attempting to detract from the credit of the police, but as that does not appear to me to be the chief aim of an advocate, I do not feel myself in any inconsistent position.

142. I understand that you think you have still the privilege of defending prisoners? I say that having asked the Chief Justice, the leading members of the Bar, and Mr. Bayley, they saw no objection.

143. Supposing you had been employed at Maitland at the last Assizes, what fee would you have expected to receive? I believe whatever was the proper thing; I should not have made a bargain there and then, but should have taken the brief, expecting that whatever was right would be done.

144. You seem to think you would have been entitled to a fee? Unless Mr. Bayley had assigned some particular reason for it, I should have undertaken the business, if it had been offered me, without reference to fees. If they came, well and good; if not, it would then have been time to have spoken; but I do not suppose any such question would have arisen.

145. How long are you to continue to act as Crown Prosecutor at Bathurst? It is uncertain; it is only for a time—until the new arrangements are completed.

146. *By the Chairman (at the request of the Attorney General):* You derive your authority as Crown Prosecutor from 4th Victoria, No. 22, section 10? Yes.

147. Have you ever been appointed specially to prosecute at a Circuit Court? No, I have not.

148. Your commission is limited; you are an officer "in whose name all crimes, misdemeanors, and offences," may be prosecuted in the Courts of General Quarter Sessions, except in Port Phillip and New Zealand? Yes.

149. And you think that after obtaining the opinions of the Chief Justice, the leading members of the Bar, and my own, that that does not disqualify you from practising as a barrister in Courts in which you do not appear officially as Crown Prosecutor? Yes.

150. In fact, the same as another barrister? Yes I have a standing brief in the District Courts; in all other Courts I am a simple barrister.

151. *By Mr. Macarthur:* In fact, you are only retained in Courts of Quarter Sessions? Yes.

152. *By Mr. Plunkett:* In fact you are Queen's Counsel in Quarter Sessions, without being limited at all as to defending prisoners like other Queen's Counsel? I am Crown Prosecutor. I think that difficulty about Queen's Counsel is easily got over.

153. From all the inquiries you made you got no opinions adverse to your right to prosecute and defend in other places than those where you appeared as Crown Prosecutor? I did get some, of course.

154. But the leading members of the Bar and the Chief Justice coincided in the opinion you have expressed? Yes; I asked the Chief Justice particularly. There are one or two matters with reference to these cases conducted by Mr. Somerville I wish to state. The witnesses for the defence were not cross-examined. There was a paper put in on the previous civil action by one of the witnesses for the defence purporting to be a receipt, which upon the face of it bears evident appearance of its being a forgery. I may state that on the previous trial this witness was severely cross-examined by my leader, Mr. Wise, and his evidence, in my opinion, rendered unworthy of credit; and Latimore himself swore that this paper was a forgery, but on the present trial the witness was not cross-examined. There was a deed also put in and no questions asked about it.

155. *By Mr. Plunkett:* Were there many witnesses called for the defence? Three or four.

156. *By the Chairman (at the request of the Attorney General):* How many for the prosecution? Five or six. It has been stated that there was great contradiction in the evidence of the different witnesses; in my humble judgment, if the witnesses had been properly examined these seeming contradictions might have been done away with, and in point of fact I do not know whether it was absolutely necessary to examine one of the witnesses, in whose evidence there was the greatest contradiction; he was not the principal witness in the case, and all these contradictions arose out of this conversation which he said took place behind the prisoner's back.

157. *By the Chairman:* Was it the witness Jones who was examined? Yes. There is another matter: the case for the Crown was closed without the principal witness—the only

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confirmatory witness who could give direct evidence as to the making of the note, (Hancock) was not called till after the case for the Crown was closed. Mr. Mullen pointed this out, and the next day the case for the Crown was re-opened, and this witness was called. I believe all the witnesses were there on the Monday. I may further mention, that when Mr. Darvall came up, I went to Mr. Dillon and suggested to him the propriety of asking Mr. Darvall to take a brief. Finally, I would state that I am perfectly on good terms with Mr. Somerville, and that I have a high opinion of his literary and scholarly attainments.

WEDNESDAY, 30 MARCH, 1859.

Present:—

Mr. MARTIN,
Mr. JONES,

Mr. PLUNKETT,
Mr. MACARTHUR.

THE HON. JAMES MARTIN, ESQ., Q. C., IN THE CHAIR.

Present in the Room—The Honorable the Attorney General.

The Honorable Robert McIntosh Isaacs, Esq., M.L.C., attending by permission of the Legislative Council, examined:—

The Hon.
R. M. Isaacs,
Esq., M.L.C.
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1. *By the Chairman*: You are a Barrister, and a Member of the Legislative Council? I am.
2. Did you attend at the late Circuit at Maitland during the criminal trials while Mr. Somerville was prosecuting for the Crown? I left Sydney for Maitland on Wednesday evening, the 16th, and arrived at Maitland on Thursday morning. The Criminal Sittings were not then over.
3. Were you in Court at any time while Mr. Somerville was prosecuting? On Thursday, the 17th, I was in Court for five or ten minutes.
4. Do you remember what case was being tried at that time? It was a prosecution against a person named Madgwick, as I understood, for perjury. I knew nothing of it personally.
5. Had you an opportunity of observing, while in Court on that occasion, whether Mr. Somerville was conducting that case in the clear and satisfactory manner in which such a case ought to have been conducted? I cannot say I had. I was in Court for five or ten minutes only, and during the whole time I was there the defendant was cross-examining a witness.
6. Was that the only occasion that you were in Court while Mr. Somerville was prosecuting? I was in Court on the next day, Friday, when the jury brought in their verdict, but I saw nothing else of the prosecution. I think, indeed, a civil case had commenced; the jury had been out some time. At all events I saw nothing more of the prosecution.
7. Then, in point of fact, you did not see Mr. Somerville actually conducting the prosecution? No; the defendant was cross-examining. I think it due to Mr. Somerville to say this, that it did strike me the prisoner was allowed considerable latitude, but I imagine not more than is customary for barristers to allow a man who defends himself, and not more than many persons would think perfectly right. I confess I do not share in that feeling, for I think that a man even when defending himself ought to be restrained within the limits of law and practice.
8. Did any observations reach you from members of the Bar, magistrates, or jurymen, in reference to the way in which Mr. Somerville conducted this prosecution? Certainly not from magistrates or jurors. I did overhear observations made by one member of the Bar, which I thought very unfair and improper. It is not necessary that I should mention his name.
9. Except in the way you mention, the matter was not talked of in your hearing? It certainly was.
10. Without going into the particulars of conversations, were the opinions expressed in your hearing generally favorable or unfavorable to the mode in which Mr. Somerville conducted the case? The opinions I heard expressed were certainly unfavorable.
11. Did you hear any opinions expressed that were favorable? I cannot say I did, I have no recollection of any.
12. Was the matter much talked of? Yes, it was a good deal talked of.
13. And the opinions were all one way, as far as you heard? The opinions of others were so, as far as I heard.
14. *By the Chairman (at the request of the Attorney General)*: I believe you have acted upon special commissions to prosecute at some of the Assize Towns, have you not? I have, on several occasions. I have received commissions from Mr. Manning, Mr. Darvall, and Mr. Martin, during their tenure of office.
15. I believe one uniform fee, in addition to travelling expenses, is paid in these cases, £80? Yes, £80 or eighty guineas, I am not sure which. I have twice prosecuted at Goulburn, and I think on both occasions that was the fee.
16. I suppose you have seen Attorneys or Solicitors General leave an Assize Town during the progress of the criminal sittings, and entrust what remaining prosecutions there were to some member of the Bar present at the Circuit, have you not? I do not remember an instance. I remember Mr. Darvall leaving Goulburn on one occasion, but it was after the criminal business was over, for I recollect that the last case—the case of Bird Evans—was a private prosecution, in which I was personally engaged with Mr. Holroyd, and Mr. Darvall left after that case was tried.

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17. Do you know of anything which prevents an Attorney General or Solicitor General, if called away to attend his Parliamentary duties in Sydney, from leaving what remaining prosecutions there are in the hands of a competent member of the Bar? Certainly not.

18. When an Attorney General goes down to prosecute at any of the Assize Towns, do you know if it is usual to agree with a person in Sydney beforehand specially to conduct what prosecutions may remain when he leaves the Circuit, or whether he does not leave them to some member of the Bar present at the Circuit? That question of course I cannot answer, because, as I have said in a previous answer, I have never known a case of the sort; but I should be disposed to think he would hardly make the arrangement beforehand.

19. If he had confidence in the members of the Bar present at the Assize Town, he would naturally leave the cases with one of them? I should say so.

20. You have had considerable experience in the Colony in criminal matters? I have had considerable experience in criminal trials elsewhere than here. I have had some here, but not as much as in other branches of professional practice.

21. And, although you say you disagree with the opinion that a prisoner defending himself ought to be allowed a greater degree of latitude than is ordinarily permitted, you do not think that in Madgwick's case he was allowed more latitude than other members of the Bar would have granted? I think not, judging from what I saw during the short time I was in Court. Perhaps I should not now have thought of the matter at all had I not myself imagined that the prisoner was having too much latitude, and I made some observation to my friend, Mr. Somerville, on the subject.

22. *By Mr. Plunkett:* You were not sufficiently long in Court to form any opinion at all as to whether the prosecution was conducted properly or not? Certainly not. I do not think I was there ten minutes; I would rather say five minutes than ten. I sat alongside Mr. Somerville, but, not being in Bar costume, and having no business there, I did not remain in Court.

23. Did you know anything of the case before, or are you sufficiently acquainted with it now, to form any opinion as to the nature of it? No, not at all. I heard of the case at the last Assizes at Maitland, and that it had been postponed. I believe it arose out of a civil action.

24. You knew it was a perjury case? I heard it was; and from the cross-examination of a witness by the defendant, and one or two other matters I learnt in connection with the case, I should have arrived at that conclusion.

25. As to the difficulty of it you know nothing? Nothing whatever.

26. As a general rule, do you think it judicious or proper to trust to a quite inexperienced junior the conduct of such a case? I can answer the question in this way—that prosecutions for perjury are the most difficult criminal prosecutions, in my opinion. I should not care particularly myself to get a brief in such a case over night, and to proceed with the case next morning, especially if the depositions were long.

27. Would you think it fair to a junior brother barrister to put him in the position of conducting a case of that kind, if he was wholly inexperienced? I was about to say that it would depend upon his qualifications, but if he was wholly inexperienced, certainly not.

28. *By the Chairman (at the request of the Attorney General):* If you had reason to believe that he was sufficiently talented to conduct such a case, and if you had asked whether he felt himself equal to the work, and he should assent, and if you had intrusted him with the case on Monday morning, the trial not taking place till Wednesday or Thursday, thus giving him time to prepare himself—what would be your feeling in the matter then? With all these qualifications, or rather modifications of the abstract question put by Mr. Plunkett, I do not see why it should not have been proper to intrust the case to him.

29. Recollecting, too, that he would have time to find out on the Monday or Tuesday whether he was over-tasked or not? Of course that was one of the modifications to which I referred.

30. *By the Chairman:* Do you think it prudent in making the appointment of a Crown Prosecutor to take the prosecutor's own estimate of himself rather than the estimate which others have formed of him from experience? The latter test, as a matter of course, would be the preferable one. All men have a certain amount of vanity, and are therefore apt to over-estimate their own qualifications.

31. *By Mr. Plunkett:* Did you ever see Mr. Somerville holding a brief before, so as to give an opportunity of knowing what his competency was? No. I have not seen Mr. Somerville holding a brief at all; but I have seen him in Court apparently extremely attentive to what was going on, and taking copious notes of cases in which he was not engaged; and I have learnt from subsequent conversation with him that he has done so. With reference to the question as to whether I thought it better, as a general rule, to intrust prosecutions to juniors, I should say decidedly not, because I conceive that in the conduct of criminal prosecutions experience in life and knowledge of the world are almost of as much importance as a knowledge of law; but I do not know that in this particular case there was any disqualification arising from that cause.

32. *By the Chairman (at the request of the Attorney General):* Supposing you had four or five men to choose from whom you never had seen open their mouths in Court, do you conceive you would be wrong in choosing the one you considered the best—having known him for a few months? Of course not.

33. Would not bringing a man from Sydney at the expense of the country, for the purpose of prosecuting the remaining cases, be an act of disrespect, and almost of insult, to the members of the Bar present at the Assize Town—would it not be casting a slur on them, as much as to say that none of them were competent to conduct a case of criminal prosecution? No doubt it might assume that aspect.

34. *By the Chairman:* Is not the public interest of far greater importance than casting or not casting a slur on particular barristers? I should say so, certainly; particularly as it would not necessarily be casting a slur upon them, although it might have that appearance to them.

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35. *By the Chairman (at the request of the Attorney General):* Have you had any experience of criminal prosecutions in England? Not very great.

36 Do you know that the principal criminal business is conducted by junior members of the Bar? I believe it is so.

37. And that the practice they thus obtain in the Assize Courts is usually the stepping stone to employment in the Civil Courts? I believe it is.

38. *By Mr. Plunkett:* Do you not know that that is much complained of, and pointed at as one of the great abuses of the law, and that it is one of the grounds put forward for the appointment of Crown Prosecutors? Yes; I have read as much in the public press, not only in newspapers but in legal journals.

39. *By the Chairman (at the request of the Attorney General):* Are you aware that it was attempted a few years ago to introduce the system of Public Prosecutors? Yes; I was in England at the time.

40. Then you are probably aware that Lord Campbell, Sir A. Cockburn, and other great lawyers, gave their opinions before the Select Committee of the House of Commons to the effect that by so doing they would destroy the nurseries of the English Bar, afforded by the practice in the Criminal Courts, at Quarter Sessions and Assizes? I do not know what were their reasons, but I know that Lord Campbell and, I think, the then Attorney General, both expressed themselves adverse to the proposal. (*Vide Addendum to the evidence*)

41. Are you aware also that the Right Honorable Stuart Wortley, the Recorder of London, also declared himself against it? I think he was of the same opinion, but I am not certain. I left England before the Committee reported, and I have never read the report.

42. You are aware, that although the Committee reported most strongly in favor of the appointment of Public Prosecutors, the report has never been acted upon up to this day? I am.

43. Do you believe it ever will be acted on? I think it may not be; but if not, for this reason assigned at the time, namely, the enormous number of Public Prosecutors who would be required. I believe the estimate was five or six hundred. If I am not mistaken the exact number was 569.

44. *By Mr. Plunkett:* I suppose you do not know what the Irish practice is? Not from experience.

45. *By the Chairman (at the request of the Attorney General):* Are you aware that the evidence of the late Attorney General was antagonistic to the good working of the system in Ireland? I am not.

46. You know that the system to some extent works in Scotland, and works efficiently there, of the Attorney General being Public Prosecutor? I have always understood it does. I have never heard a complaint of it.

47. *By Mr. Macarthur:* You have said you overheard some remarks which you considered to be improper and unfair—towards whom did you consider them unfair? I can hardly answer that; it was rather a feeling not so much of a personal nature as in the abstract. Remarks were made by one barrister of another, and I thought them unfair because of that relationship, assuming them to be true even. I may state to the Committee that I have a very strong feeling of *esprit de corps*; it was only on that account I thought the remarks I allude to unfair and improper; I had not an opportunity of knowing whether they were applicable or not.

48. *By Mr. Plunkett:* Do you think there is anything unfair in one barrister speaking in confidence to another giving a candid opinion? I have not said it was in confidence, and I now state that it was not.

49. Anything passing between two barristers on Circuit must be supposed to be in confidence? I have not said it did pass between two barristers, nor did it; it was said openly and loudly in Court, and I overheard it.

50. By one barrister of another? Yes.

51. *By Mr. Jones:* But not to another? No; I should have felt my lips closed from saying anything about it if it had been said to me privately.

52. *By Mr. Plunkett:* Do you think any one but yourself considered it unfair? I know that one other person did, because I heard him mention the circumstance.

53. Did you hear any one else say it was unfair or untrue? Not untrue, certainly, but that it was unfair.

54. *By Mr. Macarthur:* I presume you meant by "unfair" that it was calculated to injure the professional character of the gentleman to whom it applied? Yes; perhaps I should rather use the words "uncalled for."

55. *By the Chairman (at the request of the Attorney General):* Mr. Faucett, who was the senior member of the Bar present, having been Madgwick's counsel in the civil case out of which this indictment for perjury arose, do you think it would have been proper to have entrusted him with the duty of prosecuting him? I think not, if there was any other competent person. I think, that if I had been placed in the position in which I presume the Attorney General was placed on that occasion, I should, *ceteris paribus*, have applied to Mr. Faucett last.

56. *By Mr. Plunkett:* From what you know of Mr. Faucett, do you think he would have allowed himself to be placed in such a position? I am of opinion that no barrister ought to refuse any retainer whatever if it be pressed upon him; but placing myself in Mr. Faucett's position in the case supposed, I would have asked the Attorney General to relieve from the necessity of prosecuting, and I have no doubt Mr. Faucett would have acted in a similar way if he had felt himself, as I should have done, not competent to decline the retainer in positive terms.

57. Do you know whether Mr. Windeyer, one of the recently appointed Crown Prosecutors, was at Maitland at the time this case was tried? I know he was at Maitland on Thursday, for I saw him at the Railway Terminus when I arrived, and also in Court both on Thursday and Friday.

- 58. Was it not known that you and Mr. Wise were to go down there on civil retainers? I am not aware. The fact that I was coming down was known to one or two attorneys, but whether my motions were known beyond that I cannot say, of course.
- 59. It could have been very easily ascertained that you intended going there? Of course it could, by application to myself.
- 60. *By the Chairman (at the request of the Attorney General):* When was the civil business appointed to begin? On the Friday.
- 61. Is it usual for gentlemen engaged only on civil business not to go down till the criminal business is over? That is my practice when not previously retained in criminal cases.
- 62. You went down with Mr. Broadhurst? With Mr. Broadhurst, Mr. Darvall, and Mr. Dangar. We arrived on Thursday morning at Maitland. Mr. Wise followed on the next day.
- 63. Mr. Somerville having commenced operations on the Wednesday morning? Yes, as I understood.
- 64. *By Mr. Plunkett:* If you had had any retainer in the Criminal Court you would have gone down earlier? Certainly. At the last Assizes at Maitland I went down on criminal business on the Saturday; but I only go in time for the civil business when I have no retainers in criminal matters.

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ADDENDUM.

Since my examination I have remembered that Lord Brougham is, and has been for years, a strenuous supporter of the system of Public Prosecutors.

In a paper read in his absence, before the "National Reformatory Union" at Bristol, on the 20th August, 1856, he says:—

"There is no country but England in so rude a condition as to be without a Public Prosecutor.

"When I quitted office in 1834, I had nearly accomplished the important object of obtaining the great advantage of a Public Prosecutor."

His Lordship then referred to the labors of the Committee of the House of Commons, of which Mr. J. G. Phillimore was the Chairman—the same, I presume, to whose Report the Attorney General adverted in his questions to me—and speaks of the great importance to the public of the evidence taken.

I desire to mention this opinion of Lord Brougham's, as many may deem it a full set-off against that of Lord Campbell and Sir Alexander Cockburn.

ROBERT. M. ISAACS.

William Edmond Plunkett, Esquire, Secretary to the Crown Law Officers, called in, and further examined:—

- 1. *By the Chairman (at the request of the Attorney General):* You have been some years, I think, in the Crown Law Offices? Five years.
- 2. Are you aware of the practice with reference to sending persons to prosecute at Circuit Courts? I am.
- 3. Do you know of any case where the Attorney General or Solicitor General contemplated not being able to stay the whole time at an Assize Town, in which a person has been sent specially from Sydney in order to finish those cases which he was compelled to leave still untried? I am not aware of any case.
- 4. If there had been any such case it is probable you would have recollected it? I think I should.
- 5. When an Attorney General is forced to leave an Assize Town before the criminal business is over, is it usual for him to leave the untried cases in the hands of some barrister present there? In case the Attorney General should have to return to his Parliamentary or other duties, I believe it has been usual for him to select some member of the Bar present at the Circuit to conclude the criminal business.
- 6. So far as you recollect, do you believe that to be the regular course? During the five years I have been in the office that is my recollection of the regular course.
- 7. Mr. Lutwyche is absent at Brisbane at present, is he not? Yes.
- 8. Did he converse with you upon the subject of the duties which the Crown Prosecutors recently appointed were to perform? He did.
- 9. Did he direct you, before he left office, to reduce to writing the terms under which they held their appointments? He did. I believe I handed you [the Attorney General] a copy.
- 10. Is this (*handing a letter to witness—vide Appendix A*) a copy of a letter written by you under the instructions of the late Attorney General to Mr. Windeyer, dated 17th February? It is.
- 11. I will just call your attention to this passage in that letter—"I am now desired to repeat, in writing, what the Attorney General has already explained verbally to you: the present arrangement whereby you are required to act as Crown Prosecutor for the Western as well as the Northern District, is to be considered temporary, and that you will be relieved from the duty of acting as Crown Prosecutor for the Western District whenever it may become necessary to nominate a separate Crown Prosecutor for that district." Now, Mr. Windeyer told us yesterday that it was a matter of favor to the Government his prosecuting at Bathurst, instead of being at his own Circuit at Maitland? It was not a matter of favor. He was to continue to prosecute for the Northern and Western Districts, as stated in that letter, until the duties should become too onerous for one person—he would be relieved when the necessity for a separate Prosecutor for the Western District became apparent.

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- W.E Plunkett Esq. 12. So long as the sessions were only held at Bathurst, in the Western Circuit, and at Maitland, in the Northern, he was to continue to act for both, as a matter of right? Yes, as a matter of right.
- 30 Mar., 1869. 13. But when Courts were established at the various other towns in those Circuits, and it became impossible for one man to prosecute at both, he was to be relieved from the Western and transferred to the Northern? Yes.
14. He told us yesterday that he understood there was an arrangement made by Mr. Lutwyche that he, Mr. Windeyer, was to have the Government prosecutions at the different Circuit Courts—did Mr. Lutwyche ever speak to you of any such arrangement? I never heard him mention it.
15. And, from the fact of Mr. Lutwyche having directed you to put in writing the conditions of the engagement, and your having done so, and this being the only letter written to Mr. Windeyer on this subject, do you believe any such permanent arrangement was made by the late Attorney General? I am disposed to think there was not.
16. There was an arrangement with Mr. Butler, one of the other Crown Prosecutors? To prosecute at his own Circuit.
17. Are these (*handing letters to witness—vide Appendix B. C. and D.*) copies of letters dated 17th, 18th, and 19th February last, between yourself and Mr. Butler relative to that arrangement? Yes, these are copies.
18. And do they contain the terms of the arrangement under which Mr. Butler is prosecuting at this moment at the Assize Town of Goulburn? They do.
19. I believe the substance of that arrangement is, that for his salary of £500 a-year as Crown Prosecutor in the Sydney District, he is to be at the disposal of the Government to prosecute without further salary at the different Courts held at Darlinghurst, the criminal bi-monthly Courts, and also to prosecute at one of the three Circuits? Yes.
20. And under that arrangement he is now prosecuting at Goulburn, at no expense to the country further than his travelling expenses? Yes.
21. That arrangement was made by the late Attorney General, Mr. Lutwyche, and sanctioned by the Government? It was.
22. *By Mr. Plunkett:* What Attorney General do you allude to as having left the Assizes, and appointed some gentleman on the Circuit to finish the cases? I was going to state at the time when the question was put that I was not aware of any particular instance, but I believe where, from any unforeseen cause, the attendance of the Attorney General has been required in Sydney, the course would be to employ a barrister at the Circuit—to select from among those on the Circuit, especially at Maitland, where there are several members of the Bar generally in attendance.
23. Have you spoken of what was likely to take place, or of what actually did take place? I cannot point to any case that actually occurred.
24. *By the Chairman:* Do you believe such a case ever did occur during the five years you have been in the office? I am disposed to think a case occurred once at Goulburn, though I cannot speak positively.
25. After all, it is a mere surmise of yours as to what would be done, rather than what was done? It amounts to that.
26. *By Mr. Plunkett:* Have you any recollection of the name of any person who was selected in this way to represent the Attorney General? No.
27. With respect to the Crown Prosecutors—you have spoken of Mr. Butler and Mr. Windeyer, is there not another? There is—Mr. Meymott.
28. Is there any agreement made with him about prosecutions at Circuits, or as to his services being available when required by the Government? I am not aware of any special agreement. There was a letter written to him informing him of his duties—what he would be required to do—but I think nothing was mentioned about the Supreme Court; his duties were to be confined merely to the Quarter Sessions.
29. Do you happen to know that he was in Sydney doing nothing while the Maitland Assizes were going on? I believe he was. I have seen him in the office of the Clerk of the Peace, in Sydney, at different periods; on one occasion he had some depositions with some remarks on cases that he considered should not be sent to a jury—I think two cases—in order that they might be laid before the Attorney General.
30. Before these Crown Prosecutors were appointed do you know that Mr. Dowling, latterly, and Mr. Callaghan before him, were in the habit of prosecuting at Darlinghurst, representing the Attorney General when the Crown Law Officers were engaged in other duties, and that without any expense to the Government? Yes; I recollect Mr. Dowling and Mr. Callaghan having prosecuted at the Supreme Court at Darlinghurst occasionally, in the absence of the Attorney and Solicitor General.
31. And that practice is only carried out in the arrangement with Mr. Butler, and extended to one Circuit? Yes.
32. Why should a different arrangement be made with Mr. Windeyer, do you know? It was contemplated that these gentlemen would shortly have to attend at so many different places, as places would be proclaimed for holding Courts of Quarter Sessions, that they would not have any spare time—that their time would be so fully occupied that they would be unable to give any assistance in that way.
33. Are you aware that no additional places for holding Quarter Sessions have yet been proclaimed? I am, up to the present time; but it was thought then that some places would have been proclaimed before now.
34. Were any preparations for the holding of Quarter Sessions made, to lead to that expectation, that you are aware of—that there would be Courts actually in operation in other places than those they have been always held at? There have been some places proclaimed under the District Courts Act; and I believe it was in contemplation to hold Quarter Sessions when the Jury Lists and matters generally relating should be completed.

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35. That was the intention, but has any effectual preparation been commenced to carry it into effect? I believe the Benches of Magistrates have been written to regarding the Jury Lists at places where Jury Lists have not been prepared heretofore.
36. When? Lately—within the last week or ten days.
37. *By the Chairman*: From what office did those letters go? The Colonial Secretary's Office.
38. *By Mr. Plunkett*: What means have you of knowing? Under the administrative arrangements of the Government, the Benches of Magistrates are placed under the Colonial Secretary's control; and when this point was under consideration I called the Attorney General's attention to the circumstance that, properly speaking, the direction should issue from the office of the Colonial Secretary, and I believe it was so. About the same time I ascertained at the Sheriff's Office the names of the places for which Jury Lists were prepared for each of the Circuits; and I believe the Attorney General took the list to the Colonial Secretary's Office, and that then something was done.
39. *By the Chairman (at the request of the Attorney General)*: You obtained that information from the Sheriff's Office, at the request of the Attorney General—Mr. Bayley? Yes.
40. *By the Chairman*: I see there is a Proclamation in yesterday's *Gazette*, signed by the Colonial Secretary, about the holding of District Courts in Sydney—did that in any way emanate from the Attorney General's Office? There was a letter written by me to each of the District Court Judges, requesting them to prepare statements of the places at which they proposed to hold Courts. The notification was sent to me, and it was, I believe, taken by the Attorney General to the Colonial Secretary's Office, who has gazetted the appointments and notifications in the departments coming under the Attorney General's control. That course commenced about the time the Attorney General was not a member of the Executive. It was considered that the notification should bear the name of a Responsible Minister, and for that reason all notifications for the *Gazette* were sent to the Colonial Secretary's Office, and have continued to be inserted with his name.
41. Why should they continue to be inserted with his name? I am not aware. It was some short time since intended that the duties of the Crown Law Officers and Cabinet Ministers should be separated, and since that arrangement has been altered there has been no alteration with regard to the insertion of notices in the *Gazette*.
42. *By the Chairman (at the request of the Attorney General)*: Do you know that Mr. Meymott has not been in the habit of attending the Maitland Circuit? I am not aware that Mr. Meymott ever attended at Maitland. He prosecuted for the Crown on one occasion within my recollection at Bathurst; that is the only time I remember.
43. On an eighty guinea retainer? He received £80, and forty shillings a-day for travelling expenses.
44. Although you have stated what your belief was as to the practice on Circuit, do you not know that it is a very frequent practice at Darlinghurst for the Attorney General, if called away to attend to his duties elsewhere, to leave cases in the hands of some barrister there, or to get a barrister to attend, as in the case of Mr. Blake, for instance? I have known several members of the Bar to be engaged in that way for a day, or a number of days, and the fee usually paid has been ten guineas a-day.
45. The same fee as is paid for prosecutions on Circuit? I believe the same rule would apply on Circuit.
46. Do you recollect my [the Attorney General] consulting you as to what I should do if I were called away from Maitland before I could finish all the prosecutions? I recollect your [the Attorney General] asking me in case you could not attend the whole time at Maitland, and in the event of its being necessary to send some gentleman to prosecute for the Crown, what would be the usual fee. I stated £80, and forty shillings a-day by way of travelling expenses, and also that if you had to return before the business was concluded, possibly one of the barristers in attendance might be engaged on the same terms as at the Sydney Court, namely, ten guineas a-day.
47. Did you suggest to me [the Attorney General] or point out to me in any manner, the necessity of engaging a gentleman to go down and finish the work? I think I remarked at the time that, possibly, the business would be concluded by the time you would have to leave, and under any circumstances there would, possibly, be so few cases left untried that a gentleman might be engaged on the spot to finish them, according to the practice or custom in Sydney.
48. Do you recollect my telling you that I thought the business at Maitland lighter than either at Bathurst or Goulburn, and your looking at the depositions and ascertaining the number of cases, there being at Goulburn, which was considerably the heaviest, upwards of thirty cases, and fourteen or fifteen at Bathurst—one of them a murder case; while at Maitland, although there were several cases, there were none of any great length? Yes.
49. Do you recollect my telling you I thought I should get through all the business with the exception of, perhaps, one or two cases? I do.
50. Do you recollect my telling you I should get the Legislative Council adjourned over the Wednesday, and until Thursday afternoon, in order to enable me to be present at Maitland and prosecute during two days instead of only one? Yes, I recollect that distinctly.
51. When Mr. Dowling and Mr. Callaghan prosecuted under the old system as Crown Prosecutors, there were not many places to which they went down? The same as at present—Sydney, Goulburn, Maitland, and Bathurst. At each of the three last named places Quarter Sessions took place every three months.
52. Whatever may have been the practice under that system, since the District Courts Act came into operation a new system has been followed? A new system has been followed.
53. *By the Chairman*: Have there been more Courts of Quarter Sessions? There have not been more.
54. There have been the same number of Courts but three times the number of Prosecutors? There are now three Crown Prosecutors.

- W.E. Plunkett Esq. 55. Instead of one? Instead of one.
 56. *By Mr. Plunkett*: Did you know that Mr. Broadhurst, Mr. Isaacs, Mr. Wise, and Mr. Darvall, were in the habit of attending the Maitland Assizes? Yes, I have known them to be in attendance at Maitland.
 57. Did you not know they always went there? When there was sufficient inducement in the way of civil or criminal business.
 58. There is more civil business at Maitland than at any other Assizes in the Colony, and did it never occur to you to suggest to the Attorney General the propriety of retaining the services of one of those gentlemen? My impression was that it would hardly be worth their while to act for the Crown, as they would, probably, be retained for the defence in matters of importance. Frequently I have known them to remain in Sydney, and to go up merely to be in time for the civil business.
 59. *By the Chairman (at the request of the Attorney General)*: I believe gentlemen of that standing do not usually leave Sydney without considerable inducement? I have heard that Mr. Darvall's fee on special retainer would not be less than one hundred guineas.
 60. Larger than the Government would think fit to pay him? Yes.
 61. *By Mr. Plunkett*: Have you any doubt, as these gentlemen intended going to Maitland in time to commence the civil business on Friday, that they would have gone two days earlier for the ordinary Crown fee of ten guineas a-day? I am hardly in a position to give an opinion.
 62. You did not suggest it at all events? I did not suggest it.

APPENDIX A.

No. 59-87.

*Crown Law Offices,
Sydney, 17 February, 1859.*

Sir,

In order to prevent any future misunderstanding, I am directed by the Attorney General to inform you, that it is deemed advisable to communicate to you officially, and to place upon record, the conditions under which you have received the appointment of Crown Prosecutor for the Northern District, under the provisions of the District Courts Act of 1858. I am now desired to repeat in writing what the Attorney General has already explained verbally to you: the present arrangement whereby you are required to act as Crown Prosecutor for the Western as well as the Northern District, is to be considered temporary, and that you will be relieved from the duty of acting as Crown Prosecutor for the Western District whenever it may become necessary to nominate a separate Crown Prosecutor for that district.

W. C. Windeyer, Esq.,

Crown Prosecutor

for the Northern District and the Western District.

I have, &c.,

W. E. PLUNKETT.

APPENDIX B.

No. 59-85.

*Crown Law Offices,
Sydney, 17 February, 1859.*

Sir,

In order to prevent any future misunderstanding, I am directed by the Attorney General to inform you, that it is deemed advisable to communicate in writing, and to place upon record, the conditions under which you have been appointed by the Government to be Crown Prosecutor for the Sydney District, under the provisions of the District Courts Act of 1858.

I am desired, therefore, to repeat, in writing, what the Attorney General has already explained verbally to you—that in conferring upon you the appointment in question the Government will require you to assist the Attorney General and the Solicitor General in prosecuting at the Darlinghurst Sittings, and on the Circuits, whenever either of them are unable to attend.

Edward Butler, Esq.,

Crown Prosecutor,

District Courts, Sydney District.

I have, &c.,

W. E. PLUNKETT.

APPENDIX C.

Chambers, 18 February, 1859.

Sir,

I beg to acknowledge the receipt of your communication of the 17th instant, No. 59-85, in which you say you are instructed to communicate to me, in writing, the conditions of my appointment as Crown Prosecutor, for the Sydney District—repeating, in writing, what the Attorney General has already verbally explained. I beg you will have the goodness to remind the Attorney General that his verbal communication to me, as to prosecuting on Circuit, had reference expressly as to one Circuit, that is to say,—some one of the three, not *all three*, as the terms of your communication would seem to comprehend. He intimated to me that in the event of the Attorney and Solicitor General not being able to prosecute at all the Circuits, I should be in readiness to prosecute at one of them. He will more clearly remember this to have been the effect of his verbal communication, by his having

having said at the same time that most probably an arrangement could easily be made by which I could prosecute upon my own Circuit whenever my services were needed in aid of the Attorney and Solicitor General. W.E. Plunkett
Esq.

Indeed it will be seen that any other arrangement must be almost, if not absolutely incompatible with the duties which the Crown Prosecutor has to discharge, once a month, in Sydney. 30 Mar., 1859.

If the Attorney General, as I have no doubt he will, agrees with me in my recollection of his verbal communication, may I request that you will, with his sanction, qualify, in placing upon record, the statement you have communicated to me of my duties, as to my being called upon to prosecute upon all the Circuits.

W. E. Plunkett, Esq.,
Secretary to the Law Department.

I have, &c.,
E. BUTLER.

APPENDIX D.

No. 59-93.

Crown Law Offices,
Sydney 19 February, 1859.

Sir,

Adverting to my letter of the 17th, and in reference to your communication of the 18th instant, I am directed by the Attorney General to inform you, that it is intended by the Government that you should not be required to prosecute for the Attorney General, or the Solicitor General, at more than one Circuit Court Town.

Edward Butler, Esq.,
Crown Prosecutor,
Sydney District.

I have, &c.,
W. E. PLUNKETT.

THURSDAY, 31 MARCH, 1859.

Present:—

MR. JONES,
MR. MACARTHUR,

MR. MARTIN,
MR. PLUNKETT.

THE HON. JAMES MARTIN, ESQ., Q. C., IN THE CHAIR.

Present in the room—The Honorable the Attorney General.

George Rogers Milford, Esq., called in and examined:—

1. *By the Chairman*: You are Judge Milford's Associate? I am. G. R. Milford,
Esq.
2. Have you a copy of His Honor's notes of the trial of the Queen against Madgwick? I have. 31 Mar., 1859.
3. Will you be good enough to hand them in? (*The witness handed in the same. Vide Appendix A. to evidence given by Mr. Justice Milford on 28 March, 1859*)
4. Do you also hand in a copy of the pleadings? Yes. (*The witness handed in the same.*)
5. Is there any rider attached to the verdict in that case? No.
6. There is merely a verdict for the plaintiff? Merely a verdict for the plaintiff.
7. Do you produce the exhibits in the case of the Queen v. Madgwick? I do. (*The witness handed in the same. Vide Appendix A to evidence given by Mr. Justice Milford on 28 March, 1859.*)
8. (*At the request of the Attorney General*): Did you attend at the trial? I was present during the trial.
9. Was not the general impression that which the learned Judge has stated was the feeling of his own mind—that the principal witness for the prosecution contradicted himself to such an extent that no reliance could be placed on his testimony? I believe so.

Mr. Thomas Thompson Ward called in and examined:—

1. *By the Chairman*: Are you a reporter to one of the Maitland papers? Yes; to the *Maitland Mercury*. Mr. T. T.
Ward.
2. Did you attend the late sittings of the Supreme Court in its criminal jurisdiction at Maitland? I did. 31 Mar., 1859.
3. Were you there during the whole time Mr. Somerville conducted the prosecutions? I was.
4. You had, therefore, a full opportunity of observing the way in which those prosecutions were conducted? I had.
5. Have you been in the habit of attending on like occasions, and, if so, how long? About three years and a half I have attended all the Circuit Courts.
6. Constantly during that period? Each of the Circuit Courts.
7. Are you in a position to say whether or not, in your opinion, Mr. Somerville conducted the cases which he prosecuted in a clear and satisfactory manner? I do not think he conducted them in a clear manner.

- Mr. T. T. Ward.
81 Mar., 1859.
8. Will you be good enough to point out, if you remember, a few of the particulars which induce you to offer that opinion? The first case which he conducted was a case of highway robbery, and in opening that case he surrounded it with confusion, to my mind, by quoting very largely from the depositions, and travelling backward and forwards, as it appeared to me.
 9. Did you gather any clear idea of the nature of the charge from the statement of it which he made to the jury? I gathered the nature of the charge, but hardly knew upon which witness to look for the facts tending to prove it.
 10. In the subsequent conduct of the cause did anything strike you as unusual? There were one or two matters objected to—conversations, I believe, behind the prisoner's back—and either in that case or in one of the other cases there was a matter opened in the statement which was objected to and rejected as inadmissible.
 11. Do you remember what that was? That was of the same nature; something that had occurred in the absence of the prisoner; I forget the detail of the exact circumstances.
 12. Do you remember whether in any of the cases an observation was made by one of the jury in reference to the way in which he conducted the case? In that first case of highway robbery which I speak of, towards the end of the opening speech a juror said he could not understand what the Crown Prosecutor was talking of.
 13. Are we to understand that, in your opinion, there were grounds for the juror making that statement? I think there were.
 14. Did anything strike you as being in any degree unusual in the conduct of Madgwick's case on the part of Somerville? I thought he conducted that case better than the others.
 15. Was it in your opinion conducted in a clear and satisfactory way? It was a case almost impossible to be conducted clearly—it appeared so to me. The nature of the defence rendered the introduction of a quantity of matter apparently irrelevant necessary, or at least almost necessary.
 16. Was it a complicated case? Very complicated.
 17. Would it, in your opinion, render it necessary to have the conduct of it intrusted to as able and clear-headed a man as could be procured? More than usually so.
 18. Are you prepared to say that an experienced and clear-headed man could not have made that as simple a case, so far as making the jury understand it, as any other case? I have great doubts of the possibility of its being made very clear.
 19. Are we to understand that, in point of fact, it was not made clear? It was not made clear.
 20. Were there any objections made to the admissibility of evidence, that you remember, in that case? The prisoner defended himself, and one or two members of the Bar present suggested objections to him, and he objected to questions that were put, and, if I recollect rightly, they were withdrawn.
 21. Were opinions expressed in Court, within your hearing, as to the mode in which Mr. Somerville conducted these cases? Several persons appeared to be amused, and made remarks upon the different questions.
 22. Were they remarks such as indicated approval or disapproval? Disapproval.
 23. Were they uniformly remarks of disapproval, so far as you heard? I heard very few remarks, only from persons immediately surrounding me.
 24. Those that you did hear, were they all of the same kind? Yes. Perhaps I may say that that case of Madgwick's was very involved when the civil action was being tried.
 25. *By Mr. Plunkett:* You were present at that? Yes.
 26. *By the Chairman:* You are aware that the point to be determined in both cases was substantially whether a particular note was an accommodation note or not? —
 27. That fact is a simple fact, is it not, so stated? Yes.
 28. How did the complication arise? The plaintiff in the civil action said that the note was given in payment for land. Several purchases of land were proved to have taken place, and Madgwick, by his cross-examination, and by his witnesses, brought forward a good deal of evidence of having paid for nearly the whole. He also brought forward a receipt in full. The mark to that receipt was denied on one occasion, and afterwards he partly admitted that he might have made it without knowing the amount of the receipt.
 29. Do you know what the receipt was for? I think it was for £750 or £650.
 30. Look at that—did you see that? (*Handing a paper to the witness*) I heard it read; it was witnessed by a man of the name of Latimore. Latimore denied the mark to his name, and said it was a forgery, in the first instance; afterwards I thought he partially admitted that he might have made it.
 31. Is that the document? Yes; I heard it read, but did not see it.
 32. Was Jones called as a witness? He was.
 33. Do you remember whose handwriting this was stated to have been in? Madgwick's, I believe.
 34. Did you hear any observations made in other places than the Court about the mode in which Somerville conducted the cases? Yes.
 35. Were remarks made pretty freely throughout Maitland? Pretty freely throughout the town.
 36. By what kind of persons—men of intelligence, or otherwise? Persons of all kinds.
 37. Including persons of intelligence? Yes.
 38. What was the nature of the opinion expressed—without going into particulars, was it favorable or otherwise? Generally unfavorable; but a great proportion of the people, at least many of them, attributed Mr. Somerville's want of success to nervousness, or to want of preparation.
 39. Then are we to understand that all the opinions were unfavorable as to the mode in which the prosecutions were conducted, but that some persons excused him on the ground of nervousness, or want of preparation? All that I heard were unfavorable. Some supposed that it arose, not from want of ability, but from nervousness.

40. Did it appear to you that such a complicated case as you describe this to be ought to have been intrusted to an experienced man, and one not likely to be nervous? Yes, and of one who was well acquainted with the details—who had had ample opportunities to ascertain the facts before him.

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41. Are you able to state whether there was any strong and general feeling entertained in Maitland with reference to the intrusting of these cases to Mr. Somerville? I do not think there was a strong feeling in Maitland. There was a strong feeling on the part of some Dungog people with reference to Madgwick's case.

42. With reference to the other cases? No, I think not. I did not observe any except the expressions of disapproval I have spoken of; there was no strong feeling that I noticed.

43. The expressions you heard were uniformly expressions of disapproval? They were.

44. Whether from nervousness, inexperience, or whatever cause, was Mr. Somerville, in your opinion, so far as you could judge, and from the mode in which he conducted these cases, a fit person to be intrusted with duties of that kind? I think I am scarcely competent to express an opinion upon the subject.

45. I put the question with reference to what you saw—do you, from the way in which you saw him conduct these cases, consider that he was a fit person to conduct cases on behalf of the Crown? In ordinary cases I think he was. Of the three cases, on the first of which I have spoken, he made a very confused statement, as I have already said; but there was a conviction; in the second case there was also a conviction. In opening that case he made a short statement, but brought out the evidence fairly. That was a horse-stealing case, and the evidence was very clear.

46. Clearer probably than the statement? The statement was very brief.

47. Are there not some cases in which the evidence is so clear that however incompetent the prosecutor a conviction is almost inevitable? That was the case in the first.

48. That was a conviction in spite of the prosecutor's incompetency? It would have been a conviction in spite of a prosecutor's incompetency. I do not say the prosecutor was incompetent; it was one of those cases which would not have failed to have procured conviction.

49. *By Mr. Jones*: Was the second a case of that kind? Very nearly so.

50. You were present at both trials where Madgwick has been concerned, both at the civil action and the trial for perjury? Yes.

51. Have you a clearer notion of the case now than you had when you first heard it? Very little. There are one or two facts which I cannot get over. The confusion appears to be as great to my mind as ever. Had I been on the jury I could not have arrived at a conclusion free from all doubt.

52. On either trial or on the last do you mean? On either trial.

53. In the course of your experience as a reporter I suppose it is not very unusual to find a barrister tendering evidence in cases that have been decided before? By no means.

54. It is not an uncommon occurrence? No.

55. Is it, on the other hand, a common occurrence? Yes, I think so.

56. So that there was nothing remarkable for Mr. Somerville to offer evidence which the Judge ruled to be inadmissible? It might be in Madgwick's case, as he was not defended.

57. I understood you to say that Mr. Somerville conducted Madgwick's case, which was the most difficult of the three, with more ability and more satisfactorily than either of the previous cases? In the first case I think he rather added obscurity; in Madgwick's he did not.

58. He appeared to have got over some of his nervousness? I think he had.

59. *By Mr. Plunkett*: It was by his statement that you think he made the first case obscure? Yes; he made a very long statement, and read from the depositions in different parts, in such a way as to become confused.

60. You say it was a very clear case? It was a long case, as there were a number of minute details.

61. Do you not happen to know that some experienced prosecutors do not make statements at all when the evidence comes forward so clear? I have not met with any instances during the few years I have been a reporter.

62. Independently of the statement, was the evidence brought out clearly? Yes; it was brought out very clearly, I think.

63. In both the cases before Madgwick's? Yes.

64. How many witnesses for the Crown were there in Madgwick's case? About five, I think, or six.

65. Was it in cross-examination the case broke down, or was not the evidence brought out sufficiently on the part of the Crown? It was chiefly on cross-examination; the prisoner cross-examined each witness at very great length.

66. Did Mr. Somerville re-examine? He did, in several instances.

67. Were there many witnesses on the part of the defence? No; there were two or three.

68. Were they cross-examined with any skill by Mr. Somerville? They were cross-examined fairly, I think.

69. With skill I ask you? Without remarkable skill or effect either, I think.

70. Were they examined in such a way as to place the facts fairly before the jury? Yes; I think the facts were placed fairly before the jury.

71. *By Mr. Jones*: By the term "fairly," do you mean with a fair amount of skill, or with fairness? With a fair amount of skill.

72. *By the Chairman (at the request of the Attorney General)*: I understood you to say that the first case of highway robbery was one of considerable detail? Yes; I think it was.

73. It was a very aggravated case, was it not? Yes, very aggravated.

74. Highway robbery with great violence by both the prisoners? Yes.

75. I suppose, in your experience, you have seen some gentlemen of the Bar open at great length, and others with great brevity? Yes.

76. Have you any recollection, as suggested by Mr. Plunkett, of a case in which no opening speech

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speech whatever has been made by the prosecutor? I cannot say that I have; I have heard some very short.

77. Have you ever heard any one open a case without any speech at all? I do not recollect any.

78. Did it not appear to you that Mr. Somerville improved as his first nervousness wore off? I thought he did slightly.

79. Did you not think, with reference to Madgwick's case, that the cause of justice sustained no injury by its being conducted by him? I would not like to say that Madgwick was guilty.

80. Was it not the general opinion that the principal witness contradicted himself so grossly that no reliance could be placed upon his evidence? Not the principal witness; one of the witnesses did to a great extent.

81. Did not the learned Judge tell the jury that the main fact was whether they believed the truth of the particular conversation? Of the particular circumstances.

82. The jury retired for an hour I believe? Scarcely an hour—for a short time. There was a discrepancy relative to those circumstances.

83. You having heard the whole trial, did it not strike you that the verdict was a proper one? I thought so.

84. Did not the defendant, Madgwick, exhibit considerable skill in cross-examination and in conducting his own case? Very great skill I think.

85. Is it not usual, when a prisoner conducts his own defence, to allow him more latitude than would be allowed to a solicitor or barrister defending him? Generally, so far as I have observed. Of course I am not acquainted with the rules of evidence.

86. As far as you could perceive, was greater latitude allowed to the prisoner than you have known to be allowed before in similar cases by persons of great experience? No. I thought at first it was really the other way. I thought at first evidence was getting in that would not have been admitted if the prisoner had been defended.

87. It did appear to you that Mr. Somerville pushed the case a little harder against the prisoner than would have been done if the prosecution had been conducted by a gentleman like the Honorable and learned Chairman? It did at first.

88. Nothing was omitted to be put to the jury, but a little too much was pressed against the prisoner? I cannot say whether anything was omitted.

89. Did you not observe a manifestation of disgust at the breaking down of the witnesses for the prosecution? There were symptoms of disapproval with reference to one witness.

90. In Court? Among several persons—they expressed their surprise.

91. Did they express their surprise in Court at the breaking down of one of the witnesses for the prosecution? Not loudly, only one or two individuals immediately around me.

92. Perhaps the same whose remarks you have spoken to in answer to the Honorable the Chairman's questions? Very likely.

93. Were these remarks adverse to the credibility of this particular witness for the Crown? Yes.

94. The Honorable Chairman asked you whether the cases were conducted in a clear and satisfactory manner, and you gave an answer as to the "clear," but omitted to say anything as to the satisfactory—were not the verdicts in all the cases satisfactory? They were.

95. Did you hear anything or see anything in Court approaching to "contempt, mockery, laughter, or derision"—with reference to Mr. Somerville? No, I should not apply such strong language as that to it.

96. Is it not the fact, within your experience, that a new trial scarcely ever takes place without objections to evidence being made, one way or other? I think not.

97. Learned gentlemen argue most strenuously in favor of a particular point, and the Judge overrules it then and there? Yes.

98. There is no great harm in that, is there? It is rather tiresome sometimes.

99. We have been told that the opening of Mr. Somerville in Madgwick's case was remarkably short—is that a fault found generally among the professional gentlemen who practise at Maitland? No. I was rather glad of it in that case. He was much shorter in that than in the highway robbery case.

100. That was a complicated case, and no witnesses were called for the defence? There were none.

101. Madgwick's was a simple point—as to whether a particular note was an accommodation note or not; do you think it was necessary that Mr. Somerville should make a long opening speech, as there were witnesses to be called for the defence, and he could reserve his observations for his reply? I think it might have been decidedly better to be brief. I think it would have been better if he had been shorter in the first case.

102. I am speaking now particularly of Madgwick's case—do you think any injustice accrued by reason of his opening Madgwick's case shortly? I could not say that.

103. You say a great number of persons attributed his manner at first to nervousness—did that manner continue afterwards, in the perjury case, to the same extent as before? There appeared to me to be throughout a want of collectedness. There was less of that towards the close.

104. You say many persons did not attribute it so much to inability? I heard persons say he might do very much better in a short time, and with more experience.

105. Was there not a general feeling in the place before the trial that Madgwick ought to be convicted? I can hardly say that. Many persons had a very bad opinion of him; others the contrary.

106. *By the Chairman:* Do you remember whether Mr. Somerville read his reply from a written paper? I think he did; he looked very closely at a written paper.

107. Did you pay any attention to the reply? Not very much.

108. Would you be able to identify it if it were read to you? Not the whole of it. I recollect one or two points to which he alluded.

109. Run your eye over that (*Handing a paper to witness*).

Mr. Jones objected to the paper being referred to, unless it could be shewn that Mr. Somerville had intentionally placed it before the Committee.

The Committee Room was cleared.

Debate ensued.

The Honorable the Attorney General was called in and examined:—

By the Chairman: The Committee desire to know whether you can inform them if this paper (*handing a paper to the Attorney General*) was handed in inadvertently to the Committee? I have never seen the paper before, except at a distance in your hands, when it was produced the other day. I have seen Mr. Somerville's handwriting, and think this is his. I have not seen it before, and do not know what it is.

You are not aware whether it has been inadvertently placed before the Committee? I should think it must have been, for this reason—that in all probability at the close of the case it has hurriedly been tied up with the other papers. It very often happens when a case closes that a barrister ties up with his brief his private notes and any other papers he may have with him, and I have no doubt Mr. Somerville has done so in this instance, and has handed this paper with the others to the Crown Law Department. If it were so, no doubt this paper has inadvertently come into the possession of the Committee.

By Mr. Jones: Have you any reason to believe that Mr. Somerville would desire that this should be handed to the Committee? I have no knowledge one way or other; I should think probably not. They are his private memoranda and notes, and I should think would still bear that private character for his own information that any note would. I am very careful in noting down what I am going to reply, but counsel differ in that respect; some make notes, others do not. I have no doubt this paper has got in among the others inadvertently.

The Attorney General withdrew.

Mr. Ward and the Honorable the Attorney General were again called in.

The examination of Mr. Ward was resumed.

110. *By the Chairman:* Do you remember whether anything was said by Mr. Somerville, either in his opening speech, or in his reply, or at any time during the progress of the trial about the fact of this alleged accommodation note having this memorandum upon it—"bearing interest at the rate of 8 per cent."? I cannot recollect it.

111. Would such a circumstance as that—so unusual a circumstance—have escaped your notice if it had been dwelt upon prominently? It might.

112. You have no recollection of anything having been said about it? I have no recollection.

113. Do you remember whether Mr. Somerville, at any time in the course of the trial, informed the Jury that two witnesses were not absolutely necessary to warrant a conviction for perjury, but that one would be sufficient if there were strong corroborative circumstances? No, I do not recollect it being said; I did not notice it.

114. Do you remember whether the Judge pointed out anything with reference to that memorandum on the note? I do not think he did; I cannot speak positively.

115. So far as you are aware, the attention of the jury was in no way called to that fact? I think not.

116. Are you enabled to state whether that is an usual memorandum to put on accommodation notes, that they are to bear interest at eight per cent? I should imagine not; it was referred to at the civil action.

117. That circumstance was referred to at the time of the civil action? Yes.

118. Who was the counsel who referred to it then against Madgwick—Mr. Wise, was it not? Yes, I think it was; Mr. Faucett defended him.

119. You remember that that circumstance was referred to on that trial? Yes, but whether by the counsel or by the Judge I cannot say.

120. It was referred to in what way? As an unusual circumstance.

121. As tending to shew that it was not an accommodation note? Yes.

122. If you had been a juror would you have thought that an important fact in determining the case? Yes.

123. You do not remember whether attention was called to that either by the Judge or by Mr. Somerville? It might have been; I do not recollect.

124. (*At the request of the Attorney General*): I suppose you are not in the habit of attending to every word counsel say in opening or closing? By no means; we are obliged to give a very brief report.

125. Therefore you have no interest in knowing whether an advocate alludes to a particular topic or not? I ought to hear it.

126. It might happen and yet you not notice it? Yes.

127. You heard me conduct ten or twelve cases, did you not; now, in your opinion, I would ask, from what you saw of my manner of conducting cases, if I had conducted this case would the verdict have been a different one? I have very great doubt, as I said before, of the case being rendered so clear as to enable a jury to come to a satisfactory conclusion.

Mr. James Ewan called in and examined:—

1. *By the Chairman:* Are you reporter to the *Northern Times*? I am.

2. Were you attending in your capacity of reporter to that paper at the late Circuit Court held at Maitland? Yes.

3. During the whole of the criminal trials? During the whole of the criminal trials.

4. You, therefore, had full opportunity of observing the manner in which Mr. Somerville conducted the trials intrusted to him? I had.

5. Can you state generally whether he appeared to you to conduct those trials in a clear and satisfactory manner, so as to enable the jurors fully to understand the nature of the cases they

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- Mr. J. Ewan. they had to try? No, I do not think so; I thought, on account of his youth, he had not had any great experience in conducting criminal business.
- 31 Mar., 1859. 6. Will you mention some of the particulars which led you to that conclusion? There was one case which, I think, was tried on Thursday; it was a case of highway robbery with violence: in stating the case to the jury, he spoke for nearly two hours, and went over the same thing nearly half-a-dozen times.
7. Do you remember whether any remark was made by any of the jurymen? Yes; one of the jurymen rose up and said he had mentioned the same thing, I think, three times over, and after all he did not understand him—something to that effect.
8. Did it appear to you that the juror who made that observation had sufficient ground for making it? I could not well say that.
9. *By Mr. Plunkett*: Did you understand it? I understood the case perfectly well before, for I had heard the case.
10. *By the Chairman*: Was the statement, so far as you could judge, such as to enable a person not previously conversant with it to understand it? I could scarcely say that, for, knowing the case myself, I paid comparatively little attention until the jurymen rose up. I do not think Mr. Somerville had mastered the case.
11. It did not appear to you that he had done so? No.
12. With reference to the other cases, did anything strike you as unusual in his mode of conducting those cases? There was a horse-stealing case against the two Mackies; he conducted that case well enough. Then there was Madgwick's case, that came on on Thursday morning, and I said on Thursday, when I went to the office, that it was a glorious chance for Madgwick that he was to conduct the case.
13. What, in your opinion, justified you in making that observation? I said so for this reason:—I knew Madgwick to be a very talented man, a clever man, and I did not believe Mr. Somerville would be able to master the case with Madgwick from what I had seen of him on Thursday.
14. What opinion did you form of the mode in which Mr. Somerville conducted the case against Madgwick? I think he did not understand it at all.
15. Was that the impression which the way in which it was conducted made upon your mind? Yes; but I believe the ablest barrister in New South Wales could not have convicted Madgwick; that is my conviction.
16. Were any observations made during the progress of that trial, by persons in Court, as to the manner in which it was conducted? Yes.
17. What was the tendency of those observations? I heard, during the time of the adjournment, a number of persons who were under the verandah of the Court say, with reference to Mr. Somerville, that he was "a perfect muff."
18. The opinions expressed were unfavorable to his mode of conducting the case? Yes, quite.
19. Did you hear any opinions expressed of a contrary tendency? No.
20. Not in any quarter? Not in any quarter.
21. Did you pay close attention to the case during its progress? Yes; I tried to master it as much as I could.
22. By attending to it throughout? Yes, throughout.
23. Do you remember whether, in his opening address to the jury, or in his reply, Mr. Somerville made any reference to the fact that the promissory note involved in this case bore the memorandum "bearing interest at eight per cent."? No, I do not. The rule of our paper is, that we are not to report opening or closing speeches, but just to attend to the evidence; consequently when counsel are speaking we do not pay so much attention, although we listen in order to understand the case.
24. If this had been pointed out to the jury as a strong corroborative circumstance against Madgwick, would you not be likely to remember it? Yes; but in fact I was not able to understand Madgwick's case, and I do not understand it yet.
25. Look at that promissory note, and the memorandum in the corner (*handing the promissory note to the witness*); you see the memorandum on that note—do you think if the attention of the jury had been prominently and pointedly called to that, as a circumstance tending to shew that it was not an accommodation note, you would remember the circumstance? I believe I would, but I do not remember anything about it. I know the note, for I saw it in Court—it is for £117 10s.
26. Does it not strike you as a most unusual memorandum to put on an accommodation note, that it is to bear interest? I think so.
27. Do you remember whether the Judge made any reference to that circumstance when he was charging the jury? I do not think I was in Court when the Judge charged the jury.
28. Were you present at the trial of the case *Holmes v. Madgwick*? No. Mr. — reported the civil case, about a year ago.
29. Can you state whether observations were made by people in Maitland, and if so to what extent, after the trial, as to the mode in which it was conducted? Yes, I have heard remarks made in a great many quarters.
30. Were the opinions conflicting, or were they all one way? They seemed to be all one way.
31. Were they favorable or unfavorable? Unfavorable to Mr. Somerville; but there was an expression of regret that such a young man should have been called upon to undertake such a heavy case as Madgwick's—invariably that was the feeling.
32. How long have you been residing in Maitland? I think about four years and a-half.
33. Did you ever hear, during the whole course of your residence in Maitland, similar remarks in previous prosecutions with reference to the conduct of any case? Never.
34. (*At the request of the Attorney General*): Did not Mr. Somerville conduct the second case, that of horse-stealing, better than the first? Yes. In the first case he was very nervous—he was evidently shaking; that was the robbery with violence case.

35. That was a complicated case, was it not? Not very complicated, neither that nor the ^{Mr. J. Ewan.} horse-stealing case.
36. Was not the highway robbery case a case of considerable detail? Yes, a good deal of ^{31 Mar., 1859.} detail.
37. Then the nervousness appeared to wear off in the horse-stealing case? Yes
38. Then I suppose there was less nervousness in the perjury case? I did not see much nervousness on Friday morning or Thursday morning. On Wednesday the two cases of horse-stealing and robbery with violence were tried.
39. Did you see the Judge look at the note at all? No, I cannot say that I did.
40. Did he appear to understand the case? I do not think he did. I know I did not understand anything about it, and could not make any sense of it.
41. I suppose you know that the question was whether it was an accommodation bill or not? Yes.
42. You know what an accommodation bill is, I suppose? Perfectly. I spoke to the foreman of the jury afterwards, and he told me there was not one of the jury knew anything about it.
43. Do you think I should have convicted him if I had conducted the case? I do not think any barrister in New South Wales could have convicted him.
44. Or in the world? Or in the world.
45. *By the Chairman*: However, according to your opinion, you had not an opportunity of hearing it stated by a competent person? No.
46. *(At the request of the Attorney General)*: You heard the evidence, and could make nothing of that? No.
47. *By the Chairman*: A clear headed man might have brought out the evidence in a different way? He might.
48. *(At the request of the Attorney General)*: I suppose a clear headed man could not have bolstered up the evidence, or restored the credit of a witness who had told half-a-dozen different stories? No.
49. Was not that the principal reason that the case fell to the ground? Yes.
50. Was not the prevailing opinion that the principal witness contradicted himself? Yes, decidedly. For the purpose of refreshing my memory I have this morning read over the *Mercury* report and my own report of the case, and at the present moment I do not understand it.
51. *By Mr. Plunkett*: Are you satisfied that the evidence was brought out as clearly as it might have been? Yes; but the evidence was so contradictory that you could not make any thing of it.
52. *By the Chairman (at the request of the Attorney General)*: The case broke down, not from the inability of Mr Somerville to bring out the evidence, but from the fact that when it was brought out it was all contradictory? Yes.

FRIDAY, 1 APRIL, 1859.

Present:—

MR. MARTIN,	MR. JONES,
MR. PLUNKETT,	MR. MACARTHUR,
MR. DENIEHY.	

THE HON. JAMES MARTIN, ESQ., Q.C., IN THE CHAIR.

Present in the room—The Honorable the Attorney General.

Mr. Isaac Robinson, called in and examined:—

1. *By the Chairman*: Were you one of the jurors on the trial of Madgwick, recently at Maitland, for perjury? Yes. Mr. Isaac Robinson.
2. Can you state whether, in your opinion, Mr. Somerville, who prosecuted for the Crown in that case, submitted the case in a clear and satisfactory manner to the jury? Well, as far as my opinion goes, he did not, but still I am no particular judge. I never was in an Assize Court more than twice before in my life, and have never watched anything of the sort, so that I could scarcely tell whether he was doing it right or wrong. 1 April, 1859.
3. Can you state what the opinion of your brother jurors was with reference to the mode in which Mr. Somerville conducted the case? There was very little said about it, for we were every one of opinion that Madgwick was completely innocent of the crime, from the way it was laid out to us.
4. Were you in Court during any of the other trials when Mr. Somerville was prosecuting? No; I was only called on the jury in that one case, and was discharged as soon as it was over, and went away at once.
5. Do you know whether the manner in which Mr. Somerville conducted the prosecutions at Maitland was the subject of conversation afterwards? That I could say nothing about, for I never meddled my head about it, neither less nor more.
6. You did not hear anything more about it? No, for I was very busy and could not attend to it.
7. Have you been much in the habit of sitting on juries? I have sat on two cases before, at Woolloomooloo, some eight or nine years ago, and in this case. Those were all the cases I was ever in; and I believe I never was twice inside a Court when it was going on.
8. Then you do not consider yourself a very competent person to give an opinion on matters of this kind? I do not, because it is a thing I never had any delight in going to listen to.
- 9.

Mr. Isaac
Robinson.

1 April, 1859.

9. But, so far as your opinion goes, the case was not clearly put before the jury? So far as my opinion goes he was rather sleepy about it.
10. *By Mr. Plunkett*: Did he make you understand it? I understood it, I think, as far as was required. There was no proof that we could find in anything said there of any guilt of Madgwick's. If there was any perjury, in my opinion it was by the opposite party.
11. *By the Chairman*: What was the perjury stated to have been about? Whether it was an accommodation bill or not, or whether it was partially one, or whether he had value received for it. That was the whole of it, I believe.
12. Do you remember whether the promissory note, about which all this controversy was, was put before the jury to look at? Yes, I think it was.
13. You had it before you? Yes.
14. Can you say whether that is the paper (*handing the note to witness*)? Yes, I believe it is.
15. Did anybody call the attention of the jury to the fact that that writing was there, at the bottom of it, "Bearing interest at the rate of 8 per cent. per annum, E. C. M."? Yes.
16. Who called the attention of the jury to that? I think Mr. Somerville or the Judge—I would not be certain which.
17. What was said about it? Well, I do not recollect what was said about it. The principal thing I took notice of was, all the moneys being paid up before this note was dated.
18. Are you sure anything was said about that? Yes; I recollect seeing the note too, but I do not recollect what was said about it, or which of them it was—I rather think it was Mr. Somerville.
19. *By Mr. Macarthur*: Did you look at that part of it about the interest when the note was before you? No; I just looked at the note; I don't know that I read it then; I just looked at it to know it was there. They brought the cheques, and drafts, and papers which made up the money within some trifle before the note was drawn.
20. *By Mr. Jones*: You thought the evidence Madgwick put before the jury went to show that he had paid, before this bill was drawn, all that he was said to be indebted to Latimore? Yes, because in making up the moneys in accordance with the drafts and papers they had there, it amounted to within £12 of all the accounts they could bring against him.
21. *By Mr. Plunkett*: Who was the foreman of your jury? Mr. John Scanlon.
22. *By the Chairman (at the request of the Attorney General)*: Were you not all of opinion that the principal witness contradicted himself so that you could not believe him? Yes, we were, every one; that was Mr. Latimore, I suppose you mean.
23. You have said you understood as much of the case as was required—I suppose you mean that you understood enough to see that the man was not a trustworthy witness? Yes; we none of us credited what he said, he told so many different tales.
24. You said you rather think it was Mr. Somerville who called attention to the fact of that memorandum as to its bearing eight per cent. interest being upon the note? Yes, I think it was.
25. Was not the note handed to the jury—you saw it in the course of the trial? Yes, we saw it, but I do not think any of us had it in our hands except Mr. Scanlon, the foreman.
26. Was not the interest and all connected with the note fully entered into during the trial? Yes, it was all spoken of.
27. *By Mr. Somerville*? Yes.
28. Was not the jury perfectly aware of the fact that eight per cent. was the rate of interest on the note? Well, I do not know whether they were or not, I am sure, but they all knew there was interest on it.
29. Do you think if the fact had been, more specifically pointed out than it was, that that memorandum did appear on the note, that it would have made any difference in the verdict? No, I am certain it would have made no difference to me, unless there had been different evidence altogether.
30. It did not at all turn on that point? No. There was Latimore and his father-in-law, and they told quite different stories, contradictory to each other and themselves too.
31. You understood the case fully? Yes.
32. And do you not believe the other members of the jury did also? Yes.
33. You talked it over for nearly an hour? More than an hour.
34. Had you the note in your retiring room? We had notes of our own.
35. I mean the promissory note in question? No, we had not.
36. However, you talked the matter over for an hour? Yes, more than an hour I think. I know, in the square up of the money, we were perfectly satisfied the money had been paid within some trifle before this bill was drawn, and, of course, we considered it an accommodation bill on that account, and the contradictory way they gave their evidence.
37. *By Mr. Macarthur*: When did you look at the bill—you said you looked at it, when was it? The time they were going on with the case—before Mr. Madgwick brought any witness at all—was when it was handed in.
38. *By Mr. Deniehy*: Did you know anything of the case before you sat on the jury? No, not a word. I never saw it in the papers.
39. Before calling the evidence, all you knew of it was from the statement of Mr. Somerville? Yes.
40. Mr. Somerville, when he opened the case, made a statement? Yes.
41. Did you understand the matter from what Mr. Somerville said? We understood it was a case of perjury about a promissory note.
42. No doubt—what else did you understand—did you understand the facts? No; I could not say I understood the facts at all from him.
43. Did you gather the facts from the witnesses? We gathered all from the witnesses that we thought necessary.
44. And, what you gathered from the witnesses, it was that enabled you to come to your verdict? Yes.

Mr. Thomas Boyd Rossiter, called in and examined:—

Mr. T. B. Rossiter.
April, 1869.

1. *By the Chairman:* Were you one of the jurors on the late trial of Madgwick, at Maitland, for perjury? Yes.
2. Can you state whether, in your opinion, Mr. Somerville, in laying that case in the first instance before the jury, placed it before them in a clear and satisfactory manner, so that they were able easily to comprehend it? No, in my opinion he did not.
3. Did you form any opinion of the statement he made in opening the case, and if so, what was that opinion? I did—that he made a very short statement in the first place, and did not understand much of what was stated.
4. That who did not understand much of what was stated? I, for one, did not. It was a very short statement to the jury.
5. Was it one which, in your opinion, judging by the facts which afterwards came out in evidence, did justice to the case? No, I should think not.
6. How long did the case last? Two days.
7. Was the evidence in any degree intricate or involved? It was; it was very contradictory evidence.
8. Was Mr. Somerville's reply upon the whole case a clear and satisfactory reply, in your opinion? It was not.
9. Was there any peculiarity in the reply that struck you? It appeared to me to be a very feeble reply.
10. Was it extempore or from a written paper? From a written paper, I think.
11. Read from a written paper? I think so; he had a paper in his hand at the time.
12. Was it all read from a paper? He kept his eyes on the paper nearly all the time he was addressing the jury.
13. How long was he speaking in reply? Not long; I do not recollect, but it was not long.
14. Did you form any opinion as to the mode in which he conducted the examination and cross-examination of the witnesses in the course of the trial? I did.
15. What was your opinion? That he was not competent to conduct the case.
16. Can you state what the opinion of your brother jurors was in reference to that matter? I think they were all of the same opinion.
17. Will you look at that note (*the note shewn to the former witness*)—is that the promissory note respecting which the perjury was stated to have occurred? This is the amount; I never saw the note before.
18. Was it not placed before the jury? No, only the amount I heard.
19. Was the note itself never placed in the hands of the jurors? No.
20. Are you quite sure of that? Certain.
21. Will you be good enough to look at the memorandum on the bottom of that note;—"Bearing interest at 8 per cent. per annum. E. C. M."—was the circumstance of that memorandum on that note, said to be an accommodation note, adverted to in any way by Mr. Somerville during the progress of the trial? No.
22. Were you, as one of the jurors, aware that there was such a memorandum on the note? I was not.
23. Did you pay attention to the case throughout? I did.
24. Are you quite sure you were not aware that memorandum was on the note? Quite certain.
25. Seeing that it is there now, can you say whether or not, in your opinion, that was a matter to which the attention of the jury ought to have been pointedly called, bearing in mind that the question before the jury was, whether or not that was an accommodation note? I think it ought.
26. You have seen accommodation notes? Yes.
27. Did you ever see one on which the party giving it put such a memorandum as that? No.
28. Can you state whether Mr. Somerville, either in his opening address or reply, said anything to the effect that it was not absolutely necessary there should be two witnesses to contradict a man accused of perjury, but that one witness with strong corroborative evidence was sufficient to convict? I do not remember the words, but there was something of the kind said.
29. Do you know whether any strong corroborative, or any corroborative circumstances whatever, were referred to by Mr. Somerville? I think he referred to Handcock's evidence.
30. I mean independently of contradictory evidence—oath against oath—did he refer to any circumstances connected with the case which went to corroborate the statement made by the witnesses against Madgwick? No, I think not.
31. And you are quite sure that memorandum on the note was not in any way referred to or before the jury? I am quite certain of it. It is the first I have heard of this on the note. I heard about interest which made up the amount of the note.
32. You never heard before that there was that special memorandum on it? No.
33. You say that all the jurors were of the same opinion as yourself, that Mr. Somerville was not a competent person to conduct that case, or something to that effect? Yes, that was the general opinion.
34. Were you in Court during any of the other trials prosecuted by Mr. Somerville? No.
35. Are you aware whether the mode in which Mr. Somerville conducted the prosecutions, not only Madgwick's, but the others, was the subject of general conversation in Maitland afterwards? It was.
36. Without stating the language used by persons commenting on the mode of conducting the case, what was the general tendency of the remarks made—favorable or unfavorable to Mr. Somerville? Unfavorable.
37. Uniformly unfavorable? Yes.
38. Are you in a position to say whether this unfavorable opinion was a very general one? It was a general one; it was the general conversation.

- Mr. T. B. Rossiter.
1 April, 1859.
39. Among what kind of persons—persons of intelligence or otherwise? All classes.
40. Was there any strong feeling expressed about the matter—about the Attorney General intrusting these cases to Mr. Somerville? There was.
41. Can you describe the extent to which that feeling went? It was the general conversation that such a gentleman should not have been left to conduct the prosecutions.
42. How long have you been residing at Maitland? Seventeen or eighteen years.
43. During the whole course of your residence there did you ever hear observations of the kind made before with reference to the criminal prosecutions at Maitland? No.
44. *By Mr. Plunkett*: Can you say this note was not before the jury at all—we are told it was in the hands of your foreman Mr. Scanlon? I never saw it.
45. The jury sat in a scattered way—could it not have been in the jury box without your seeing it? It could not; I should have seen it if it was handed to any one of the jury.
46. *By Mr. Jones*: Which seat were you in? In the back seat.
47. The third seat? Yes.
48. Then there was a tier of jurors between you and the foreman? Yes.
49. Do you know where Mr. Robinson sat? In the front seat.
50. The same seat as the foreman? I think so.
51. Then he had a better opportunity of seeing whether that note was in the hands of the foreman? I think it would have been impossible for it to have been in the hands of the foreman of the jury without my seeing it.
52. *By Mr. Plunkett*: Are you in the habit of attending on juries? I have not been on for a few years; I have been away out of Maitland.
53. Did it not strike you as a juryman as being necessary to look at the note, the subject of the prosecution? It did not strike me at the time about this note, there were so many other papers and documents produced.
54. *By the Chairman*: If your attention had been called at the trial to the circumstance of the memorandum being upon the note, would it not have been important, in your opinion, to have looked at the note? Yes.
55. *By Mr. Denichy*: You, in common with the other jurors, returned a verdict of not guilty? Yes.
56. You were a concurring party? Yes.
57. Then of course you looked on the matter as an accommodation note? Well, there was a doubt.
58. Do you think there would have been any doubt if you had seen this memorandum; would you have been of a different opinion if you had seen that note and memorandum? I do not think it would have altered the verdict.
59. When Mr. Somerville opened the case, did you understand clearly what was the nature of the evidence to be put before you? No, I did not.
60. How did you gather the nature of the case? By paying attention to the evidence of the witnesses.
61. When Mr. Somerville replied, did you understand the objections he took to the evidence for the defence clearly? No; he did not make any comment much upon the evidence for the defence.
62. But the comments he did make, did you understand them? We understood what he did say.
63. *By Mr. Macarthur*: You said you heard a good deal of feeling expressed by different persons at Maitland—at what time was that? That was after the case was over.
64. On the same day? On the same day.
65. After the termination of the trial? Yes, and before it terminated.
66. *By Mr. Denichy*: That was on the night or afternoon of the first day—between the first and second day? Yes.
67. Did the foreman, or any member of the jury, say anything to the Judge about the inability of the jury to understand what Mr. Somerville was putting before them in opening the case? No.
68. *By the Chairman (at the request of the Attorney General)*: Did the Judge ask to see the note? I think the Judge had the note.
69. Did he have it in his hand when he was summing up? I think he had. There were so many documents referred to—receipts and one thing or another.
70. Was not the interest and all connected with the note fully entered into during the trial? I never heard anything about that before.
71. No, not about the fact of its being on the note, but the fact that eight per cent. was the rate of interest? No; the interest I heard talked about was interest to make up this £117 10s.
72. I understood you to say that if the circumstance of eight per cent. being mentioned on the note had been pointed out to you it would not have altered your opinion? No.
73. *By the Chairman*: It would not have altered the verdict? It would not have altered the verdict.
74. *By the Chairman (at the request of the Attorney General)*: Have you been in the habit of attending civil and criminal trials? Yes.
75. I suppose you have sometimes heard speeches from counsel which you could not very well understand? Yes.
76. I suppose you are aware also that the case is not tried on the speeches, but on the evidence which is given? Certainly.
77. Sometimes the speeches are pertinent and sometimes not? Yes.
78. You said the reply was not a long one—was that any great objection in your mind? No.
79. Did not the Judge tell you, and did not the whole case turn on whether credence could be given to the evidence of a particular witness? Yes.
80. And, if you disbelieved him, there was an end of the case, so far as the Crown was concerned? Yes.

- 81. And you did disbelieve him? Yes.
- 82. If Mr. Somerville had talked for six hours he would not have made a different impression on your mind? No.
- 83. Nor, so far as you can judge, on the minds of the other jurors? No.
- 84. I think you said you understood what he did say in reply? Oh! yes.
- 85. The Chairman asked you as to his reading from a paper, and you said he kept his eyes on it nearly all the time—now are you prepared to say he never took his eyes off that paper? He took his eyes off, certainly.
- 86. Was not a considerable part, the latter part, of his reply extempore? Very little; he held the paper all the time.
- 87. He may have held the paper—have you never seen counsel do that before? Not in the manner he did.
- 88. Are you prepared to state that he read the whole of his reply? I think so. I think it was nearly all read.
- 89. Are you prepared to say that was positively the fact? As I said before, he kept his eyes on it nearly the whole time.
- 90. But you are not prepared to state that he kept them there during the whole time? No.
- 91. You say you do remember his referring to the fact that one witness would be sufficient if corroborated by other material evidence? Yes.
- 92. You are certain he made that statement? Yes.
- 93. Did none of the jurymen ask to look at the note? No.
- 94. I believe documents are sometimes handed to the jury and sometimes not? Yes.
- 95. There is no universal rule or practice, so far as your experience goes? No.
- 96. Do you think, as there was going to be evidence for the defence, the point being a simple one—accommodation bill or not—that there was any necessity for a more lengthy opening? No.
- 97. Then you had no fault to find with the shortness of the opening? No fault to find with that.
- 98. You believe that you and the rest of the jury fully understood the case before you delivered your verdict? Yes.
- 99. *By Mr. Plunkett*: How many witnesses were there altogether for the prosecution? I think four or five; I am not certain.
- 100. And how many for the defence? Two, I think. I am not certain how many witnesses there were.

Mr. T. B. Rossiter.

1 April, 1859.

The Honorable Lyttelton Holyoake Bayley, Esquire, M. L. C., Attorney General, attending by leave of the Legislative Council, examined :—

1. *By the Chairman*: You have heard all the evidence given before the Committee, and the Committee would now be glad to hear any observations that you think fit to address to them about the matter? I think it necessary, in justification of my own conduct, to make some observations with respect to this matter, inasmuch as it has been called in question, and certain statements have been made which to some extent are incorrect, and as I feel perfectly conscious of having acted in the best manner I could for the interests of justice. I am quite aware I might have staid away, and not have acted on the intimation which was conveyed to me by letter at your suggestion, namely, that I might attend here for the purpose of hearing the evidence to be given against me; but if I had abstained from appearing, and from stating what my reasons were for making the appointment I did, I should have been throwing impediments in the way of the discovery of the truth, which I am quite sure this Committee are most anxious to arrive at. Now, as my conduct has been called in question, and my power of judging of the fitness of a particular individual to perform a particular duty freely commented on, I deem it my duty to state that I was called to the Bar on the 3rd of May, 1850, having been previously admitted to the Society of the Middle Temple, on the seventeenth day of April, 1846, and I hold in my hand the Certificate signed by the Treasurer of the Middle Temple to that effect. As reflections have been made by some persons, to the effect that I am not a proper person to fill the high office which others think I am worthy to hold, I think it right to myself to say, that since I was thus called to the Bar—now nearly nine years ago—I have had considerable practice in England. I have for upwards of five years been Counsel for one of the greatest Corporations in England (I mean the Bank of England), and conducted all their prosecutions, on Circuit and at the Central Criminal Court, London, I believe with perfect satisfaction to everybody—those prosecutions numbering from twenty to twenty-five, and sometimes thirty, every year.

The Hon. L. H. Bayley, Esq., M. L. C.
1 April, 1859.

Finding that a vacancy was likely to occur, at the close of 1855, in the Common Law Lectureship at the Institution in Chancery Lane, to which all solicitors and attorneys belong, I applied for that office, and in order to influence, if possible, in my favor the Council in whom was vested the right of nomination, I wrote to certain of my friends then at the Bar. The Committee are probably aware that Judges in England never give testimonials; they have laid down that rule, and have uniformly acted upon it. I, therefore, having had considerable connection with the leading men at the Common Law and Criminal Bar in England, wrote to several of them for the purpose of obtaining their certificates of competency, if they felt that they could conscientiously give them; and as this is a case of such vital importance to me I trust the Committee will allow me to read a few of these letters. They are short, but they are from persons with whom I have held many briefs, and they one and all testify to my competency in a manner which, called upon, as I am, for the first time to defend my conduct, will, I think, not be unimportant in enabling the Committee

The Hon. Committee to arrive at a right conclusion in this case. The first letter is from Sir Frederic L. H. Bayley, Thesiger, for years the acknowledged leader of the Bar, and now Lord Chancellor of Esq., M.L.C. England :—

1 April, 1859.

“ Temple, 1 July, 1856.

“ My dear Bayley,

“ I understand that you are a candidate for the Common Law Lectureship at the Law Institution, and that you have already received several testimonials in your favor. From the long friendship I have enjoyed with your father, and I may add with yourself, I should be sorry upon such an occasion to lose the opportunity of giving you the benefit of my opinion, which I can express on your behalf. I hope I shall be believed when I state that whatever feeling I may have towards you, it would not influence me to interpose even a word for you if I didn't believe that you were qualified, in every respect, for the appointment which you wish to obtain. I should be gratified to learn that you had been selected, because I am convinced that you would perform all the duties most satisfactorily, and that your labors would redound to the advantage of those to whom your stores of legal knowledge would be displayed. Wishing you most heartily success,

“ Believe me, &c.,

“ FRED. THESIGER.”

The next is a letter from a gentleman whose letter on another subject has been, I may say, somewhat prematurely—I think quite unnecessarily—published; I mean Mr. Baron Watson, then one of the leaders of the Northern Circuit :—

“ 38, Wilton Circuit,

“ November 4, 1856.

“ My dear Bayley,

“ I can testify to your qualities for the Lectureship at the Law Institution in Chancery Lane. I have known your qualifications for a long time, having been engaged with you in London, and in the Circuits in causes, and also by having known you well and your abilities for a long time. I have no hesitation in saying that few, if any, are better qualified for such an appointment.

“ I am, &c.,

“ W. H. WATSON.”

“ Lyttelton H. Bayley, Esq.

The next is from a gentleman with whom I read, as a pupil, for a year, and who is, perhaps, the ablest pleader in England—Mr. Hugh Hill, recently appointed a Judge of the Court of Queen's Bench at Westminster :—

“ 1, Brick Court, Temple,

“ November 17, 1855.

“ I have known Mr. L. H. Bayley of the Northern Circuit for some years, and have pleasure in stating that, in my opinion, he is well qualified to be Common Law Lecturer at the Incorporated Law Society. His talent is considerable, his professional acquirements extensive, and his habits decidedly industrious, and I have every reason to believe that he would evince considerable facility in communicating to others the knowledge of which he is possessed.

“ HUGH HILL.”

“ To the Secretary of the
“ Incorporated Law Society.

The next is from a gentlemen whom I have known for many years, and whom you all know by name—Mr. Samuel Warren :—

“ Inner Temple,

“ 3 July, 1856.

“ I beg to say that, in my opinion, founded on several years knowledge of Mr. Lyttelton H. Bayley, he is eminently qualified to become Common Law Lecturer at the Law Institution. He has been well and systematically trained; and having mastered the principles, is well able to illustrate the practice, of the Common Law, and exhibit both with elementary distinctness and accuracy.

“ SAMUEL WARREN, Q. C.”

The next is from a gentleman with whom I have had a great deal of civil business, but no criminal business, as he does not practise in Criminal Courts—Mr. Bovill, recently, and now the leading advocate and best lawyer on the Home Circuit and in London :—

“ Temple, 7 January, 1857.

“ My dear Bayley,

“ I have much pleasure in complying with your request for a testimonial. I beg to state that I consider you thoroughly qualified in every respect for the appointment of Lecturer for which you are a candidate; the time and attention you have for some years bestowed upon the study of the profession, and the knowledge of the principles of the law which you have acquired, are the best guarantees of your competency to the task with which you desire to be intrusted. From my own experience of the valuable assistance you have rendered to me in troublesome and difficult cases, I can speak practically to the facility you possess of imparting your information to others; and I can only add, in conclusion, that I am satisfied that, both as a lawyer and a gentleman, you would discharge the duties of the office with satisfaction and advantage to the students and all the members of the Institution.

“ Yours, &c.,

“ W. BOVILL.”

“ L. H. Bayley, Esq.

I will not fatigue the Committee with many more, but there are three which I am particularly anxious to bring forward, the first of which is from a gentleman certainly the ablest criminal lawyer in the north of England, and, I believe, in England—Mr. Overend:—

The Hon.
L. H. Bayley,
Esq., M.L.C.

" *Twisden Building, Temple,*
" 30 April, 1857.

1 April, 1859.

" Gentlemen,

" Mr. Lyttelton Bayley having informed me that he is a candidate for the Lectureship on Common and Criminal Law at the Law Institution, and having asked me for a certificate of his fitness for that appointment, I have very great pleasure in stating that I believe there are few persons at the Bar so well qualified as Mr. Bayley to discharge the duties of that office.

" I have been engaged with Mr. Bayley in several very heavy legal proceedings, and I have always found him of the greatest possible assistance—as well from his legal knowledge and attainments, as from his general intelligence, urbanity of manner, and kindness of disposition. If Mr. Bayley should be elected to the office of Lecturer, I have little doubt that he will secure a large class of students, both from the amount of learning which he will display, and from the pleasant manner in which his information will be communicated.

" I have, &c.,
" WILLIAM OVEREND."

There is one other from Mr. Arthur Burrows, a conveyancer of great ability:—

" 9, *Old Buildings, Lincoln's Inn,*
" 24 April, 1857.

" Dear Bayley,

" Understanding that you are desirous of becoming one of the Law Readers to the Inns of Court, I have great pleasure in stating, that you were a year in my Chambers as conveyancing pupil, with great satisfaction to me and credit to yourself. I can truly vouch for your being a most diligent student, and that you had a knowledge of the law in all its branches usually coming under the notice of a conveyancer, much surpassing that attained by some pupils. I cordially recommend you for the office you seek, and wish you heartily success.

" I remain, &c.,
" ARTHUR BURROWS."

" To L. H. Bayley, Esq.

Merely mentioning that I have others to the same effect from Mr. Atherton, Q.C., late Counsel to the Admiralty, Mr. Keating, Q.C., the late Solicitor General, Mr. Serjeant Shee, Mr. Percival Pickering, Q.C., Mr. Hoggins, Q.C., and Mr. Whateley, Q.C., I will finish what I trust the Committee may not think a wearisome task, by reading one from my own father:—

" 3, *Pool's Corner, Westminster,*
" Saturday, 1 December, 1855.

" To the Council of the Law Institution.

" Gentlemen,

" Having been informed by my son Lyttelton of his intention of applying for the appointment of Common Law Lecturer at your Institution, whenever a vacancy may occur, I trust it will not be unsatisfactory to you to know, from me, the course of education he has undergone, both legal and general, to entitle him to aspire to so honorable a position.

" I therefore beg leave to inform you that he was six years at Eton, and then travelled abroad for two years to learn foreign languages and acquire general information. On his return he went as pupil to Mr. Turner, a special pleader, for two years. On leaving him he went to Mr. Burrows, a conveyancer in Lincoln's Inn, for a year, and afterwards to Mr. Hugh Hill for a year, and during all these times was most assiduous in his studies, never being absent from his duties, except when he was attending Mr. Justice Erie on the Circuits, as his Marshall, and making up afterwards for any loss of time that occasioned by reading hard during his vacation.

" On this head I do not wish to say more than that he has had the best legal education that I could devise for him, and that he has profited by that advantage to a much greater extent than I ever knew before.

" As he has now been more than five years on the Northern Circuit, I know you can get from any of the leading members of it a more disinterested opinion of his qualifications for the office to which he aspires than I might be expected to give, and it is on that ground alone that I refrain from expressing my own; but I am very much mistaken if all the Judges and leading members at Westminster Hall would not give you such a report of him as would fully justify you in appointing him.

" I have, &c.,
" JOHN BAYLEY."

I may here mention that I had a delicacy in asking Mr. Turner, whose name is mentioned in this letter, for a certificate, he being himself a candidate for the office, and his claims were considered superior to mine, I having the second number of votes. Now, I will pass at once to the consideration of this case. I think the Committee will see that, though recently arrived here, I have had considerable experience at the Bar. Making only one passing allusion to a case in which I was called upon, at a very few hours' notice, to defend a man who was tried at Darlinghurst in December last for the wilful murder of his own wife, and in which I believe I acquitted myself in such a manner as to cast no imputation on my powers as an advocate, I will proceed to my appointment as Attorney General, which was made on the 21st of February last. I had mastered long before then the Colonial Statutes—my friend Mr. J. H. Plunkett

having

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having kindly lent me his own copy of Callaghan's Acts for that purpose. I read them most assiduously, and from my knowledge of criminal law in England, and the knowledge of the Colonial Statutes which I had thus acquired, I determined at once, seeing that the Attorney General here is not only the Grand Jury of the country, but is placed in a very different position from that which he occupies in England, to conduct, if possible, all the criminal prosecutions in person at the three Circuit Towns. Mr. Martin will doubtless recollect that I consulted him as to the feasibility of getting across the country from Maitland to Bathurst, and from Bathurst to Goulburn; but I found that as the Criminal Sittings here were to commence on the 4th of April, and the Criminal Sittings at Goulburn would probably be, as in fact they were, extremely heavy, it was utterly impossible for me to go to all three Circuits, and I therefore determined to go to two—Maitland and Bathurst. Before doing so it occurred to me that I might possibly have to leave Maitland before all the cases were finished—the journey to Bathurst being somewhat lengthy—and I therefore, as Mr. W. E. Plunkett, the Secretary to the Crown Law Department, told us the day before yesterday, conversed with him on the subject, and inquired whether it was necessary to send any person from Sydney in order to finish the cases which I might be obliged to leave, or whether I could trust to those barristers who happened to be present at Maitland, understanding, as I did, that a larger Bar attended at Maitland than at any other Circuit Town, from the easiness of access and cheapness of going there, in addition to the attraction of a much larger amount of business there than at any other place. From my conversation with Mr. Plunkett I was led to believe that I should find persons at Maitland with whom I could safely trust the cases, and that it was unnecessary to send any one from here. I may also add, that Mr. Windeyer, as he has stated, called upon me in Sydney, and said he expected to be at Maitland; but I did not at that moment tell him that I should appoint him, recollecting the feelings that had been repeatedly expressed in the Legislative Council that these gentlemen, the recently appointed Crown Prosecutors, got their £500 a-year and very little to do at present. Whilst I am on that point I may as well mention to the Committee, with the view of their not falling into error, that the Crown Prosecutors are appointed under one Statute, the 4th of Victoria, whereas persons who prosecute specially at Circuits are appointed under another Act, totally different, passed in the following year. The commissions of the Crown Prosecutors, of which copies are, I believe, in both Houses of Parliament, expressly limit them to prosecute "all crimes, misdemeanors, and offences cognizable in the several Courts of General and Quarter Sessions to be holden in the said Colony." The commission (of which I hold a copy in my hand) to act at the Assizes in the absence of the Attorney and Solicitor General, and under which Mr. Butler is at this moment prosecuting at Goulburn, is, as I have stated, under a different Act, and, after reciting that "it is expected that Her Majesty's Attorney and Solicitor General will respectively be absent,"—which it is bound to do under the Act under which it is drawn—appoints a certain "barrister-at-law to be the person by whom and in whose name all crimes, misdemeanors, and offences cognizable in the said Circuit Court shall and may, in the absence of the said Attorney General and Solicitor General respectively, be prosecuted at and during the Circuit Court about to be held at as aforesaid." Now, you will see that a Crown Prosecutor has not, as such, any jurisdiction in a Circuit Court; he is appointed under an Act relating to prosecutions at General or Quarter Sessions; and I asked Mr. Plunkett, before I left Sydney, whilst looking at both these commissions which I hold in my hand, and learnt from him that it was not necessary issue a commission specially to the person to whom I might leave any remaining prosecutions, because being there myself, although only on one day, perhaps, I could file all the informations before I left, and then the person I should appoint could act for me as my deputy, as I was told was customary, when I was forced to come away. It so happened that my going to Maitland at all was owing to my own suggestion; I knew that none of the Crown Prosecutors except Mr. Butler were bound to act at the Circuit Courts without fee. If I did not go myself, or the Solicitor General, it would be necessary that the country should be put to the expense of £80; I therefore suggested to the Government the propriety of my adjourning the Legislative Council on the previous Thursday for a week, instead of to Wednesday, the ordinary day on which it would sit; had I not done so, I should have had a perfectly valid excuse for not going to Maitland at all, because I had the Executive Council to attend on Monday, the 14th—(I may remind the Committee that the Circuit began on that day)—and had I not adjourned the House, with the consent of the opposition over Wednesday, I should have had the House to attend, and the Committee know well that the House refused to go on without a Cabinet Minister being present, in which case it would have been impossible for me to have staid at Maitland more than one day; I therefore determined to get the House adjourned, as I have said, and accordingly did so. I left with the other gentlemen who went down for the criminal business, in company with the Judge, on Saturday evening, the 12th March, at eleven o'clock, by the steamer. There were with us Mr. Faucett, Mr. Somerville, Mr. Foster, Mr. Simpson, and Mr. Blakeney. I happened to know at that time that Mr. Faucett had been engaged as counsel for Madgwick in the trial of the civil action at which it was alleged he committed this perjury, and I certainly thought, and still think, that it would have been improper for me to have intrusted the prosecution to a gentleman who had been concerned for the prisoner on the former occasion; but I will speak to that presently. I noticed the fact also that Mr. Windeyer was not on board, and, from inquiries I made, I found that no steamer would sail on Sunday, and therefore he could not be present until Tuesday morning. We all arrived about nine o'clock on Sunday morning at Maitland; no other barrister appeared on that day, and I knew perfectly well that it was absolutely necessary I should leave early on Wednesday morning, because the state of the weather was variable, and if I started on Thursday morning by the steamer I could not depend upon arriving at Sydney in time to be in the Council on that afternoon at four o'clock. I may also state, that before leaving Sydney I made inquiries of Mr. Buchan Thomson as to what kind of roads there were between Maitland and Sydney, with the view, if possible, of having

two or three horses on the road, and riding across country in a shorter time than I could get by coming by steam. However, from the information I obtained from him I found that was not only almost impracticable, but that it would be extremely expensive. I therefore gave it up. I was consequently absolutely obliged, for the reasons I have given, to leave Maitland by the ten minutes past nine train on Wednesday morning. Although the cases in the calendar would not, as I expected, take a long time, some of them were heavy; in one of them the Coroner's jury had found a verdict of wilful murder against three people, two of whom Mr. Lutwyche, acting at my suggestion, declined to prosecute, and only preferred an information for manslaughter against the third party. There were in this case from twenty to twenty-five witnesses. It was, therefore, incorrect to say that the perjury case was the heaviest case in the list, when there were only five witnesses in it for the prosecution. There was another case for manslaughter, and two capital cases, one of rape, which took up some hours, and in which the jury retired for a considerable time. It was a case of considerable atrocity—an old man assaulting a girl of thirteen or fourteen; he was convicted of the attempt, with some difficulty on my part. I fully expected before I went to Maitland to get through every case, with the exception of the perjury case, which I proposed to try last, knowing that it has always been the practice in England to try cases of the most heinous character first, and always to put off perjury cases till the last—perjury being an offence of a very minor character compared with highway robbery and others of that nature. I therefore thought it was necessary (holding, as I did, the same opinion as that expressed by Mr. Faucett before this Committee,) that the depositions in Madgwick's case should be placed as soon as possible in the hands of the gentleman who was to conduct it, for the purpose of enabling him to master them fully. On Monday morning, therefore, I placed those depositions in the hands of Mr. Somerville, asking him whether he felt himself competent to undertake the case, and being answered that he should like to do it. Now here comes, in more natural order, the reason why I gave it to him. I have already informed the Committee that there was no barrister present there at that time other than those with whom I went down in the steamer on Saturday night. No other person was present on Sunday, no additional barrister was present on Monday, and it was not until the Tuesday that Mr. Windeyer made his appearance. However, as I have already stated, I thought it advisable that the gentleman who was to conduct the perjury case should have plenty of time to master it, and therefore I intrusted it to Mr. Somerville on Monday. Who else was there that I could intrust it to? Mr. Faucett was out of the question, as he had been counsel for Madgwick, and therefore I did not think it necessary to go through the idle formality of asking him to do what I felt certain he would have refused; and even if had stated his willingness to undertake the case, I should not have felt it proper to intrust him with the duty of prosecuting a man whose counsel he had been in the case from which the prosecution sprung. Besides Mr. Somerville, who was called to the Bar of England in June, 1857, there were then in Maitland only Mr. Foster, who was called in 1858, Mr. Simpson, who was called to the Bar in 1858, since I have been in the Colony, and Mr. Blakeney, who is a much newer comer than myself, for I happened to be present at the Sydney Gaol Delivery, at Darlinghurst, on the first day of the February Sessions—the 7th of February, I think—when he joined the Colonial Bar. Now to all these gentlemen I was almost a perfect stranger, and had never heard any of them speak in Court, for, although Mr. Foster had been associated with myself in defending the prisoner James Emanuel Brace for murder, at Darlinghurst, he did not speak or take any other part than that of advising me. All of them were very junior members of the Colonial Bar, and Mr. Somerville himself being only three months junior to Mr. Windeyer, the Crown Prosecutor, Mr. Windeyer having been called to the Colonial Bar in 1857. I knew perfectly well that I ought to give the prosecution to the best man I could find, and I did accordingly give it to the only man within my reach of whom I knew anything, being perfectly ignorant of the professional capabilities of all the other gentlemen. I never heard Mr. Foster, Mr. Simpson, or Mr. Blakeney conduct any criminal case whatever, and, although Mr. Blakeney was a man very considerably older than myself, I felt that, being a newer comer than I was, in all probability the same objection, or even a stronger objection, would be raised if I appointed him, he having been some three months, or nearly so, the junior of Mr. Somerville at the Colonial Bar. I appointed the man who was *in my opinion* the best I could then find at Maitland; and having asked him whether he felt himself up to the mark, and receiving his assurance that he did, I intrusted the case to his hands. I saw him almost the whole of Monday and Tuesday reading the depositions in Madgwick's and the other cases, and making copious extracts. Now a little doubt, or rather a little misapprehension, may arise as to the number of cases intrusted to him. As I have already said, I believed I should have tried all with the exception of Madgwick's case, but it so happened that in one case—the Queen v. Smith—none of the witnesses arrived at Maitland at all during the whole of the Assizes, and the case had to be put off. That was one of the cases which I was obliged to intrust to him. It was a case of carnally knowing and abusing a child of eight, and I should have conducted it myself if the witnesses had arrived; but, as they did not arrive at all, the case was postponed to the next Circuit Court. Of the other cases—one of highway robbery, in which Mr. Somerville obtained a conviction, and the men were sentenced to seven years on the roads, I should have conducted myself, it being one of a very aggravated character—robbery with very great violence—had not the prisoners, when I brought the case on, on Tuesday, made an application to have some money which had been taken from them restored, in order to enable them to retain counsel. The Judge made an order that £10 should be given to each of them, and the case was necessarily adjourned till counsel should be instructed. That was a case, therefore, which accidentally I did not prosecute myself. The case of horse-stealing against William and John Mackie was one which I had tried myself on the Tuesday on another charge. William Mackie pleaded guilty, and gave evidence to screen his brother, the other prisoner, John. The jury found a verdict of acquittal as to John, and therefore it became necessary to try him on the Wednesday

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on the other charges. Mr. Somerville did try them, and they were both convicted, and got two years' imprisonment; that disposes of four cases. The fifth case was one which I can hardly call a case at all, for this reason—that it was a single case of horse-stealing against William Mackie, who the day before when I had prosecuted him had pleaded guilty. It was therefore quite unnecessary that he should be tried again, having pleaded guilty to a case of horse-stealing. Therefore, although five cases were intrusted to Mr. Somerville, virtually there were only three, because the last one I have mentioned it was unnecessary for him to try, and the other case of criminal assault on a child it became impossible to try, because, as I was told, there was no possible chance of the witnesses arriving from Armidale. I have now explained to the Committee how I was placed. I had to select from the junior members of the Bar there, and I know perfectly well, from information I had received in Sydney, that the leading and senior members of the Bar were not in the habit of attending Criminal Sittings, unless specially retained. Therefore, knowing that one eminent Queen's Counsel was not going to leave till Wednesday night, and having reason to believe that others would not arrive till Thursday, the civil business not commencing till Friday morning, I made the selection which under the circumstances I was compelled to make. I had no knowledge when Mr. Windeyer would appear, and having myself frequently—and I am sure many persons have often felt the same—suffered from having had to conduct cases without proper time to master the facts, I did on Monday morning place the depositions in the hands of Mr. Somerville. I utterly disclaim what has been suggested, that I did so from improper motives. I did so, believing that Mr. Somerville would do his duty well, and that he was the best man I could get. I was an utter stranger to the other gentlemen—I mean as to their professional capacities. I have stated that on Monday and Tuesday Mr. Somerville was busily engaged in mastering the facts of this case, and had he led me to believe, or had he mentioned in any way, that he was over-tasked, I would have relieved him from the duty. He had ample opportunity of making to me any statement he liked, and of returning the depositions, or making some allusion to the fact that he thought the case was rather too complicated. However, although I was in Court and he was in Court all Monday and Tuesday, I had no reason whatever to be dissatisfied with the selection I had made; and when I left Maitland, at ten minutes past nine o'clock on Wednesday morning, to fulfil my duties in the Legislative Council, I had every reason to believe that the interests of the public would be properly protected. And here let me add, that the interests of the public do not appear to have suffered in the slightest degree. He tried three cases; he procured a conviction in one in which, of course upon other facts, I had failed the day before—I mean the horse-stealing case; he secured a conviction in the first case he tried, that of highway robbery; and he did not secure a conviction in Madgwick's case for the simple reason, as all the witnesses, including Mr. Justice Milford, have told us who have spoken to the facts, that the principal witness for the Crown was so utterly unworthy of credit, and made such contradictory statements, that no reliance could be placed upon his testimony; and one of the reporters, Mr. James Rwan, a man of considerable age and experience, said in his evidence here that "his conviction was that the ablest barrister in New South Wales could not have convicted Madgwick." That the interests of justice did not suffer is plain, not only from his evidence, but from the evidence to-day of the two jurymen, both of whom tell us that they understood the case, and that even if the fact of the memorandum on the note as to eight per cent. interest had been distinctly presented to their attention, it would not have made the slightest difference. They tell us that the case for the prosecution broke down in consequence of the contradictions of the principal witness himself, and that they clearly understood the case; and although, as Mr. Rossiter, the last witness, says he recollects Mr. Somerville did refer to the fact that one witness, if corroborated, would be enough, still those of the Committee who have had any experience of such matters must know that where the principal witness breaks down of course the whole thing is over, and no charge can rest on the inability of the advocate. I asked (I believe) the last witness whether if Mr. Somerville had spoken for six hours in reply it would have had any different effect on his mind or upon the verdict, and he said, so far as he was concerned, not the slightest, because the principal witness prevaricated so much, and made such contradictory statements, that they all disbelieved him. I therefore think I am right in saying, that it was not owing to any want of ability on the part of the advocate that Madgwick was acquitted. It is not necessary, however, to say whether he was guilty or innocent; but the Committee are aware that we try a man, not by speeches, but by the facts as brought out in evidence. It appears from the two jurymen called, and others, that the facts were fully brought out by Mr. Somerville; that the witness broke down; that the learned Judge himself told the jury that their verdict would depend on whether they believed the principal witness or not; and that that witness having prevaricated in a very remarkable manner, the jury, as far as I can judge, very properly acquitted the man. Now, from some questions that were put to some of the witnesses, some members of the Committee appear to think the perjury case ought to have been taken first. I differ from that opinion. I think the cases which are the heaviest ought to be taken first, and from my experience, not only on the Northern Circuit, which is the greatest in England, but also at the Central Criminal Court, London, where twelve times a year upwards of one hundred prisoners are tried at each session, I know that the practice almost invariably is to put off the perjury cases until the last, because it is considered unfair to keep persons in gaol while you are trying a man who may be all the time at liberty, as Madgwick was, on his own bail. I, therefore, then thought, and still think, that the discretion I exercised on that occasion was not an improper one. It is untrue to say that Madgwick's was the heaviest case in the Assize. It was not. The heaviest case was that of man-slaughter, where the Coroner's jury at Armidale had found a verdict of wilful murder, and although I made it a short case, some people perhaps would have called more, but I saw that it turned principally on the evidence of a few witnesses, and I selected those whom it was most expedient to examine, and in that way managed to get through it in a comparatively short time. One of the witnesses yesterday, Mr. Rwan, reporter to the

Northern Times—(I was rather amused)—objected to Mr. Somerville on account of his youth. Now, Mr. Somerville, as he informs me, was twenty-seven last December, and I need not remind the Committee that William Pitt was Prime Minister of England at twenty-six—I am not sure it was not twenty-five—and we know from the memoirs of one of the greatest preachers of this century, one of the noblest minds in Great Britain—the celebrated Dr. Chalmers, whom almost all the Parliament and most men of intelligence used to go and hear when he afterwards came to London—that when he delivered his first sermon in his retired country parish in Scotland he literally and absolutely broke down. I will state to the Committee what I knew of Mr. Somerville: I came out with him from England, passing three months in his company, and I have since seen him frequently in the Courts of Sydney, where Mr. Faucett himself has told us he has been very much struck with the care he appears to have bestowed in taking notes in different cases. I knew from him before I appointed him that he had been six years at Westminster School, and that he went from there as scholar to Trinity College, Cambridge, where he remained upwards of two years, after which he was the pupil of Mr. John Karlake, a leading barrister on the Western Circuit, who has recently (I believe) been promoted to a silk gown, and who will, no doubt, attain to high distinction. On the voyage out I observed Mr. Somerville constantly reading law books, and having frequently seen him in the Courts in King-street and at Darlinghurst very attentive to what was going on, I had every reason to believe he would do justice to the cases, more particularly as I had asked him whether he felt himself up to the mark, recollecting too what had happened to myself when I had declined, in 1851, to argue a case in the Privy Council. From that circumstance I thought that he would, after seeing the nature of the case, if he felt any difficulty, state to me his own feelings in the matter, and finding that he made no suggestion as to being over-tasked I was satisfied. The verdicts, I may remind the Committee, are admitted on all hands to have been satisfactory.

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I confess I have been very much pained that the Committee have thought fit to call upon some barristers to give evidence against another, but perhaps from the peculiar nature of this inquiry, which, so far as I know, is unprecedented in England or any other of the Colonies, the Committee may have felt themselves justified in taking that course. But it cannot be said they could not have got just as good evidence from other people, because there were the reporters, both of whom have been called, and who are perfectly unprejudiced, the jurymen, two of whom we have had, magistrates, and by-standers. I do not think, therefore, that there was any necessity for putting gentlemen of the Bar in what must be considered to be the painful position of giving evidence against one of their own body. However, people may differ in opinion on that subject, but it is the only thing in this inquiry which has caused me very great pain, because in England I am sure no member of our noble and independent profession would have consented to give evidence impeaching the professional abilities of another. I am not aware that I have anything further to say, and I will merely conclude by again reminding the Committee that there has been no failure of justice according to the evidence, and that one of their witnesses called for the purpose of crushing me says no barrister in the Colony could have convicted Madgwick. Having been called upon under peculiar circumstances to make this appointment, in the absence of any person who had had experience at the Criminal Bar of this Colony, and having appointed the man whom I conscientiously believed to be the best, I trust the Committee will take into consideration what I have said, and report accordingly.

2. *By Mr. Plunkett*: On the latter point you have touched upon as a matter of professional opinion or *esprit de corps*—do you not think the actuating motive in that *esprit de corps* should be the honor, character, and credit of our profession? Certainly. No person holds more to the *esprit de corps* than I do, and I think, if no evidence could have been procured except the evidence of barristers, that they should have been called; but I confess I am grieved beyond measure to find that that course has been adopted when there was no necessity whatever for it, because magistrates were present, the Judge was there, his Associate was there—a perfectly indifferent witness, but who was not asked anything about the conduct of of the case—and there were the jurymen and reporters. I confess I do not see that there was any necessity for breaking through what I conceive to be a most salutary professional law.

3. Do you not think that when an accusation is made derogatory to the character of the profession, and casting ridicule upon the profession, then all the members of the profession ought to assist if they can in the investigation? I have a difficulty in answering that, if applied to the present case, for this reason, because I know of no instance in which any investigation like the present has ever been conducted. I have discussed the point with others who are more familiar with professional usages than myself, and their opinions coincide with my own—that such an inquiry is wholly unprecedented, and holding, as I do, very high feelings on the subject of professional etiquette and *esprit de corps*, I still, and I have no doubt always shall, retain the opinion that calling upon gentlemen to pronounce a sentence of condemnation against a brother barrister is reprehensible. It is contrary to my notions of right and wrong.

4. Do you not think the public would have reason to complain of any *esprit de corps* that would prevent the Committee from examining members of the profession, who must be looked upon as the most competent to judge in a matter of the kind? I do not think they are the most competent. We are all rivals at the Bar, and I think it is putting a gentleman so situated in an improper position to ask him—as each member of the Bar examined in this inquiry has been asked by the Chairman, Mr. Martin,—“Do you think Mr. A. B. conducted this case in as clear and comprehensive a manner as it required”?

5. As to never having heard of any case of the kind before, you have heard from all the witnesses that such a case as this never occurred in the Colony before? I have heard that certainly; but I apprehend that unless the Bar is always a strong one, and unless all its members are fitted to conduct complicated cases, it is not impossible that, with other Attorney Generals, a similar thing may happen again. It results, in my opinion, from

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the attendance at the Bar not being so large as one could have hoped for. I had only certain materials to work upon, and if those materials were not perfect I do not see that I am to be blamed.

6. *By the Chairman*: You were saying that you had never heard any of the other gentlemen who were then present at Maitland speak in Court—may I ask whether you had ever heard Mr. Somerville in Court? No.

7. Then, so far as that matter was concerned, he was precisely in the same position as all the others? He was precisely in the same position as all the others; but I knew nothing whatever of the others, and I did know something of him. I knew what his antecedents were, and that he had studied with a gentleman whom I had known since 1846, and knew to be of high standing and in large practice.

8. Were you present when Mr. Blakeny was admitted to the Bar here? I was.

9. Did you hear the terms in which he was spoken of by Mr. Plunkett? I did.

10. Had you any reason to doubt that he was, as stated by Mr. Plunkett, a gentleman of very high experience and standing? No, I had not; but knowing the outcry that was raised when I was appointed, on account of my recent arrival, I did not think it expedient to appoint a more recent arrival than Mr. Somerville, who had only joined the Colonial Bar that day five weeks.

11. Was the difference of two or three months so great as to induce you to prefer the one to the other? It was, knowing the outcry that was raised in my own case.

12. You say you thought the statement of Mr. Somerville himself of some importance—did you know anything of Mr. Blakeny to induce you to doubt any statement to the same effect made by him, if the same question had been put to him? No, not at all; but I have no doubt whatever the Attorney General has the right of choosing whom he likes; and if he exercises that choice, from the materials offered, to the best of his ability, he is not to be taunted with it afterwards. The Committee I am sure must feel satisfied that in the peculiar circumstances in which I am placed, holding a high and important office, and not having been long in the Colony, I would not willingly or carelessly appoint an incompetent person.

13. *By Mr. Macarthur*: Do you not think, considering the nature of the charges that were preferred against you in the discharge of your official duty as relates to this matter in the Assembly, that it was desirable this Committee should summon all witnesses, even although they were members of the Bar, who were most likely to give a distinct and clear opinion as to the competency of Mr. Somerville? I entirely agree to that; but of course it is rather a question of casuistry whether those gentlemen summoned ought to have given their evidence, or whether they ought not at once to have said they felt themselves bound not to throw stones at a brother barrister, and request to be excused. It is an excuse I myself should have made, if I had been summoned as a witness against any other barrister; and I doubt if I should have said one word unless ordered by the House; and any evidence given by me would only have been forced from me, if at all, by the power of the Committee.

14. *By the Chairman*: Is there no case, then, in which you would feel yourself justified in giving evidence as to the conduct or competency of a brother barrister? It is difficult to answer that question, because it is of so general a character—

15. I will make it more particular. Supposing a prosecution were conducted in a grossly inefficient manner, so much so, that a person notoriously guilty had escaped in consequence, should you then feel it your duty to withhold your evidence? I should have begged to be excused, on the ground which I have taken,—that it is a violation of that professional brotherhood which should always exist between one barrister and another. I do not like to pronounce a positive opinion; but I know what I should do, and that is to ask the Committee to allow me to abstain from giving evidence. I am not prepared to say that I should refuse, in the case you put, if pressed.

16. Do you not think it desirable to get the most competent evidence in all cases? Certainly; but I do not think the evidence of the Bar is in this case the most competent. I think it is asking a gentleman what you have no right to ask him.

17. Do you not think that if the Committee had merely contented itself with calling the bystanders, it would have been fairly said that those persons most competent were not called, and that therefore the verdict of the Committee was not of much importance? No, I do not think it would. I think it is placing a barrister in a position in which he ought not to be placed. I have a strong opinion upon that point, and I have reflected upon it.

18. Is not the very fact of a barrister being a member of such a profession some guarantee of the evidence he will give being evidence that should be relied on? Certainly.

19. And, therefore, the best evidence that could be obtained? No; because the best evidence would be that of the jury, the bystanders, the reporters, and the magistrates who were sometimes on the Bench—all persons who are perfectly neutral and perfectly impartial.

20. *By Mr. Plunkett*: Do you not think that if the Committee refrained from examining any of the Bar who were present, they would be open to the imputation of partiality towards their own profession—I mean the professional members of it? I think not. I need scarcely remind the Committee that the strongest evidence against Mr. Somerville was given by a gentleman of the Bar but three months his senior, who felt himself evidently aggrieved by not having the conduct of these particular cases (although he had not the slightest reason for expecting they would be intrusted to him); and they will remember that he gave his evidence in such a manner as to call for the rebuke of one learned member of the Committee, an Attorney General of very many years experience.

21. *By the Chairman*: Did you, at any time, make any inquiry as to the persons who had been appointed by any of your predecessors to conduct criminal prosecutions on behalf of the Attorney General? No, I did not. I understood, from the best information I could obtain, that the practice was to leave unfinished cases with some person present at the Circuit town.

22. Are you aware on how many occasions persons were appointed by the Attorney General who were opposed to the Government of which he was a member? No, I am not. The only gentleman I have seen holding briefs for the Crown, and whose accounts I have passed at the monthly audit, was Mr. Blake, whom I have seen acting for one of the late Crown Law Officers at Darlinghurst; and I have noticed that he always sits on the same side of the floor of the Legislative Council as myself.

The Hon.
L. H. Bayley,
Esq., M.L.C.
1 April, 1859.

SEPARATE APPENDIX.

A.

Legislative Assembly Offices,
Sydney, 26 March, 1859.

Sir,

I am directed by the Chairman of the Select Committee of the Legislative Assembly appointed yesterday "to inquire into and report upon the conduct of the Attorney General, in leaving the recent Criminal Prosecutions at Maitland in the hands of Mr. Somerville, with liberty to send for persons and papers, and leave to sit on Mondays and "Saturdays," to apprise you of the intention of the Committee to commence their proceedings with the examination of the gentlemen named in the margin on Monday next, the 28th instant, at 12 o'clock.

The Hon. Mr. Justice Milford, } At
P. Faucett, Esq., } 12
M. P. }
W. E. Plunkett, Esq., } At
C. Blakeney, Esq., } 12
W. C. Windeyer, Esq., } 12

This information is forwarded for the purpose of enabling you to be present during such examinations if you think fit.

I have, &c.,

R. O'CONNOR,
Clerk Legislative Assembly.

The Honorable
The Attorney General.

B.

Legislative Assembly Offices,
Sydney, 26 March, 1859.

Sir,

I am directed by the Chairman of the Select Committee of the Legislative Assembly appointed "to inquire into and report upon the conduct of the Attorney General, in leaving the recent Criminal Prosecutions at Maitland in the hands of Mr. Somerville, with power to send for persons and papers, and leave to sit on Mondays and Saturdays," to transmit to you five forms of summons, duly signed by me, and to request that you will have the goodness, as speedily as possible, to cause the issue of three of them to three of the most intelligent of the jury who sat in the case of the Queen v. Madgwick for perjury, and of the remaining two, one to the reporter of the *Northern Times and Newcastle Telegraph*, and the other to the reporter of the *Maitland Mercury*, who reported the proceedings in those cases which Mr. Somerville conducted on behalf of the Attorney General at Maitland, filling them in yourself for those days on which they may be able respectively to attend before the Committee, and apprising me immediately of the dates of such proposed attendances.

I have further to request that you will supply me with the names of all the jurymen who sat in the case of the Queen v. Madgwick.

It may be as well to add that the attendance of these witnesses ought to be on some day during the ensuing week to be serviceable for the purposes of this inquiry.

I have, &c.,

R. O'CONNOR,
Clerk Legislative Assembly.

E. Denny Day, Esq.,
Police Magistrate, Maitland.

C.

Maitland, 28 March, 1859.

Sir,

In reply to your letter of the 26th of this month, I have the honor to state that the Reporter of the *Maitland Mercury*, and the Reporter of the *Northern Times*, will be in attendance on the Select Committee on Thursday next, at 10 o'clock a.m.

A correct list of the names of the jurors in the case of Madgwick cannot be procured here, but it can be obtained from His Honor Judge Milford's Clerk in Sydney. I have ascertained the names of eight of the jurymen, and I hope to-morrow to let you know when three of them (the most intelligent within my reach), will wait upon the Select Committee.

I have, &c.,

EDW. D. DAY,
Police Magistrate.

R. O'Connor, Esq.,
&c., &c., &c.

D.

D.

Bourke-street, West Maitland,
28 March, 1859.

Sir,

On reading the *Sydney Morning Herald* of the 26th instant, respecting a debate on "Vote of Censure on the Attorney General," in the Assembly on Friday the 25th instant, I find that a Committee of the Assembly was appointed to report on the matter.

In that debate the recent trial of myself for perjury was prominently introduced, and it appears to me that that case will be the most important matter for the Committee's consideration.

I beg to request, that if any evidence be taken before the Committee on the side of the prosecution, that I will be allowed to give evidence for the defence, when I have no doubt that I shall be able to prove to the satisfaction of the Committee that my acquittal did not depend on *my own ability* in conducting the defence, *nor on the incompetence of Mr. Somerville* in conducting the prosecution, but simply from the facts that I was innocent of the charge, and that the evidence for the prosecution was *so grossly contradictory* as to render the witnesses *unworthy of credit*.

I need not enter into any particulars, but will leave them for a more effectual purpose. If I am permitted to give evidence, as I am totally unable to bear expense, I have no doubt my expenses will be paid.

I have, &c.,

EDWD. C. MADGWICK.

The Hon. R. Jones, M.L.A.,
Sydney.

E.

Legislative Assembly Committee Rooms,
Sydney, 30 March, 1859.

(No. 59-8.)

Sir,

I have the honor to inform you, that your letter of 28th instant, addressed to Mr. Jones, has this day been laid before the Committee appointed "to inquire into and report upon the conduct of the Attorney General, in leaving the recent Criminal Prosecutions at Maitland in the hands of Mr. Somerville," who are of opinion that as the question of your innocence or guilt in no way comes under their consideration, it is not necessary to take your evidence with respect to this inquiry.

I have, &c.,

JAMES MARTIN,
Chairman.

Mr. Edward C. Madgwick,
Bourke-street, West Maitland.

F.

Court House, Maitland,
29 March, 1859.

Sir,

The following three gentlemen are the most intelligent of the jury who tried the perjury case you name, and who are within my reach, and a summons has been served on each of them to attend before the Select Committee on Friday next, the 1st April, at 10 a.m. :—

Charles Reynolds, Esquire, J. P., Tocal, Paterson.
Mr. Thomas Boyd Rossiter, yeoman, West Maitland.
Mr. Isaac Robinson, builder, West Maitland.

I can only ascertain the names of seven more of the jurors. I would therefore recommend you to apply to Mr. Milford for a full and reliable list of the jurors.

The seven more are :—

James Quigan, Elgin-street, West Maitland.
William Quick, East Maitland.
Joseph Ross, Dungog.
John Robson, Dungog.
Robert A. Rodd, Esq., Patrick's Plains.
Francis Randall, Gresford, Paterson.
John Scanlon, Horse Shoe Bend.

I have, &c.,

EDW. D. DAY,
Police Magistrate.

R. O'Connor, Esquire,
Clerk of Legislative Assembly,
Sydney.

G.

In the twenty-second year of the Reign of Our Sovereign Lady Victoria,
by the Grace of God, of the United Kingdom of Great Britain and
Ireland, Queen, Defender of the Faith.

New South Wales, }
To wit. }

BE IT REMEMBERED, That Lyttelton Holyoake Bayley, Esquire, Her Majesty's Attorney General for the Colony of New South Wales, who prosecutes for Her Majesty in this behalf, being present in the Circuit Court at Maitland, now here, on the fourteenth day of March, in the year of our Lord one thousand eight hundred and fifty-nine, at Maitland, in the Colony aforesaid, informs the said Court that heretofore, to wit,—on the twenty-fourth day of March, in the year of our Lord one thousand eight hundred and fifty-eight, at the Circuit Court holden

holden at Maitland, in the Colony aforesaid,—a certain cause wherein one Thomas Holmes was the plaintiff, and one Edward Chalton Madgwick was the defendant, came on to be heard, and was heard, and upon the hearing of the said cause it became and was a material and necessary question, Whether a certain promissory note, made in favor of one William Latimore by the said Edward Chalton Madgwick, for the payment of the sum of one hundred and seventeen pounds ten shillings, payable six months after date, and dated the fifth day of May, one thousand eight hundred and fifty-six, was made and negotiated by the said Edward Chalton Madgwick without having received any consideration for the same? And that upon the said trial the said Edward Chalton Madgwick appeared as a witness, and was duly sworn, and took his corporal oath upon the Holy Gospel of God, and being so sworn as aforesaid did falsely, wilfully, and corruptly depose and swear, amongst other things, in substance and to the effect following, that is to say,—“The note for one hundred and seventeen pounds ten shillings was given to Latimore as an accommodation bill, and given to him out of pure kindness, [meaning thereby that he, the said Edward Chalton Madgwick, had given the said promissory note to the said William Latimore, but had not received any consideration for the said note] “I did not receive any value for the note for one hundred and seventeen pounds ten shillings,” whereas in truth and in fact the said promissory note was not an accommodation bill given out of pure kindness, and whereas in truth and in fact the said Edward Chalton Madgwick had received due consideration for the said promissory note, and had received value for the same; and so the said Attorney General saith, that the said Edward Chalton Madgwick did thereby then and there commit wilful and corrupt perjury.

LYTTELTON H. BAYLEY,
Attorney General.

Thursday, 17 March, 1859.

Cor. MILFORD, J.

Reg. v. Edward Chalton Madgwick

Plea—Not Guilty.

Jurors:

John Scanlon,
James Quigan,
Robert Adamson Rodd,
William Quick,
Patrick Henry Riley,
Joseph Ross,

John Robson,
Isaac Robinson,
Thomas Boyd Rossiter,
James Rooney,
Thomas Reynolds,
George Randall.

Verdict—Not Guilty.

GEORGE R. MILFORD.

New South Wales, Dungog, }
To wit.

H.

The information and complaint of Thomas Holmes, of Oakendale, county Durham, gentleman, taken on oath, this third day of April, in the year of our Lord one thousand eight hundred and fifty-eight, before the undersigned, one of Her Majesty's Justices of the Peace in and for the above Colony, who saith:—That Edward Chalton Madgwick, of Dungog, in the above Colony, Registrar of Births, &c., did in a certain case (to wit, Holmes v. Madgwick) heard at the last Circuit Court held at Maitland, on the twenty-fourth day of March last, before the Chief Justice of the above Colony, Sir Alfred Stephen, Knight, commit wilful and corrupt perjury, and herein I crave a summons for him that he may be dealt with as the law directs.

Sworn before me the day and year first above }
mentioned, at Clarence Town.

THOMAS HOLMES.

WILLIAM LOWE, J.P.

Police Office, Dungog,
9 April, 1858.

New South Wales.

Before John Hooke, Esq., J.P.

Edward Chalton Madgwick, of Dungog, appears on summons, charged by Thomas Holmes, of Oakendale, gentleman, for that he did, on the 24th day of March last, at the Circuit Court at Maitland, before His Honor the Chief Justice of New South Wales, Sir Alfred Stephen, Knight, commit wilful and corrupt perjury in the case then and there heard, to wit, Holmes v. Madgwick.

William Henry Mullen, of West Maitland, solicitor, being duly sworn, deposeseth:—I was plaintiff's solicitor in the case Holmes v. Madgwick; it was a promissory note for £117 10s., drawn by defendant in favor of William Latimore; note now handed in is a true copy, marked A, of the original, and it was admitted by William Latimore that he indorsed the original; the original now produced is still required in some proceedings before another Court; I heard defendant, Madgwick, duly sworn; he swore the note for £117 10s. was given to Latimore as an accommodation bill, and given to him out of pure kindness, as he (Latimore) required some negotiable document to give Mr. Gally. The question as to whether it was an accommodation note or otherwise was very material to the issue, inasmuch as the plea on the record was that the note for £117 10s. was given as an accommo-

dation to Latimore; defendant swore he received no value for this note for £117 10s., nor for another for £300 and odd, to which he first swore he never gave or recollected giving, and then swore it was also for accommodation; it was tried before His Honor the Chief Justice, Sir Alfred Stephen, Knight, at the Circuit Court held at Maitland on the 24th ult. The copy now handed in of an agreement, marked B, (the original being required in a higher Court) is an agreement that was produced at the same trial; the copy now produced is a true copy of the original, which is also produced.

By Defendant:—There was a document produced purporting to be a receipt from W. Latimore to B. C. Madgwick to the amount of £600 odd, I believe, and witnessed by Richard Jones, who swore positively he never saw a penny paid at the time of signing the receipt. I do not remember Jones swearing that Latimore received from defendant the amount mentioned in cash, nor do I believe he ever said so; Mr. Holmes swore that he held this promissory note as security to himself for £12 10s. or £13; but he also swore that the bill had been handed over to him by Latimore as security to Handcock for £100; I remember the Judge asking Mr. Holmes what he would do with the residue of the £117 10s., after deducting the amount due to him (Holmes); I do not remember the exact words Holmes made use of, but it was to the effect that he should see the money properly applied; after this question asked by the Chief Justice, Mr. Holmes stated how the bill was held on account of the £100 due to Handcock, besides his own claim; I received notice of motion yesterday for a new trial in the above case from my agent; I know your handwriting by a little pottering bill of yours for £13 2s., which has been through my hands about eight or nine times, and presented and never paid; I heard defendant, Madgwick, swear that when he gave accommodation bills he did not keep an account of them, but when they came due he trusted to the parties to whom he gave them to take them up; I did not hear Mr. Holmes tell Mr. Faucett that he did not know what he would do with the rest of the money when he got it.

Sworn before me, this 9th April, 1858, }
at Dungog.

W. H. MULLEN.

JOHN HOOKE, J.P.

William Smith, being duly sworn, deposeth:—I am clerk to Mr. Mullen, the last witness; I remember an action heard at the last Maitland Circuit, held on the 24th March last, before His Honor the Chief Justice, Sir Alfred Stephen, Knight; it was *Holmes v. Madgwick*—the present defendant—and was for a promissory note drawn by defendant and indorsed by one William Latimore; it was a material question at the trial whether the note was an accommodation note; I was present at the trial, and heard Mr. Madgwick sworn before the Chief Justice; the defendant stated it was an accommodation note, and that he had received no valuable consideration for it; I heard him state that there was another note for £300 and odd, of the same character, just falling due, but when first asked he said he did not remember there was such a note; one of the questions left to the jury by the Judge was—whether this was an accommodation note or not? they (the jury) determined it was not an accommodation note; the note produced, marked A, is the one on which the trial took place.

By Defendant: The note produced bears your name, but I cannot swear it is your signature; Mr. Madgwick was called to substantiate the plea that it was an accommodation note; I believe Mr. Holmes and Mr. Latimore were not in Court at the commencement of the trial.

Sworn before me, this 9th April, }
1858, at Dungog,

WILLIAM SMITH.

JOHN HOOKE, J.P.

William Latimore, of Cape Ville, farmer, being duly sworn, deposeth:—I have sold land to defendant; I do not read, but I know the agreement now produced in the same way I would know a picture again if I saw it; it has been in my possession a long time, and was produced at the case *Holmes v. Madgwick*, heard before His Honor the Chief Justice, Sir Alfred Stephen, Knight, at the last Circuit Court held at Maitland on the 24th ultimo; by this agreement I sold land to defendant at £1 17s. 6d. per acre; about 340 odd acres were included in this agreement; I received the £100 in cash and the balance in promissory notes, viz.—two at £274 10s each; on one of these notes I received afterwards part cash and another promissory note for £117 10s.; the other one was also renewed, and with interest added came to £318 10s., which fell due on the 23rd March last, being the day before the trial; the trial was on the note for £117 10s.; I was not present at the time defendant was examined; if defendant swore this note for £117 10s. was an accommodation note he swore falsely; I gave him the land and some wheat and some new bags to put the wheat in for the note; if Mr. Madgwick swore the note for £318 10s. was for accommodation he swore false; I gave the note for £117 10s. to Mr. Holmes on account of one Handcock, who was to receive £100 out of it; I was present at the trial, and the jury said when they gave their verdict that it was no accommodation bill; I owed Handcock the £100.

By Defendant:—The jury did not give a wrong verdict; I have received promissory notes from you; I have had one promissory note from you for which I received cash from you, and did not return the note; it was for about £125; I lent it you to finish your houses with in Dungog, and before we dealt about the land I gave you a receipt for the cash when I received it; I told you the note was mislaid when I gave you the receipt; you told me if I came across it to destroy it; I found it afterwards and burned it; I swear I burned it; I swear you never paid me for more than one promissory note that I did not return, and to my knowledge I never gave you a receipt for any other notes for which I received cash but did not return; I might have given a guarantee to return that one note but I do not remember it; I am positive I never agreed to return more than one note. I know Robert Handcock; he is my father-in-law; I had every confidence in you at the time I burned the promissory note alluded to; I sold

sold Hancock's land, 50 acres, £10 per acre; you prepared the agreement; he gave me five promissory notes of £100 each; I might and I might not have received cash, to the best of my knowledge I received none; I was at the trial *Holmes v. Madgwick*, and was a witness; I did not swear Hancock paid me £100 cash deposit at the time of agreement; I sold you 46 acres for £200, 340 acres for, I believe, £650, 60 acres for £112 10s., to the best of my knowledge; I am not positive I received a cheque of yours for £100; I did not swear in Maitland that I received from you a particular sum of £100 cash; to my knowledge I never received from you a cheque for £48; to my knowledge I never received a cheque from you for £12; I can't say I received one for £140; I admit receiving either cash or a cheque for £200 on one occasion, and, to the best of my knowledge, a cheque of Mr. Chambers' for £200 on another occasion; there were some of Mr Moss' cheques in the £200, to the best of my belief, but I never received a cheque of his in the whole for £200, to the best of my knowledge

Sworn before me, this 9th April, }
1858, at Dungog. }
JOHN HOOKE, J.P.

his
WILLIAM + LATIMORE.
mark.

Witness to mark—
OWEN C. BEARDMORE, C. P. S.

Remanded till 1st Friday in May. Bail allowed in £80 for himself.

Police Office, Dungog,
7 May, 1858.

Before John Hooke, Esq., J. P., William Lowe, Esq., J. P.

The above case against E. C. Madgwick, for perjury, is again brought on.

W. H. Mullen, of West Maitland, Solicitor, being duly sworn, deposeth:—I produced office copy of Record in the case *Holmes v. Madgwick*, under the seal of the Supreme Court, marked O.C.B.

Sworn before us, this 7th May, }
1858, at Dungog. }

W. H. MULLEN.

JOHN HOOKE, J. P.
WILLIAM LOWE, J. P.

William Latimore, being duly sworn, deposeth:—I have heard my statement read over, and adhere to it, with the exception of the cheque from Mr. Chambers; I am not certain whether it was Chambers' cheque or not, and I am not certain whether the £200 I received previously was cash, or a cheque or cheques; the cheque I believe to be Mr. Chambers' was given to me on the 5th May, 1856; I do not know that I received a cheque from you for £100, but I received £100 in some sort of payment about the beginning of January 1855; I do not know I ever received a cheque from you for £12 by itself; I don't remember receiving a cheque from you for £140; I know what I have received altogether; I never received a cheque by itself for £35 from you; I don't remember receiving a cheque from you for £35 in connection with Bank notes; I don't remember receiving a cheque from you for £72 10s., but I did from your wife; I received a cheque for £25 from your son; I remember calling on you at Hinton before I went to Sydney to pay for my land; it might be the 3rd or 4th of January, 1855; I saw you at Miles Moss' house about that time; I am not positive that I went to Mr. Chambers' office with you; I don't remember receiving and giving you a receipt for £200 in Mr. Chambers' office in Maitland; before I went to Sydney I got £1,100 from Mr. Gally; I got from you about that time £300 for land I sold, and £125 of lent money; I sold you 50 bushels wheat for £25; 18 bags for £1 13s.; the note Mr. Holmes got was drawn for £117 10s.; I had one bill for £274 10s., which fell due on the 17th March, 1856; there was no portion paid till the 5th May, 1856, when I received £200 cash; the bill bore interest at 8 per cent., and with that and the balance, and the 50 bushels of wheat and bags, and renewal for six months, he gave me this promissory note for £117 10s., and there should have been added interest from the 17th March to 5th May, about £2; I took the bill, but could not read it, having implicit confidence in Madgwick; and when I took it home gave it to my wife; she read it, and I said it was wrong, and should have been at least £125; the next morning I saw defendant, and said, "There is a mistake in the bill," putting it into his hand; he said, there was a mistake, and he did not know how he came to make it—"It looks very bad on my side, and as soon as ever we go to Maitland I will give you another"; he never gave me another; no one told me to make this tale up; I swear Mr. Holmes did not point out this to me; you never paid me for the wheat, nor any one else; I remember you calling on me about the £117 10s.; I told you it was passed to Mr. Holmes, to get Hancock his £100; I swear I never told you that I passed it to Mr. Holmes as security for Hancock's rent; I know he owed rent to Mr. Holmes; I never told you Mr. Holmes taunted me several times to give him this note; Mr. Holmes never jeered me about it; Mr. Holmes asked me first if I would pay Hancock his £100; I said I had not got it, but had an over-due note on you, which I would give him, and I gave him this note, and Mr. Holmes said he had no doubt you would pay him; I don't remember swearing the whole of the £117 10s. was due to me in the Maitland Court; at the time the promissory note was sued for you had paid me some of it, £30; I told Mr. Holmes I had received £30 on account of it, and might have told others; I never looked at Mr. Holmes as my adviser.

By

By Prosecutor :—I presented this £117 10s. bill to defendant a good many times, I dare say twenty times; he never told me it was an accommodation bill, but would take it up when M'Donald paid; this £117 10s. bill was not an accommodation bill.

Sworn before us, at Dungog, }
this 7th May, 1858.

JOHN HOOKE, J. P.,
WILLIAM LOWE, J. P.

his
WILLIAM × LATIMORE.
mark.

Stephen Neate Dark, of Clarence Town, master miller, being duly sworn, deposeth :—I know the defendant; I was formerly carrying on the business of an auctioneer, and I offered for sale a property of defendant's, situate near Brookfield, on or about the 7th January, 1857; it formerly belonged to William Latimore, and defendant informed me he bought it from Latimore; the information was in his own handwriting, being a copy of the deeds; at the time of the sale I saw Mr. Madgwick, and from information I received from Latimore I asked Madgwick if, in the event of Latimore buying the property he would take in part payment two bills drawn by him (Madgwick) in favor of Latimore; he (Madgwick) said Latimore had agreed to give him his own time for the bills, that he had called the sale for the sake of getting the 25 per cent, and it would not suit him to take the bills in part payment; I then told Latimore that Madgwick made some objection to taking the bills, and myself, Latimore, and Madgwick walked towards the stable, and after some little conversation he consented to take the bills in part payment for the Alma Inn if Latimore should purchase; Madgwick never said to me they were accommodation bills; the bills were mentioned to me as being £300 and odd, and £100 and odd; the odd pounds I don't remember; I had my instructions then to take Latimore as a *bona fide* bidder, and to take the bills as part payment.

By Defendant :—I have known you six or seven years; I once had a prejudice against you, but it has since turned into contempt; I once attended a meeting in Dungog, where resolutions were passed touching your reputation; I was the author of the report in the *Maitland Mercury* of that public meeting; it was published within the last eight months; the language was not bitter, but conscientious; I rather think old M'Donald was in the room during my first conversation with you about the bills; it took place at the Alma Inn, about the 7th January, 1857; I can't tell if either of these bills that I have alluded to is the bill alluded to for £117 10s; I think we dined together the day of the sale; I believe the conversation took place before dinner, and they occurred within five minutes of each other; I never saw those bills; no business transaction I had with you was dishonorable; yes, I have heard you behaved dishonorable with others.

Sworn before us, at Dungog, this }
7th May, 1858.

JOHN HOOKE, J. P.,
WILLIAM LOWE, J. P.

STEPN. N. DARK.

Case remanded till Thursday, the 20th May next.

Police Office, Dungog,
20 May, 1858.

Before John Hooke and William Lowe, Esquires, J. P.

The above case *Holmes v. Madgwick*, for perjury, is again resumed.

Walter Gally, of Hinton, gentleman, being duly sworn, deposeth :—I know William Latimore; I have had several dealings with him; I know defendant, Madgwick; from information I received from Latimore I know they had dealings together; I lent Latimore money on security, to buy property from one Cape; the security I had was on the purchased land, and I had no other security, and had none other offered; I never asked him to get Madgwick's name to any promissory note as further security.

By Defendant :—I was summoned here; I lent Latimore £1,100; I think the land cost £2,000; Latimore did not tell me what he gave for it; he might have told me, but I was not particularly interested; I knew I was secure enough; I swear he never gave me a cheque of yours; I don't know what sort of money he paid into the Bank; he only brought me the bank receipt; I know nothing about the note on which this question is raised; it has never been in my possession; I can't swear whether it is an accommodation note or not from my own knowledge; I don't know Campbell & Co. of Sydney; I swear no cheque of yours was paid by me or my order to Campbell & Co.; I swear Latimore never offered any of your bills to me as security; I have a lien on all Latimore's property, except what you bought; the deeds have never been out of my possession, and I never sanctioned any conveyance since I first received them.

Sworn before us at Dungog, this }
20th May, 1858.

JOHN HOOKE, J. P.
WILLIAM LOWE, J. P.

WALTER GALLY.

George Mackay, of Welbee, gentleman, being duly sworn, deposeth :—I know the defendant; I was present in the Court House, East Maitland, in the month of March last; I heard defendant give evidence, but am not certain I heard him sworn; the case was *Holmes v. Madgwick*; the case was about a promissory note for £117; I heard it was in favor of William Latimore; defendant I heard say it was an accommodation bill given Latimore to help him raise money; I am not aware defendant denied signing it; I heard him say there was no consideration given for the note; I was present when the jury gave their verdict; their

their opinion was that it was not an accommodation note, and found a verdict for the plaintiff.

By Defendant :—This is the third day of hearing this case ; I attended previously ; sometimes outside the Court House, sometimes up stairs ; if the two doors are open it is possible to hear up-stairs what is going on down-stairs ; I was summoned on the first day to appear as a witness ; I can swear I did not hear ten words of what passed below, and I do not remember one of them ; I remember the last Circuit Court in Maitland ; I was summoned there as a juror ; I was not in attendance all the time ; I was summoned there, I believe, for the 18th, and remained there till the end of the civil sitting ; I think I know the jurors that sat on the 24th, viz.,—M'Dougall, M'Kenzie, and two Middletons ; I did not lunch with the jurors, but one of the Middletons might have been present ; I will not swear he did not dine with me, but I believe he did ; if he did dine with me that day, the case *Holmes v. Madgwick* was not finished at the time of the lunch ; I remained in the Court nearly all the time the trial lasted ; I was a witness at it ; I was not summoned as a witness ; either Mr. Holmes asked me, or I offered to go myself ; Mr. Holmes asked me if I was willing to give evidence as to defendant's credibility ; I said I was ; I considered my evidence would have a tendency to determine the opinion of the jurors ; I cannot swear whether the promissory note in question is an accommodation note or not ; I have known you from five to eight years ; I have had a little business with you ; your business with me was honorable, inasmuch as you paid my demands on you without dispute ; I gave evidence in the Circuit Court that you had sworn falsely against me ; I only remember your being on your oath once in any case in which I was concerned in a Court of Justice, not including a Court of Inquest ; the occasion of false swearing I allude to was in answer to questions put to you by me in this Court, and I believe the questions were legal ; when I was sworn in Maitland I referred to your statement before the Bench at Dungog, referring to an assault case ; I do not see that there is any difference between a statement on oath and deposition ; the substance of your deposition is recorded in the Court ; I believe your deposition was substantially recorded ; I believe I swore you wrote falsely about me ; I referred to a letter signed E. C. M., which I saw in the *Mercury*, and which I believed to be written by you ; I had no legal proof that you wrote the letter E. C. M. at that time ; I believed you wrote the letter, and believe still ; I wrote a letter in the *Mercury* affecting your character ; I did not accuse you of writing falsely in saying there were four persons present ; the letter I now refer to is in answer to a letter signed E. C. M. in the *Mercury*, which I believe referred to a public meeting concerning the drowning of the Ross family ; the letter was not couched in terms of friendship ; it is possible I have felt ill feeling towards you, more properly a feeling of aversion ; one cause was because you would not give me the reason for a jury coming to a certain rider in which I was concerned, and you imputed blame to me and would give no reason for it ; I have no other legal reason for disbelieving you on your oath than the reason already given ; the rumour referred to by me on my oath in Maitland referred to certain promissory bills which I understood were repudiated by you with reference to their value ; I presume one of those notes referred to is now under consideration ; the words "raise money" in the former part of my present deposition is the substance of what you said, and you also said it was to enable Latimore to satisfy Gally.

By Prosecutor :—I swore I would not believe defendant on his oath ; I have no reason to alter my opinion now.

Sworn before us, at Dungog, }
this 20th May, 1858. }

JOHN HOOKE, J.P.
WILLIAM LOWE, J.P.

GEORGE MACKAY.

George Mackay being recalled, and again duly sworn, deposeth :—I know the prosecutor ; he is a land and stock-holder and magistrate of the territory ; he lives at Oakendale, near Clarence Town ; I did hear something touching his character, but found it groundless, and you are one of the parties that spoke to me about it ; in the whole course of my knowledge of Mr. Holmes I know nothing against him ; so far as I know his character is unimpeachable.

Sworn before us, at Dungog, }
this 20th May, 1858. }

JOHN HOOKE, J.P.
WILLIAM LOWE, J.P.

GEORGE MACKAY.

John Cann, of Brookfield, builder, being duly sworn, deposeth :—I know defendant ; I know Latimore ; I put up a house for him ; I had some conversation with them both in the presence of one another ; defendant drew out the agreement, and asked me how I would like to be paid ; I said as the work went on ; defendant turned to Latimore, and said, "How would that answer you ;" Mr. Latimore said, "That would answer well if you (meaning defendant) would take up your bill when it becomes due ;" Madgwick then said, "Whether the bill is due or not, I will find money for Cann ;" this was in April or May, two years ago ; my contract was for £110 ; defendant knew the amount, for he drew out the agreement ; from what I heard, I should suppose money was due by defendant to Latimore.

By Defendant :—I am a rough builder or carpenter ; I can't read or write ; I don't often keep agreements, I generally burn them when fulfilled ; this identical one is neither burned nor destroyed ; I did not know what I was subpoenaed on, and did not bring the agreement ; you never told me you owed Latimore money ; I never heard you acknowledge you owed Latimore money ; I know nothing about the promissory note in dispute ; I can't say you owe money on it ; I can't swear anything about any note ; I have done work for you to

near £200 of value; you always paid what you promised; you always fulfilled your agreements promptly with me; you always conducted your business honorably as far as I saw.

Sworn before us at Dungog, this }
20th May, 1858. }
JOHN HOOKE, J.P.
WILLIAM LOWE, J.P.

his
JOHN + CANN.
mark.

Witness to mark,—

OWEN C. BEARDMORE, C.P.S.

George Achurch, of Clarence Town, miller, being duly sworn, deposeseth:—I know Mr. Latimore and the defendant; I received wheat from Latimore for defendant on 26th January, 1856; I was to grind it, and deliver it to Mr. Madgwick or his order; I know he had the flour, for he paid me for grinding it, and I believe Hick, the carrier, delivered it; I bought all Latimore's wheat that year, except the 50 bushels he sold defendant, and what he required for himself, at 10s. or 10s. 6d per bushel; that is the only transaction I had between Latimore and Madgwick.

By Defendant:—I know nothing about the case before the Court; I was not summoned to attend here; Mr. Mullen told me to come; I thought Mr. Mullen's order was sufficient to bring me; I can't swear you paid Latimore; I saw no money passing between you.

Sworn before us, at Dungog, }
this 20th May, 1858. }

GEORGE ACHURCH.

JOHN HOOKE, J.P.
WILLIAM LOWE, J.P.

Case remanded till the 31st day of May next, at West Maitland Court House, before the sitting magistrates there.

Bail allowed—himself in £160.

JOHN HOOKE, J.P.
WILLIAM LOWE, J.P.

Police Office, Dungog,
20 May, 1858.

Gentlemen,

We have the honor to forward you the depositions in the case *Holmes v. Madgwick*, for perjury, arising out of a civil case heard at the last Maitland Circuit Court.

We have sat on the case three days, and had nearly finished the case for the prosecution, when the prosecutor requested it might be remanded to your Bench; and as several important witnesses for the defence reside in Maitland, we considered it would be furthering the ends of justice to so remand it, and shall feel obliged by your taking it in hands.

We have, &c.,

JOHN HOOKE, J.P.,
On behalf of the Bench.

The Bench of Magistrates,
West Maitland.

West Maitland, Police Office,
May 31, A. D., 1858.

Before P. Green, J. P., Bourn Russell, J. P., Alfred Doyle, J. P., and J. B. R. Robertson, J. P.

Edward Chalton Madgwick on remand from the Dungog Bench for perjury.

Thomas Holmes, being duly sworn, saith:—I am a landholder and a magistrate of the territory, and live near Clarence Town; I know the note now produced; the note is signed by the defendant, and is all drawn by him; I sued the defendant on that note; the case came on for trial in March last; a verdict was given for plaintiff, £120, and the jury added that it was not an accommodation note; I never showed the note to defendant, but I had conversation with him prior to trial about it; I met him in Dungog, and we had some conversation about the note now produced, and he then said, "If you will go up with me to my house, I will pay you Handcock's rent and some other bill." I replied, "No, Mr. Madgwick, I must take all the money and not a part of the bill." He offered to pay what was due for Handcock's rent; Madgwick did not dispute the bill, but said he owed no man that amount of money, but he would go to Latimore and arrange it.

By the Bench:—I know full consideration was given for the bill; I acted as agent for a tenant; there was no mention of any part only I will pay you £13 10s. of Handcock's bill, which was to come out of the bill; the bill now produced is for £117 10s., and £30 has been paid out of it prior to its coming into my hands; it was due some time prior to coming into my possession, and before I presented it to defendant; I first wrote to defendant about the bill for £117 10s., which gave rise to the conversation before mentioned; I do not remember positively whether I presented the note to defendant or no; I had it in my pocket; I never received the £13 10s.; I did not go to his house; defendant did not deny the bill, or say any thing about it being an accommodation bill; when I commenced proceedings against defendant then I heard it was an accommodation bill; then I first heard it; the bill of £117 10s. was given in the following way to me: Mr. Robert Handcock purchased from Latimore 50 acres of land, for which he was to pay by five promissory notes of £100 each, making £500 payable by yearly instalments; the first year's note was paid before it became due; shortly after, when the second note became due, Handcock coming to Maitland received a sun-stroke, and was
unable

unable to pay the second bill; Latimore and Hancock met me in Clarence Town about it; when I told Latimore I would pay the (£300) three hundred without interest; Latimore would not accede to these terms; when I asked Latimore if he would give back the first £100 he said he would, if Hancock would give up the land; Hancock said, "I have not the money, but I will give you a bill of Madgwick's for £117 10s," but that he had received out of it £30 on these terms; the land was returned.

By Defendant:—I have heard the purchase of the land by Hancock and Latimore from themselves; I never to my knowledge remember swearing you owed me £117 10s.; I don't think I ever swore I had given full consideration for the bill; I can only speak from information I received from Latimore, that he had only £30 on account of £117 10s., and not as a loan; I never claimed £100; I took it as agent for Mr. Hancock—it being due, by Latimore to Hancock; I did not take it for rent; the interest due and principal, deducting the £30, would leave it quite £100; I might have stopped my rent out of it if it had been paid; I was acting for Mr. Hancock as agent; you offered to pay me Hancock's claim for rent and other matters; I claimed the whole of the money, when I met you in Dungog, for the bill, £117 10s.

I got the note in Clarence Town, near the Court House or Roberts'—Roberts is a publican; I got it from Latimore in presence of Hancock; I believe Latimore was sober; I believe he is a man that never gets drunk; I was sober; I do not think I swore at the Supreme Court that I don't know where I got the bill; I made no arrangements with Latimore as to how I got the bill; I may or may not have heard of it or mentioned it; I don't recollect the Judge suggesting anything; I was agent for Hancock at his own request; I never told any person I hated you.

By the Crown:—The document now produced is in my handwriting.

Sworn before us at Maitland, }
31st May, 1858. }

THOMAS HOLMES.

P. GREEN, J. P.
BOURN RUSSELL, J. P.

DEFENCE.

Richard Jones, being duly sworn, saith as follows:—I attended the last Circuit Court held in Maitland; I know Thomas Holmes; I know William Latimore of Glen Innes; I heard them both sworn at the last Circuit Court; Latimore said the note sued for was given as a promissory note for land, and he said some wheat and bags had been mixed up with it, and that it had been renewed; the amount of the bill was £117 10s.; he said a portion of the bill had been paid; I heard Mr. Holmes say that he had received the note of £117 10s. from Mr. Latimore as security for £13 10s., including one pound and something else as security; I know of your buying land of Latimore, I think for the amount of £600; I believe 340 acres and odd; I witnessed the receipt, as it had been paid for, but know not how it was paid; Latimore acknowledged it had been paid, and the receipt sets forth it was in sterling; the receipt now shewn is the one I witnessed; I asked Latimore if the amount had been fully paid; he said it had; the receipt is dated 17 March, 1855; I wrote the paragraph dated 7 January, 1858, at my own dictation; I remember the trial at the Circuit Court; I remember riding in an omnibus with a man named Holmes and another, Mackay; I heard Mr. Holmes say he would pull you for perjury, and could afford to lose or pay £400 or £500; this was after the trial; all I can recollect about the rider at the end of the receipt is that the paragraph about the accommodation note is from conversation I had with Latimore and defendant, but its nature I do not remember; the note sued upon was said by Latimore to be part of the payment of this land.

By the Crown:—I know defendant's handwriting; the document now shewn is in his handwriting; the paper marked A is the paper alluded to; I will swear I know nothing about the accommodation bill in reference to the document now produced; I did not see any money paid; the document dated 4th January, 1855, and marked B, is one and the same as the one I am witness to the receipt of; Latimore was sober, and was a sober man then, but a drunkard now.

Sworn before me at Maitland, }
31st May, 1858. }

RICHARD JONES.

P. GREEN, J.P.

Edward D. Madgwick, being sworn, saith:—I am son of defendant; I remember the defendant buying wheat of Latimore, whom I know, I think in 1856, about the end of harvest, early in 1856; I remember going to Latimore's house with my mother; we went to pay for wheat; we paid between £20 and £30 in full payment for wheat; this was in March, 1856; I saw my mother pay it in notes.

By the Crown:—I have already made affidavits about this case I never made affidavit I paid for the wheat in 1855; my mother mentioned the wheat to Latimore; I don't remember paying him £5 on account of wheat; I have paid money several times to Latimore; I once took £25 cheque to Latimore, about twelve or eighteen months ago; the defendant told me to take it to Latimore, and to him I gave it; I returned home the next morning; Latimore made no remark on it, only said, "I thank you"; the document now produced is not in my father's handwriting; I think I swore 1856; I am not certain as to the exact time.

Sworn before us at Maitland, }
31st May, 1858. }

EDW. D. MADGWICK.

P. GREEN, J.P.
BOURN RUSSELL, J.P.

John McFarlane, being sworn, saith :—I am a teacher, residing at Dungog; I know Latimore; I have known defendant have land transactions with Latimore in the year 1855; I can't say the quantity or the price; I saw some money given and a cheque; I know the land perfectly well; it is situated near Brookfield; the bargain was in my house with myself, Madgwick, and Latimore; they drew out an agreement which I witnessed; the payment was a bank note or notes, with the cheque; I can't recollect the amount; I can't recollect the name of the place; there was a promise made the balance of the money was to be paid in January; there was a receipt given by Latimore, and I signed it; I only saw one land transaction between Latimore and Madgwick; the document shewed me, marked C, is not the receipt for the land transaction I was witness to; I was witness to another transaction with Latimore and not the one shewn me.

Sworn before us at Maitland, }
this 31 May, A.D., 1858. }

JOHN McFARLANE.

P. GREEN, J.P.
BOURN RUSSELL, J.P.

Remanded to the 10th June next. Bail allowed, principal in £100 and two sureties of £50 each, or one good one in £100.

P. GREEN, J.P.
BOURN RUSSELL, J.P.

Police Office, West Maitland,
10th June, 1858.

Before P. Green, J. P., B. Russell, J. P., J. B. R. Robertson, J. P., H. Vindin, J. P.

Edward Chalton Madgwick on remand for perjury.

Robert Handcock, being sworn, saith :—I know Latimore and Madgwick; I know something about a bill for £117 10s.; it was drawn in my place; in 1856, in the month of May, I saw Latimore and defendant at my house; in the first place Madgwick was paying £200, part of an overdue bill to Latimore; I then saw defendant draw another bill, adding up the balance due, some for interest, some for fifty bushels of wheat, 18 new bags, and when added up made £117 10s.; I saw defendant give the bill to Latimore; the next morning I saw the defendant and Latimore; Latimore then said "There is a mistake in this bill; defendant said "Let me look at it"; Latimore gave the bill to him; defendant said "There is a "mistake and it looks bad on my side"; he promised another bill when he went to Maitland; defendant returned the old bill to Latimore; they then went away from my place; the old bill was about £270; I can't say in what way the money was paid, whether in notes or not; there was another person, named Cann, there.

I am related to Latimore—father-in-law; I only saw the note once when passed between you and Latimore; it was drawn at my house, but I won't swear the paper now produced is the same you wrote; I won't swear to the paper or note being drawn at Dungog; I can't swear the wheat was not previously paid for before drawing the bill; I can't read writing nor can I write; I know Thomas Holmes; I never had the note in my hands; I authorized Thomas Holmes to act for me the best way he thought fit; I am a tenant of Holmes; I owed Holmes 6 months rent; I owed some other little expenses; I don't know what was due upon the note, of my own knowledge; the £17 10s. balance would be returned to Latimore as I only claimed £100; Holmes was to take £11 5s. for rent and other expenses; the note became due by purchase of land between Latimore and self; I paid £100 of principal; I paid him in his own house; I have known Holmes for 18 years; Holmes did not hold the note for more than £100 on my account; Latimore owed me £100.

his
ROBERT + HANDCOCK.
mark.

Sworn before us, 10th June, 1858.

P. GREEN, J.P.
BOURN RUSSELL, J.P.
HY. VINDIN, J.P.
J. B. R. ROBERTSON, J.P.

DEFENCE.

Joseph Chambers, being sworn, saith :—I know Latimore and have seen him at my office; I prepared a conveyance from Cape to Latimore; I can't recollect your paying money to Latimore in my office; I may have made out a conveyance from Latimore to Moss; I don't remember any receipt for money passing between us; I once remember some papers of money, either bills or cheques, passing between us.

Sworn before us, 10th June, 1858.

JOSEPH CHAMBERS.

P. GREEN, J.P.
BOURN RUSSELL, J.P.
HY. VINDIN, J.P.
J. B. R. ROBERTSON, J.P.

William Latimore, being sworn, saith :—I have been in Chambers' office with you, on 6 May, 1856; you did not pay me any money; I may have been at Chambers' office prior to the conveyance of Cape to me; I don't remember having any money from you; I will not swear that money passed between us at Chambers' office, or that I told Chambers so.

Sworn before us, 10th June, 1858.

P. GREEN, J.P.
BOURN RUSSELL, J.P.
HY. VINDIN, J.P.

his
WM. × LATIMORE.
mark.

John Broderick, being sworn, saith :—I live in West Maitland, and am a bookseller; I know W. H. Mullen; I received a promissory note from you for £20, or thereabouts, and another for £13, and a third for £13, within the last 15 months, for goods sold and delivered; I passed them to Mr. Mullen; they were drawn on the Joint Stock Bank; I renewed the £13 note twice; I had three transactions with Mr. Mullen; the notes bore your signature; I renewed with you a note for £13 twice; Mr. Mullen did not renew the bill eight or nine times.

Sworn before us, 10th June, 1858.

P. GREEN, J.P.
BOURN RUSSELL, J.P.
HY. VINDIN, J.P.
J. B. R. ROBERTSON, J.P.

JOHN BRODERICK.

John Morris Saunders, being duly sworn, saith :—I am Manager of the Bank of New South Wales; you drew a cheque in favor of William Latimore for £48, drawn 3 January, 1855; the cheque was paid in gold over the counter; I can't say who presented the cheques; I don't know Latimore by name, only by sight; a £35 cheque drawn by you in favor of Latimore was also passed into the bank and paid; I don't know to whom it was paid; it was paid in notes—in £5 notes.

Sworn before us, 10th June, 1858.

P. GREEN, J.P.
BOURN RUSSELL, J.P.
HY. VINDIN, J.P.
J. B. R. ROBERTSON, J.P.

J. M. SAUNDERS.

Thomas Hibberd, being sworn, saith :—I live at at Windemere; I know Latimore by sight; I don't recollect seeing either money or cheques pass between Latimore and you; I don't recollect seeing you draw a cheque; I recollect defendant saying he would pay the sum of £200, and the remainder of the money when the land was measured; he said this to Latimore in my hearing; the receipt I signed I could not say whether it was a receipt for promissory notes or for land; Mr. Madgwick asked me to be a witness; I can't say who wrote the receipt; I can't say whether the receipt was read over to Latimore before his signing it; it may or may not; I can't say whether Latimore put his mark to it or not; the receipt marked D is the receipt I signed; I would not have witnessed it had I not seen Latimore make his mark there.

Sworn before us, 10th June, 1858.

P. GREEN, J.P.
BOURN RUSSELL, J.P.
HY. VINDIN, J.P.
J. B. R. ROBERTSON, J.P.

THOMAS HIBBERD.

John Whytlaw, being sworn, saith :—I am in the Bank of Australasia; one Miles Moss keeps an account in our Bank in Maitland; in the early part of 1855 and the end of 1854, he had an account there; there have been some cheques or drafts drawn by Moss in your favor; I have a cheque for £200 in favor of defendant, dated 2 January, 1855, drawn by Moss, one for £140 in favor of defendant, 30 December, 1854, one for £12, dated 2 January, 1855, in favor of defendant; the cheques were paid in notes, but I can't say to whom; these cheques were paid by the Bank on the 4th January, 1855.

Sworn before us, 10th June, 1858.

P. GREEN, J.P.
BOURN RUSSELL, J.P.
HY. VINDIN, J.P.
J. B. R. ROBERTSON, J.P.

JNO. WHYTLAW.

William Latimore recalled :—I may have passed some cheques of Moss through the Bank; I have, no doubt, done so; I can't read or write; I presented some cheques in January, 1855; I got notes, £5, and gold; I presented the cheques before I got the deeds from Cape; I got a cheque cashed at the Bank of New South Wales for £48; the amount of the note was £117 10s.; I received £30 of it, and the Bill remained the same as before;

I received a £5, a cheque for £25, paid by defendant's son to me; it was not paid on account of wheat; it was paid on account of £117 10s bill; defendant promised to pay that bill more than once; the document now produced I have seen before; it is marked A; Mr. Madgwick gave me the document; it is for £318 10s.; the document marked B is for £117 10s., and I have seen it before; defendant said it was to bear interest at 8 per cent., and was given on May 6th; the bill was given as a renewal of a balance for £274 10s.; £200 was paid; £74 10s. balance was renewed; £25 for wheat, £1 13s. for bags, and £2 interest, or thereabouts; the interest on £274 10s. for twelve months, at 8 per cent; I found out the mistake the morning after the bill was given; the bill was wrong; I told Madgwick of it, which he admitted, and when he got to Maitland he would give me another; I retained the bill; defendant never gave me another; defendant said when M'Donald paid his bill he would make it right; I don't recollect what the cheque for £48 was given for; I lent defendant £125 in 1854; I know the document marked B; I know the document marked H; I know the document marked I; the survey was completed of the land in the agreement marked B on 17th March, 1855; the two bills, one for £117 10s. and for £318 10s., are renewals on account of agreement marked B; the bill for £117 10s. was part a renewal for land, and part for wheat.

The paper marked D, I can't swear to the mark; I don't remember making a mark on any paper witnessed by Thomas Hibberd; I won't swear it is not my mark; I never received £200; the paper read by the Bench; I never received £200 as payment for amounts due of promissory notes of back dates; I sold land to defendant in 1854 or 1855; it was a separate transaction to the bills—for the sum of £200; it was paid, I think, some of it in cheques, which I think were some of Moss' cheques; it was paid I think 2nd or 3rd January, 1855; I recollect defendant sold land to Moss in January, 1855; the document witnessed by John M'Farlane I marked—it is marked J—is perfectly correct, and the payment I received; the bill for £117 10s. I will swear was not an accommodation bill; I never received one from defendant in my life; the document marked C is not marked by me; it is witnessed by Jones, but I never received any such amount; I know Jones, and was on intimate terms with him; I would not be positive whether it was Chambers' cheque or no; I might have sworn receiving £200 at another time; I did receive £200, but how I can't say; I paid the money into the Bank of New South Wales; I received a cheque for £200 in Handcock's house in May 1856; for the piece of land for £650 I got £100 in cash, and the residue in bills; the land was surveyed, and defendant was to give his notes of £274 10s. each for the balance.

Sworn before us, 10th June, 1858.

P. GREEN, J. P.
BOURN RUSSELL, J. P.
HY. VINDIN, J. P.
J. B. R. ROBERTSON, J. P.

his
WILLIAM × LATIMORE.
mark

William Latimore recalled:—I acknowledge receiving money for M'Kinnon's land £200, also for the land in the agreement witnessed by M'Farlane for £112 10s.

Sworn before us, 10 June, 1858.

P. GREEN, J. P.
BOURN RUSSELL, J. P.
HY. VINDIN, J. P.
J. B. R. ROBERTSON, J. P.

his
WILLIAM + LATIMORE.
mark.

Committed to take his trial at the next Circuit Court to be holden at Maitland, on the 13th of September next.

Bail allowed—principal £100, and two sureties in £50 each.

P. GREEN, J. P.
BOURN RUSSELL, J. P.
HY. VINDIN, J. P.
J. B. R. ROBERTSON, J. P.

(N. 11 & 12 Vic., Cap. 42)

Statement of the Accused.

New South Wales, }
Maitland, to wit. }

Edward Chalton Madgwick stands charged before the undersigned, one of Her Majesty's Justices of the Peace in and for the aforesaid, this tenth day of June, in the year of our Lord one thousand eight hundred and fifty-eight, for that he the said Edward Chalton Madgwick did, on the twenty-fourth day of March, at Maitland, in the said Colony, commit wilful and corrupt perjury, and the said charge being read to the said Edward Chalton Madgwick, and the witnesses for the prosecution, William Henry Mullen, William Smith, Thomas Holmes, William Latimore, and Robert Handcock, being severally examined in his presence, the said Edward Chalton Madgwick is now addressed by me, as follows

follows:—"Having heard the evidence, do you wish to say anything in answer to the charge? "You are not obliged to say anything unless you desire to do so; but whatever you say will be "taken down in writing, and may be given in evidence against you upon your trial;" whereupon the said Edward Chalton Madgwick saith as follows:—"I am not guilty, and "beg to call witnesses to rebut the evidence."

P. GREEN, J. P.
J. B. R. ROBERTSON, J. P.
HY. VINDIN, J. P.

SUPREME COURT.—WEDNESDAY.

SETTINGS IN BANCO.

Before the full Court.

Holmes v. Madgwick.

This was a motion for a new trial in an action upon a promissory note for £117 10s., tried at Maitland, wherein the plaintiff had obtained a verdict.

Mr. Faucett appeared in support of the motion, and Mr. Wise and Mr. Wudeyer in support of the verdict.

This was a case in which the evidence was so contradictory as to lead to an inevitable conclusion that there must have been perjury on one side or on the other. The principal ground of the present motion was, that defendant had been taken by surprise, by part of the evidence on the other side, and that, at all events, the ends of justice required a fresh investigation.

Their Honors, without calling upon plaintiff's counsel, refused the application, with costs. This, they held, was peculiarly a case in which the jury, having conflicting statements before them, had a right to say which they believed.

The statement in which perjury is assigned in this case was made in the course of a trial in the Circuit Court at Maitland, in which the verdict went against the defendant, but there is now a motion for a new trial of that case pending, and the statement on which the perjury is assigned involves the question at issue in the cause in which the new trial is applied for. Under these circumstances, I do not think it right to proceed with the case until the new trial motion is disposed of. Madgwick should be called upon to enter into fresh bail bonds, and the witnesses for the Crown should be bound over to appear at the next Circuit Court.

J. M.,
A. G.

15 Sept., 1858.

I.

Bourke-street, West Maitland,
4 April, 1859.

Sir,

I beg to inform you that I duly received a letter from the Honorable James Martin, informing me that my evidence before the Committee would not be required, inasmuch as the question of my "innocence or guilt in no way would come under their consideration."

This morning, however, I had an interview with Mr. James Ewan, Reporter to the *Northern Times*, who informed me that during his examination before the Committee he was questioned touching a memorandum about interest, attached to the foot of the note for £117 10s., but to which he could offer no explanation, and which, as I understood from him, was looked upon by Mr. Martin and other gentlemen of the Committee as appearing prejudicial or unfavorable to me.

Without entering into the question if such a course of examination did not involve the question of presumed guilt on my part, in contravention of the spirit of the above extract from Mr. Martin's letter, and which, to my mind, shews how necessary my own evidence would be in the matter, I beg to take the liberty of explaining the nature and origin of the promissory note itself, and the cause of the memorandum of interest attached thereto—not that I have any need to be anxious as to what construction the Committee may be pleased to put upon it, in the absence of any reliable person to offer a reasonable explanation, but in order that the evidence taken by, and the report of the Committee, may not be given to the world on such an important point to the injury of my fame, without my offering an explanation in my own defence. The facts are these:—

The property of William Latimore, in whose favor the bill was made, was mortgaged to Mr. W. Gally, and, according to Latimore's account to me, he was paying off this mortgage by instalments

In May, 1856, I owed Latimore £200, and sent for him to Dungog (you will see the promissory note is dated at Dungog) to receive his money there. He came to Dungog and I paid him the £200. He then told me he had to pay an instalment of his mortgage to the amount of £317 10s., and asked me if I would let him have my note for the balance to offer to Gally if he would take it. I gave him the note on condition it should be passed to none but Gally. About a quarter of an hour after this he was reading the promissory note in my verandah (for he can read writing) when he said to me, "If Gally takes this note he will require the same interest on it as I am paying him for the mortgage," and wished me to make

make a memorandum on the note to that effect. I asked him how much it was and he said "8 per cent," and I made the memorandum as seen at the bottom of the note. Such is the explanation of it, which I believe must remove from the mind of the Committee any doubt thereon prejudicial to me.

In addition to this explanation I must also submit that the memorandum is in itself rather a proof of accommodation than otherwise. Such a memo is unusual in bills of exchange for bonâ fide consideration. The usual mode well known to all business people is, if bills be paid for property in whole or in part and to bear interest during their currency, the interest is added to the principal, and both form one sum in the body of the bill. The interest, therefore, specified in the bill as it is, shews that it was placed there by a subsequent suggestion, and fully bears out the explanation given above. Would you have the goodness at the termination of the inquiry to send me a copy of the minutes and report; and you will greatly oblige,

Sir,

Your obedient Servant,

EDWD. C. MADGWICK.

Hon. R. Jones, M.L.A.,
Sydney.

1858-9.

Legislative Assembly.
NEW SOUTH WALES.

D. H. DENIEHY, ESQ., M. P.

(CORRESPONDENCE RELATIVE TO PAYMENTS FOR PROSECUTIONS ON BEHALF OF THE CROWN.)

Ordered by the Legislative Assembly to be Printed, 18 January, 1859.

RETURN to an *Address* of the Honorable the Legislative Assembly of New South Wales, dated 14 January, 1859, praying that His Excellency the Governor General would be pleased to cause to be laid upon the Table of this House:—

“ A Return setting forth all amounts paid during the last three
 “ months to Mr. Deniehy, a Member of this House, for pro-
 “ fessional assistance rendered to the Government; and all
 “ Correspondence between Mr. Deniehy, the Attorney General,
 “ and Mr. Zouch; and all Minutes of the Attorney General or
 “ Criminal Crown Solicitor in reference thereto.

(*Mr. Owen.*)

D. H. DENIEHY, ESQ., M.P.

No. of Abstract No. }
to Warrant No. of 185 }

Voucher No. 42.

THE DEPARTMENT OF THE HONBLE. THE CROWN LAW OFFICERS,
Dr. to D. H. DENIEHY, Solicitor.

DATE.	For the undermentioned Services performed for the Department, viz. :—	AMOUNT.
1857.	THE QUEEN v. LINNANE & ROURKE.	£ s. d.
Feb.	Attending Captain Zouch, receiving instructions to prosecute at the Police Office, Goulburn, on behalf of the Crown, and advising him generally on the charges	1 1 0
	Attending Police Office accordingly—both prisoners committed for trial	3 3 0
	In the Supreme Court—Goulburn Assizes :—	
Mar.	Attending Supreme Court, assisting Mr. Solicitor General Darvall to prosecute, when prisoner Rourke convicted	5 5 0
	Attending Supreme Court next day, when prisoner Linnane acquitted	5 5 0
	TOTAL.....£	14 14 0

I certify that the services charged in the above Account were satisfactorily performed, according to agreement, by the above-named individual. I further certify, that they were necessarily required for the Public Service, and that the rates charged were the most reasonable for which the same could be procured at the time they were stipulated for.

(Signed) H. ZOUCH,
Supt. Mounted Patrol, S. Road.

Received, on the third day of December, 1858, from W. E. Plunkett, Secty. to Law Department, the sum of Fourteen Pounds Fourteen Shillings, sterling, in full payment of the above Account, for which have signed Duplicate Receipts of the same tenor and date, pursuant to Warrant of Government, No. , dated the day of 185 .

(Signed) D. H. DENIEHY.

Witness—

The Queen v. Linnane and Rourke.

The Criminal Crown Solicitor will have the goodness to state, for the information of the Attorney General, anything that may be within his recollection respecting the circumstances under which Mr. Deniehy was engaged for the Crown in the above case.

W. E. PLUNKETT.

22 October, 1858.

Regina v. Thomas Linnane and Martin Rourke.

The above-named prisoners were committed at Goulburn on the 14th February 1857. I was not then, of course, in Goulburn, and don't know anything about Mr. Deniehy's being retained "on behalf of the Crown," to appear at the Police Office—Mr. Zouch, however, does certify to the fact. I was present at the trials of the prisoners at the Circuit Court, Goulburn, on the 23rd and 24th March, 1857. Mr. Deniehy's name is quite unknown to me in connection with these trials. The circumstances are fresh in my recollection; there was not the slightest necessity for his "assisting Mr. Solicitor General Darvall to prosecute," and I never heard he had anything to do with the trials. I would suggest that Mr. Zouch's attention should be called to the certificate he has signed; I apprehend he has not read the certificate in reference to the attendances at the trials charged for, and stated to be "necessarily required for the public service."

J. MOORE DILLON,

Criminal Crown Solicitor.

23 October, 1858.

THE SECRETARY TO LAW DEPARTMENT to H. ZOUCH, Esq.

Crown Law Offices,
Sydney, 27 October, 1858.

SIR,

In transmitting the enclosed Abstract, with particulars of fees claimed by D. H. Denichy, Esq., for services rendered in the case noted in the margin, with your certificate attached thereto, together with a report by the Criminal Crown Solicitor thereon, furnished in obedience to a desire communicated to him from the Attorney General, that he would state anything within his recollection respecting the circumstances under which Mr. Denichy was engaged for the Crown in the above case,—I am now directed by the Attorney General to request that you will have the goodness to report fully upon the circumstances connected with the retainer of Mr. Denichy, and your certificate to the voucher in question.

Regina
v.
Thos. Linnane
and
Martin Bourke.

I have, &c.,

W. E. PLUNKETT,
Secretary to Law Department.

HENRY ZOUCH, Esq., P.M.,
Goulburn.

D. H. DENIEHY, Esq., to THE ATTORNEY GENERAL.

95, Elizabeth-street, Sydney,
28 October, 1858.

SIR,

Nearly a week since I placed in the hands of the Secretary to the Crown Law Officers a memorandum of the amount due to me by the Crown Law Department for the prosecution of certain prisoners at Goulburn in 1857, and the memorandum was as fully certified by the proper officer in that behalf, Captain Zouch, as any document of the kind ever has been or *could* be. I am not quite as pressing for my fees as I have reason to know some gentlemen now in eminent positions to have been when prosecuting formerly as attorneys at police-offices—I left the matter stand till the present time—feeling, of course, that I had only to ask for the money whenever I wanted it. For this reason, and this alone, I am this morning informed by the Secretary to the Crown Law Officers that payment is withheld. That gentleman's intimation is to the effect that before the Attorney General would authorise the payment, he was directed to request a *further statement* from Captain Zouch, *as the matter is of long standing*.

Captain Zouch has made the usual, and a sufficiently full return, and I shall ask of him none additional. Is a solemn declaration, corroborative of the truth of that gentleman's official return required, and that Mr. Denichy is not making an illegal claim? Had I insisted on my fees down, instead of, out of respect to Her Majesty's Government, represented in the matter by Captain Zouch, leaving the business one of credit—not usual, as you are aware, in the practice of advocates in the inferior Courts—perhaps the Law Officers of the Crown would have hardly asked more than the usual return, instead of seeking "further information."

Either the return furnished must be sufficient voucher, or my proceedings to recover the paltry amount contained in it must be quite disconnected with further enlightenment on the matter, on my part, of Her Majesty's Attorney General.

Your obedient servant,

THE HONORABLE

D. H. DENIEHY.

THE ATTORNEY GENERAL.

THE SECRETARY TO LAW DEPARTMENT to H. ZOUCH, Esq.

Crown Law Offices,
Sydney, 8 November, 1858.

SIR,

I am directed by the Attorney General to call your attention to the communication from this office addressed to you on 27th ultimo, covering abstract of fees claimed by D. H. Denichy, Esq., for services rendered in the case noted in the margin, and to request the favor of a reply thereto at your very earliest convenience.

Regina
v.
Thos. Linnane
and
Martin Bourke.

I have, &c.,

W. E. PLUNKETT,
Secretary to Law Department.

HENRY ZOUCH, Esq., P.M.,
Goulburn.

H.

H. ZOUCHE, Esq., to SECRETARY TO LAW DEPARTMENT.

Goulburn, 12 November, 1858.

SIR,

Regina
v.
Thos. Linnane
and
Martin Rourke.

I beg to acknowledge the receipt of your letter of the 27th ultimo, with its enclosures, calling upon me, by direction of the Attorney General, to report upon the circumstances connected with the retainer of Mr. Deniehy in the cases named in the margin. I do myself the honor to state, for the information of the Attorney General, that Mr. Deniehy, at my request, did assist to prosecute on the 23rd and 24th of March, 1857, on each of the trials named, with the knowledge, and, I believe, the concurrence of Mr. Darvall; had such not been the case, my name would not have been appended to the certificate, to which my attention has been called by the Criminal Crown Solicitor, and that such certificate was not signed ignorantly or wilfully.

I am quite aware that I had no authority to employ Mr. Deniehy, and may not have been warranted in so doing; but I was solely actuated by a desire to use every effort to prevent these men escaping, (one, Linnane, had so often escaped,) and the anxiety to rid the district of the most cunning and daring offender in it, one who was the leader of the thieves and the terror of every honest man.

W. E. PLUNKETT, Esq.,
Secretary to Law Department,
Sydney.

I have, &c.,
HY. ZOUCHE,
Supt. Mounted Patrol, S. Road.

THE SECRETARY TO LAW DEPARTMENT to CAPTAIN ZOUCHE.

Crown Law Offices,
Sydney, 3 December, 1858.

SIR,

Adverting to your letter of 12th ultimo, reporting further on circumstances connected with retainer at Goulburn, in 1857, of D. H. Deniehy, Esq., Solicitor, &c., in the matter of the Queen v. Linnane and Rourke, I am directed to inform you that, the subject having been laid before the Governor General and the Executive Council, and as it appears from your letter that Mr. Deniehy's professional services were retained by you in connection with the prosecution of the prisoners in question, the Governor, upon the advice of the Council, has been pleased to authorise the payment to Mr. Deniehy of fees in this matter, amounting to £14 14s.; but at the same time I am desired to observe, that it is to be understood that you are not in future to incur expenses of the above nature without special authority.

CAPTAIN ZOUCHE, J. P.,
Superintendent of Mounted Patrol,
Goulburn.

I have, &c.,
W. E. PLUNKETT,
Secretary to Law Department.

In re Regina v. Linnane and Rourke.

I was present in Court when the trial was going on, and I have a perfect recollection that Mr. Deniehy gave on that occasion to Mr. Darvall, who prosecuted for the Crown, the assistance which a solicitor usually gives to a counsel who conducts a case. The trial was a remarkable one in more respects than one, and excited much local interest; and I have no hesitation in saying that Mr. Dillon's memory must have failed him, in stating that Mr. Deniehy rendered no assistance to Mr. Darvall on this occasion.

18 January, 1859.

ALFRED P. LUTWYCHE,
Attorney General.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

INSOLVENCY JURISDICTION.

(PETITION OF J. N. BEIT RELATIVE TO.)

Ordered by the Legislative Assembly to be Printed, 14 January, 1859.

To the Honorable the Legislative Assembly of New South Wales, in Parliament assembled.

The humble Petition of John Nicholas Beit, of Sydney, merchant,—

SHEWETH :—

That your Petitioner has had ample opportunities of observing the proceedings of certain officers of the Insolvency Jurisdiction of the Supreme Court, styled and acting as Official Assignees thereof, and of the Attorneys and Solicitors acting in the said Insolvency Jurisdiction for and on behalf of the said Official Assignees.

That, in many instances, these proceedings tend to oppress and cause severe loss to honest individuals, who cannot obtain redress in matters within the said Insolvency Jurisdiction without incurring enormous expenses, and who are always exposed to risk from the number of petty technicalities that obtain within the said Insolvent Jurisdiction, in the administration of matters intrusted to it.

That the interests of creditors are severally injured by the proceedings of some of the Official Assignees in wasting estates, partly by negligence in collecting, and partly by extravagant law expenses contracted without real necessity.

That under the present state of things so great is the difficulty in obtaining redress by creditors in estates within such Insolvent Jurisdiction against Official Assignees and their Attorneys, that creditors, finding the success of any proceedings they may take in matters of complaint hopeless, are deterred from prosecuting the same, and after long delay and great sacrifice are compelled to content themselves with accepting any dividend, this being in some cases one-half less than might have been distributed had the estates been administered properly, with dispatch and a fair attention to the economy which should rule the Administration of Insolvent Estates.

That, in consequence of proceedings in Insolvency altogether of a gratuitous and unnecessary nature, and instituted altogether with a view to make costs, the time of the Supreme Court is, to a great extent, taken up to the prejudice of *bonâ fide* suitors.

That the present state of the Insolvency Jurisdiction is one productive of the greatest loss, dissatisfaction, and apprehension to this important mercantile community, and that nothing short of a reconstruction of the constitution of the Insolvency Jurisdiction of the Supreme Court, as regards the Official Assignees, will be likely to be satisfactory to this community.

Your Petitioner, therefore, humbly prays that your Honorable House will be pleased to take the premises into your consideration, and will cause an inquiry to be instituted for the discovery of abuses into the said Insolvency Jurisdiction of the Supreme Court, and such as will enable your Honorable House to adopt such remedial measures on behalf of creditors and all persons interested in the due administration of estates surrendered to the Supreme Court as insolvent, as to your Honorable House, in its wisdom, shall seem meet.

And your Petitioner will ever pray, &c., &c.

JOHN Ns. BEIT.

1858-9

Legislative Assembly.
NEW SOUTH WALES.

DISTRICT COURTS AND COURTS OF GENERAL
AND QUARTER SESSIONS.

(CORRESPONDENCE RELATIVE TO APPOINTMENTS.)

Ordered by the Legislative Assembly to be Printed, 29 March, 1859.

RETURN to an *Address* of the Honorable the Legislative Assembly of New South Wales, dated 15 February, 1859, praying that His Excellency the Governor General would be pleased to cause to be laid on the Table of this House,—

“ (1.) All correspondence between the Government and those
“ Gentlemen who have been lately appointed as Judges,
“ Chairmen, Crown Prosecutors, Clerks of the Peace, and
“ Registrars in the District Courts and Courts of General and
“ Quarter Sessions, respectively.

“ (2.) Copies of all Commissions or Appointments issued to
“ those officers respectively.

“ (3.) All instructions or directions given by the Attorney
“ General to the above-mentioned officers, or to any of them.”

(*Mr. Plunkett.*)

DISTRICT COURTS AND COURTS OF GENERAL AND
QUARTER SESSIONS.

THE SECRETARY TO THE CROWN LAW OFFICERS to THE COMMISSIONER OF THE COURT OF
REQUESTS.

(No. 58-470.)

*Crown Law Offices,
Sydney, 4 December, 1858.*

SIR,

I am directed by the Attorney General to offer you the appointment of a Judge of the District Courts to be holden in and for the District of Sydney, but with the express understanding that you will continue to perform the duties of your present office, with the salary attached thereto, without other remuneration during the current year. You will have the goodness to acknowledge the receipt of this communication with as little delay as possible.

I have, &c.,

ALFRED CHEEKE, ESQ.,

W. E. PLUNKETT.

Commissioner of the Court of Requests.

(No. 58-471.)

*Crown Law Offices,
Sydney, 4 December, 1858.*

Similar letter to previous one (for the Southern District) to—

THOMAS CALLAGHAN, ESQ.,

Chairman of Quarter Sessions.

(No. 58-472.)

*Crown Law Offices,
Sydney, 4 December, 1858.*

Similar letter to previous one (for the Western District) to—

JAMES SHEEN DOWLING, ESQ.,

Crown Prosecutor, Sydney.

THE CHAIRMAN OF QUARTER SESSIONS to THE SECRETARY TO THE CROWN LAW OFFICERS.

*Chambers, Hyde Park,
13 December, 1858.*

SIR,

I have the honor to acknowledge the receipt of your letter of the 4th instant, received on my late circuit to Bathurst, informing me that you are directed by the Attorney General to offer me the appointment of Judge of the District Courts to be holden in and for the Southern District

If it be the Attorney General's pleasure to offer me that district *alone*, I am obliged to say that I am not at present in a position to decline it; but if I may presume to ask the Attorney General's re-consideration of a district for my appointment, I would beg to be permitted to have instead of the "Southern District," that which is now gazetted as the "Cumberland and Coast District."

In making this request, I trust the Attorney General will not think me insensible of his consideration in offering me this appointment of his own accord, and without any solicitation upon my part, and I hope that the grounds which I am about to state will be a sufficient apology, at all events, to justify my request, whatever be the Attorney General's decision upon it.

Upon two occasions of my intercourse with the late Attorney General while the District Courts Act was before Parliament, he was good enough to inform me that it was his intention

intention to recommend the appointment of *two* Judges, under the Act, for a district which should comprise Sydney, together with such a circuit of country round it as might be practically available, and be called the Central District, and to give to each of these Judges such a jurisdiction as would enable them to divide the whole of the business of the district between them in such a way as to ensure its certain and speedy determination; and upon these occasions it was his assurance to me, that in the event of such a recommendation being carried out as he anticipated, he would feel it his duty to make the offer of these *two* appointments in the first place to the present Commissioner of the Court of Requests and to myself; and he was pleased to add that he should feel himself bound to make this offer on account of our past public services.

Since I have received your letter I have again communicated with the late Attorney General, and he has permitted me to say that he still thinks it in every way more desirable for the public interest, and for the successful working of the District Courts Act, to adopt this arrangement.

He says he is of opinion, that *for the present* the Act can only be made fully operative in and about the metropolitan and the adjoining districts, and that for this purpose *two* Judges will be immediately required. If the Attorney General have not, therefore, already given away that which is gazetted as the Cumberland and Coast District, and if he think it desirable *for the present* to include within that district the Goulburn country, upon which it so closely verges, I would respectfully submit for his consideration the propriety of uniting such a district with the Sydney District, so as to carry out the proposal of the late Attorney General—that proposal, I beg leave to say, is one which agrees with my own view of what may be at present within my power of accomplishment with some advantage to the public service; and if the Attorney General approve of this proposal, I shall be happy, with his concurrence, to make any arrangement with the Judge of the present Sydney District that may more fairly and fully divide the business of the *two* districts between us.

The Attorney General will pardon me for thinking that the express words of the 29th section of the District Courts Act will preclude the possibility of any *misunderstanding* as to the amount of the remuneration to which a District Judge shall be entitled.

I have, &c.,

W. E. PLUNKETT, Esq.,
&c., &c., &c.

THOMAS CALLAGHAN.

THE SECRETARY TO THE CROWN LAW OFFICERS to THE CHAIRMAN OF QUARTER SESSIONS.
(No. 58-486.)

Crown Law Offices,
Sydney, 15 December, 1858.

Sir,

In acknowledging the receipt of your letter of the 13th instant, relative to the Judgeship of the District Courts for the Southern Districts, I am directed by the Attorney General to inform you, that the subject thereof will be duly considered. A further communication will be addressed to you on the question.

I have, &c.,

THOMAS CALLAGHAN, Esq.,
Chairman of Quarter Sessions.

W. E. PLUNKETT.

THE SECRETARY TO THE CROWN LAW OFFICERS to THOMAS CALLAGHAN, Esq.
(No. 58-497.)

Crown Law Offices,
Sydney, 17 December, 1858.

Sir,

Adverting to my letter of the 15th instant, in reference to your communication of the 13th, wherein you expressed a desire to be appointed a Judge of the District Courts for the division comprised within the Cumberland and Coast Police Districts, in lieu of the Southern District, which latter place I was instructed to offer you in my letter of the 4th of the present month, I am now desired by the Attorney General to state, that he regrets the Government cannot, in the present instance, comply with your request. I am also desired to inform you that your Commission for the Southern District will be transmitted to you within the next few days.

I have, &c.,

THOMAS CALLAGHAN, Esq.

W. E. PLUNKETT.

THE SECRETARY TO THE CROWN LAW OFFICERS to ALFRED CHEEKE, ESQ.

(No. 58-510.)

Crown Law Offices,

Sydney, 21 December, 1858.

SIR,

In transmitting to you herewith a Commission under the Great Seal of the Colony, appointing you to be a Judge of District Courts for the places comprised within the Police Districts of Sydney, (City and Metropolitan), I am directed to inform you that a fee of five guineas is due to the public on the document, and to request that you will have the goodness to pay the above sum into the Treasury.

I have, &c.,

ALFRED CHEEKE, ESQ.

W. E. PLUNKETT.

(No. 58-511.)

Crown Law Offices,

Sydney, 21 December, 1858.

Similar letter (for Southern District) to—

THOMAS CALLAGHAN, ESQ.

Similar letter (for Western District) to—

JAMES SHEEN DOWLING, ESQ.

THE SECRETARY TO THE CROWN LAW OFFICERS to THOMAS CALLAGHAN, ESQ.

(No. 59-9.)

Crown Law Offices,

Sydney, 7 January, 1859.

SIR,

Adverting to my letter of the 4th ultimo, containing Commission appointing you District Court Judge of the Southern District, I have now the honor to inform you that His Excellency the Governor General, with the advice of the Executive Council, has been pleased, in pursuance of the Act of the Colonial Parliament, 22 Vict., No. 18, to appoint you Chairman of Quarter Sessions for the same district, and your Commission as Chairman is accordingly forwarded herewith.

I have, &c.,

THOMAS CALLAGHAN, ESQ.,
Chairman of Quarter Sessions,
Goulburn.

W. E. PLUNKETT.

THE SECRETARY TO THE CROWN LAW OFFICERS to E. BUTLER, ESQ.

(No. 59-33.)

Crown Law Offices,

Sydney, 21 January, 1859.

SIR,

In transmitting to you herewith a Commission under the Great Seal of the Colony, appointing you to be Crown Prosecutor in the Courts of General and Quarter Sessions to be holden within this Colony, I am directed to inform you that a fee of five guineas is due to the public on the document, and to request that you will have the goodness to pay the above sum into the Treasury.

I have, &c.,

E. BUTLER, ESQ.

W. E. PLUNKETT.

THOMAS CALLAGHAN, ESQ., to THE SECRETARY TO THE CROWN LAW OFFICERS.

Chambers, Hyde Park,

24 January, 1859.

SIR,

I have the honor to request that you will have the goodness to procure the Attorney General's authority for the payment to me of the salary of my office of District Judge from the date of my appointment.

I have, &c.,

THE SECRETARY
TO THE CROWN LAW OFFICERS.

THOMAS CALLAGHAN.

THE SECRETARY TO THE CROWN LAW OFFICERS to J. F. HARGRAVE, ESQ.
(No. 59-46.) *Crown Law Offices,*
Sydney, 29 January, 1859.

SIR,

As it is presumed that you are still at Mudgee, and as it will be necessary that you should be in attendance as Chairman of Quarter Sessions at Maitland, on Monday, the 7th proximo, I am directed by the Attorney General to state that, in the event of your being unable to return to Sydney by Saturday, the 5th of the next month, to proceed from thence to Maitland, you had better go across the country to Maitland, a distance of 100 miles, and Mr. Windeyer, who has been appointed Crown Prosecutor for the Northern District and the Western District, will have your Commission as Chairman of Quarter Sessions intrusted to his care for you, which may be delivered at Maitland in the event of your not arriving in Sydney in sufficient time.

I have, &c.,

JOHN FLETCHER HARGRAVE, ESQ.,
Barrister-at-Law, Mudgee.

W. E. PLUNKETT.

THE SECRETARY TO THE CROWN LAW OFFICERS to THE CLERK OF THE PEACE,
MAITLAND.

(No. 59-47.) *Crown Law Offices,*
Sydney, 31 January, 1859.

SIR,

I am directed by the Attorney General to draw your attention to a private communication which was lately addressed by him to you, in which you were offered the appointment of Registrar and Clerk of the Peace at Maitland, with salary at the rate of three hundred pounds per annum, for the performance of the duties of those offices; and I am desired to request that you will have the goodness to state by return of post whether you are willing or not to accept the offer already mentioned.

I have, &c.,

— BRIGGS, ESQ.,
Clerk of the Peace, Maitland.

W. E. PLUNKETT.

THE SECRETARY TO THE CROWN LAW OFFICERS to THOMAS CALLAGHAN, ESQ.
(No. 59-50.) *Crown Law Offices,*
Sydney, 31 January, 1859.

SIR,

In acknowledging the receipt of your letter of the 28th instant, requesting authority for payment of your travelling expenses as Chairman of the late Quarter Sessions at Goulburn, from Thursday, the 6th, to Monday, the 17th January inclusive, I am directed by the Attorney General to state, that the Clerk of the Peace may for the present pay you the amount due for the services already mentioned.

I have, &c.,

THOS. CALLAGHAN, ESQ.,
Chairman of Quarter Sessions,
Southern District.

W. E. PLUNKETT.

THE SECRETARY TO THE CROWN LAW OFFICERS to HENRY CARY, ESQ.
(No. 59-51.) *Crown Law Offices,*
Sydney, 31 January, 1859.

SIR,

In transmitting to you herewith a Commission under the Great Seal of the Colony, appointing you to be a Judge of the District Courts to be holden in the Cumberland and Coast District, I am directed to inform you that a fee of five guineas is due to the public on the document, and to request that you will have the goodness to pay the above sum into the Treasury.

I have, &c.,

HENRY CARY, ESQ.,
Barrister-at-Law.

W. E. PLUNKETT.

THE SECRETARY TO THE CROWN LAW OFFICERS to H. CARY, ESQ.

(No. 59-52.)

*Crown Law Offices,
Sydney, 31 January, 1859.*

SIR,

Adverting to my letter No. 59-51, bearing this day's date, containing Commission appointing you to be a Judge of the District Courts to be holden in the Cumberland and Coast District, I have now the honor to inform you that His Excellency the Governor General, with the advice of the Executive Council, has been pleased, in pursuance of the Act of the Colonial Parliament, 22 Vict., No. 18, to appoint you to be the Chairman of Quarter Sessions for the same district, and your Commission as such Chairman is accordingly forwarded herewith.

HENRY CARY, ESQ.,
Barrister-at-Law.

I have, &c.,
W. E. PLUNKETT.

THE SECRETARY TO THE CROWN LAW OFFICERS to J. F. HARGRAVE, ESQ.

(No. 59-53.)

*Crown Law Offices,
Sydney, 31 January, 1859.*

SIR,

In transmitting to you herewith a Commission under the Great Seal of the Colony, appointing you to be a Judge of the District Court to be holden in the Northern District, I am directed to inform you that a fee of five guineas is due to the public on the document, and to request that you will have the goodness to pay the above sum into the Treasury.

JOHN FLETCHER HARGRAVE, ESQ.,
Barrister-at-Law,
Elizabeth-street, Sydney.

I have, &c.,
W. E. PLUNKETT.

(No. 59-54.)

*Crown Law Offices,
Sydney, 31 January, 1859.*

Similar letter to 59-52, appointing him Chairman of Quarter Sessions for the Northern District, and enclosing Commission.

JOHN FLETCHER HARGRAVE, ESQ.,
Barrister-at-Law,
Elizabeth-street, Sydney.

THE SECRETARY TO THE CROWN LAW OFFICERS to CHARLES WINDEYER, ESQ.

(No. 59-55.)

*Crown Law Offices,
Sydney, 31 January, 1859.*

SIR,

In transmitting to you herewith a Commission under the Great Seal of the Colony, empowering you to act as Crown Prosecutor in the Courts of General and Quarter Sessions to be holden within this Colony, but more immediately for the Northern District and the Western District, for which you were recently gazetted, I am directed to inform you that a fee of five guineas is due to the public on the document, and to request that you will have the goodness to pay the above sum into the Treasury.

WILLIAM CHARLES WINDEYER, ESQ.,
Barrister-at-Law,
Elizabeth-street, Sydney.

I have &c.,
W. E. PLUNKETT.

(No. 59-56.)

*Crown Law Offices,
Sydney, 31 January, 1859.*

Similar letter to preceding (Cumberland and Coast, and Southern Districts) to—
F. W. MEYMOTT, ESQ.,

Barrister-at-Law.

(No.

(No. 59-57.)

*Crown Law Offices,
Sydney, 2 February, 1859.*

Similar letter to 59-52 (Western District) to—

J. S. DOWLING, Esq.

THE SECRETARY TO THE CROWN LAW OFFICERS to A. C. MAXWELL, Esq.

(No. 59-58.)

*Crown Law Offices,
Sydney, 3 February, 1859.*

SIR,

I am directed by the Attorney General to offer you the appointment of Chief Registrar in Sydney, under the District Courts Act of 1858, with salary at the rate of £500 per annum, to commence from the 1st instant, under the altered or new system now being established.

I have, &c ,

A. C. MAXWELL, Esq.,

W. E. PLUNKETT.

Late Registrar of
Court of Requests, Sydney.

(No. 59-59.)

*Crown Law Offices,
Sydney, 3 February, 1859.*

Similar letter to the foregoing (2nd Registrar in Sydney; £400 per annum,) to—

GEORGE SWINNEERTON YARNTON, Esq.,
Solicitor, &c.

THE SECRETARY TO THE CROWN LAW OFFICERS to COLIN M'KENZIE, Esq.

(No. 59-63.)

*Crown Law Offices,
Sydney, 3 February, 1859.*

SIR,

I am directed by the Attorney General to offer you the appointment of Chief Registrar at Parramatta, for the Cumberland and Coast District, under the District Courts Act of 1858, and also Clerk of the Peace for that portion of the before mentioned district which is not included in the County of Cumberland, with salary at the rate of £300 per annum, to commence from the 1st instant.

I have, &c.,

COLIN M'KENZIE, Esq.,

W. E. PLUNKETT.

Supreme Court.

(No. 59-64.)

*Crown Law Offices,
Sydney, 3 February, 1859.*

Similar letter to the foregoing (Southern District; salary £300 per annum,) to—

TEMPLE NATHAN, Esq.,
Central Police Office,
Sydney.

(No. 59-65.)

*Crown Law Offices,
Sydney, 3 February, 1859.*

Similar letter to 59-63 (Chief Registrar at Maitland; salary £300 per annum) to—

A. D. F. CARTER, Esq.,
Supreme Court.

(No.

(No. 59-66.)

*Crown Law Offices,
Sydney, 3 February, 1859.*

Similar letter to 59-63 (Chief Registrar at Bathurst, and Clerk of the Peace, Western District; £300 per annum) to—

T. C. GORE, Esq.

THE SECRETARY TO THE CROWN LAW OFFICERS to THE CLERK OF THE PEACE, SYDNEY.

(No. 59-67.)

*Crown Law Offices,
Sydney, 3 February, 1859.*

SIR,

I have the honor to state, that His Excellency the Governor General having been pleased, with the advice of the Executive Council, to appoint the undermentioned gentlemen to be Crown Prosecutors for the Districts mentioned in connection with their names respectively, viz. :—

Edward Butler, Esq., to be Crown Prosecutor for the Sydney District.

Frederick Wm. Meymott, Esq., to be Crown Prosecutor for the Cumberland and Coast District.

William Charles Windeyer, Esq., to be Crown Prosecutor for the Northern Districts and the Western District.

I am now directed by the Attorney General to inform you, that the officers in question will be entitled to be paid salary at the rate of £500 per annum, commencing on the 20th ultimo; and you will have the goodness to pay them out of your public account, until further advised. I am desired to add, that the above officers will receive 40s. per diem, as heretofore, in the shape of travelling expenses, which will be paid in the manner services of this nature were lately defrayed.

THE CLERK OF THE PEACE,
Sydney.

I have, &c.,
W. E. PLUNKETT.

THE SECRETARY TO THE CROWN LAW OFFICERS to THE AUDITOR GENERAL.

(No. 59-68.)

*Crown Law Offices,
Sydney, 3 February, 1858.*

SIR,

In forwarding herewith to you the accompanying Pay Abstract, I am directed by the Attorney General to state, that Messrs. Cheeke, Callaghan, and Dowling are entitled to be paid salary as Judges of the District Courts, for the districts opposite their names respectively, at the rate of one thousand pounds per annum, from the 1st ultimo. Messrs. Cary and Hargrave are entitled to be paid salary as Judges of the District Courts, for the districts opposite their names also—but, from the 20th of the last month, at the above rate.

THE AUDITOR GENERAL.

I have, &c.,
W. E. PLUNKETT.

THE SECRETARY TO THE CROWN LAW OFFICERS to THE AUDITOR GENERAL.

(No. 59-75.)

*Crown Law Offices,
Sydney, 8 February, 1859.*

SIR,

In reply to your letter of the 4th instant, in reference to my communication, No. 68, of the 3rd of the present month, covering the Pay Abstract for January, 1859, of the Judges of the District Courts, I am directed to inform you that the sum of £66 13s. 4d., as salary to the Commissioner of the Court of Requests for the first month, is to be deducted from Mr. Cheeke's claim as a Judge for that period—the appointment to the latter office superseding the previous one.

THE AUDITOR GENERAL.

I have, &c.,
W. E. PLUNKETT.

THOMAS CALLAGHAN, ESQ., to THE SECRETARY TO THE LAW DEPARTMENT.

*Chambers, Hyde Park,
Sydney, 15 February, 1859.*

SIR,

I have the honor to request that you will do me the favor to bring under the notice of the Attorney General my application for his authority for the payment of my salary as District Judge, from the date of my appointment up to the time when I have received my salary, that is to say, from the 21st to the 31st of December last.

I have, &c.,

THOMAS CALLAGHAN.

THE SECRETARY

TO THE LAW DEPARTMENT.

THE SECRETARY TO THE CROWN LAW OFFICERS to E. BUTLER, ESQ.

(No. 59-85.)

*Crown Law Offices,
Sydney, 17 February, 1859.*

SIR,

In order to prevent any future misunderstanding, I am directed by the Attorney General to inform you, that it is deemed advisable to communicate in writing, and to place upon record, the conditions under which you have been appointed by the Government to be Crown Prosecutor for the Sydney District, under the provisions of the District Courts Act of 1858. I am desired therefore to repeat in writing, what the Attorney General has already explained verbally to you—that in conferring upon you the appointment in question, the Government will require you to assist the Attorney General and the Solicitor General in prosecuting at the Darlinghurst Sittings, and on the Circuits, whenever either of them are unable to attend.

I have, &c.,

W. E. PLUNKETT.

EDWARD BUTLER, ESQ.,

Crown Prosecutor,

District Courts, Sydney District.

THE SECRETARY TO THE CROWN LAW OFFICERS to F. W. MEYMOTT, ESQ.

(No. 59-86.)

*Crown Law Offices,
Sydney, 17 February, 1858.*

SIR,

I am directed by the Attorney General to inform you that it is deemed advisable to communicate with you officially, and to place on record, the terms upon which you received from the Government your appointment as Crown Prosecutor for the Southern and Cumberland and Coast Districts, under the District Courts Act of 1858. I am directed to repeat in writing what the Attorney General has already intimated to you by a private note,—that the present arrangement which requires you to discharge the duties of Crown Prosecutor in two districts is to be considered temporary, but that the Government cannot recognize your claim to select a district, whenever it may become necessary to appoint a Crown Prosecutor for each of those districts.

I am also desired to add, in reference to a claim made by you for compensation in consequence of your having been deprived of your office of Joint Parliamentary Draftsman, that according to the Government regulations no public officer is entitled to compensation for loss of employment who is appointed to another office within three months from the loss of his former appointment. I am likewise desired to observe that the Attorney General is unable to perceive what pecuniary damage you can have sustained by the loss of an office worth £350 a year, and your appointment to another three weeks afterwards worth £500 a year.

I have, &c.,

W. E. PLUNKETT.

F. W. MEYMOTT, ESQ.,

Crown Prosecutor for the

Cumberland and Coast District

and the Southern District.

THE SECRETARY TO THE CROWN LAW OFFICERS to W. C. WINDEYER, ESQ.

(No. 59-87.)

*Crown Law Offices,
Sydney, 17 February, 1859.*

SIR,

In order to prevent any future misunderstanding, I am directed by the Attorney General to inform you, that it is deemed advisable to communicate to you officially, and to place upon record, the conditions under which you have received the appointment of Crown Prosecutor for the Northern District, under the provisions of the District Courts Act of 1858. I am now desired to repeat in writing what the Attorney General has already explained verbally to you,—that the present arrangement, whereby you are required to act as Crown Prosecutor for the Western as well as the Northern District, is to be considered temporary, and that you will be relieved from the duty of acting as Crown Prosecutor for the Western District whenever it may become necessary to nominate a separate Crown Prosecutor for that district.

I have, &c.,

W. E. PLUNKETT.

W. C. WINDEYER, ESQ.,
Crown Prosecutor for the Northern
District and the Western District.

THE SECRETARY TO THE CROWN LAW OFFICERS to ALFRED CHEEKE, ESQ.

(No. 59-88.)

*Crown Law Offices,
Sydney, 18 February, 1859.*

SIR,

I am directed by the Attorney General to inform you, that it appears to him to be necessary and proper that you should apportion the duties of the Registrars of the District Courts for the Sydney District in the manner which you may consider to be the most suitable arrangement for the efficient performance of the duties of the department.

I have, &c.,

W. E. PLUNKETT.

ALFRED CHEEKE, ESQ.,
District Courts Judge,
Sydney District.

THE SECRETARY TO THE CROWN LAW OFFICERS to EDWARD ROGERS, ESQ.

(No. 59-89.)

*Crown Law Offices,
Sydney, 18 February, 1859.*

SIR,

I am directed by the Attorney General to inform you that for the future you will be relieved from the performance of the duties of Clerk of the Peace for the Southern District and the Western District, and you will no longer be required to attend at Goulburn or proceed to Bathurst, or otherwise to act as Clerk of the Peace for those districts. It is intended by the Government that the Chief Registrars appointed under the District Courts Act of 1858 for each of the above places shall likewise be required to act in the capacity of Clerks of the Peace for their respective districts. Your duties will now be confined to the County of Cumberland, the Chief Registrar at Parramatta having been appointed as such for the Cumberland and Coast District, and also to be Clerk of the Peace for that portion of the before mentioned district which is not included in the County of Cumberland.

I have, &c.,

W. E. PLUNKETT.

EDWARD ROGERS, ESQ.,
Clerk of the Peace,
Sydney.

THE SECRETARY TO THE CROWN LAW OFFICERS to THOMAS CALLAGHAN, ESQ.

(No. 59-90.)

*Crown Law Offices,
Sydney, 19 February, 1859.*

SIR,

In acknowledging the receipt of your letters of the 24th ultimo and 15th instant, requesting authority for the payment of your salary as District Judge from the 21st to 31st December last, I am directed by the Attorney General to state that you appear to have overlooked a passage in the letter (dated 4th December, 1858,) which conveyed to you,

on

on the part of the Attorney General, the offer of an appointment as Judge of the District Courts to be holden in and for the Southern District. A reference to that letter will shew you that the offer of that appointment was made "with the express understanding that you should continue to perform the duties of your then office with the salary attached thereto, *without other remuneration*, during the current year." I am desired to add, that if you did not overlook the passage in question, you must be taken to have accepted the appointment, subject to the conditions by which the offer of it was accompanied, and the Attorney General cannot therefore authorise the payment of a salary for an office which you accepted upon the understanding that the salary attached thereto should not commence until the 1st of January, 1859. I am further desired to add, that although Mr. Cheeke and Mr. Dowling were appointed to their respective offices under the same conditions as you, neither of those gentlemen have preferred a similar application.

THOMAS CALLAGHAN, Esq.,
District Courts Judge,
Southern District.

I have, &c.,
W. E. PLUNKETT.

THE SECRETARY TO THE CROWN LAW OFFICERS to ALFRED CHEEKE, Esq.

(No. 59-91)

Crown Law Offices,
Sydney, 19 February, 1859.

SIR,

In reference to your letter of the 8th ultimo, respecting the number of clerks and other officers, and the office accommodation which will be required for your department, I am directed by the Attorney General to remark, that Mr. Yarnton having been appointed to execute jointly with the Chief Registrar the office of Registrar for the Sydney District Courts, it is considered by the Government that this arrangement will be sufficient for the present.

2. In reference to your suggestion with regard to additional office accommodation, the Attorney General sees no objection to your having the adjoining room, recently occupied by the Chief Inspector of Distilleries, and also those occupied by the late Chairman of Quarter Sessions, being a portion of the same range of buildings, on the removal of Mr. Callaghan to Goulburn.

Application will be made to the Colonial Architect to carry out the necessary alterations.

ALFRED CHEEKE, Esq.,
District Courts Judge,
Sydney District.

I have, &c.,
W. E. PLUNKETT.

THE SECRETARY TO THE CROWN LAW OFFICERS to ALFRED CHEEKE, Esq.

(No. 59-92.)

Crown Law Offices,
Sydney, 19 February, 1859.

SIR,

In acknowledging the receipt of your letter of the 15th instant, requesting to be informed what will be the respective salaries of the four Bailiffs for your department, I am directed by the Attorney General to inform you that it is intended that there should be no alteration made in respect of the salaries of the Bailiffs of the District Courts for the Sydney District, which supersedes the Courts of Requests.

ALFRED CHEEKE, Esq.,
District Courts Judge,
Sydney District.

I have, &c.,
W. E. PLUNKETT.

THE SECRETARY TO THE CROWN LAW OFFICERS to E. BUTLER, ESQ.
(No. 59-93.)

*Crown Law Offices,
Sydney, 19 February, 1859.*

SIR,

Adverting to my letter of the 17th instant, and in reference to your communication of the 18th instant, I am directed by the Attorney General to inform you that it is intended by the Government that you should not be required to prosecute for the Attorney General or the Solicitor General at more than one Circuit Town.

I have, &c.,

EDWARD BUTLER, ESQ.,
Crown Prosecutor,
Sydney District.

W. E. PLUNKETT.

THOMAS CALLAGHAN, ESQ., to THE SECRETARY TO THE LAW DEPARTMENT.

*Chambers, Hyde Park,
Sydney, 21 February, 1859.*

SIR,

I have the honor to say, in reply to your letter of the 19th instant, which I have just received, that the Attorney General appears to me both to have overlooked the last paragraph in my letter of the 13th of December last, and, as I apprehend, the law in reference to the subject to which it refers.

I have, &c.,

THE SECRETARY
TO THE LAW DEPARTMENT.

THOS. CALLAGHAN.

THE SECRETARY TO THE CROWN LAW OFFICERS to THE JUDGES OF THE DISTRICT COURTS.
(59-100.)

*Crown Law Offices,
Sydney, 24 February, 1859.*

GENTLEMEN,

I am directed by the Attorney General to say, that he will feel much obliged if you will be so good as to prepare the various forms, and other things necessary to bring into operation the District Courts Act of 1858, with as little delay as possible, and to submit same for consideration by the Attorney General.

I have, &c.,

THE JUDGES OF THE DISTRICT COURTS.

W. E. PLUNKETT.

THE SECRETARY TO THE CROWN LAW OFFICERS to T. C. GORE, ESQ.
(59-104.)

*Crown Law Offices,
Sydney, 25 February, 1859.*

SIR,

In acknowledging the receipt of your letter of the 24th instant, I am directed by the Attorney General to state, that he sees no objection to your returning to Sydney after the conclusion of the business at the Quarter Sessions, which have been fixed to commence at Bathurst, on the 7th proximo, in order that you may assist whilst the forms and books are in course of preparation, provided that your return will not interfere with any public duties you may have to perform elsewhere.

I have, &c.,

T. C. GORE, ESQ.,
Chief Registrar for the Western District.

W. E. PLUNKETT.

THE SECRETARY TO THE CROWN LAW OFFICERS to THE JUDGES OF THE DISTRICT COURTS.
(59-105.)

*Crown Law Offices,
Sydney, 25 February, 1859.*

GENTLEMEN,

I have the honor, by direction of the Attorney General, to inform you, that if you will have the goodness to prepare a statement, enumerating the seals of office which will be required for the several places within your respective districts, the Colonial Storekeeper will be directed to take the necessary steps for supply of same to you.

I have, &c.,

THE JUDGES OF THE DISTRICT COURTS.

W. E. PLUNKETT.

THE SECRETARY TO THE CROWN LAW OFFICERS to THE JUDGES OF THE DISTRICT COURTS.
(No. 59-106.)

Crown Law Offices,
Sydney, 25 February, 1859.

GENTLEMEN,

I have the honor, by direction of the Attorney General, to forward herewith to you a copy of the Proceedings and Minute of the Executive Council, No. 59-6, with respect to rates of salary to be paid to certain officers of the District Courts.

I have, &c.,

THE JUDGES OF THE
DISTRICT COURTS.

W. E. PLUNKETT.

[Enclosure]

PROCEEDINGS of the Executive Council on the 7th February, 1859, with respect to rates of salary to be paid to certain officers of the District Courts.

Minute No. 59-6. Confirmed 14th February, 1859.

REFERRING to previous proceedings in relation to the establishment of District Courts, pursuant to the Act of the local Parliament, 22 Vic., No. 18, and to the appointment of Judges and other officers of such Courts respectively, His Excellency the Governor General lays before the Council a Schedule, showing the proposed rates of salary and allowances to be paid to such Judges and other officers, and also exhibiting the places in each District Court District at which it is proposed that Registrars and Bailiffs should be appointed pursuant to the said Act, as well as the rates of salary to be paid to such subordinate officers.

2. The Council having considered the various items comprised in the said Schedule, approve of the same, and advise that the necessary provision be made accordingly, as per Appendix hereto.

3. The Council further advise, that the several Clerks of Petty Sessions be appointed Registrars at the various places therein named, and with the rates of salary specified in connection with the respective offices.

A. ORPEN MORIARTY,
Clerk of the Council.

Executive Council Office,
Sydney, 18 February, 1859.
59-124.

DISTRICT COURTS.

Sydney District.

1 Judge	...	...	...	...	...	...	...	£1,000
1 Chief Registrar	...	...	...	...	...	...	...	500
1 Deputy Registrar	...	...	...	...	...	...	...	400
1 Clerk	...	...	...	...	...	...	...	300
2 Clerks, at £200	...	...	...	...	...	...	...	400
1 Bailiff and Crier	...	...	...	...	...	...	...	150
3 Assistant do., at £104	...	...	...	...	...	...	...	312
1 Messenger	...	...	...	...	...	...	...	104
1 Office Keeper	...	...	...	...	...	...	...	25
								£3,191

Cumberland and Coast District.

1 Judge	...	...	...	...	...	...	...	£1,000
1 Chief Registrar, Parramatta	...	...	...	...	...	...	...	300
1 Registrar, Berrima	...	...	...	...	...	...	...	50
1 Do. Bombala	...	...	...	...	...	...	...	30
1 Do. Braidwood	...	...	...	...	...	...	...	50
1 Do. Camden and Picton	...	...	...	...	...	...	...	40
1 Do. Campbelltown	...	...	...	...	...	...	...	40
1 Do. Cooma	...	...	...	...	...	...	...	30
1 Do. Eden	...	...	...	...	...	...	...	30
1 Do. Kiama	...	...	...	...	...	...	...	30
1 Do. Parramatta and Liverpool	...	...	...	...	...	...	...	60
1 Do. Penrith	...	...	...	...	...	...	...	40
1 Do. Windsor	...	...	...	...	...	...	...	40
1 Do. Wollongong	...	...	...	...	...	...	...	50
								£1,790

BAILIFFS.

Cumberland and Coast District.

1	Bailiff, Berrima	...	...	...	...	...	£10
1	Do. Bombala	...	...	...	...	...	30
1	Do. Braidwood	...	...	...	...	...	40
1	Do. Camden and Picton	...	...	...	...	...	40
1	Do. Campbelltown	...	...	...	...	...	40
1	Do. Cooma	...	...	...	...	...	30
1	Do. Eden	...	...	...	...	...	30
1	Do. Kiama	...	...	...	...	...	30
1	Do. Liverpool and Parramatta	...	...	...	...	...	50
1	Do. Penrith	...	...	...	...	...	35
1	Do. Windsor	...	...	...	...	...	40
1	Do. Wollongong	...	...	...	...	...	40
							<hr/>
							£445
							<hr/>

Southern District.

1	Judge	...	...	...	...	...	£1,000
1	Chief Registrar, Goulburn	...	...	...	...	...	300
1	Registrar, Albury	...	...	...	...	...	50
1	Do. Gundagai	...	...	...	...	...	50
1	Do. Queanbeyan	...	...	...	...	...	50
1	Do. Tumut	...	...	...	...	...	50
1	Do. Wagga Wagga	...	...	...	...	...	30
1	Do. Yass	...	...	...	...	...	50
							<hr/>
							£1,580
							<hr/>

BAILIFFS.

Southern District.

1	Bailiff, Goulburn	...	...	...	...	...	£40
1	Do. Albury	...	...	...	...	...	40
1	Do. Gundagai	...	...	...	...	...	30
1	Do. Queanbeyan	...	...	...	...	...	30
1	Do. Tumut	...	...	...	...	...	30
1	Do. Wagga Wagga	...	...	...	...	...	30
1	Do. Yass	...	...	...	...	...	40
							<hr/>
							£240
							<hr/>

Northern District.

1	Judge	...	...	...	...	...	£1,000
1	Chief Registrar, East and West Maitland	...	...	...	...	...	300
1	Registrar, Armidale	...	...	...	...	...	50
1	Do. Grafton	...	...	...	...	...	40
1	Do. Muswellbrook, Murrurundi, and Scone	...	...	...	...	...	50
1	Do. Newcastle	...	...	...	...	...	50
1	Do. Paterson	...	...	...	...	...	40
1	Do. Port Macquarie	...	...	...	...	...	40
1	Do. Singleton	...	...	...	...	...	40
1	Do. Tamworth	...	...	...	...	...	40
							<hr/>
							£1,650
							<hr/>

BAILIFFS

Northern District.

1	Bailiff, East and West Maitland	...	...	...	...	...	£50
1	Do. Armidale	...	...	...	...	...	40
1	Do. Grafton	...	...	...	...	...	30
1	Do. Scone, Murrurundi, and Muswellbrook	...	...	...	...	...	50
1	Do. Paterson	...	...	...	...	...	30
1	Do. Port Macquarie	...	...	...	...	...	40
1	Do. Singleton	...	...	...	...	...	30
1	Do. Tamworth	...	...	...	...	...	30
							<hr/>
							£300
							<hr/>

Western

<i>Western District.</i>						
1	Judge	...	...	...	...	£1,000
1	Chief Registrar, Bathurst...	...	...	...	...	300
1	Registrar, Carcoar...	...	...	...	...	40
1	Do. Dubbo	...	...	...	...	30
1	Do. Hartley	...	...	...	...	40
1	Do. Molong	...	...	...	...	30
1	Do. Mudgee...	...	...	...	...	40
1	Do. Orange	...	...	...	...	30
						<u>£1,510</u>

BAILIFFS.						
<i>Western District.</i>						
1	Bailiff, Bathurst	...	...	...	...	£40
1	Do. Carcoar	...	...	...	...	30
1	Do. Dubbo	...	...	...	...	30
1	Do. Hartley	...	...	...	...	40
1	Do. Molong	...	...	...	...	30
1	Do. Mudgee	...	...	...	...	30
1	Do. Orange	...	...	...	...	30
						<u>£230</u>

CONTINGENCIES.						
	Travelling expenses of Judges	...	...	...	...	£1,125
	Allowances to Witnesses and Jurors	...	...	...	...	3,000
	Incidental and unforeseen expenses	...	...	...	...	1,000
						<u>£5,125</u>

QUARTER SESSIONS.						
3	Crown Prosecutors, at £500.	...	...	...	...	£1,500
1	Clerk of the Peace, Cumberland	...	...	...	...	550
1	Clerk, Sydney	...	...	...	...	260
1	Messenger	...	...	...	...	104
						<u>2,414</u>

CONTINGENCIES.						
	Travelling expenses	...	...	...	...	1,200
	Witnesses and Jurors	...	...	...	...	3,200
	Incidental expenses	...	...	...	...	10
						<u>4,410</u>
						<u>£6,824</u>

THE SECRETARY TO THE CROWN LAW OFFICERS to J. S. DOWLING, ESQ.

(No. 59-114.)

Crown Law Offices,
Sydney, 3 March, 1859.

SIR,

Adverting to my letter of the 2nd ultimo, informing you of your appointment as Chairman of Quarter Sessions for the Western District, and enclosing your Commission to act as such, I have now the honor to enclose a fresh Commission, which supersedes the one to which I have referred above,—the present Commission is more definite, and the necessary minute of the Executive appears to have been overlooked in the first instance, and, consequent thereon, your name has not been gazetted in the customary manner, which, however, will appear in the *Government Gazette* of to-morrow.

I have, &c.,

JAMES SHEEN DOWLING, ESQ.,
Judge of Western District Court,
Bathurst.

W. E. PLUNKETT.

THE SECRETARY TO THE CROWN LAW OFFICERS to THE JUDGE OF THE SYDNEY DISTRICT COURT.

(No. 59-124.)

*Crown Law Offices,
Sydney, 7 March, 1859.*

SIR,

In acknowledging the receipt of your letter of the 1st instant, stating that, on the coming into operation of the new system of District Courts, plaints were filed for trial under the Court of Requests Act, and suggesting fresh processes may now issue, free of charge, under the District Courts Act, 22 Vict., No. 18, for the reasons therein explained,—I am directed by the Attorney General to state that he is not aware that provision has been made to issue process free of charge. It will, he thinks, be necessary to commence *de novo*, and the fees named in the schedule to the Act will have to be paid accordingly.

I have, &c.,

W. E. PLUNKETT.

THE JUDGE OF THE SYDNEY DISTRICT COURT.

(No. 59-135.)

*Crown Law Offices,
Sydney, 16 March, 1859.*

Similar letter to No. 59-53, appointing him Judge of the District Courts to be holden in the Northern District, to—

ROBERT OWEN, ESQ.,

District Courts Judge, Northern District.

Ditto, appointing him Chairman of Quarter Sessions, covering Commission.
No. 59-136.

THE SECRETARY TO THE CROWN LAW OFFICERS to ALFRED CHEEKE, ESQ.

(No. 59-141.)

*Crown Law Offices,
Sydney, 21 March, 1859.*

SIR,

I am directed by the Attorney General to inform you that it will be required of each of the Registrars of your Court to give a bond to the Government for the sum of £500, with two sufficient sureties for a similar amount each.

I have, &c.,

W. E. PLUNKETT.

ALFRED CHEEKE, ESQ.,

District Court Judge, Sydney District.

THE SECRETARY TO THE CROWN LAW OFFICERS to ALFRED CHEEKE, ESQ.

(No. 59-142.)

*Crown Law Offices,
Sydney, 21 March, 1859.*

SIR,

I am directed by the Attorney General to request that you will have the goodness to inform the four Bailiffs appointed by you that they must each give a bond to the Government for the sum of £250 by themselves, and two sufficient sureties for a similar amount each.

I have, &c.,

W. E. PLUNKETT.

ALFRED CHEEKE, ESQ.,

District Courts Judge, Sydney District.

THE SECRETARY TO THE CROWN LAW OFFICERS to HENRY CARY, ESQ.

(No. 59-143.)

*Crown Law Offices,
Sydney, 21 March, 1859.*

SIR,

I am desired by the Attorney General to inform you, that it will be required of each of the Registrars in the Country Districts to give a bond to the Government for the sum of £250 by themselves, with two sufficient sureties for a similar amount each.

I have, &c.,

HENRY CARY, ESQ.,

W. E. PLUNKETT.

District Court Judge,

Cumberland and Coast District.

THE SECRETARY TO THE CROWN LAW OFFICERS to HENRY CARY, ESQ.

(No. 59-144.)

*Crown Law Offices,
Sydney, 21 March, 1859.*

SIR,

I am directed by the Attorney General to request that you will have the goodness to forward a list containing the names of the persons whom you desire to appoint to be your Bailiffs at the several places fixed for holding Courts within your district, under the provisions of the District Courts Act of 1858.

2. I am desired to inform you that it will be required of each of the Bailiffs in the Country Districts to give a bond to the Government for the sum of £200 by themselves, and two sufficient sureties for a similar amount each.

I have, &c.,

HENRY CARY, ESQ.,

W. E. PLUNKETT,

District Court Judge,

Cumberland and Coast District.

(No. 59-145.)

*Crown Law Offices,
Sydney, 21 March, 1859.*

Similar letter to No. 59-143, written to—

ROBERT OWEN, ESQ.,

District Court Judge,

Northern District.

(59-146.)

Similar letter to No. 59-144, written to—

ROBERT OWEN, ESQ.,

District Court Judge,

Northern District.

No. (59-147.)

No. (59-148.)

} Similar letters to Nos. 59-143 and 59-144, written to—

THOMAS CALLAGHAN, ESQ.,

District Court Judge,

Southern District.

No. (59-149.)

No. (59-150.)

} Similar letters to Nos. 59-143 and 59-144, written to—

JAMES SHEEN DOWLING, ESQ.,

District Courts Judge,

Western District.

THE SECRETARY TO THE CROWN LAW OFFICERS to THE JUDGES OF THE DISTRICT COURTS.

(No. 59-153.)

Crown Law Offices,

Sydney, 26 March, 1859.

GENTLEMEN,

Adverting to my letter of the 25th February last, No. 106, transmitting copy Proceedings and Minute of the Executive Council (59-6), I have now the honor, by direction of the Attorney General, to forward herewith to you a further copy Minute of the Council, No. 59-11, with respect to the designation of certain officers of the District Courts, and the respective rates of salary and allowances to be paid to such officers. I am desired to suggest that the Registrars who are at present in Sydney might be instructed to prepare a copy of the enclosed Minute for the use of each of the Judges and themselves—the gentlemen in this office being very much pressed with other business.

I have, &c ,

W. E. PLUNKETT.

THE JUDGES OF THE
DISTRICT COURTS.

[*Enclosure.*]

PROCEEDINGS of the Executive Council on the 14th March, 1859, with respect to designation of certain Officers of the District Courts, &c., &c.

Minute No. 59-11. Confirmed 21st March, 1859.

REFERRING to the proceedings on the 7th ultimo, with respect to the appointment of Chief Registrars, Registrars, and other officers of District Courts, established in pursuance of the District Courts Act of 1858, and the respective rates of salary and allowances to be paid to such officers, His Excellency the Governor General lays before the Council a letter which has been addressed to the Honorable the Attorney General by Henry Cary, Esquire, Judge of the District Courts of the Cumberland and Coast District, in which, referring exclusively to his own district, he expresses doubts of the arrangements that have been made—more particularly with reference to the office of Chief Registrar—being in strict conformity with the terms of the local enactment.

2. Mr. Cary is of opinion that the 32nd section of the Act in question does not contemplate the appointment of a Chief and Deputy, or subordinate Registrars, but the appointment in populous places of two persons to execute jointly the office of Registrar. He proceeds to shew that the appointment of a Chief Registrar, having authority over the several Deputy Registrars in his district, would be unnecessary, and, moreover, attended with many practical inconveniences; and further recommends that the whole sum appropriated to the remuneration of Registrars in the Cumberland and Coast District should be apportioned according to the probable relative amount of business in each Court: for which purpose he submits an amended scale, exhibiting the manner in which he would propose the sum of £790, now allowed, to be distributed.

3. Mr. Cary also suggests a modification in the scale of fees to be received by the Bailiffs of the Court.

4. Mr. Cary's letter has been under the consideration of the Honorable the Attorney General and the Solicitor General, who, in a Minute appended to the correspondence now before the Council, have expressed generally their concurrence in Mr. Cary's views, save as respects the fees of Bailiffs, for the alteration of which they see at present no ground; observing, that if it should hereafter become necessary, a remedy can easily be effected under the 42nd section of the Act.

5. The Council having deliberated at some length upon the several questions arising out of the correspondence now before them, advise that in the Cumberland and Coast District the appointment of Mr. McKenzie as Chief Registrar be cancelled, and that the appointment of the several officers who in the other District Courts Districts have been appointed Chief Registrars be modified in so far as the designation of Chief Registrar is concerned. In the Sydney District the Council advise that the office of Registrar be executed jointly, pursuant to the 33rd clause of the Act, by Mr. Maxwell, whom it was proposed to appoint Chief Registrar, and Mr. Yarnton, the Deputy Registrar; and in the remaining Districts, with the exception of Cumberland and the Coast, they recommend that the officers designated as Chief Registrars be appointed Registrars of the District Courts.

6. The Council approve of the revised scale of remuneration to Registrars in the Cumberland and Coast District, and advise that it be adopted accordingly, as set forth in the Schedule hereto appended, marked A.

7. Acting upon a further suggestion of the Crown Law Officers, the Council advise that the Registrars and Bailiffs of the several District Courts be required to provide securities to the amounts set forth in the annexed Schedule marked B, for the due performance of their respective duties.

APPENDIX A.

Parramatta	£120
Windsor	80
Braidwood	70
Penrith	70
Wollongong	70
Berrima	60
Bombala	40
Camden	40
Picton	40
Campbelltown	40
Liverpool	40
Cooma	40
Eden	40
Kiama	40
	£790

One Clerk of Petty Sessions performs the Bench duties of these two places.

Do. do.

APPENDIX B.

Registrar and two sureties, jointly and severally, for Sydney ...	£500
Country Registrars and two sureties, jointly and severally ...	250
Bailiffs, Sydney, three sureties jointly and severally ...	250
Country Bailiffs, three sureties jointly and severally ...	250

A. ORPEN MORIARTY,

Clerk of the Council.

Executive Council Office,
Sydney, 23 March, 1859.
No. 59-225.

COPIES OF COMMISSIONS UNDER DISTRICT COURTS ACT.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To all to whom these presents shall come, Greeting:—

KNOW YE, that We, reposing confidence in the loyalty, learning, and ability of Alfred Cheeke, Esquire, have thought fit, with the advice of Our Executive Council of Our Colony of New South Wales, hereby to constitute and appoint him, the said Alfred Cheeke, Esquire, to be Judge of the District Courts which have been, or from time to time may be, ordered to be holden at any of the towns or places within the Sydney District, being one of the Districts into which Our said Colony has been divided for the purposes of an Act passed in the twenty-second year of Our reign, intituled, "*An Act for establishing District Courts, and for enabling the Judges thereof to act as Chairmen of Quarter Sessions,*" to have, hold, exercise and enjoy the said office during ability and good behaviour, together with all and singular the duties, powers, rights, and privileges belonging to his said office which are now or at any time hereafter during the continuance hereof may be imposed or granted by the laws of the said Colony: In testimony whereof We have caused these Our Letters to be made Patent under the Great Seal of Our said Colony, to be hereunto affixed.

Witness Our trusty and well-beloved Sir William Thomas Denison, Knight, Commander of the Most Honorable Order of the Bath, Governor General in and over all Our Colonies of New South Wales, Tasmania, Victoria, South Australia, and Western Australia, and Captain General and Governor-in-Chief of our Territory of New South Wales and its Dependencies, at Government House, Sydney, in Our said Territory, this day of _____ in the _____ year of Our reign, and in the year of Our Lord one thousand eight hundred and fifty-

(Signed) W. T. DENISON.

By His Excellency's Command,
(Signed) A. P. LUTWYCHE,
Attorney General.

Entered on record by me in Register of Patents, No. _____, page _____, this day of _____ one thousand eight hundred and fifty

(Signed) W. ELYARD,

(For the Colonial Secretary and Registrar.)

Similar

Similar Commission to Thomas Callaghan Esq., for Southern District.

Do. to James Sheen Dowling, Esq., for Western District

Do. to Henry Cary, Esq., for Cumberland and Coast District.

Do. to John Fletcher Hargrave, Esq., for Northern District.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To all to whom these presents shall come, Greeting:--

KNOW YE, that We, reposing confidence in the loyalty, learning and ability of Robert Owen, Esquire, do by these presents and with the advice of Our Executive Council of Our Colony of New South Wales, hereby constitute and appoint him, the said Robert Owen, being an Attorney-at-Law of seven years standing and upwards, to be Judge of the District Courts which have been, or from time to time may be, ordered to be holden under the provisions of the Act hereinafter mentioned at any of the towns or places within the Northern District, being one of the Districts into which Our said Colony has been divided for the purposes of an Act of the Parliament of New South Wales, passed in the twenty-second year of Our reign, intituled, "*An Act for establishing District Courts, and for enabling the Judges thereof to act as Chairmen of Quarter Sessions,*" commonly styled and cited as the "District Courts Act of 1858," to have, hold, exercise, and enjoy the said office during ability and good behaviour, together with all and singular the duties, powers, rights, and privileges belonging to his said office, which are now, or at any time hereafter during the continuance hereof may be imposed or granted by the laws of the said Colony: In testimony whereof We have caused these Our Letters to be made Patent under the Great Seal of Our said Colony to be hereunto affixed.

Witness Our trusty and well-beloved Sir William Thomas Denison, Knight, Commander of the Most Honorable Order of the Bath, Governor General in and over all Our Colonies of New South Wales, Tasmania, Victoria, South Australia, and Western Australia, and Captain General, and Governor-in-Chief of Our Territory of New South Wales and its Dependencies, at Government House, Sydney, in Our said Territory, this day of _____ in the _____ year of Our reign, and in the year of Our Lord one thousand eight hundred and fifty-nine.

(Signed) W. T. DENISON.

By His Excellency's Command,

(Signed)

Entered on Record by me in Register of Patents, No. _____ page _____
this _____ day of _____ one thousand eight hundred and fifty-nine.

(Signed) W. ELYARD,

(For the Colonial Secretary and Registrar.)

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To all to whom these presents shall come, Greeting:--

KNOW YE, that We, reposing confidence in the loyalty, learning, and ability of Alfred Cheeke, Esquire, have thought fit, with the advice of Our Executive Council of Our Colony of New South Wales, hereby to constitute and appoint him, the said Alfred Cheeke, Esquire, to be the Chairman of all Courts of General or of Quarter Sessions to be holden within the limits of the Sydney District, under the provisions of the District Courts Act of the year one thousand eight hundred and fifty-eight, which have been, or from time to time may be, ordered to be holden at any of the towns or places within the _____ District, being one of the Districts into which Our said Colony has been divided for the purposes of an Act passed in the twenty-second year of Our reign, intituled, "*An Act for establishing District Courts, and for enabling the Judges thereof to act as Chairmen of Quarter Sessions,*" to have, hold, exercise, and

and enjoy the said office during ability and good behaviour, together with all and singular the duties, powers, rights and privileges belonging to his said office, which are now or at any time hereafter during the continuance hereof may be imposed or granted by the laws of the said Colony: In testimony whereof We have caused these Our Letters to be made Patent under the Great Seal of Our said Colony, to be hereunto affixed.

Witness Our trusty and well-beloved Sir William Thomas Denison, Knight, Commander of the Most Honorable Order of the Bath, Governor General in and over all Our Colonies of New South Wales, Tasmania, Victoria, South Australia, and Western Australia, and Captain General and Governor-in-Chief of Our Territory of New South Wales and its Dependencies, at Government House, Sydney, in Our said Territory, this day of , in the twenty-second year of Our reign, and the year of Our Lord one thousand eight hundred and fifty-

(Signed) W. T. DENISON.

By His Excellency's Command,
(Signed) A. P. LUTWYCHE,
Attorney General.

Entered on record by me in Register of Patents, No. , page
this day of one thousand eight hundred and fifty-

(Signed) W. ELYARD.

(For the Colonial Secretary and Registrar.)

Similar Commission to Thomas Callaghan, Esq., for Southern District.

Do. to James Sheen Dowling, Esq., for Western District.

Do. to Henry Cary, Esq., for Cumberland and Coast District.

Do. to John Fletcher Hargrave, Esq., for Northern District.

(Amended form of Commission issued to J. S. Dowling, Esq.)

VICTORIA, by the Grace of God, of the United Kingdom of Great
Britain and Ireland, Queen, Defender of the Faith.

To all to whom these presents shall come, Greeting:—

Know YE that We, reposing confidence in the loyalty, learning, and ability of James Sheen Dowling, Esquire, do by these presents, and with the advice of Our Executive Council of Our Colony of New South Wales, hereby constitute and appoint him, the said James Sheen Dowling, Esquire, to be the Chairman of all Courts of General and of Quarter Sessions to be holden within the limits of the Western Districts, under the provisions of an Act of the Parliament of New South Wales, passed in the twenty-second year of Our reign, intituled, "*An Act for establishing District Courts, and for enabling the Judges thereof to act as Chairmen of Quarter Sessions,*" and commonly styled and cited as the "*District Courts Act of 1858,*" which have been, or from time to time may be, ordered to be holden at any of the towns or places within the Western District, being one of the Districts into which Our said Colony has been divided, for the purposes of the said Act, he the said James Sheen Dowling, Esquire, having been appointed and now being the Judge of the District Courts within the limits of the said Western District: To have, hold, exercise, and enjoy, the said office during ability and good behaviour, together with all and singular the duties, powers, rights and privileges belonging to his said office, which are now, or at any time hereafter, during the continuance hereof, may be imposed or granted by the laws of the said Colony: In Testimony whereof We have caused these Our Letters to be made Patent, under the Great Seal of our said Colony, to be hereunto affixed.

Witness Our trusty and well-beloved Sir William Thomas Denison, Knight, Commander of the Most Honorable Order of the Bath, Governor General in and over all Our Colonies of New South Wales, Tasmania, Victoria, South Australia, and Western Australia, and Captain General and Governor-in-Chief of Our Territory of New South Wales and its Dependencies,

Dependencies, at Government House, Sydney, in our said Territory, this
 day , in the twenty-second year of Our
 Reign, and in the year of Our Lord one thousand eight hundred and
 fifty-nine.

(Signed) W. T. DENISON.

By His Excellency's Command,
 (Signed)

Entered on record by me in Register of Patents, No. , page
 this day of one thousand eight hundred and fifty-nine.

(Signed) W. ELYARD,
 (For the Colonial Secretary and Registrar.)

Similar Commission to Robert Owen, Esq., for Northern District.

By His Excellency SIR WILLIAM THOMAS DENISON, Knight, Commander of the
 Most Honorable Order of the Bath, Governor General in and over all Her
 Majesty's Colonies of New South Wales, Tasmania, Victoria, South Australia,
 and Western Australia, and Captain General and Governor-in-Chief of the
 Territory of New South Wales and its Dependencies, and Vice-Admiral of
 the same, &c., &c., &c.

WHEREAS by an Act of the Governor of the Territory of New South Wales, by and with
 the advice of the Legislative Council thereof, passed in the fourth year of the reign of Her
 present Majesty Queen Victoria, intituled, "*An Act to provide for the more effectual*
Administration of Justice in New South Wales and its Dependencies," it was, amongst
 other things, enacted that it should be lawful for the Governor of New South Wales for the
 time being to appoint any officer or officers by whom and in whose name all crimes, mis-
 demeanors, and offences cognizable in the several Courts of General and Quarter Sessions
 in all parts of the said Colony, save and except within the limits of Port Phillip, might be
 prosecuted:

Now know Ye, that I, Sir William Thomas Denison, Knight, Governor General of
 the said Territory and its Dependencies, in pursuance of the said Act, under and by virtue
 of the authority thereby in me vested, and with the advice of the Executive Council,
 have appointed and do hereby appoint Edward Butler, Esquire, Barrister-at-Law, to be
 Crown Prosecutor, during the pleasure of the Governor of the said Territory for the time
 being, to be and act as such an officer aforesaid, and to be a person by whom and in whose
 name all crimes, misdemeanors, and offences cognizable in the several Courts of General
 and Quarter Sessions to be holden in the said Colony may be prosecuted.

Given under my Hand and the Seal of the Territory, at Government House,
 Sydney, New South Wales, the day of
 in the year of our Lord one thousand eight hundred and fifty-
 and in the twenty-second year of Her Majesty's reign.

(Signed) W. T. DENISON.

By His Excellency's Command,

(Signed) A. P. LUTWYCHE,
 Attorney General.

Entered on Record by me in Register of Patents, No. page
 this day of one thousand eight hundred and fifty-

(Signed) W. ELYARD,
 (For the Colonial Secretary and Registrar.)

Similar Commission to Fredk. Wm. Meymott, Esq., for Cumberland and Coast
 District, and Southern District.

Ditto to Wm. Charles Windeyer, Esq., for Western Districts.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

ARALUEN GOLD FIELDS.

(RULES OF LOCAL COURT.)

Ordered by the Legislative Assembly to be Printed, 11 February, 1859.

RULES framed by the Local Court at Upper Araluen, and approved by the Governor General and Executive Council.

No. 1.—On dry diggings each claim shall be forty feet square; and on the creeks, thirty feet frontage by sixty feet in depth. On old worked ground claims shall be double.

No. 2.—All persons are required to mark their claims at the corners, with strong pegs one foot in the ground and two feet out. No boundary shall be recognized by the authorities which is not so marked, and the ground shall be considered vacant. A block of claims must always be square or rectangular. The length shall not exceed double the width.

No. 3.—Any person holding a "Business License" shall be entitled to occupy, for the purposes of trade, an area not exceeding sixty-six feet by one hundred feet.

No. 4.—No party will be allowed to leave their claim or claims unworked for a longer period than three days, unless they have permission to do so by the Chairman of the Local Court. It will be necessary for the party so vacating their claims to leave a responsible agent, to warn any persons who may desire to take possession that such absence is only necessary.

No. 5.—Any party discovering new diggings shall be allowed to take double claims, provided such discovery is not within a mile of any established Gold Field; such distance to be computed by the Chairman of the Local Court.

No. 6.—When any party have followed up a vein or lead of gold to the boundary of a business claim, they will be allowed to continue their operations, provided they previously make sufficient compensation to the occupant of such business claim, for any damage they may occasion to his buildings or improvements. The amount of compensation shall be decided by the Local Court, in the event of the parties not agreeing.

No. 7.—Tail races in length one hundred yards shall be considered the property of the party constructing them, and are not to be interfered with by any party. Should any person or party wish to turn a drainage into another's tail race, the permission of the owners must be first obtained. Any party, however, may convey water under or over a tail race, in a sluice made of sawn or hewn planks one inch and a half in thickness, provided they compensate the owner of such race for any damage occasioned thereby. Any portion of a tail race exceeding one hundred yards shall be considered public property; provided however that any person wishing to make use of it must pay to the owners a sufficient remuneration for the use of it; the amount to be subject to the approval of the Local Court.

No. 8.—The right of water to parties requiring it for wheels shall always be secondary to the supply for cradles, toms, and sluices.

No. 9.—A reasonable space shall always be allowed to persons to erect machinery upon; provided it does not interfere with the works of neighbouring diggers or affect the supply of water.

No. 10.—No digger or party of diggers can hold more than one claim or block of claims, or hold any claim or claims in reserve. Such a proceeding will be considered a relinquishment of right to such claim or claims, however much previously worked, unless satisfactory reason, such as sickness, or some urgent and sufficient cause can be shewn; provided however, that in the event of there being a rush to any new Gold Field, parties will be allowed to send half their number to prospect for one week, the other half to continue their operations on the old claims.

No. 11.—The Chairman of the Local Court shall have power to mark out and maintain main roads one chain wide, and by-roads half a chain wide, on the Gold Fields; provided however that any person feeling himself aggrieved thereby, or that any such road is unnecessary, may appeal to the Local Court, when such alterations may be made as may appear requisite. Any encroachment upon a road so marked shall be dealt with as a breach of the Rules of the Local Court.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

NUNDE GOLD FIELDS.

(RULES OF LOCAL COURT.)

Ordered by the Legislative Assembly to be Printed, 24 February, 1859.

1. As a reward for the discovery of gold in any new locality within the boundaries of the Gold Field, the Court grants to such discoverers the right of holding treble claims per man; if such party or parties believe themselves entitled to more, they must make a written application to the Court for the same.

2. For alluvial sinking the measurement of claim per man will be 30 feet by 30.

3. For surfacing claims the measurement will be 40 feet by 40 per man.

4. For tail-races the measurement will be 60 feet by 60 per man for new ground; for ground that has been partially worked, or, in mining phrase, "old ground," will be allowed 60 feet per man up the creek, river, or gully, and in width from ridge to ridge; 3 feet on either side of the race will be left as a protecting wall.

5. In case any party of miners shall be at an extra expense and difficulty in working ground, they can apply to the Court for extended claims, not exceeding two per man, which the Court shall grant if they think such application just and fair.

6. Parties, whether prospectors or otherwise, in applying for extended claims shall at all times make a truthful statement in writing to the Court of their number; if they tender a false account they shall, on discovery, be subject to the forfeiture of either the whole or part of their claims, at the discretion of the Court.

7. Provided that ground be discovered of an auriferous nature, and claims be marked off by not less than six parties, and such ground be difficult to work in consequence of excess of water, or otherwise, and the majority of the men composing the claimants of such ground agree to act in concert for the purpose of drainage, or whatever it may be that obstructs their claims from being wrought, the minority shall either join them in the labor, bear their share of expenses, or forfeit their claims.

8. Any party wishing to erect machinery for the working of claims or crushing quartz, shall first apply in writing to the Court; but such requests shall in all cases be granted, provided the Court is satisfied that the erection of such machinery would not damage the property or claims of others.

9. No person will be allowed to cut through the claims belonging to a tail-race without the consent of the claimants.

10. Any miner or miners using the water belonging to the American Water Company, supplied through their present ditches, shall in all cases pay according to, and not exceeding, the following scale of charges:—

SLUICE HEAD.

Measurement—6 inches by 1	} Charge,
Pressure 4 .....		10s. per day.
Price in proportion for a less number of inches.	

11. No person shall damage or otherwise interfere with any reservoir or ditch belonging to the said company.

12. In case of any dispute arising as to the priority of claim of water supplied by the said company, such dispute shall be referred to the decision of the Court.

13. The Local Court will in all cases be guided by the Regulations issued by the Government, August 5th, 1858; provided such Regulations shall not be inconsistent with those Rules passed by the Court.

G. DOUGLAS,
Chairman.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

E. J. C. NORTH, ESQ.

(REMOVAL OF FROM COMMISSION OF THE PEACE.)

Ordered by the Legislative Assembly to be Printed, 12 January, 1859.

RETURN to an *Address* of the Honorable the Legislative Assembly of New South Wales, dated 7 January, 1859, praying that His Excellency the Governor General would be pleased to cause to be laid upon the Table of this House,—

(1.) All correspondence with the Government respecting the removal of E. J. C. North, Esquire, from the Commission of the Peace, together with all voluntary and solemn declarations relating thereto.

(2.) All Petitions or Memorials, with the names of the Petitioners or Memorialists attached thereto, respecting same subject.

(*Mr. Plunkett.*)

E. J. C. NORTH, ESQ.

THE SECRETARY TO THE LAW DEPARTMENT to THE POLICE MAGISTRATE, CARCOAR.

Crown Law Offices,
Sydney, 25 June, 1858.

SIR,

I am directed by the Attorney General to refer you to an extract from the *Bathurst Times*, which appears in the *Sydney Morning Herald* of this day, respecting a charge of stealing turkeys against the individual whose name is noted in the margin, and which were the property of Mr. Engelbert Hahn; and to request that you will have the goodness to state to me, for the information of the Attorney General, whether the article in question is a true report of what occurred on the occasion referred to; and if not, that you will please point out in what respect it is inaccurate.

Regina
v.
Henry Snowden.

2. I am also desired to request you will send me, *without delay*, a copy of all the proceedings in the case referred to in the extract already mentioned, which, it appears, resulted in the infliction of a fine of three pounds, and fourteen shillings costs, upon Mr. Snowden.

I have, &c.,

W. E. PLUNKETT,

Secretary to Law Department.

THE POLICE MAGISTRATE,
Carcoar.

THE POLICE MAGISTRATE, CARCOAR to THE SECRETARY TO THE LAW DEPARTMENT.

Police Office, Carcoar,

1 July, 1858.

SIR,

I do myself the honor to acknowledge the receipt, by to-day's post, of your letter of the 25th ultimo, requesting me, by direction of the Attorney General, to state for his information whether the report of the case noted in the margin, which appeared in the *Sydney Morning Herald* of that date, as an extract from the *Bathurst Times*, is a true statement of what occurred on the occasion referred to; and, if not, that I will point out in what respect it is inaccurate, and also requesting a copy of the proceedings.

Regina
v.
Snowden.

In compliance with your request, I beg to forward, under a separate envelope, a copy of the depositions, and to state that the article referred to contains mis-statements, and is not a true report of the case in question, as will appear by the accompanying letters from Mr. North that were published in the *Bathurst Free Press* of the 23rd and 30th instant.

Rdwd. J. C.
North,
N. Connolly,
jun.
Thos. H. West.

The Magistrates named in the margin committed Mr. Snowden, on the 27th May, for trial at the Bathurst Quarter Sessions, for stealing three turkeys, the property Engelbert Hahan of Carcoar; and on the 7th ultimo the case being called on at that Court, the Crown Prosecutor declined prosecuting, as he considered it should have been dealt with by this Bench.

On the Magistrates being informed of Mr. Dowling's decision, and in the absence of any communication from him, they decided (on being acquainted officially that Snowden demanded the turkeys from the Chief Constable) in consulting with me that a fresh trial should take place, as they were *all* of opinion that a larceny had been committed.

Before hearing the case I informed the defendant, most distinctly, that the Magistrates who first entertained the proceedings against him had resolved a fresh information should be laid, under the 7th and 8th George IV, ch. 29, sec. 31. I did not say I ordered the present prosecution, or that I did not consider I was bound by the Attorney General's opinion.

I have, &c ,

THE SECRETARY
TO THE LAW DEPARTMENT,
Sydney.

C. E. SMITH,

Police Magistrate.

THE POLICE MAGISTRATE CARCOAR to THE SECRETARY TO THE LAW DEPARTMENT.

Police Office, Carcoar,
3 July, 1858.

SIR,

In my communication of the 1st instant, respecting the report of the case notified in the margin, that appeared in the *Sydney Morning Herald* of the 25th ultimo, Regina v. Snowden. I was unable, from press of business, to point out as fully as might be desired, all the inaccuracies therein contained, and now beg to transmit, for the further information of the Attorney General, the report of this case, extracted from the *Bathurst Times*, with remarks set opposite the various paragraphs requiring explanation.

I have, &c.,

C. E. SMITH, P.M.

THE SECRETARY
TO THE LAW DEPARTMENT,
Sydney.

"CARCOAR.

"THE *Bathurst Times* reports the following remarkable case, which came on for trial at the "Carcoar Police Office, on the 14th instant:—

"It being known that Mr. Snowden, innkeeper, was to be examined a second time before the Police Bench for feloniously stealing three turkeys, the property of Mr. Engelbert Hahn, considerable excitement was occasioned by the fact that, notwithstanding the defendant's having been examined before the Court on the 27th ultimo, his having been committed to take his trial at the Court of Quarter Sessions, when the case was dismissed, the Crown Prosecutor, on behalf of the Attorney General, declining to prosecute, the case being simply one of disputed property, the Police Magistrate thought it expedient to commence the case *de novo*. The case being called, the defendant handed up a written protest to the Justices, in which he disputed their worships' jurisdiction in the case. The Police Magistrate informed the defendant that the Bench had in his absence sent the case to trial; that although the Attorney General refused to prosecute, he (P.M.) having arrived since, had ordered the case to be brought on again, as he did not consider he was bound by the Attorney General's opinion.

"The first witness called was Mrs. Hahn, who deposed as follows:—I am the wife of Englebert Hahan. On the 20th May last I lost three turkeys—two cocks and one hen; the next day I found them in Snowden's fowl-house. My son informed me they were there. I then went to Snowden and asked him for them, but he refused to give them, saying they were his own—that he had bred and fed them for some months past. I then took the Chief Constable up with me to him. He would not give them up. The Chief Constable told me he could not interfere as it was a matter of disputed property. I told the defendant he had always given up my turkeys when he had any in his place, and he therefore ought to give them up. He refused. I then went to Mr. North, and got a summons against him for stealing them. When I went to the defendant's the turkeys were in his fowl-house. I have had the turkeys in my possession since the case was dismissed in Bathurst. [*Turkeys produced.*] I need not look at them, I swear they are mine; they are the same I saw at Snowden's. I never sold or gave them to him. I saw Mrs. Snowden; she said if they were mine she would not keep them.

"*Cross-examined by the defendant:* The last time I saw them was on the 20th May, about 12 o'clock, near my place; I will not swear whether one of their wings was cut or not. I do not mean they were locked up—I mean shut up. I will not swear you stole them. I did not go this time to the Magistrate; I was sent for. They made me to say you stole them.

"*By the Bench:* Do you believe he stole them or took them?

"*Witness:* He took them; they are not marked; I know them by their general appearance; I have had them since last Christmas. I value them at 30s. The defendant has not claimed them since I brought them from Bathurst. The defendant's and my turkeys generally run together. He could have taken the turkeys at any time before the 20th May if he was so inclined.

"The defendant asked the witness—When she laid the present information?

"The Bench considered the question irrelevant, and the Police Magistrate here stated that he ordered the prosecution.

"*Mr. M'Fadden sworn:* I am Chief Constable at Carcoar.

"*By the Bench:* I accompanied the last witness to Snowden's on the 20th May last. I took possession of three turkeys claimed by Mrs. Hahn. I will not swear that the three turkeys before the Court are the same.

"*By the defendant:* I gave three turkeys to Mrs. Hahn after the case had been dismissed in Bathurst. I am aware you were committed for the case that is now under consideration. I am aware you were not put on your trial—you were discharged.

"The Police Magistrate reprimanded the Chief Constable for not branding the turkeys so that he could swear to them.

Mr.

" Mr. McFadden explained to the Bench that he never thought for one moment that the case would be called on again, after the Crown Prosecutor's refusing to file a bill.

" *Englebert Hahn* sworn: I reside at Carcoar; I am husband to the first witness.

" *By the Bench*: Last month I lost three turkeys. I saw them in the watch-house last month—they belong to me. The three turkeys in the Court are the same that were given to me in Bathurst. I know them by their plumage.

" *By the defendant*: I gave evidence before in this case. You appeared at the Quarter Sessions to answer this charge; you were discharged. I am not the prosecutor in this case. I received a summons last Saturday to come and give evidence this day. I will not swear you stole the turkeys. I laid no information this time to bring the case on again. Yours and my turkeys generally run together. I do not think you would have put the turkeys in the place they were when taken if you intended stealing them, as any person could see them. You always gave up any of my turkeys that were on your premises to my children when they went for them. The Police Magistrate occupies part of my house; he boards and lodges with me.

" The Police Magistrate here stated that he ordered the present proceeding to be taken.

" This closed the evidence for the prosecution.

" *For the defence* :—

" Mr. S. G. Allford deposed: I am a storekeeper at Carcoar. I know the defendant had a number of turkeys. I believe the turkeys before the Court are the defendant's. I cut the wings of one of the turkeys before the Court about four weeks since. I thought it was mine. I had one like it; I could not tell them apart. I subsequently discovered it was not mine. I believe it was Snowden's. I do not think any one can swear more positively to turkeys than geese. One of the magistrates now on the Bench killed and consumed one of my geese some short time since. He gave me another in lieu of it. The defendant now before the Court was discharged by the Chairman at the Quarter Sessions, Bathurst. I was present. The Crown Prosecutor stated it ought not to have been sent there.

" *John James*, being sworn, deposed: I am ostler at Snowden's. The three turkeys before the Court are the property of my master. I have fed them for the past three months. On Thursday evening, the 20th May, I informed my master that the turkeys had come home, and that one was deficient. He ordered me to shut them up, and look after the lost one. I swear, to the best of my belief, the three turkeys before the Court are Mr. Snowden's. My master had twelve or thirteen turkeys when I went to live with him.

" *Joseph Bishop* deposed: I have been living as cook to Mr. Snowden for some months past. I believe the three turkeys before the Court are Mr. Snowden's. He had twelve turkeys when I first went there. He bought several since. I have constantly fed them. They were small when I first went to live there. I have often seen the plaintiff's children come to the defendant's garden and fetch their poultry. They never took or claimed the turkeys before the Court. I swear the turkeys are my master's.

" The case having closed, the Court found the defendant guilty of stealing the turkeys, and ordered him to pay a fine of £3 and 14s. costs, or to be imprisoned for fourteen days; the plaintiff to take the turkeys. The defendant said he felt the injustice, therefore would not pay the fine. The Police Magistrates ordered the constables to take him to the lock-up, from which place the inhabitants soon released him by paying the fine."

1. I mentioned to defendant that all the Magistrates who sat in this case before, had decided it should commence *de novo*, and hence the present proceedings. I made no remarks whatever about being bound by the Attorney General's opinion.
2. The greater part of Mrs. Hahn's evidence is incorrectly reported—vide copy of depositions; she did not depose the Magistrates made her say defendant stole the turkeys.
3. I did not say "I ordered the prosecution."
4. The Chief Constable though he took the turkeys in charge, and had them for more than a week at the lock-up, was unable to identify them in Court; and in consequence I reprimanded him for his negligence in not taking sufficient notice of the stolen property, or marking it for the purpose of identification.
5. This witness' evidence is also inaccurately given, as will appear on being compared with the depositions. I occupy furnished apartments at Mr. Hahn's house, without however feeling in any respect disposed to evince partiality to him.
6. Mr. Allford's statement, though of little importance, is not reported right. His remark, that Mr. North had killed one of his geese, was contradicted by that gentleman.
7. Some material facts elicited from this witness are suppressed, and his evidence is not fairly given. He deposed that his master had eleven turkeys when Mrs. Hahn claimed hers, and then there was one missing.
8. The report of Bishop's statement is quite different to his sworn testimony. By this report he is made to say defendant had twelve turkeys when he first went to live with him some months past, and that defendant bought several since which he constantly fed; whereas he deposed Snowden only bought two, and they were killed during the races, (last March,) and that two of the twelve

twelve he bred were cooked and one died, thereby reducing his number to nine, and at the time Mrs. Hahn found her three birds concealed on his premises he is one deficient, making his number only eight. James swears there were eleven altogether when the three were claimed by Mrs. Hahn.

As the three turkeys alleged to be stolen were very shortly afterwards found in the possession of Snowden, who was unable satisfactorily to shew by evidence in what manner he came by them, we were of opinion he stole them, and fined him accordingly £3, and 6s. 8d. costs.

The fine was paid by a Mr. Solomon Meyer, (agent and correspondent for the *Bathurst Times*,) who was taking notes of the case in Court, and assisting defendant with his advice in cross-examining the witnesses.

C. E. SMITH, P.M.

New South Wales, }
to wit.

The complaint of *Anna Maria Hahn*, wife of E. Hahn, of the town of Carcoar, in the said Colony, carpenter, taken on oath this twenty-second day of May, in the year of our Lord, one thousand eight hundred and fifty-eight, before the undersigned, one of Her Majesty's Justices of the Peace in and for the Colony aforesaid, who saith that:—about the night of the twentieth of May instant, I missed three turkeys, my husband's property, and after searching for them I found them on the 21st May, shut up in the fowl-house belonging to Henry Snowden, innkeeper, of Carcoar aforesaid; I demanded the three turkeys from Mr. Snowden, but he refused to give them to me. I charge the said Henry Snowden, of Carcoar aforesaid, with stealing the aforesaid three turkeys, my husband's property, and pray that he may be summoned to answer the cause aforesaid.

ANNA MARIA HAHN.

Taken and Sworn before me, at the }
Police Office, Carcoar, the day and } EDWD. J. C. NORTH, J.P.
year first above-mentioned }

Summons granted for Henry Snowden to appear at the Police Office, Carcoar, on Thursday, the 27th May, 1858.

E. N., J.P.

New South Wales, }
to wit.

Police Office, Carcoar,
May 27, 1858.

Before—

E. J. C. NORTH, Esq., J.P.

T. H. WEST, Esq., J.P.

N. CONNOLLY, JUNR., Esq., J.P.

Henry Snowden appears charged with stealing three turkeys, the property of E. Hahn, of Carcoar.

This deponent, *Anna Maria Hahn*, duly sworn, states:—My information of 22nd instant, now read, is correct and true; I am wife of E. Hahn, of Carcoar, carpenter; the three turkeys now in the possession of the Police are my husband's property; the wing of the hen turkey is now cut, which was not the case when I lost her; the turkeys had been in the habit of running with Snowden's turkeys, and on one or two occasions previously he had given them up to me; from information I received from my son William, I proceeded to the residence of defendant, and there saw my three turkeys shut up in a fowl-house; defendant accompanied me and shewed me the turkeys, but said, when I claimed them, that they were of his own rearing, and refused to give them up to me; I last saw my turkeys on the 20th instant, about twelve o'clock, at my own place; defendant's three turkeys were in the fowl-house with mine.

Cross-examined by defendant:—I swear the wing of the hen turkey was not cut at the time I first shewed the turkeys to Mr. McFaddin, Chief Constable, on your premises; you gave the turkeys up to my children on previous occasions.

ANNA MARIA HAHN.

Sworn before us, at Carcoar, this }
27th May, 1858. }

EDWD. J. C. NORTH, J.P.

THOMAS H. WEST, J.P.

N. CONNOLLY, JUNR., J.P.

New South Wales, }
to wit.

William McFaddin, Chief Constable, of Carcoar, duly sworn on oath, states:—I accompanied Mrs. Hahn to the residence of defendant, Henry Snowden, for the purpose of seizing three turkeys, claimed by Mrs. Hahn as her husband's property; the three turkeys now in possession of the police were pointed out to me by Mrs. Hahn as her husband's property; defendant said the turkeys were his, that he reared them; I cannot swear whether the wing of any of the turkeys was cut or not at the time; there were other turkeys in the same fowl-house with those I seized.

WM. MCFADDIN.

Sworn before us, at Carcoar, this }
27th day of May, 1858. }

EDWD. J. C. NORTH, J.P.

THOMAS H. WEST, J.P.

N. CONNOLLY, JUNR., J.P.

New South Wales, }
to wit. }

This deponent, *E. Hahn*, duly sworn on oath, states:—I am husband of Anna Maria Hahn, one of the witnesses in this case. On Friday last, the 21st instant, my wife told me my three turkeys were missing; I last saw them about four o'clock the evening previous with three of Snowden's turkeys near my own residence; I have not seen my three turkeys since until I now saw them in the possession of the Police; I swear positively that they are my property; the largest turkey cock is a remarkable bird; the wing of the hen turkey was not cut when I lost her.

Cross-examined by defendant:—I bought the hen turkey from Mrs. Lena; I have no particular mark on the turkeys except their plumage, by which I could pick them out from a hundred other turkeys; I value the three turkeys as worth one pound.

ENGELBERT HAHN.

Sworn before us, at Carcoar, this }
27th day of May, 1858. }

EDWD. J. C. NORTH, J.P.
THOMAS H. WEST, J.P.
N. CONNOLLY, JUNR., J.P.

New South Wales, }
to wit. }

This deponent, *Elizabeth Lena*, duly sworn on oath, states:—About three months since I sold a black turkey hen to Mrs. Hahn; I swear that the turkey hen now in possession of the Police is the one I sold to Mrs. Hahn; I have seen her several times since I sold her at Mrs. Hahn's residence.

Sworn before us, at Carcoar, this }
27th day of May, 1858. }

EDWD. J. C. NORTH, J.P.
THOMAS H. WEST, J.P.
N. CONNOLLY, JUNR., J.P.

her
ELIZABETH + LENA.
mark.

Statement of the Accused.

New South Wales, }
to wit. }

Henry Snowden, innkeeper, stands charged before the undersigned, three of Her Majesty's Justices of the Peace in and for the Colony aforesaid, this 27th day of May, in the year of our Lord one thousand eight hundred and fifty-eight, for that he the said Henry Snowden, on the 20th day of May, at Carcoar, in the said Colony, did feloniously steal and take away three turkeys, the property of E. Hahn, of Carcoar; and the said charge being read to the said Henry Snowden, and the witnesses for the prosecution—Anna Maria Hahn, William McFaddin, E. Hahn, and Elizabeth Lena—being severally examined in his presence, the said Henry Snowden is now addressed by us as follows:—"Having heard the evidence, do you wish to say anything in answer to the charge?—you are not obliged to say anything unless you desire to do so; but whatever you say will be taken down in writing, and may be given in evidence against you upon your trial"; whereupon the said Henry Snowden saith as follows:—I detained the turkeys as I was one short of my own seven, and I believed these were mine, because they corresponded with the number I should have, except the missing one.

HENRY SNOWDEN.

Before us, at Carcoar, this }
27th of May, 1858. }

EDWD. J. C. NORTH, J.P.
THOMAS H. WEST, J.P.
N. CONNOLLY, JUNR., J.P.

For the Defence.

New South Wales, }
to wit. }

This deponent, *John James*, duly sworn on oath, states:—I am working hand in the employment of defendant; I have seen the three turkeys in the possession of the Police; I had been in the habit of feeding them with the rest of Snowden's fowls, and I always considered them his; Snowden had seven turkeys that were in the habit of feeding about the town, and on Thursday night last, the 20th instant, they came home one short, which was the reason I shut them up; one of the turkeys had its wing cut, but I cannot say whether it was a cock or hen.

JOHN JAMES.

Sworn before us, at Carcoar, }
this 27th May, 1858. }

EDWD. J. C. NORTH, J.P.
THOMAS H. WEST, J.P.
N. CONNOLLY, JUNR., J.P.

The defendant, *Henry Snowden*, having been asked whether he wished the charge to be tried by a jury, or to be decided at once, and having elected to be tried by a jury, is hereby committed to take his trial at the Court of Quarter Sessions, to be holden at Bathurst, on Monday the 7th June next, for the offence with which he stands charged.

By us at Carcoar, this 27th May, 1858. } EDWD. J. C. NORTH, J.P.
N. CONNOLLY, JUNR., J.P.

The defendant, *Henry Snowden*, is admitted to bail for his appearance when called upon, at the Court of Quarter Sessions, to be held at Bathurst on 7th June instant; and is bound in the sum of £50, with two sureties, George Rawlands and George Stammers, of Carcoar, in the sum of £20 each.

EDWD. J. C. NORTH, J.P.
N. CONNOLLY, JUNR., J.P.

Information for Larceny, under 7 and 8 George IV., cap. 29, sec. 31.

New South Wales, }
to wit. }

The information and complaint of *Anna Maria Hahn*, of the town of Carcoar, in the Colony of New South Wales, carpenter's wife, taken this twelfth day of June, in the year of our Lord one thousand eight hundred and fifty-eight, at Carcoar aforesaid, in the Colony aforesaid, before the undersigned, one of Her Majesty's Justices of the Peace, in and for the said Colony, who upon her oath saith, that on the 20th day of May, 1858, at Carcoar, in the Colony aforesaid, the following goods and chattels, namely, three turkeys, the property of Engelbert Hahn, complainant's husband, were feloniously stolen, taken, and carried away, and that the said Anna Maria Hahn hath just cause to suspect, and doth suspect, and verily believe that Henry Snowden, of Carcoar, in the Colony aforesaid, licensed publican, did then and there feloniously steal, take, and carry away the same, and thereupon she, this informant, prays that I, the said Justice, may issue my summons to the said Henry Snowden, that he may be dealt with according to law, and that justice may be done in the premises.

ANNA MARIA HAHN.

Sworn before me, at the Police Office, Carcoar this }
twelfth day of June, in the year of our Lord }
one thousand eight hundred and fifty-eight. }

C. E. SMITH, J. P.

Defendant pleads not guilty.

New South Wales, Carcoar, }
to wit. }

Anna Maria Hahn, being duly re-sworn, saith:—I am wife to Engelbert Hahn, carpenter, of Carcoar. On the evening of the 20th day of last May I missed two turkey cocks and one turkey hen; the next day I made inquiry, but could not find them; my son, William Hahn, informed me that day that he found them locked up in the defendant's fowl-house; I went and asked Mr. Snowden to give me up the turkeys; he said they were his own, that he bred them, and fed them with soft bread; he persisted in saying they were his; I brought the Chief Constable to Mr. Snowden's yard, and shewed him the turkeys, and claimed them as mine in his presence; Snowden still refused to give up the turkeys; I went next day, with the Chief Constable, and demanded them again from defendant; he refused to give them up to me; on the 21st, when I went into Mr. Snowden's yard, I found the turkeys confined in a separate place, next to the fowl-house; when I could not get the turkeys next day I laid an information against Mr. Snowden for stealing them; I have obtained possession of the turkeys since; the turkeys now produced in Court are my husband's property, and are the same I saw locked up in Snowden's fowl-house; I never sold or gave them to Mr. Snowden, or anyone else.

Cross-examined by defendant:—I saw the turkeys at 12 o'clock on the 20th of May, at my own place; I did not notice if the wing of the turkey hen was cut; there was a log against the door of the place they were in; you did not refuse to go with me to the fowl-house; there were three more turkeys in the house with mine; I believe that you took the turkeys, but will not swear that you stole them; I know the turkeys by general appearance; I have no private mark on them; the turkeys were every day under my eye for the last two or three months; they were only absent one night before during that time.

By the Bench:—I reared two of the turkeys—the cocks; the two turkey cocks were hatched about November last, and since then they have been always about the premises; I bought the hen from Mrs. Lena, the latter end of February last; I value the birds at ten shillings each; the defendant never demanded the turkeys from me as his property; they were taken a couple of times from Snowden's yard, and were constantly mixed with some of his turkeys; he could have claimed them before if he thought proper, as they were in the habit of going into his yard.

ANNA MARIA HAHN.

Sworn before us, at the Police Office, Carcoar, }
the 14th day of June, 1858. }

C. E. SMITH, P.M.
EDWD. J. C. NORTH, J.P.

William M'Faddin, Chief Constable at Carcoar, being duly sworn, saith:—I recollect accompanying the last witness to defendant's place on the 22nd of last May; I went there for the purpose of seizing three turkeys Mrs. Hahn had informed me were hers; I saw some turkeys at Snowden's; Mrs. Hahn pointed out three as her property; the three were taken to the lock-up—two cocks and one hen; defendant was present when the turkeys were taken by me; defendant said he reared the three turkeys, and that they were his property; I afterwards gave the three turkeys into the custody of Mrs. Hahn; I am aware that defendant was committed to take his trial at the Bathurst Court of Quarter Sessions on the 7th instant, for the present charge, and I believe he was not tried.

WM. M'FADDIN.

Sworn before us, at the Police Office, }
Carcoar, the 14th June, 1858. }

C. E. SMITH, P.M.
EDWD. J. C. NORTH, J.P.

Engelbert Hahn, carpenter, residing in Carcoar, being duly sworn, saith:—I recollect missing three turkeys on the 20th of last month—two cocks and one hen; about seven days after I saw the same turkeys in the Carcoar lock-up; they were afterwards given up to me by the Chief Constable, Mr. M'Faddin, in Bathurst; the turkeys now produced are the same; I know them by the plumage, and feel confident they are mine; I never sold them to defendant or gave them to him or any one else.

Cross-examined by defendant:—I gave evidence in this Court before on the same charge on the 27th of last month; I am aware you appeared in Bathurst on the same charge; I will not swear that you stole the turkeys; the turkeys used to go backwards and forwards on to your premises with yours.

By the Bench: The defendant never demanded the turkeys as his property, or ever claimed them as his before. I am aware the turkeys were fetched away twice or three times before from defendant's yard by my family.

E. HAHN.

Sworn before us, at the Police Office, }
Carcoar, the 14th June, 1858. }

C. E. SMITH, P.M.
EDWD. J. C. NORTH, J.P.

For the defence, defendant states: These turkeys came home to my yard on Monday night, and on Thursday night (20th May,) when one of my number was short, I had them shut up, believing them to be my own.

Defendant's Witnesses.

Examined by defendant:—*Stephen Goldsbrough Alford*, storekeeper, residing in Carcoar, being duly sworn saith:—I remember three or four of your turkeys coming to my yard. I can't swear that I have seen the turkeys before the Court in your yard; I have seen some very like them; one of them, the hen bird, is very similar to one I cut the wing of in mistake for one of my own, about a month ago, and in about ten minutes after, my own coming down the yard I thought I had cut your bird by mistake, and threw it over the fence.

STEPHEN GOLDSBROUGH ALFORD.

Sworn before us, at the Police Office, }
Carcoar, the 14th June, 1858. }

C. E. SMITH, P.M.
EDWD. J. C. NORTH, J.P.

John James, of Carcoar, general servant to defendant, being duly sworn, saith (examined by defendant):—I know the turkeys in the Court, they are three of seven that were running about the town; I have been in the habit of feeding them in your yard for about ten or eleven weeks. One of them came home with its wing cut on a Tuesday night; they were away next night, and came back Thursday night one short; you told me to shut them up on the Thursday, on account of being one short, and see if the other one would come home; you did not say what you were going to do with them; they were not locked up; I always believed them to be yours; they used often to roost in your place.

By the Bench: I never gave the turkeys out of the garden to Mrs. Hahn's little girl to my knowledge; Mr. Snowden told me the turkeys before the Court were his property when I first came to live with him, about ten weeks since; the turkeys did not always roost at home; I did not feed them every day, but every time they came home; they were sometimes two or three days away; Mr. Snowden had twelve or thirteen turkeys when I first came to him; there were eleven turkeys altogether when Mrs. Hahn claimed hers.

JOHN JAMES.

Sworn before us, at the Police Office, }
Carcoar, the 14th June, 1858. }

C. E. SMITH, P.M.
EDWD. J. C. NORTH, J.P.

Joseph Bishop, a native of China, being sworn after the manner of his country, saith as follows:—

By the Bench: I am Mr. Snowden's cook.

Examined by defendant: I have seen the turkeys before the Court at your place since they were little ones; they are very much like the turkeys I used to feed for you, but I will not swear they are the same; the turkeys I used to feed for you were three old birds and nine young ones.

By the Bench: I have been about eight months with Mr. Snowden. One of the young birds died, and two were killed for cooking; there were only two bought, and they were killed during the races; I have seen Mrs. Hahn's little girl come into the garden for turkeys, and taking a little black cock away; I can't swear whether the turkeys in Court are Snowden's or not.

JOSEPH BISHOP.

Sworn before us, at the Police Office, }
Carcoar, the 14th June, 1858. }

C. E. SMITH, P.M.
EDWD. J. C. NORTH, J.P.

Defendant, Henry Snowden, found guilty, and adjudged to pay a fine of £3, and in default of immediate payment to be imprisoned in the lock-up at Carcoar for fourteen days.

Defendant to pay costs, 6s. 8d., and turkeys to be restored to Engelbert Hahn.

By us at Carcoar, the 14th June, 1858.

C. E. SMITH, P.M.
EDWD. J. C. NORTH, J.P.

C. E. SMITH AND E. J. C. NORTH, ESQS, to SECRETARY TO LAW DEPARTMENT.

Police Office, Carcoar,
24 July, 1858.

SIR,

With reference to the case noted in the margin, tried by us on the 14th ultimo, we have the honor to acquaint you the defendant has obtained a *Rule Nisi*, ordering us to show cause on the 23rd proximo why a prohibition should not issue to restrain us from proceeding further in this matter.

Hahn
&
Snowden,
convicted for
stealing three
turkeys, and
fined £3, and
6s. 8d. costs.

We beg to forward a copy of the Rule, and to request you will be good enough to lay the same before the Attorney General, and solicit his opinion as to the course we should adopt under the circumstances.

Copy of Rule
Nisi for a Pro-
hibition enclosed
herewith.

A copy of the proceedings in this case was forwarded to you from this office on the 2nd instant.

We have, &c.,

C. E. SMITH, P.M.
EDWD. J. C. NORTH, J.P.

THE SECRETARY
TO THE LAW DEPARTMENT,
Sydney.

In the Supreme Court of New South Wales.

In the matter of the judgment, order, and decision of Charles Edward Smith and Edward James Campbell North, Esquires, two of Her Majesty's Justices of the Peace in and for the Colony of New South Wales, in Petty Sessions assembled, at Carcoar, on the fourteenth day of June, one thousand eight hundred and fifty-eight, in a certain case therein and there tried, being the Queen against Henry Snowden.

Monday, the Twelfth day of July, in the year of our Lord one thousand eight hundred and fifty-eight.

Upon reading the affidavits of Henry Snowden, and John Nepean McIntosh, respectively sworn on the seventh day of July instant, and the several annexures thereto, and upon hearing Mr. Holroyd, of Counsel for the abovenamed Henry Snowden: It is ordered that the said Charles Edward Smith and Edward James Campbell North, Esquires, do show cause before this Honorable Court, on Monday, the twenty-third day of August next, being the first day of next term, at Ten o'clock in the forenoon, or so soon after as Counsel can be heard, why a prohibition should not issue out of this Honorable Court, to restrain the said Charles Edward Smith and Edward James Campbell North, and all other Justices of the Peace for the Colony of New South Wales, and the officers of the Court of Petty Sessions at Carcoar aforesaid, from proceeding further in this matter, and why the judgment and order of the said Charles Edward Smith and Edward James Campbell North in the said matter abovementioned should not be set aside, and why such other order should not be made as to the said Court shall seem meet upon the grounds following, that is to say:—

First.—That the Crown Prosecutor, James Dowling, Esquire, having refused to file an information against the said Henry Snowden for the larceny of the turkeys mentioned in the said affidavits, and annexures thereto, and having ordered his

discharge from his recognizance, the said Justices had no jurisdiction to entertain the case a second time.

Second.—That no conviction could legally take place under 31st section, 7th and 8th George IV, cap. 29, inasmuch as the turkeys mentioned in the affidavits and annexures thereto were the subject of larceny at common law.

Third.—That the said Justices having heard and decided the said charge, notwithstanding the protest by the said Henry Snowden, the defendant, against the same, the said Justices had no power to commit the said defendant to the lock-up at Carcoar aforesaid, the Act under which the said proceedings were taken requiring the defendant to be committed to the common Gaol or House of Correction of the district where the said offence was committed.

Fourth.—And upon the further grounds stated in the affidavits of the said Henry Snowden, and John Nepean M'Intosh, hereinbefore referred to, and which are filed in the proper office of this Honorable Court.

By the Court.

For the Prothonotary,

D. B. HUTCHINSON,

Chief Clerk of Supreme Court.

JOHN NEPEAN M'INTOSH,

Attorney for the said Henry Snowden, Bathurst.

By TEALE and GARRETT, Sydney.

MESSRS. TEALE AND GARRETT to THE ATTORNEY GENERAL.

137, King-street,

Sydney, 2 September, 1858.

SIR,

We have the honor to transmit herewith two briefs in the matter of Henry Snowden, and the Carcoar Bench of Magistrates, containing certain affidavits of Mr. M'Intosh and Mr. Snowden, in support of an application to the Supreme Court for a Writ of Prohibition against Charles Edward Smith and Edward James Campbell North, Esquires, two Magistrates of the Colony, residing at Carcoar; an information against the said Henry Snowden, and the depositions taken on the case at Carcoar before the Bench.

Upon the affidavits a *Rule Nisi* for a prohibition was moved for on the twelfth July last, and granted returnable the first day of Fourth Term, 1858, and on the twenty-third August last Counsel moved to make the *Rule Nisi* absolute, when the Counsel for the Magistrates took a preliminary objection, that Mr. and Mrs. Hahn, the complainants in the case before the Bench at Carcoar, against Snowden, were not included in the *Rule Nisi*, and the Court discharged the rule, but without costs.

Mr. Holroyd, Snowden's Counsel, then applied to amend, but as the prohibition must be moved for within a certain time after the conviction complained of, and that time had expired, the Court had no power to order the amendment.

In addition to this, Snowden is prevented from commencing proceedings at law against the Magistrates, as, by the second section of the 11th and 12th Victoria, cap. 44, no action can be brought for anything done under a conviction or order until after such conviction is quashed.

We are informed you have expressed an opinion against the impropriety of the conduct of the Bench in this case, and are instructed to call your attention to the facts, in order that you may give effect to that opinion in the shape you think most conducive to the ends of justice and equity.

We have, &c.,

TEALE & GARRETT.

THE HONORABLE

THE ATTORNEY GENERAL.

MESSRS. TEALE AND GARRETT to THE ATTORNEY GENERAL.

SNOWDEN AND CARCOAR BENCH.

Sydney, 8 September, 1858.

SIR,

In furtherance of the statements contained in the papers we forwarded to you herein, we are instructed, and now have the honor to state a petition has been prepared, and is now in course of signature at Carcoar, to the Governor General and Executive Council, respecting this matter.

We have, &c.,

TEALE & GARRETT.

THE HONORABLE

THE ATTORNEY GENERAL.

To

To His Excellency SIR WILLIAM THOMAS DENISON, Knight Commander of the Most Honorable Order of the Bath, Governor General in and over all Her Majesty's Colonies of New South Wales, Tasmania, Victoria, South Australia, and Western Australia, and Captain General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice-Admiral of the same; and

To the Executive Council of New South Wales.

The Petition of the undersigned Inhabitants of the Police District of Carcoar,—

HUMBLY SHEWETH:—

That Charles Edward Smith, Esquire, was some months ago appointed Police Magistrate for the said District of Carcoar, and that he and Edward James Campbell North, Esquire, a Justice of the Peace, residing in Carcoar, usually compose the Bench to which your Petitioners have to apply for redress and justice.

That in the month of May last, Henry Snowden, a respectable innkeeper, who has for many years resided in Carcoar aforesaid, was summoned by the said Edward James Campbell North, to appear to answer a charge of having stolen three turkeys, the property of one Engelbert Hahn, and having appeared before the said Edward James Campbell North, Nathaniel Conolly, the younger, and Thomas Henry West, Esquires, was by the said Edward James Campbell North and Nathaniel Conolly, the younger, committed to take his trial at the then next ensuing Court of Quarter Sessions to be holden at Bathurst.

That the said Henry Snowden was on this occasion asked by the said Justices whether he wished to be tried by a jury or to have his case summarily decided by them, and that he thereupon elected to be tried by a jury.

That the said Henry Snowden accordingly appeared at the Court of Quarter Sessions held in Bathurst in June last, and was then informed by James Dowling, Esquire, Crown Prosecutor and Acting Attorney General at the said Court, that no charge would be preferred against him, because no case appeared in the depositions supplied by the said Justices, and the said Henry Snowden was accordingly discharged.

That on his return home the said Henry Snowden was served with a summons, signed by the said Charles Edward Smith, calling upon him again to appear and answer the charge which the Crown Prosecutor had declined to entertain.

That the said Henry Snowden having, in obedience to the said summons, appeared before the said Edward Charles Smith, and Edward James Campbell North, delivered to the said Justices a paper protesting against being once more tried on a charge from which the Crown Prosecutor had before discharged him.

That the said Justices decided that they were not bound by the opinion of the Attorney General, but proceeded for a second time to hear the charge against the said Henry Snowden, and, having found him guilty, sentenced him to pay a fine of three pounds, together with the costs of the cause, or in default to be imprisoned in the lock-up at Carcoar for fourteen days.

That the said Henry Snowden refused to pay a fine which he believed had not been justly imposed upon him, and was thereupon imprisoned in the said lock-up for several hours, but was afterwards released on the payment of the said fine by certain persons on his behalf.

That the said Henry Snowden forthwith instructed his solicitors to have the judgment against him set aside, and, upon his affidavit, a *Rule Nisi* was issued out of the Honorable the Supreme Court, calling upon the said Justices to shew cause why the said judgment should not be set aside accordingly.

That, owing to an omission, the said *Rule Nisi* was discharged by the Honorable the Supreme Court; but, because it was so dismissed on technical grounds only, and not on the merits of the case, their Honors the Judges awarded no costs to the said Justices.

That, from the said rule having been thus discharged, the said Henry Snowden has now no means of bringing the matter before a court of law, and thus proving beyond all doubt the illegality of his conviction.

That your Petitioners are informed, and verily believe, that the above is a true statement of the circumstances of this case, and that it can be verified by ample evidence.

That

That your Petitioners are also informed, and verily believe, that the said Justices, in order to convict the said Henry Snowden, made use of a law which was in no way applicable to the offence with which he was charged.

That the said Charles Edward Smith was at the time of the said conviction residing in the house of the prosecutor, the said Engelbert Hahn; and that there are other circumstances which tend, unless rebutted, to infer direct malice in the conduct of the said Justices against the said Henry Snowden.

That even should there be no proof of actual malice, your Petitioners cannot but view with distrust and alarm the continued committal of their rights of property and person to the care of Magistrates who are capable of making so remarkable a display of mingled presumption and ignorance.

Your Petitioners therefore humbly pray that your Excellency will be graciously pleased to order an investigation into all the circumstances of this extraordinary case, and thus give your Petitioners and the said Henry Snowden an opportunity of proving the truth of their allegations; and, if proved, that your Excellency will be pleased to remove from the Commission of the Peace persons whom, your Petitioners humbly submit, will then have been shewn to be wholly unworthy of filling so honorable and respectable an office.

And your Petitioners, as in duty bound, will every pray, &c., &c.

S. Meyer,
B. Stimpson,
Thomas Denning,
Neil M'Vicar,
Leslie M'Fawn,
Benjamin Meyer,
Thos. Hilliar,
John Donaldson,
James Doner, senior,
J. P. Ralph,
James Kesen Inner,
Wm. Mitchell,
William Lomas,
John Higgins,
Daniel Brian,
James Pound,
John Flanagan,
James Twaddel,
Richard Taylor,
William Beddie,
William Artell,
G. F. Lundgrig,
John Stallard,
William Fielder,
William Dirwan,
John Austin,
Abraham O. Heyne,
James Warel,
Anthony Bagg,
John Smith,
William Sullivan,
Thomas Hegerton,
John M'Kenzie,
John Mayberry,
Hugh Hurst,
William Cummings,
William Fred. Tress,
David Scott,
John Collins,
William Cather, junior,
William Cather, senior,

G. Rowlands,
Charles Smith,
Henry Snowden,
James Burge,
William Rogers,
Henry Springett,
James Kirkpatrick,
Robert Irving,
Robert Kirkpatrick,
Thomas Harkell, junior,
Alexander Clark,
Daniel Herbert,
Edmund White,
Frederick James,
James Leabeater,
James Walsh,
John Slater,
William White,
Edward Graves,
David Donaldson,
Joseph Tompson,
Colin Henry,
John Dancaban,
Moses Brendon,
Moiles Hely,
William Fielder, junior,
Richard Coates,
James Roberts,
Thomas Kind,
Frederick Thomas James,
James Taylor,
George Minson,
William Messenger,
William Carton,
Isaac Heats,
Frederick Bramby,
John Robinson,
Charles Neasmith,
William Osbourn,
John Cather,
James M'Anamy,

George Stammers,
James Draper,
George Cot,
John James,
George Palmer,
Michael Willcox,
Henry Young,
Stephen G. Alford,
James Symons,
John Brooks,
Jeremiah Smith,
John Hoad,
Samuel Wood,
Samuel Graves,
William Pound,
James Stammers,
Frederick Elliott,
John Marton,
James Doger, senior,
Thomas Dover,
William Leabeater,
James Kosthorne,
P. Hanrahan, junior,
John Donaldson, senior,
John Turner,
Robert P. M'Kell,
Richard Hone,
James Windley,
Joseph Calvert,
Joseph Bishop,
William M'Grath,
Patrick Killbride,
Isaac Spooner,
Benjamin Thompson,
James Smith,
John Gorrings,
John Wood,
William Bishop,
William Jamison,

To His Excellency SIR WILLIAM THOMAS DENISON, Knight Commander of the Most Honorable Order of the Bath, Governor General in and over all Her Majesty's Colonies of New South Wales, Tasmania, Victoria, South Australia, and Western Australia, and Captain General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice Admiral of the same, &c., &c., &c.

The Memorial of Benjamin Meyer, of Carcoar, in the Colony of New South Wales, licensed victualler,—

RESPECTFULLY SHEWETH :—

That on the twenty-eighth day of August last, a person named John O'Brien, who was at that time, and still is, in the service of Edward James Campbell North, Esquire, a Justice of the Peace at Carcoar aforesaid, came to the licensed house of your Memorialist and requested to be served with a glass of rum. After drinking the rum the said John O'Brien left the house, taking with him the tumbler glass in which it was supplied; that your Memorialist called to him, and requested him to return the glass. The said John O'Brien then advanced towards your Memorialist, and making use of obscene and disgusting language, challenged your Memorialist to fight, and then said he would serve your Memorialist in the same manner as he did Mr. Alford—alluding to an assault committed on the said Mr. Alford by the said John O'Brien a short time previously. The said John O'Brien then threw the tumbler glass at your Memorialist with great force, and barely missed striking him on the head. After the said John O'Brien had thrown the tumbler glass at your Memorialist he said he did not care, as he had Mr. North (meaning the said Edward James Campbell North) to back him. That at the time the said assault was committed there were no persons present except your Memorialist and the said John O'Brien.

That your Memorialist caused the said John O'Brien to be brought before the Bench at Carcoar for the said assault, on the second day of September instant, on which day there was but one Magistrate present, namely, Charles Edward Smith, Esquire, and the case was adjourned until the ninth day of September instant.

That on the ninth day of September instant, the case came on for hearing, before the said Charles Edward Smith and Nathaniel Conolly, the younger, Esquires, when after hearing the evidence of your Memorialist, the said Magistrates directed the said John O'Brien to be sworn, who thereupon admitted the assault, but stated that your Memorialist had threatened to be revenged upon him for having signed an address expressing confidence in the Magistrates—Messrs. Smith, North, and Conolly—in reference to the decision given in a case which was tried before Messrs. Smith and North, and which has acquired great notoriety as the "Carcoar Turkey Case," which statement was utterly untrue.

That your Memorialist objected to the said John O'Brien being sworn as a witness, as he believed that the Magistrates had no power to take evidence upon the oath of the person charged with an assault; but the said Magistrates, after hearing the evidence of the said John O'Brien upon oath, dismissed the case.

That on the day following the assault before mentioned, the said John O'Brien came to the house of your Memorialist, and informed him that he had heard that your Memorialist intended to summon him before the Bench for the said assault, and then threatened that if your Memorialist did take out a summons against him he would take the life of your Memorialist, even at the sacrifice of his own: That your Memorialist believed, from knowing the character of the said John O'Brien, and from the threats employed, that his life was in danger, and therefore caused a second summons to be issued against the said John O'Brien, for having threatened to take your Memorialist's life, which said summons was heard before the said Charles Edward Smith and Nathaniel Conolly, junior, Esquires; after the former case had been dismissed, and after your Memorialist had stated upon oath that he believed his life to be in danger from the said John O'Brien, the said Charles Edward Smith and Nathaniel Conolly refused to bind the said John O'Brien over to keep the peace towards him, alleging as a reason for their refusal, that if the said John O'Brien was sworn he would contradict the evidence of your Memorialist, and dismissed this case also.

That your Memorialist believes, from the circumstances attending the two cases just referred to, that justice is not fairly administered by the said Charles Edward Smith and Nathaniel Conolly, Esquires. The defendant in the cases referred to is a servant to Edward James Campbell North, Esquire, and your Memorialist has incurred the displeasure of the

said Edward James Campbell North, Esquire, as well as of the said Charles Edward Smith and Nathaniel Conolly, Esquires, for the course taken by him in reference to the case known as the "Carcoar Turkey Case," and in which case your Memorialist believes that great injustice was committed by the said Charles Edward Smith and Edward James Campbell North, Esquires.

That the said John O'Brien is a man of notoriously bad character, and has been convicted by the Carcoar Bench on several occasions, for vagrancy, and other offences.

That your Memorialist has caused an application to be made, through his solicitor, for copies of the depositions taken in the cases above mentioned, and though sufficient time has elapsed the said Charles Edward Smith and Nathaniel Conolly, Esquires, have not furnished them to your Memorialist.

That your Memorialist verily believes, that unless a change be made in the mode of administering justice in Carcoar, that the lives and property of its inhabitants will be jeopardized.

Your Memorialist therefore humbly prays that your Excellency will be pleased to cause an inquiry to be made touching the above premises, and that such remedy may be applied as to your Excellency may seem meet.

BENJAMIN MEYER.

HENRY ROTTON, ESQ., to THE COLONIAL SECRETARY.

Blackdown,

23 September, 1858.

SIR,

A deputation from Carcoar waited upon me last Monday, with a petition from the inhabitants of that district to His Excellency the Governor General, praying an investigation into the conduct of the Police Magistrate in reference to the noted "turkey case," which they desired me to present; also, with a memorial from Mr. Benjamin Meyers, inn-keeper, of Carcoar, asking an investigation concerning another case therein detailed, of more recent date, in which the conduct of the functionary complained of would appear to be even more extraordinary and illegal than in the previous case.

I had the honor to forward both the petition and memorial to you yesterday.

You will, no doubt, remember my presenting to you a Memorial from several respectable inhabitants of Carcoar some time since, complaining of the conduct of the Bench, with regard to the "turkey case," and asking an investigation. I understood that you referred it to the learned Attorney General, and that honorable gentleman himself informed me that he had ordered the depositions to be forwarded to him, since which I have heard nothing further of the matter. That case having apparently been taken no notice of by the Government, and so soon followed up by another of even a worse character, the inhabitants feel under considerable alarm for the upright and impartial administration of justice in their district, and have requested me to urge upon the Government the necessity of immediately taking the matter into serious consideration.

Not knowing anything personally of the cases alluded to, I am unwilling to say anything which might prejudice the gentlemen complained of, but if the reports I have read of the cases in the local papers are correct, (and I am informed they are substantially so,) it is quite evident that Mr. Smith has not a sufficient knowledge of the law, or of the rules and practices of Police Courts, to qualify him to hold the responsible office of Police Magistrate.

The statements made in the petition are fully corroborated in the report of the case in the *Bathurst Free Press*, a copy of which I furnished you with at the time I first brought the matter under your notice.

The statement in the memorial is also corroborated in the same manner. A report of the case, cut out of the *Free Press*, is attached to the Memorial.

I have, &c.,

HENRY ROTTON.

THE HONORABLE

THE COLONIAL SECRETARY.

THE PRINCIPAL UNDER SECRETARY to THE SECRETARY TO THE CROWN LAW OFFICERS.

*Colonial Secretary's Office,
Sydney, 30 October, 1858.*

SIR,

I am directed by the Colonial Secretary to request that you will have the goodness to lay before the Attorney General the accompanying letter from Henry Rotton, Esq., M.P., urging a reply to his communication of the 23rd September last, forwarding Petitions from the inhabitants of Carcoar, praying that an inquiry may be instituted into the conduct of the Police Magistrate of that place.

I have, &c.,

THE SECRETARY
TO THE CROWN LAW OFFICERS.

W. ELYARD.

*No. 14, Elizabeth-street,
28 October, 1858.*

Sir,

Referring to my letter to you dated 23rd September, accompanying petitions from Carcoar, praying an investigation into the conduct of the Police Magistrate of that district, and having received no acknowledgment of the receipt of either my letter or the petitions, nor any answer thereto having been made either to myself or the petitioners, I have the honor to request that you will inform me—

1st. Whether my letter and the petitions were duly received.

2nd. If so, whether the petitions have yet been laid before the Executive, and the conduct of the functionary therein complained of investigated; and

3rd. If so, whether there is any objection to inform me of the result of such investigation, and the decision of the Government thereon.

I have, &c.,

The Honorable
The Colonial Secretary.

HENRY ROTTON.

THE SECRETARY TO THE CROWN LAW OFFICERS to THE PRINCIPAL UNDER SECRETARY.

*Crown Law Offices,
Sydney, 1 November, 1858.*

SIR,

In acknowledging yours of the 30th ultimo, No. 253, (just received) containing letter from Henry Rotton, Esq., M.P., urging a reply to his communication of the 23rd September last, forwarding Petitions from the inhabitants of Carcoar, praying an inquiry into the conduct of the Police Magistrate of that place,—I have the honor to state that the whole of the papers referred to have been transmitted to the Clerk of the Executive Council, with the Attorney General's report in each matter, with a view to being placed before the Governor General and Executive Council.

I have, &c.,

THE PRINCIPAL
UNDER SECRETARY.

W. E. PLUNKETT,
Secretary to Law Department.

THE PRINCIPAL UNDER SECRETARY to E. J. C. NORTH, ESQ.

*Colonial Secretary's Office,
Sydney, 12 November, 1858.*

SIR,

I am directed by the Colonial Secretary to inform you, that the Executive Council have had under consideration the papers relating to certain charges preferred against yourself and the Police Magistrate at Carcoar, in connection with a case tried before you in June last.

2. It appears that in May last Mr. Henry Snowden, an innkeeper at Carcoar, was brought before the Bench at that place, charged with stealing three turkeys, the property of Mr. E. Hahn, and was committed to take his trial at the next ensuing Bathurst Quarter Sessions on that charge, the committing Magistrates being Messrs. Thomas H. West, N. Connolly, jun., and yourself. The depositions in the case were as usual forwarded to the Crown Prosecutor, who declined to file a bill against Snowden, and he was accordingly discharged from his bail. It further appears that on the 14th June following, the Police Magistrate and

and yourself reopened the case,—a fresh information having been laid against Snowden under the 31st clause of the Act 7 & 8 George IV., chapter 29,—and eventually found him guilty of stealing the turkeys in question, and sentenced him to pay a fine of £3 and costs, and in default to be imprisoned for fourteen days.

3. The Magistrates had in this case no summary jurisdiction, and the Crown Prosecutor having declined to file an information in the case in which the Justices committed, the proceedings ought thereupon to have terminated. You, however, disregarded, most improperly, as it is conceived, the decision of the Crown Prosecutor, re-investigated the case, and took upon yourselves to dispose of it summarily, contrary to law, and went the length of ordering Mr. Snowden to be imprisoned. The entire proceedings appear also to have been characterised by strong feelings on your part.

4. Under all the circumstances the Council advised that you should be removed from the Commission of the Peace, and I am desired to intimate to you that a supersedeas has been issued accordingly.

E. J. C. NORTH, Esq.,
Carcoar.

I have, &c.,
W. ELYARD.

E. J. C. NORTH, ESQ., to THE COLONIAL SECRETARY.

Carcoar, 20 November, 1858.

SIR,

I have the honor to acknowledge receipt of a letter from your department, dated 12th November, 1858, No. 340, intimating to me that the Executive Council had advised my removal from the Commission of the Peace, and that a supersedeas had been issued in consequence of the part I took in certain proceedings against one Snowden, in which I acted as a Justice of the Peace with the Police Magistrate of this district in June last.

As the letter I received from the Government conveys an imputation on my character of having acted with malice, and in defiance of the opinion expressed by the Crown Prosecutor, I have the honor most respectfully to request that I may be furnished by the Government with the evidence and proof which has led to this result, feeling as I do, that had an opportunity been afforded me to explain all the circumstances, no case whatever could have been proved of any criminal or immoral conduct on my part, which has manifestly been attached to my character by the course adopted by the Government.

THE HONORABLE
THE COLONIAL SECRETARY.

I have, &c.,
EDWD. J. C. NORTH.

THE PRINCIPAL UNDER SECRETARY to E. J. C. NORTH, ESQ.

Colonial Secretary's Office,
Sydney, 18 December, 1858.

SIR,

Your letter of the 28th ultimo, relating to your removal from the Commission of the Peace, having been laid before the Executive Council, I am directed to inform you that, in compliance with your request, the Council advised that you should be allowed reference to the documents which were before them when the issue of the supersedeas was recommended. I accordingly enclose a copy of the Petition of the inhabitants of the Police District of Carcoar, requesting that an investigation might be made into the case of Henry Snowden; and the other papers—being letters from the Police Magistrate, with copies of the depositions, &c., dated respectively the 1st, 3rd, and 24th of July—can be seen at the Police Office at Carcoar. The Police Magistrate has accordingly been requested to allow you the perusal of the documents in question.

E. J. C. NORTH, ESQ.,
Carcoar.

I have, &c.,
W. ELYARD.

THE PRINCIPAL UNDER SECRETARY to THE POLICE MAGISTRATE, CARCOAR.

Colonial Secretary's Office,
Sydney, 18 December, 1858.

SIR,

I am directed to request that you will have the goodness to allow Mr. E. J. North a reference to the correspondence which has passed between yourself and the Crown Law Officers, as well as the documents alluded to in them in relation to the case of Henry Snowden, tried before the Carcoar Bench.

I have, &c.,

THE POLICE MAGISTRATE,
Carcoar.

W. ELYARD.

To His Excellency SIR WILLIAM THOMAS DENISON, Knight, Governor General in and over all Her Majesty's Colonies of New South Wales, Tasmania, Victoria, South Australia, and Western Australia, and Captain General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice-Admiral of the same, &c., &c., &c.

The Memorial of the undersigned Clergymen, Magistrates, Graziers, Landholders, Farmers, and others residing in, or otherwise connected with, the District of Carcoar, in the Colony of New South Wales,—

RESPECTFULLY SHEWETH:—

That your Memorialists have learned with feelings of the deepest regret that Edward J. C. North, Esq., has been superseded in the Commission of the Peace, in consequence of improper motives having been attributed to him in the part he took in the late case "Hahn v. Snowden."

That the said Edward J. C. North, Esq., has resided in this district for the last fifteen years, eight or nine of which he has held the Commission of the Peace; and, from the circumstance of his being the only Honorary Magistrate resident in the Town of Carcoar, has been called upon to perform a large share of the labors of the Bench, and, that he has also, on many occasions, during the temporary absence of former Police Magistrates discharged their duties to the entire satisfaction of your Memorialists.

That from the length of time Edward J. C. North, Esq., has resided amongst your Memorialists, and the opportunities thereby enjoyed of forming a correct opinion of his character, your Memorialists desire to record their deep sense of his private and public worth, and their implicit confidence in his impartiality as a Magistrate; and further beg most respectfully to state their earnest conviction that had an opportunity been afforded him to rebut the statements made against him, he could have done so to the complete satisfaction of the Government.

Your Memorialists, therefore, humbly pray that your Excellency will be pleased to take such steps as your Excellency may seem meet for the restoration of the said Edward J. C. North, Esq. to the Commission of the Peace; and your Memorialists, as in duty bound, will ever pray.

R. Murphy, R. C. C.,
W. Redfern Watt, J. P.,
P. Boland,
R. N. M'Dearmid,
James Flanagan,
Charles Whitehead,
James Acreen,
Thomas ^{his} + Dover,
James ^{his} + Dover, junior,
Samuel Darrington,
Michael Neville,
Thomas Hall,
John ^{his} + Conley,
James Baker,
Wm. Harrison,
James Smith,

M. Willieks,
Moscs Welks,
D. Clarkes,
William Wood,
John M'Kenna,
John Clements,
James Simons,
R. Phealy,
James Nuel,
John M'Guire,
Benjamin Hall,
John Brown,
William Jameson,
John Welsh,
Frederick Green,
J. O. Burke, Ch. of Eng. Clgn.,
N. Connolly, junior, J. P.,
John London,
John Flanagan,

John Walsh,
 William Lomas,
 Matthew Doohy,
 William Bishop,
 John Bishop,
 Michael Neil,
 John Pound,
 Daniel Flynn,
 Thomas Shaughnessy,
 Jerry Harligan,
 N. Curry,
 John Curry,
 Patrick Walsh,
 D. Norde,
 J. Neville,
 R. Constable,
 J. Galagher,
 Thomas A. West, J.P.,
 John Martin,
 William Travis,
 David Palen,
 Robert Stevens,
 John Avargues,
 Robert Dickson,
 Thomas Ellis,
 John Evans,
 Thomas Nevall,
 T. Parker,
 Thomas Booth,
 Valtine Pinder,
 John Obin,
 Nicholas Challacombe,
 John Whitty,
 Charles Stewart,
 James Lee,
 John Marman,
 Ralph Lowe,
 John Park, junr.,
 William Lowe,
 Thomas Whitty,
 Patrick Whitty,
 John Eunson,
 Geo. E. Smith,
 Samuel W. Ward,
 John Lane,
 Moses Stevens,
 John N. Jordan,
 Nicholas Jordan, junr.,
 W. P. Jordan,
 Nicholas Jordan, senr.,
 Edward Markham,
 James Markham,
 Thomas Daley,
 John Frost,
 Patrick King,
 James M'Tuerney,
 John Hays,
 John Meskill,
 James Smith,
 David Evans,
 Charles Farrelly,
 Patrick Costello,
 James Ward,
 Thomas Riely,
 Patrick Costello, junr.,
 Joseph Donley,
 John Counsel,
 John Costello,
 James Willison,
 John Willison,
 George Willison,
 James Maguinness,
 Thomas Reynolds,
 William Greton,
 William Hynds,
 James Smith,
 James Davue M'Curdy,
 Thomas Quin,

Thomas Boland,
 Robert Lodge,
 M. Bruce,
 Charles Lennox,
 George ^{his} + Chandler,
 William ^{mark} Drummond,
 Peter ^{his} + Cassidy,
 Patrick ^{mark} + Kelly,
 James Rollins,
 Richard Howe,
 Samuel Taylor,
 William ^{his} + Fuller,
 William ^{mark} + Vane,
 John Martin,
 William ^{his} + Vane, junr.,
 James Neil,
 John Manning,
 Patrick Flynn,
 James ^{his} + Kearnan,
 Andw. Lynch,
 Patrick Maher,
 Nicholas Daly,
 Daniel Melly,
 George Mills,
 William Daly,
 Patrick Walsh,
 Patrick Dwyer,
 David Middlemis,
 Joseph Brewer,
 James Morrison,
 James Daly,
 James M'Donald,
 John Elven,
 William Kinsela,
 Daniel Bryan,
 Thomas Nevell,
 Thomas Powel,
 John Halpin,
 John Mangan,
 Patrick Dwyer, junr.,
 Patrick Crane,
 Patrick Moloney,
 John Cannors,
 Joseph Morris,
 R. T. Taylor,
 George Campbell, J.P.,
 Daniel Sullivan,
 Andrew Walsh,
 Michael John Mulcahill,
 Michael Pryer,
 Thomas Burke,
 John M'Dermott,
 Edward Burke,
 Patrick Farelly,
 John Clarke,
 H. Hodgson,
 Samuel Maxwell,
 George Marwell,
 Anthony Murray,
 John Brennan,
 Patrick Russell,
 W. M'Phee,
 William Morris,
 By authority, Levi Stonstreez,
 Do. John Potkoeey,
 Alexander Heylind,
 John Mulvelhel,
 Mick Rooke,
 Dennis Murphy,
 Mick Driver,
 Pat Foley,

Patrick Hackett,	William Stewart,
John Cullen,	James Treverthen,
John Robinson,	Charles Walkour,
William Shenan,	John Walkour,
Conner Shine,	Pat Cummins,
Patrick Griffey,	John Cassan,
William Doyle,	Andrew Hynds,
Thomas Davis, senr.,	Nathaniel Beck,
William Davis,	James Death,
Thomas Davis, junr.,	Pat Maylin,
Thomas Cogan,	James Leonard,
Michael Cusack,	John Whaler,
George Sampson,	Henry Even,
William Turner,	James Smith,
Edward Cashen,	Matthew Macnamarra,
James Heily,	Samuel Parkinson,
William Rice,	James Carol,
James M'Namara,	William M'Clean,
Andrew Walsh,	Daniel Hegerty,
William Fitzgibbons,	Benjamin Marcett,
Mark Doyle,	Donald M'Donald,
Simon Daly,	Henry Cullen,
Nicholas Daly,	Paul Cullen,
Thomas Marah,	Patrick Cullen,
Michael Whalan,	Alexander Kinghorne,
John Cunningham,	^{his} Patrick × Slattery,
Thomas Norres,	^{mark} John Burton,
Joseph Cacpeck,	John Rothery,
Patrick Ryan,	John Stapleton,
William Carason,	Andrew Palon,
William Heyliu,	B. W. Nash,
Alexander Heylin,	James Wilson,
John Mulvehille,	James Sadler,
William Jones,	James Burton,
^{his} John × Hogan,	Henry Thornberry,
^{mark} Allen × Ramsey,	William Chisholm,
^{his} James Kerr Turner,	Adam Kirkpatrick,
^{mark} Timothy × Dempsey,	John Marsden,
John Nichiells,	George Haird,
Isaac Dunster,	Aaron Bartimote,
John M'Cormac, Long Swamp,	Bingley Welch,
John Ryan, Buck's Creek,	John Fergusson,
Laurence Byrne, Hobby's Yards,	William Moor,
William Chesher, Chesher's Creek,	Joseph Smith, Mulgunnia,
George Chesher, Chesher's Creek,	William Jones, Long Swamp,
William Purcell, Coombing Creek,	John Nowlan, Long Swamp,
Richard Vaughan, jun., Coombing Creek,	Thomas S. Chisholm, Teasdale Park,
Thomas Vaughan, jun., Coombing Creek,	William Morrisou, Cowra Rocks,
John A. Morrison, Morris Vale,	John Chesher, Teasdale Park,
George Loblely, Macquarie Swamp,	Charles Allard, Long Swamp,
William Miller,	John Buckley, Long Swamp,
James Kerr, senr.,	John Byrne, Long Swamp,
John Mackenzie,	James Flinn, Long Swamp,
John Collins,	Peter M'Cann, Long Swamp,
James Grant,	Hugh Ellitt, Long Swamp,
Edward Chaudler,	Thomas Stafford, Long Swamp,
John Robinson,	Patrick Burke, Long Swamp,
Mr. D. Smith,	John Heffernan, Long Swamp,
M. W. Green,	James O'Donnell, Long Swamp,
Peter Beveridge Davies,	Thomas Byrnes, Long Swamp,
James Thurtell,	Charles Green,
Robert Ross,	Manton Flanagan,
Patrick Killside,	Charles Taylor,
Jamasu Felix Gevares,	William Sykes,
William Egan,	Thomas Redburn,
William Stevens,	Ambrose Redburn,
Richers Rogers,	George Green,
Patrick Byrne,	William Artell,
John Latimer,	William Fielder,
Edwin Buckley,	Joseph Bell,
Henry Mahancy,	Thomas Tunney,
	Thaudran Tunney.

WE, the undersigned, whose names appear to a petition to His Excellency the Governor General and Executive Council, purporting to be signed by one hundred and twenty of the inhabitants of Carcoar, and making certain charges against Charles Edward Smith and Edward

Edward James Campbell North, Esquires, Justices of the Peace, do solemnly and sincerely declare, that we were entirely misled as to the nature of the said petition by the parties who induced us to sign the same, and that we have every confidence in the fairness and impartiality of the said Justices.

Signed by us, this December, 1858.

John Robinson.	Thomas Doner.
John M'Kenzie.	Saml. Wood.
James Simon.	John Martin.
William Lomas.	William Bishop.
James Doner, sen.	James Smith.

I certify that the foregoing declaration was made by the parties above named, who signed the original document.

EDWD. J. C. NORTH.

C. E. SMITH, Esq., P.M., to THE COLONIAL SECRETARY.

Police Office, Carcoar,
21 December, 1858.

SIR,

By the post of the 6th and 17th instant, respectively, I received from your office a copy of a petition from certain inhabitants of this district, praying for an inquiry into my conduct in the case of Hahn *v.* Snowden, tried before Mr. E. J. C. North and myself, on the 14th of June last; and a copy of a memorial from Mr. Benjamin Meyer, complaining that justice had not been done him in an assault case in which he appeared before Mr. N. Connolly, junior, a Magistrate of the Carcoar Bench, and myself, as prosecutor—referred to in your communication of the 12th ultimo. You inform me in that letter that the correspondence which has passed between the Law Officers and myself relative to the case of Hahn *v.* Snowden has been laid before the Executive Council, together with the petitions above-mentioned, and that the statement of the proceedings furnished by me is not considered to have afforded a satisfactory explanation of my conduct in this case; and further, with respect to the charge made against Snowden the Magistrates had no summary jurisdiction, and the Crown Prosecutor having declined to file an information in the case in which the Justices committed, the proceedings ought therefore to have terminated, and that I most improperly disregarded the decision of the Crown Prosecutor in re-investigating the case; and also acquainting me the entire proceedings appear to have been characterised by strong feelings on my part; and in conclusion calling on me to shew cause why I should not be removed from my office of Police Magistrate and Clerk of Petty Sessions, as well as from the Commission of the Peace.

I regret to learn my former explanation has not been considered satisfactory, and have now the honor to advert to the circumstances that induced me to take a part in the case in question.

Several days prior to the 14th of last June, the Justices who committed Snowden for trial having met at the Police Office, Carcoar, were unanimous in expressing their opinion he was guilty of the charge preferred against him by Hahn; and from the substance of the Crown Prosecutor's conversation with the Chief Constable of Carcoar, on the morning of the day that Snowden was discharged, the Magistrates were induced to believe Mr. Dowling left the matter in abeyance, and to be decided by the Bench, if necessary. You will observe by the accompanying copy of the Chief Constable's declaration, that the Crown Prosecutor informed him he would not prosecute, as the Magistrates ought to have dealt with the case; and on the Chief Constable's replying Snowden would have been so dealt with but wished to be sent to a higher Court, Mr. Dowling then said the Magistrates ought to have settled the case under *the other Act*, and declined making an order with reference to the stolen property.

By the expression "the other Act," it was understood the Crown Prosecutor especially referred to 7 and 8 George IV., chapter 29, as applicable to the case, which, as he was aware, had been heard under the Colonial Larceny Act, 14 Victoria, No. 2, extended by 16 Victoria, No. 6, and 19 Victoria, No. 24, section 11, and in the absence of any communication from him

him assigning his reason for not prosecuting, the Bench were in a great measure guided by his conversation with the Chief Constable—Snowden having also immediately after his discharge demanded the stolen property from the Chief Constable—the Magistrates, under all the circumstances, considered it desirable, in justice to both parties interested, a magisterial decision should be arrived at, and decided on re-hearing the case under the 31st clause of the first mentioned Act.

It was partly in consequence of Messrs. Connolly's and West's residences being at a distance from the Court House that they did not attend the second hearing of the case, or otherwise they would have taken a part in the proceedings.

I submit, with reference to your remark that "the entire proceedings appear to have been characterised by strong feelings on my part," had Snowden's legal advisers been in a position to prove I shewed "strong feelings" against or acted partially, maliciously, or corruptly, application would have been made to the Supreme Court for a criminal information against me, instead of for a prohibition; and the circumstance of my brother Magistrates in consultation having concurred to investigate the case in which I believed I had jurisdiction ought, I apprehend, to exonerate me from such an injurious aspersion to my reputation. I repudiate the existence of any improper feeling towards Snowden, and maintain that such an imputation cannot be substantiated. The Act under which I adjudicated with Mr. North confers power on one Justice to inflict a fine of £20; if therefore we were actuated by malicious motives against Snowden, we could have imposed a much higher fine than the mitigated penalty of £3.

I resided in Hahn's cottage last June, but certainly had no interest, directly or indirectly, in the result of the trial, neither was I under any personal or pecuniary obligation to him whatever, and prior to the consultation he or any other person did not solicit me to entertain his case.

Mr. Snowden having been represented in the petition as a "respectable innkeeper," I beg to state I have been informed by several members of this Bench that by general repute he bears a very different character. On the 14th of January, 1858, he was convicted before Mr. N. Connolly and myself for malicious injury to fowls, and the same day his wife was fined, under the Vagrant Act, for using profane and abusive language. Since his last conviction his public house was so badly conducted he was obliged to transfer his license to another person in September, or otherwise it would have been cancelled.

On pronouncing judgment against Snowden in Hahn's case he was in the act of paying the fine, when Messrs. Rowlands, B. Stimpson, and S. Meyer, urged him not to do so, and after remaining in the watch-house—according to the lock-up keeper's statement, herewith sent—for *one* hour instead of several, as falsely asserted in the Petition, he was released on the penalty being paid by Messrs. B. Stimpson and Solomon Meyer.

Many of the memorialists are either children or non-residents of the district; others were induced to sign the petition under false pretences, as will appear by the enclosed copy of a document made by them to that effect, and a large number represent the names of persons who were convicted before me, or against whom verdicts were given at this Court. The most respectable and influential person whose signature appears to the memorial is Mr. Solomon Meyer, a miller, residing at Carcoar, who appeared a few years since before this Bench charged with embezzlement, and was afterwards convicted of sly grog-selling.

I enclose a solemn declaration made by Mr. N. Connolly with reference to the part he took in the proceedings, and beg to assure you I have satisfactory evidence to prove I was not influenced by any improper motives in the discharge of my duty.

The errors I appear to have fallen into, taking all the circumstances into consideration, I submit are not of such a nature as to induce the Government to remove me from my office.

I have, &c.,

C. E. SMITH,
Police Magistrate.

THE HONORABLE
THE COLONIAL SECRETARY,
Sydney.

[Enclosure.]

I, *Wm. M'Faddin*, Chief Constable of Carcoar, in the Colony of New South Wales, do solemnly and sincerely declare, that I attended at the Court of Quarter Sessions held at Bathurst on the 7th of June last, as a witness in the case *Regina v. Snowden*, for stealing three turkeys, the property of Engelbert Hahn; that, previous to the case being called on, I had some conversation with the Crown Prosecutor, Mr. Dowling, who said he would not prosecute, as the Magistrates ought to have dealt with the case at Carcoar. I then stated that the defendant would have been dealt with by the Bench, but he wished to be sent to a higher Court. Mr. Dowling then said the Magistrates ought to have settled the case under the other Act. I asked him if he would make any order with reference to the turkeys, and he said he would not. I repeated the foregoing conversation to the Magistrates on my return to Carcoar. The defendant, Snowden, afterwards made a written demand upon me for the turkeys. And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the provisions of "An Act for the more effectual abolition of oaths and affirmations taken and made in various departments of the Government of New South Wales, and to substitute declarations in lieu thereof, and for the suppression of voluntary and extra-judicial oaths and affidavits."

WM. M'FADDIN.

Made and signed before me, at Carcoar, the }
22nd November, 1858.

C. E. SMITH.

I certify that the foregoing is a correct copy of the original declaration made at my instance by the Chief Constable of Carcoar.

EDWD. J. C. NORTH.

I, *Nathaniel Connolly, Jun.*, Justice of the Peace for the Colony of New South Wales, do solemnly and sincerely declare, that I was present at the Police Office, Carcoar, in the month of May last, when Mr. Henry Snowden appeared before the Bench, charged with stealing turkeys, the property of Engelbert Hahn. I adjudicated in the investigation, in common with E. J. C. North and T. H. West, Esquires, and on hearing all the evidence adduced, being of opinion, in common with my brother Magistrates, that the said Henry Snowden was guilty of the charge, he was called upon by the Bench to elect being dealt with summarily, under the provisions of the Act of Council, 16 Victoria, No. 6, extended by the 11th sec. of the Act of Council 19 Victoria, No. 24, or to have the case sent before a Jury; the said Henry Snowden thereupon decided on having his case sent before a higher Court, and was accordingly committed to take his trial at the ensuing Quarter Sessions. I attended a consultation of the above-named Magistrates, at the Court House, in the month of June last, to consider what course should be adopted with reference to this case, as the Crown Prosecutor had declined to entertain it, and the defendant, on his return from Quarter Sessions, had demanded from the Chief Constable the said turkeys, sworn to as Hahn's property. The Police Magistrate also joining the consultation, we decided that a second information should be preferred against the said Henry Snowden, under the 31st clause of the Act 7 & 8 George IV., ch. 29, as I conscientiously believed there was no law in force in the Colony to prohibit the case from being re-investigated, and that justice would not otherwise be done in the premises. And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the provisions of an Act made and passed in the ninth year of the reign of Her present Majesty, intituled "An Act for the more effectual abolition of oaths and affirmations taken and made in various departments of the Government of New South Wales, and to substitute declarations in lieu thereof, and for the suppression of voluntary and extra-judicial oaths and affidavits."

N. CONNOLLY, JUNR., J.P.

Made and signed before me, at Carcoar, this }
22nd day of November, 1858.

W. MONTAGU ROTHERY, J.P.

Carcoar Lock-up,
21 December, 1858.

Sir,

I beg to state that Henry Snowden was received into the watch-house at half-past 3 p. m., on the 14th June last, and in one hour afterwards was released, on Mr. Bernard Stimpson and Solomon Meyer paying the fine—£3.

I am, &c.,
HENRY FOX,
Constable in charge of Lock-up.

The Police Magistrate,
Carcoar.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

E. C. SMITH, ESQ., P. M., AND E. J. NORTH AND
N. CONNOLLY, ESQS., J. P.(PROCEEDINGS OF EXECUTIVE COUNCIL RELATIVE TO CHARGES PREFERRED
AGAINST BY CERTAIN INHABITANTS OF CARCOAR.)*Ordered by the Legislative Assembly to be Printed, 23 March, 1859.**PROCEEDINGS of the Executive Council on the 22nd November, 1858, with respect to
Mr. Connolly's explanation of complaints preferred against him as a Magistrate of the
Carcoar Bench.*

Minute No. 58-45. Confirmed, 29 November, 1858.

REFERRING to the proceedings on the 25th ultimo, with respect to certain complaints preferred against the Police Magistrate of Carcoar, and Messrs. North and Connolly, Magistrates of the Carcoar Bench, His Excellency the Governor General lays before the Council a letter from N. Connolly, Junior, Esquire, J.P., in reference to the matters in which his conduct as a Magistrate has been impeached.

2. Having carefully considered the explanation afforded by Mr. Connolly, as well as the facts set forth in the depositions accompanying his letter, the Council are of opinion that that gentleman has satisfactorily rebutted the charges against him.

*Executive Council Office,
Sydney, 2 December, 1858.
No. 58-731.*

A. ORPEN MORIARTY,
Clerk of the Council.

*PROCEEDINGS of the Executive Council on the 21st February, 1859, with respect to
certain charges against the Police Magistrate and other members of the Bench at
Carcoar.*

Minute No. 59-8. Confirmed 28 February, 1859.

His Excellency the Governor General, reverting to the proceedings on the 25th October and 22nd November, 1858, and with reference to the several charges therein under consideration, preferred by certain inhabitants of Carcoar against Mr. E. C. Smith, Police Magistrate, and Messrs. North and Connolly, as Magistrates of the Carcoar Bench, now lays before the Council a letter, with enclosures, from Mr. Smith, shewing cause against his proposed removal from office, and from the Commission of the Peace.

2. His Excellency, at the same time, submits to the Council certain further correspondence, comprising two letters from the Secretary to the Law Officers, (in which the opinion of the Honorable the late Attorney General with respect to Mr. Smith's explanations is stated), and a memorial, bearing 310 signatures of Clergymen, Magistrates, and other inhabitants of the District of Carcoar, expressive of their confidence in Mr. Smith's integrity and impartiality as a Magistrate, and praying that he may be retained in office, and in the Commission of the Peace.

3. The particulars of the several matters of complaint are set forth in the previous proceedings of the Council, and with respect to the case of "Halm *versus* Snowden," out of which the charges against Mr. Smith and Mr. North have arisen, the late Attorney General has expressed an opinion that the explanation now furnished by the former gentleman, supported by the accompanying documents, is quite sufficient to relieve him from the charge of improperly disregarding the decision of the Crown Prosecutor, and that Mr. Smith has met in a satisfactory manner the imputation of having been influenced by partial motives in re-opening the case in question.

4. The late Attorney General has stated that Mr. Smith seems, indeed, to have paid too much deference to an opinion of the Crown Prosecutor, as reported to the Bench by the Chief Constable, and to have yielded his own judgment with greater facility than he should have done, when he had it in his power to refer for advice to the Crown Law Officers.

5. The Council having very attentively considered the whole subject, concur generally in the views above stated, and they advise that Mr. Smith be retained in his position; and as his exculpation will necessarily include that of Mr. North, the Magistrate who acted with him in dealing with the the case in question, they further advise that this gentleman be restored to the Commission of the Peace.

6. In tendering this advice the Council by no means desire to express approval of the proceedings of these gentlemen in connexion with this case; on the contrary, it is the opinion of the Council that the irregular course pursued by them, and their assuming a jurisdiction in excess of their legal powers, betrayed such an unacquaintance in these particulars with the laws they were appointed to administer, and with which it was their duty (and more particularly that of the Police Magistrate) to be familiar, that their conduct will only properly be visited by a severe reprimand.

7. With respect to the case of Meyers, in which the conduct of the Police Magistrate and Mr. N. Connolly, Junior, J.P., has been complained of, the Council also concur in an opinion of the late Attorney General, that the latter gentleman having already rebutted the charges arising out of this case, no further proceedings with respect to the Police Magistrate are called for in reference thereto.

A. ORPEN MORIARTY,
Clerk of the Council.

Executive Council Office,
Sydney, 2 March, 1859.
No. 59-121.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

R. HARRIS, W. BROWNE, & A. B. COX, ESQUIRES.

(INQUIRY INTO CONDUCT OF, AS MAGISTRATES OF THE TERRITORY, BY J. F. HARGRAVE, ESQ.)

Ordered by the Legislative Assembly to be Printed, 8 February, 1859.

JOHN F. HARGRAVE, ESQ., to THE COLONIAL SECRETARY.

Mudgee, 28 January, 1859.

SIR,

Herewith I have the honor to transmit to you my Reports in the matter of the inquiry into the conduct of Richard Harris, Esq., J.P.; and of William Browne, Esq., J.P., and Archibald Bell Cox, Esq., J.P. I also return the documents handed to me from your office for my perusal as preliminary to the said inquiry.

I have, &c.,

JOHN F. HARGRAVE.

THE HONORABLE

THE COLONIAL SECRETARY.

LIST OF WITNESSES.

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Original Exhibits annexed, namely :—

(D 1.)	Being a letter addressed and sent to the Honorable the Colonial Secretary, by Mr. Edward Bayly, and dated Royal Hotel, Sydney, 17 November, 1858	26
(D 2.)	Being Memorandum of the Amount overpaid for Land Sale, 5 January, 1858, lot 28, £9 2s., dated The Treasury, New South Wales, 1st June, 1858, and addressed to W. A. Browne, Esq.	27

REPORT.

(In reference to the Case of Dr. Harris.)

To SIR WILLIAM THOMAS DENISON, Knight Commander of the Most Honorable Order of the Bath, Governor General in and over all the Colonies of New South Wales, Tasmania, Victoria, South Australia, and Western Australia, and Captain General and Governor-in-Chief of the Territory of New South Wales and its Dependencies.

MAY IT PLEASE YOUR EXCELLENCY,—

I, John Fletcher Hargrave, the Commissioner appointed by a certain Commission and Letters Patent, dated the thirty-first day of December, 1858, directing me to make a diligent, full, and minute inquiry into the conduct of Richard Harris, of Mudgee, in the said Colony, Esquire, one of the Justices of the Peace of the said Colony, who is accused of having adjudicated in a case in which he was personally interested, as well as into certain counter charges that have been preferred by the said Richard Harris against William Browne and Archibald Bell Cox, Esquires, two of the Justices of the Peace of the said Colony; and also into a certain charge preferred by Mr. Edward Bayly, against the aforesaid William Browne, Esquire,—have the honor to report to your Excellency the annexed Minutes of Evidence taken before me at the Court House, Mudgee, aforesaid, in the presence of the Justices of the Peace aforesaid, and of Thomas Digby Miller, Esquire, Police Magistrate, and of other Justices of the Peace, and other persons there present, on the 15th, 17th, and 18th days of January instant, and concerned in the first two of the above-mentioned subjects of inquiry, namely:—

First.—As to the accusation made against the said Richard Harris, Esquire, of having adjudicated in a case in which he was personally interested; and,—

Secondly.—As to certain counter charges that have been preferred by the said Richard Harris, Esquire, against the above-mentioned William Browne, Esquire, and against Archibald Bell Cox, Esquire.

I have also the honor to report to your Excellency, that in pursuance of the powers and authorities in that behalf contained in the said Commission, I have required the assistance of the said Thomas Digby Miller, Esquire, and have held such meetings for the purposes of the said Commission as I considered lawful and necessary, at the Police Office, Mudgee, aforesaid, and have summoned to such meetings the above-named Justices of the Peace, and all such other persons as I judged necessary, by whom I might be better informed of the truth of the matters mentioned in the said Commission, and have inspected all such documents as I deemed expedient as tending to discover the truth in the said matters, and have inquired of the premises by all other lawful ways and means, and after due examination of the premises do by this my report in writing under my hand and seal, certify to your Excellency, as required by the said Commission, what I have found touching the premises.

Firstly.—With reference to the aforesaid accusation against the said Richard Harris, of having adjudicated in a case in which he was personally interested, I find as follows:—

- (1.) That the said Richard Harris was, on and before the fourteenth day of October, 1857, in the possession of a certain horse, as apparent owner thereof, and purchaser either from one William Caplin, or from one John Joseph Mills, whom the said Richard Harris well knew to have then recently purchased the said horse from the said William Caplin on or about the seventh day of October, 1857.
- (2.) That the said William Caplin did, on the said 14th day of October, 1857, at the said Police Court, Mudgee, charge one George Inder with having had the said horse in his possession, contrary to the Act of the Governor and Legislative Council in such case made and provided, and that the said charge of unlawful possession of the said horse by the said George Inder was inquired into, and heard at the said Police Court, on the said 14th October, 1857, in
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the presence of the said William Browne, Esq., the then Police Magistrate at Mudgee, and in the presence of the said Richard Harris; and that no other Magistrate inquired into, heard, adjudicated, or in any manner acted at the said Police Court with reference to the said charge, although others of the Magistrates usually attending the sittings of the said Bench at Mudgee were present at the said Police Court on the said 14th October, 1857.

- (3.) That the said Richard Harris does not appear to have actively interfered during the hearing of the said charge, or in the adjudication thereon, otherwise than by sitting in one of the chairs usually occupied by the Magistrates on the elevated portion of the said Police Court, from the opening of the said charge, and by continuing in such Magistrate's chair until the conclusion of the hearing of the said charge, and the adjudication thereon by the said Police Magistrate, when the said Richard Harris inquired of the said Police Magistrate—"To whom is the horse to be awarded"? or used words to such or the like effect.
- (4.) That at the opening of the hearing of the said charge, the said Richard Harris drew back his chair from the Magistrates' table in the said Police Court to the extreme distance possible, which could not have exceeded eleven inches; but did not otherwise manifest any intention to withdraw from the hearing of the said charge, or the adjudication thereon.
- (5.) That after the close of the proceedings on the said 14th October the said Richard Harris, as Justice of the Peace, duly signed the Deposition Book of the said Police Court, containing the entries of eight other charges and matters which had been heard and adjudicated upon by himself during the said 14th day of October, previously to the said charge of *Caplin v. Inder*; and that the said Richard Harris also inadvertently signed the following entry in the said Deposition Book as to the said charge of *Caplin v. Inder*—
- "The Court award the horse to be the property of William Caplin.

"RICHARD HARRIS, J. P."

The said William Browne, as Police Magistrate, subsequently signing the said Deposition Book, immediately adjoining the signature of the said Richard Harris, but to three only of the said nine charges or matters adjudicated upon during the said 14th October, namely, the first entered in the said book on that day, and the last but one and the last, which last was the said charge of *Caplin v. Inder*.

- (6.) That the continuance of the said Richard Harris in the said Police Court after the opening of the said charge, and his remaining sitting in one of the said Magistrates' chairs during the hearing of the said charge with the said William Browne alone, and the said Richard Harris making the inquiry aforesaid as to the awarding of the property in the said horse, would, and did necessarily lead the professional gentlemen who respectively appeared in the said charge as solicitors for the prosecutor and defendant, as well as other spectators in open Court, to believe that he, the said Richard Harris, was in fact the sitting Magistrate, hearing and adjudicating upon the said charge jointly with the said Police Magistrate; and that such belief has, up to the present time, been necessarily confirmed by the signature of the said Richard Harris, as Justice of the Peace, appearing as aforesaid in the said Deposition Book.
- (7.) Having taken all the circumstances aforesaid into consideration, and bearing in mind that the ordinary tribunals for administering justice can easily adjust—(if they have not already adjusted)—the civil rights of all persons with reference to the said horse; and can award—(if not already awarded)—all just compensation, by way of damages, for any injury which any person may have sustained from the aforesaid conduct of the said Richard Harris; considering also the lapse of time since the said 14th October, 1857, and that it is a fixed, invariable, and well established principle of English law, that "great lenity and indulgence shall be shewn to all gentlemen who, having undertaken the office of Justice of the Peace, make any slip or mistake in
- "their

“their practice ;” and, lastly, considering that the said adjudication, so far (if at all) as the said Richard Harris interfered judicially therewith, would be, and was in fact, under the circumstances aforesaid, absolutely invalid and void, and of no binding effect whatever ; all which principles are assumed (in law) to have been known and present to all the parties concerned in the matters aforesaid.

I regret that I am obliged to find that the conduct of the said Richard Harris, on the said 14th October, 1857, under the circumstances aforesaid, was, at the least, indiscreet and injudicious. All which findings aforesaid I humbly submit to the consideration of your Excellency.

Secondly. With reference to the aforesaid counter charges that have been preferred against the said William Browne, Esq., and Archibald Bell Cox, Esq., by the said Richard Harris, Esq., in his letters to the Honorable the Colonial Secretary, dated the 2nd April, 1858, I find as follows :—

- (1.) That as to the four counter charges preferred by the said Richard Harris against the said William Browne separately, namely :—

Of assaulting a Mr. Thomas in a public house, between one and two o'clock on the morning of the 14th October, 1857, and of setting a fierce mastiff dog on him, which tore him ;—

of having declared that he, the said W. Browne, would not allow the said Richard Harris to issue a certain summons applied for by the said Mr. Thomas, or have the time of the Court taken up with such matters ;—

of excluding a witness, named William Caplin, from Court during the hearing of a certain charge of Regina v. Turvey ;—

and of declaring, before witness, “that that fellow (meaning the said Richard Harris, Esq., J.P.), “should not again sit upon the Bench, “and that he would find means to strike him out of the Commission ;”—

such four counter charges have been either altogether or partially abandoned by the said Richard Harris ; and so far as not so abandoned, have been substantially and sufficiently disproved by the said William Browne.

- (2.) That as to the five counter charges preferred by the said Richard Harris against the said William Browne and Archibald Bell Cox, jointly, namely :—

Of having “greatly misled” the Honorable the Colonial Secretary by the letters of complaint as to the conduct of the said Richard Harris ;—

of “endeavouring to degrade the said Richard Harris by having him “struck out of the Commission of the Peace ;”—

of “keeping the said Richard Harris in perfect ignorance of the nature “of the complaint made against him ;”—

of “openly discussing and determining to prevent the said Richard Harris “from sitting again on the Bench ;”—

and of “persecuting the said Richard Harris, and assisting each other to “do so ;”—

such five counter charges have been either altogether abandoned by the said Richard Harris, or sufficiently denied and disproved by the said William Browne and Archibald Bell Cox, Esquires.

- (3.) That as to the three counter charges preferred by the said Richard Harris against the said Archibald Bell Cox, Esquire, separately, namely :—

Of “conducting himself in open Court more like a prosecuting counsel “than a Judge ;”—

of “twisting evidence to the disadvantage of the said Richard Harris, “and of supplying insinuations when he could not find facts ;”—

and of inducing Mr. Lowe to sign the letter addressed and sent to the Hon. the Attorney General by the said Archibald Bell Cox and Robert Lowe, on the 18th January, 1858 ;—

such three counter charges have been altogether disproved by the said Archibald Bell Cox.

And I further find that the conduct of the said Archibald Bell Cox, by taking his full share of responsibility and trouble, and co-operating with the said Robert Lowe, and other Magistrates of the said Bench at Mudgee, in the aforesaid letter, dated the 16th day of January, 1858, and addressed and sent by the said Bench to the Honorable the Attorney General; and the conduct of the said William Browne in subsequently forwarding the opinion of the Honorable the Attorney General, and other necessary documents, together with the letter, dated the 2nd March, 1858, signed by the said William Browne and J. T. Bell, Esquire, J.P., and addressed and sent to the Honorable the Colonial Secretary, was conduct rendered necessary by the circumstances herein appearing; and especially by the signature of the said Richard Harris to the aforesaid entry in the said Deposition Book, purporting to award the property in the said horse; and, further, that the honor and dignity of the said Bench of Magistrates at Mudgee, and due respect for the proper administration of Justice in that district, required that both the said letters should be written and sent as aforesaid, in order that proper investigation might be made into all the circumstances under which the signature of the said Richard Harris had been made to the said Deposition Book.

And, in conclusion, I find that there is no ground for suggesting that any of the gentlemen who signed the said letters of the 16th January, or 2nd March, 1858, has been actuated by any of the motives suggested by the said letters of the said Richard Harris, dated the 2nd April, 1858.

All which findings aforesaid I humbly submit to the consideration of your Excellency.

I have also the honor to report to your Excellency, that I have duly summoned the aforesaid Mr. Edward Bayly to this place to proceed with the aforesaid charges preferred by him against the said William Browne, Esquire, and contained in a letter addressed and sent by the said Edward Bayly to the Honorable the Colonial Secretary, and dated Royal Hotel, Sydney, 17th November, 1858; but the said Edward Bayly has not yet appeared, and I believe has no intention of appearing, before me in support of the said charges; wherefore, and inasmuch as the said charges are wholly unconnected with and distinct from the other matters mentioned in the said Commission, and as nothing relating to the said charges of the said Mr. Edward Bayly has appeared in the printed papers laid before me, I have thought it best to report to your Excellency the Minutes of Evidence taken before me with reference to the said charge of the said Edward Bayly by a separate Report, hereunto annexed, and marked Report, No. 2.

In conclusion, I am happy to be able to state, that in carrying on my inquiries under this Commission, I have received every possible assistance from Thomas Digby Miller, Esquire, the Police Magistrate, and other the Government Officers at Mudgee; and that each of the Magistrates into whose conduct I was directed to inquire has, throughout all the proceedings before me under this Commission, manifested the utmost anxiety to promote the ascertainment of the truth in the several matters inquired into.

I have, &c.,

JOHN FLETCHER HARGRAVE.

Given under my Hand and Seal, at Mudgee, on this nineteenth day of
January, 1859.

JOHN F. HARGRAVE.

MINUTES OF EVIDENCE.

(In reference to the Case of Dr. Harris.)

SATURDAY, 15 JANUARY, 1859.

Present:—

JOHN FLETCHER HARGRAVE, ESQ., BARRISTER-AT-LAW, COMMISSIONER.

T. DIGBY MILLER, ESQ.,
Police Magistrate, Mudgee,
RICHARD HARRIS, ESQ., J.P.,WILLIAM BROWNE, ESQ., J.P.,
ARCHIBALD BELL COX, ESQ., J.P.

Richard Harris, Esq., J.P., examined:—

1. *By the Commissioner*: Had you any, and if any, what communication with Mills as to the purchase of Caplin's horse, on or about the 7th October, 1857? On that day there were a number of horses to purchase in the yard opposite. I went to purchase one, and Mills was there. This horse was put up for sale by Inder; the sale was immediately stopped by Caplin, who claimed the horse. At this time I had no intention whatever of buying the horse, being unbroken. Mills asked me what I would give for the horse in case he should buy him; I told him I would give him £20; he said he thought the horse was worth more, and if I would give him £22 he would try and get him; that was all the communication that took place with Mills and me as to the purchase of Caplin's horse, on or about the 7th October, 1857.
2. Did you authorise him (Mills), directly or indirectly, to purchase the horse for you? I did not.
3. On what day and date did you get possession of the horse? I think it was the 9th—two days following.
4. On what day and date did you pay for him? At the same time.
5. If the horse was in your possession, as admitted by your letter of the 2nd April to have been on the day of adjudication, the 14th October, 1857, how did it so happen to be in your possession if the horse was not then yours? I consider the horse was mine then, having purchased him from Mills.
6. Do you wish to make any further exculpatory or explanatory statements respecting the adjudication, the possession of the horse, or the receipt of the 27th October? There were several cases adjudicated upon on that day, as appears by the Deposition Book. Mr. Browne and I were the only Magistrates in the Court. When this case was called on I drew back my chair from the table; I took no part whatever in conducting the case. Without consulting me in any way in the matter, Mr. Browne gave his decision in the case. I then asked the question who was to have the horse, as he was then in my possession, and Captain Browne said the horse should be delivered to Caplin. Then, as to the truth of the statement that I signed the book inadvertently, I beg to refer to the book itself: by the book it appears that there were nine cases heard that day, and I alone signed all the cases except the first and the last—which was this in question—Mr. Browne signing the first and last with me. The book was not signed at all until after the proceedings of the day were over; it was then handed to me, and I commenced signing the book, and did so to each of the cases without reading them over; it was then that inadvertently I signed the book in this case. With regard to the receipt marked A, hereunto annexed—

A.

(Copy of Receipt.)

£22 : 0 : 0

Mudgee, 27 October, 1857.

Received from John Joseph Mills the sum of Twenty-two Pounds sterling for a bay horse, blaze down face, branded WC on the near shoulder and G.T on the off shoulder, my property.

Received payment,

Witness—

THOMAS HAYES.

WILLIAM CAPLIN.

I received that receipt from Mills when I got the horse. I did not read the receipt through, but looked at the body of the receipt and saw that it was a proper receipt as to the horse in question. I produced that receipt unasked in this Police Court on or about the 30th December, in other proceedings, "*Inder v. Harris*," when the discrepancy of dates was pointed out; I stated that that could not be a correct date as it was only a day or two after the sale that I got that receipt. I said that I could also prove the exact date by referring to my cheque book. The receipt (A) was handed with the horse to me, and continued in my possession unaltered till I handed it to the Bench, as above-mentioned.

7. *By Mr. A. B. Cox*: Was not the horse purchased for you by Mills—for you or himself—before you left the yard? Not to my knowledge. I did not know that the horse was purchased at all until two days afterwards.

8. Did you not advise Caplin to take the horse? Yes; I advised him to take the horse if it was his. I said, "If the horse were mine I would take it."

9. Was that before or after you asked Mills to buy the horse? I never asked Mills to buy the horse.

10. Did you have any conversation with Caplin or Mills as to the value of the horse? I had not.
11. Did not Caplin come and see you between the time of the summons and the hearing of the case? He did.
12. What took place then? He brought a message from Captain Browne to bring the horse in.
13. What took place then? It was only a verbal message, and I took no notice of it.
14. Was that before or after the 14th? I cannot say.
15. Did you not know that two Magistrates were necessary to sit on the Bench in cases under the statute in question—the 17 Victoria, No. 3? I did know that.
16. At the time when you paid Mills for the horse did any conversation take place as to the agistment or keep of the horse for the two nights in his stable—did you not say something about green barley, or allowing him (Mills) some hay? No, I have no recollection of such conversation.
17. On the 9th you received and paid for the horse? Yes, either the 9th or 10th.
18. How was he paid for? By cheque on the Bank of New South Wales.
19. Are you sure it was not paid for before the 9th? I do not recollect the exact date, but the cheque was drawn out at the time I paid Mills, in Mills' house.
- [Mr. A. B. Cox referred to the passage in the Deposition Book, dated 30th Dec., where "Dr. Harris begs to state to the Bench, previous to any decision being given, that "when he purchased the horse he was under the impression that he purchased the horse "from John Joseph Mills, and that it was only within the last two days that he heard that "the horse was obtained from Caplin by Mills solely on his (Dr. Harris') account."]
20. Did you authorize Mills to go as high as £22 for the horse? I did not authorize him at all. I said I would give him £22 for it. If he had bought the horse for £5 I considered myself bound to give him £22 for it.
21. Were you aware on the day of sale that Mr. Rouse offered Inder money for the horse? I was not aware of it.

Captain W. Browne examined:—

1. *By Mr. A. B. Cox:* Do you recollect Dr. Harris sitting with you in a case "Inder v Caplin" on the 14th Oct.—a cattle stealing case? Yes. I considered he was sitting with me. I recollect Dr. Harris calling my attention, as I was getting up from the Bench, and reminding me that the horse was not awarded to either of the parties under the 3rd section of the Act. I then said, "of course it is Caplin's," asking him whether he did not agree with me. I cannot be certain of his answer, but he certainly did not dissent, but agreed with the decision. I then told Caplin that the Bench awarded the horse to him; that a warrant would be granted against one Turvey for stealing the horse, and that he Caplin would be held responsible to produce the horse before the Court whenever I required him. He then said he had sold it to Dr. Harris, and I think I said to Dr. Harris, "then the Bench will look to you for it." I rather think the Deposition Book was not signed until next day. Dr. Harris sat in some of the cases without me, where only one Magistrate was necessary.
2. Did you know that Dr. Harris had the horse previous to the decision of the Court? No. I had told Caplin to produce the horse.
3. *By Dr. Harris:* Did I not tell you that I had the horse before the decision? No.
4. Did you open your lips to me during the proceedings? No. I don't recollect doing so; I sat in the chair, and, as I have always done, examined the witnesses in the presence of the other Magistrates. I must have spoken to you as to any other Magistrate, though I was not on speaking terms with you.
5. Was not this case conducted entirely by you without my interference? It was conducted by me as Police Magistrate in my usual way. You, Dr. Harris, interfered by telling me the horse had not been awarded. I don't recollect your interfering in any other way.

John Walter Devereux, Solicitor, examined:—

1. *By Mr. A. B. Cox:* Do you recollect being in Court in a case under the "Cattle Stealing Prevention Act" of "Caplin v Inder," on or about the 14th October, 1857? Yes.
2. Do you recollect what Magistrates were sitting? Yes—Captain Browne and Dr. Harris.
3. Did you hear Captain Browne say anything to Dr. Harris relative to the horse? No; I do not recollect anything particular. The case was gone into—Caplin and Leach gave evidence.
4. Do you know what the decision of the Court was? Yes—that it did not come within the meaning of the Act; but I suggested that the Court should award the horse to some one, to prevent dispute.
5. How did you suggest this, and to whom? The Police Magistrate had left his seat on the Bench, and Dr. Harris was then sitting alone on the Bench, when I suggested the award of the horse as some one's property. The Police Magistrate was at the side desk. As Caplin's attorney, I asked the Bench to award the horse to my client. I considered I was addressing both the Magistrates. Captain Browne returned to his seat, and Dr. Harris then mentioned my suggestion to Captain Browne, and the two Magistrates then awarded the horse to be Caplin's property.
6. Had you any idea that Dr. Harris withdrew from the Bench when the case was called on? No. I was under the impression he was sitting there as Magistrate.
7. Did you, previous to the decision, hear that Dr. Harris had bought the horse? Not previous to the decision, that I recollect.

[Dr. Harris declined to ask this witness any questions.]

James Dudden Brodribb, Solicitor, examined :—

1. *By Mr. A. B. Cox*: Were you present at the proceedings on the 14th October, 1857? Yes; I appeared as solicitor for Inder.
2. Had you any idea that Dr. Harris had withdrawn from the case when called on? No; or I am quite sure I should have objected to the proceedings going on before one Magistrate.
3. Did he sit as Magistrate then? Certainly.
4. Did you, at any time prior to the decision, hear that Dr. Harris had bought the horse? No; from no one quarter whatever.
5. Do you recollect any conversation which took place between the Magistrates during the case? I believe there was; but this was after Captain Browne had left the Bench, though not the Court.
6. Was that before or after the award to Caplin? Before the award to Caplin.
7. Do you recollect hearing any conversation when the award was made? Yes. I recollect Captain Browne then telling Caplin that he would still be liable to produce the horse when required in the proceedings against Turvey. Immediately afterwards, I think Dr. Harris, or Caplin, stated that the horse was in Dr. Harris' possession, and Captain Browne then replied, "I shall look to you for it," addressing Dr. Harris.
8. *By Dr. Harris*: Did I take any part in the proceedings of that case? I do not recollect any such part being taken by you prominently, such as examining, or cross-examining the witnesses.
9. Did I interfere in any way during the case? Not that I recollect.
10. Do you recollect who gave the decision? Captain Browne.
11. Do you recollect the words or substance of the words used by Captain Browne? "That the case so far as felony was concerned was dismissed as against Inder, and that warrants would issue against Turvey."
12. Was it not at that time that I stated that the horse was in my possession? No; it was not until after Captain Browne had told Caplin that he should look to him for the horse to be produced in the proceedings against Turvey.
13. Is it usual for the Police Magistrate to give the decision of the Court? Yes; the Police Magistrate, as *ex-officio* Chairman, gave the decision of the Bench. I understood the decision, both as to the felony being dismissed, and as to the award of the property, to be the decision of the two sitting Magistrates; but I do not recollect any consultation on the Bench between the two Magistrates previously to the dismissal of the felony—they then spoke as to the awarding of the horse.

John Joseph Mills, examined :—

1. *By the Commissioner*: In what manner or words did Doctor Harris authorise you to buy the horse from Caplin? In the first instance, Doctor Harris, on the 7th October, told me that he wanted a couple of draught horses, and I said there were only two in the yard fit for draught horses; one of those was put up first—Doctor Harris bid for it, and did not buy it. The other horse fit for draught was put up; a man named Caplin stopped the sale, and said he had bred him and never parted with him; the man who authorized the sale (Inder) after some conversation said "who is to pay me for bringing in the horse"; Caplin tendered Inder a sovereign for bringing in the horse, and Inder refused it, after talking with some other people. I told Doctor Harris that Caplin would get that horse, as he had already stated that he had bred the horse and never parted with him. I said to Doctor Harris, "When Caplin gets the horse delivered to him as his property, will you buy him?" and he said he would, as he was very badly off for horses for draught. I agreed with Caplin for the price of the horse for Doctor Harris when Caplin should get possession of him. I told Doctor Harris as he wanted to go home that I would pay for the horse, and he could return me my money. The price was agreed on between me, Doctor Harris, and Caplin, before Dr. Harris left the yard; all this took place on the 7th October. The words used by Dr. Harris to me with reference to purchasing the horse I considered left me without authority to sell the horse to any one, no matter what price was offered, and I could not ask from Dr. Harris any higher price than that agreed to be given, viz., £22 I think. I do not recollect anything further as to the transaction on the 7th October.
2. On what day did you give possession of the horse to Dr. Harris, and was payment made by him to you on the day you gave him possession; and further, was payment by yourself to Caplin made on the 27th October, as the receipt for the horse purports, or previously? I think the horse was in my stable two nights, and on the morning of the 9th the horse was delivered by some of my men to some one for Dr. Harris. The horse left my stable then for Dr. Harris. I cannot state exactly on what day payment was made, but it was on the 9th or 10th after the horse had left my stable. I paid Caplin £22 on the 7th, and took a receipt for it, and wrote the form but not Caplin's signature nor the witness on the 7th October; I will not swear I did not write the 27th, but to the best of my belief I did not write the 2. The memorandum on the back of the receipt is not in my handwriting, and I do not know whose it is. I cannot account in any way for the receipt being dated the 27th October.
3. In what way did Harris come to know that Caplin had a horse to sell in Mudgee on the 7th October? He was present in the yard, and heard the horse put up and claimed by Caplin.
4. What passed between you and him on that day, or any previous or subsequent day respecting the horse? Nothing has taken place between me and Dr. Harris as to the horse since the delivery to Dr. Harris, and I have already stated all that took place previously to the delivery.
5. Did Harris in directing you to purchase the horse reserve a price—that is, if the horse did

- did not go beyond a certain price you were to buy it for him? Yes—the price agreed to be given by Dr. Harris and to be taken by Caplin was £22; it was not sold by auction.
6. What was the reserved price? There was no reserved price but an agreed price.
7. *By Mr. Cox*: How was payment made for the horse? By a cheque.
8. Do you recollect the date of the cheque? No.
9. Would you know the cheque? Yes.
10. Did you receive any other cheque from Doctor Harris about that time, and for that amount? No.
11. Did you ever receive any payment for the two nights that the horse was in your stable? Doctor Harris said he must make me some allowance, but I said that instead of money he could give me some green-stuff, which would be a change for my horses?
12. Did you get that green-stuff? Yes.
13. Was Doctor Harris at your house on the 14th, previous to this case being heard on that day? Not that I remember.
14. Did you receive any communication from Doctor Harris subsequently to the 14th October in reference to this horse? Yes, I received a note, which I believe I have at home. (*The witness was directed to produce this note.*)
15. *By Dr. Harris*: Did you come to me or I to you as to buying the horse? I think I went to you.
16. Do you recollect what you said to me then? I said I thought that horse would suit you.
17. Did you ask me would I give a certain sum for the horse if I could get him? I did.
18. Did I offer in your presence to make any arrangement with Caplin as to the horse? I do not think you did.
19. You said the price was agreed between Caplin, myself, and you—how could that be? I do not know that you spoke to Caplin.
20. Do you recollect the exact words? Yes—that if Caplin proved ownership you would give that sum for the horse.
21. Who were present there? Many in the yard, but I cannot say that any particular person was present to hear those words.
22. Did I ever propose buying the horse from Caplin? I proposed to you to buy him.
23. Did I ever say—“buy that horse for me from Caplin”? Yes—you did direct me to buy the horse for you. I told you Caplin wanted such and such money, and you said you would not give that money for him. Caplin then said what he would take £22. You, Doctor Harris, said to me you would give that for him.
24. Did I ever direct you to tell Caplin that I would give him £22 for the horse? Yes, and Caplin knows it.
25. Did I ever tell you that in case I was obliged to give him up I should come on you for the money? Some time after the 7th, on some Court day, you, Dr. Harris, said if you lost the horse you should fall on me for it. I thought it was a joke. I said that would be rather hard as the horse was purchased for you.
26. Did not I ask you at the same time you know you had a profit on it? No; you did not say so, and you know very well that I had not.
27. *By the Commissioner*: Did you give a receipt for the £22 to Dr. Harris? I cannot remember. I gave up the receipt marked A. I think I did not get a receipt myself.

Henry Watson Oliver examined:—

1. *By Mr. A. B. Cox*: You are Manager of the Mudgee Branch of the Bank of New South Wales? Yes.
2. Do you remember John Joseph Mills purchasing a draft on the Head Office, Sydney, about 15th October, 1857? I do.
3. How was payment made? By notes, cheque, and silver.
4. Did you take notes of the particulars? Yes—Notes £108, cheque £22, silver 13s., that is £130 for draft, and 13s. for exchange.
5. In whose favor was the cheque—and state the particulars of the cheque? It was dated the 8th October, 1857, in favor of J. J. Mills for £22, and signed “Richard Harris.”
6. *By Dr. Harris*: Was the cheque honored? Yes.

William Caplin examined:—

1. *By A. B. Cox*: Do you recollect 7th October, 1857, being in Wallace's yard? Yes.
2. And claiming a horse in that yard? Yes.
3. Did you see Dr. Harris there? Yes, he was there.
4. Did Dr. Harris have any conversation as to the horse claimed by you? Yes; he said if that was his horse he would take it.
5. Did any other conversation besides that take place—did you ask Dr. Harris' advice? No, I cannot say I did.
6. What became of the horse? I stopped till the sale began, and I claimed the horse.
7. The horse was put up for sale? Yes; by George Inder.
8. What did you do after stopping the sale? I sold the horse to John Joseph Mills.
9. Did Mills buy him for himself? No; he bought him for Dr. Harris.
10. How do you know that? Mills told me that he bought him for Dr. Harris.
11. Where? In the yard.
12. Was Dr. Harris in the yard? Yes, he was in the yard at that time.
13. Did you see Mills speak to Dr. Harris after you had agreed with Mills as to the price? Yes.
14. What price did you get for the horse? £22.

15. How were you paid for the horse? John Mills paid me for the horse.
16. Did you give a receipt to Mills? Yes.
17. Should you know it if you saw it? Yes; this receipt marked A is the one I signed, and that is my signature.
18. What was the date you signed it? 7th October. Mills read it to me; I did not read it.
19. Do you believe he read it as dated the 7th? Yes, I believe he read the receipt as dated the 7th.
20. Did you notice just now that the date was the 27th? No, I did not notice it being dated the 27th, but I now see it is.
21. Do you usually know the dates of the month? I know it was on the 7th I received the money.
22. If he had read it 27th should you have noticed it? Yes, I dare say I should.
23. Did Dr. Harris ever ask you for repayment of the price of the horse? Yes; after the trial at Bathurst Dr. Harris applied to me, and said I had to pay the price and expenses—£130.
24. Did you pay that? No; I paid Dr. Harris £27, viz., £22 for the horse and £5 for expenses, which £5 I had received from Edward Bayly, for my expenses.
25. What did Edward Bayly say? He said the £5 was for expenses to Bathurst, under the subpoena.
26. Did you give Dr. Harris promissory notes? Yes; three promissory notes, for £130 in the whole; I do not know how the amount was divided; the notes were drawn up by Dr. Harris, but not read to me. I paid the £27 on my return from Bathurst, and Dr. Harris gave me a receipt, which I have at home.
27. Was Mills present when these promissory notes were drawn? Yes, and refused to witness my signing the promissory notes; and Dr. Harris got the publican of the house, I think, to witness my signing the notes.
28. Could the publican see your signature which he witnessed? His signature as witness was in the same line, I think, with my signature, but the face of the note was turned down so that he could not see the words.
29. Do you recollect bringing Inder to the Court on the 14th October, 1857? Yes; I had summoned him.
30. Was the case heard on that day? Yes.
31. Who was present on that day? Mr. A. Cox, Dr. Harris, and Captain Browne; there might be another Magistrate on the Bench.
32. What was the decision of the Bench? That the horse should be given up to me.
33. Did the Police Magistrate say anything to you at the time? Yes, something about producing the horse, if required.
34. What did you say? I said I had sold the horse to Dr. Harris—to Mills for Dr. Harris.
35. Did you previously to the 14th tell the Police Magistrate that you had sold the horse to Dr. Harris? Yes. I did.
36. What time previously to the 14th? Before the 14th.
37. A few days or a week—was it at the time you swore the information? I won't be certain, but a day or two afterwards.
38. Was it two days afterwards? It might be two or three days.
39. Do you remember what day you swore the information? The next day after the sale; and two or three days after I told Captain Browne.
40. Why did you tell Captain Browne? Because Captain Browne told me I must bring the horse to the Court House, and I told him I had sold it to Dr. Harris. This was before the 14th.
41. Cannot you recollect the exact date? No, not more than I have told you.
42. Where did he tell you? About the bridge.
43. Did you tell Dr. Harris? Yes. I told Dr. Harris two or three days before the 14th that the horse must be at the Court House.
44. What did he answer? He said he would see about it.
45. Was the horse produced on the 14th? No; not on the 14th.
46. Did Dr. Harris come himself? Yes, he came himself.
47. Did Captain Browne send you to Dr. Harris with that message? No. I said to Captain Browne that I would go to Dr. Harris, and tell him to produce the horse.
48. *By Captain Browne:* Are you sure you told me before the 14th that Dr. Harris had bought the horse? Yes.
49. Have you told any different story from this, or written any different story? No.
50. Have you any reason for recollecting having told me to whom you had sold it? No; I recollect the conversation very well.
51. Could you swear that you mentioned to me to whom you had sold the horse? No; I could not swear that I mentioned the name of Dr. Harris as having purchased the horse.

Mr. Robert Lowe, examined:—

By Dr. Harris: When the receipt marked A was produced at the Court on the 30th December, did I offer to produce evidence that the date was erroneous? Yes; in answer to my pointing out the discrepancy, you, Dr. Harris, offered to shew that the transaction had taken place about the 7th.

William

William Browne, Esq., J.P., examined:—

1. *By the Commissioner*: Did you or Dr. Harris first sign the award of the horse on the 14th to Caplin? I feel sure that Dr. Harris had signed the book before I did.
2. How did you sit on the Bench on usual days when the other Magistrates sat with you? I sat next the Deposition Clerk and the other Magistrates, on a line with me between this table and the window.
3. Was that the way the Court sat during this case on the 14th October, 1857? Yes.
4. Have you any recollection of Dr. Harris withdrawing from the case on that day in any manner? No, not the slightest.
5. *By Mr. A. B. Cox*: Did any other Magistrate sit with you on that day, the 14th? No; I do not recollect your being there. I think Mr. Macdonald was present as a party to one of the cases; but I am sure he did not sit during the case of *Inder v. Caplin*.
6. Did I sit on that day? No, decidedly not.
7. Did you know from Dr. Harris, or from any other source, that Dr. Harris had the horse in his possession? No, most certainly not; I believed at the time that it was in Caplin's possession.
8. When did you first know that it was not in Caplin's possession? After the hearing of the case.
9. Had you any knowledge whatever of Dr. Harris having any interest in the horse before the close of the case? No, none whatever.
10. Do you recollect anything taking place between the 8th and the 14th, as to the horse, between yourself and Dr. Harris or William Caplin? No, nothing whatever that I recollect. At the time of the information I most likely told Caplin he must have the horse before the Court.
11. *By the Commissioner*: Was there any rota of Magistrates sittings at this Court in October, 1857, so that before each sitting it might be known which Magistrates were about to sit? No; that system has been introduced since. In October, 1857, every Magistrate came to the Bench and sat when he pleased.

Dr. Harris, J.P., examined:—

1. *By the Commissioner*: Who first signed the award of the horse? I did. I signed them all at the same time, and before Captain Browne, at the close of the proceedings, and after I had told Captain Browne that the horse was in my possession. I am quite sure that Captain Browne's signature was not there when I signed the book.
2. At the time of your signing the book what interest did you think you had in the horse? I thought he was my own.
3. From what time did you think he was your own? From the time I received him from Mills, on the 9th or 10th.
4. Do you know the legal consequences of sitting and adjudicating on a matter in which you were personally interested? Yes; I should be acting very wrongly.

MONDAY, 17 JANUARY, 1859.

John Joseph Mills, examined:—

1. *By Mr. A. B. Cox*: Do you produce the note mentioned in your last examination? Not at present; I have looked for it but cannot find it.
2. Do you recollect the contents? [Dr. Harris consented to this question being put.] I think I do, most of the contents. It stated to me that as there was going to be an inquiry did I remember what took place between myself, Caplin, and you (Dr. Harris) in this Court House yard on some day—I do not recollect what day the note mentioned—and would I ask Mr. Foreman as to the value of the horse.
3. When did you receive this note? I think it was before the assizes, but I am not sure.
4. Was there anything else in the note about the horse? Not that I remember.
5. *Cross-examined by Dr. Harris*: Was there not reference in the letter to certain questions which were to be put to you by Mr. Miller? Yes.
6. Did the letter suggest in any manner what you were to say in answer to those questions? No, I do not recollect that it did.

[Mr. A. B. Cox having stated that he had closed the case as to Dr. Harris' adjudication on the 14th October, 1857.]

Dr. Harris was further examined, as follows:—

1. *By the Commissioner*: Were you present at the opening of the Court on the 14th October, 1857? No. When I came into Court a case was going on with closed doors, but afterwards I was present during all the cases entered in the Deposition Book on that date.
2. Did you see Mr. Macdonald, the Magistrate, during the first case? Yes, I did.
3. Did you see any other Magistrates in or about the Court on that day besides Captain Browne, Mr. Macdonald, and yourself? Yes; I saw Mr. Nicholas Paget Bayly and Mr. George Rouse, but I am not quite sure whether Mr. Rouse was then sworn as Magistrate; Mr. Bell, also, I think I saw in the Court on that day.
4. Did you know before the 14th October that this case of *Inder v. Caplin* was to come before the Court on that day? I don't recollect that I did; but I recollect that Caplin brought the message from Captain Browne to me before the 14th to bring in the horse; that was before the 14th.

5. Do you recollect how the Magistrates sat on that 14th October? Yes. (*The witness described the position of the Deposition Clerk, of Captain Browne, and of himself.*) There was a space between me and Captain Browne, on my left.
6. Did any other Magistrate sit on the raised part of the Court that day besides yourself and Captain Browne? No. There was a difficulty in obtaining Magistrates to sit, and I was asked to sit.
7. Do you recollect who asked you to sit? Yes. I think Dr. Macdonald and Mr. Bell. [Mr. Bell interposed, and stated that Dr. Harris was mistaken, as he had not asked Dr. Harris to do so, nor sat in that case, nor during that day.]
8. Do you recollect how far you drew back your chair? Yes; as far as the wall would allow me.
9. Were the table and chairs in about the same position as now? Yes.
10. What else did you do to manifest your intention of withdrawing from that case? Nothing, but draw back my chair.
11. Did you continue sitting there after drawing back your chair during the remainder of the case? Yes, during the case.
12. Did you ask any of the witnesses any questions? No.
13. Did you object to any of the questions put to the witnesses? I did not.
14. Did you continue sitting at the Bench merely that *pro forma* you might confirm the decision of the Police Magistrate whatever it might be? No; I consider I was sitting merely as a spectator in the case.
15. If you were there merely as a spectator, why did you ask Captain Browne who was to have the horse? From hearing a remark that was made from some one in Court that the case had been heard without awarding the horse to any one.
16. Why did you ask the Police Magistrate who was to have the horse, knowing that he was the only Magistrate adjudicating in the matter, you having withdrawn from the case? I merely asked the question as a spectator.
17. Were you interested in any other of the cases heard that day? No, in none of them.
18. Did you deliver the horse back to Caplin on or after the 14th, and take re-delivery of him? No, I did not.
19. Do you think you could have done anything more than you did do to manifest your intention to withdraw from the case? Yes; I think I might have told Captain Browne that I did withdraw.
20. Why did you not leave the Court altogether? I had no reason.
21. Did you think that by adjudicating in any case a Judge can obtain any title or right to the matter in question? No, I do not, and did not so think.
22. Do you wish to make any further statement or explanation as to the receipt, the adjudication, or the possession of the horse, or any other part of the charge? As to the receipt, I cannot explain the error; as to the adjudication, I deny having adjudicated; as to the possession, I purchased the horse from Mills—Mills' agency was merely a misunderstanding of what took place between us.
- [Mr. A. B. Cox, in answer to the Commissioner, said—He had no charge to make against Dr. Harris for his sitting on the 14th May, 1856, in the case of *Turvey v. Caplin*, as to the horse in question, nor for having adjudicated, except on the 14th Oct. Mr. Cox explained that the word "twice" was used in the letter of January 16th to call the attention of the Honorable the Attorney General to the circumstance that Dr. Harris, in 1856, knew of *Turvey's* claim to the horse, he having been a sitting Magistrate on that day.]
23. *By Mr. A. B. Cox:* How far did you draw back your chair? As far as the back wall would admit.
24. How far was that? If the table were at the edge of the platform there would be about three feet between it and the back wall.
25. What distance could you withdraw your chair? If I were sitting back in my chair at the place to which I had moved it I should be about two feet from the table.
- [The maximum distance between the back of the chair and the wall was measured, and appeared to be 11 inches, if the table was placed at the verge of the platform or raised portion of the room.]
26. As you knew that it required two Justices to decide this case why did you not then withdraw? I consider that I did withdraw.

James Christian, landowner, examined:—

1. *By Dr. Harris:* Were you in Court on the 14th October, 1857, when the case of *Caplin v. Iuder* was called on? Yes, on the day that case was called on.
2. Who sat on the Bench that day? Captain Browne.
3. Was there anyone else? Yes, I saw you sit here.
4. Did you consider I took any part in the proceedings on that day? I did not see you.
5. Did I examine any of the witnesses? Not while I was in the Court.
6. Who gave the decision in that case? Captain Browne.
7. Did you hear me make any remark in that case? Yes.
8. What was that remark? "You have not awarded the horse to anyone."
9. Was this before or after Captain Browne gave his decision? After the case was heard.
10. What was the decision? The decision was, that the horse was to be given to Caplin.
11. Did Captain Browne give any previous decision? Not to my knowledge.
12. What did I say besides the above remark? I think you mentioned, "the horse is in my possession."

13. Were you present at any conversation between me and Mills outside this Court on the 28th December, 1857? Yes.
14. Relate the conversation? When I left the Court House on that day Dr. Harris and Mr. Mills were outside the Court, and I said, "Doctor, you'll lose the horse." The Doctor said, "Well, if I do, I will fall back on Mills for him or for the price of him." Mills said, "That will be very hard on me, as I bought him for you, and I had no benefit of him; it is very hard to put me to the expense of going to Bathurst when I had no benefit in him." The Doctor said, "If you are put to any expense I will see you paid." The Doctor said, "I thought, Mills, you bought the horse to have a benefit out of him, or intending to have a benefit out of him."
15. What did Mills say in reply to that? I think he said he had no benefit out of him.
16. *By Mr. A. B. Cox*: Was any one else sitting on the Bench on the 14th? Dr. Harris was sitting at the end of the raised portion of the room during the hearing of the case, near the side door at the extreme end of the Bench. (*The witness described the position.*)
17. Did Dr. Harris take part in any proceedings on that day? I think he did.
18. Did you see Dr. Harris withdraw in any way from the case? I do not think he shifted his place at all from that he took when he came in.
19. Did you hear Captain Browne ask any witnesses any questions? Yes; I heard Captain Browne put the questions.
20. Were there any solicitors in that case? Yes; I think so.
21. *By Captain Browne*: Do you recollect whether I put any questions at all in that case? No; I do not recollect.
22. Do you recollect the first decision in that case? Yes; I think the case was dismissed, and then Dr. Harris said—"You have not awarded the horse to any one"; I think those were the words.
23. Do you recollect where Captain Browne and Dr. Harris were sitting when that remark was made? No; I do not recollect.
24. *By Captain Browne*: Were you in the Court House all that day? I was out and in the whole day; but I was in during the whole of that case.
25. Was Dr. Harris always in the same spot? I cannot say.
26. *By Mr. Cox*: Do you recollect Captain Browne being out of Court an hour that day? Yes; I saw him out, but I do not know how long—it might have been two hours.
27. Do you recollect Captain Browne being out of Court while the business was going on? No; I do not.

John Walker Foreman, innkeeper, examined:—

1. *By Dr. Harris*: Do you recollect being in Court in October, 1857, during a case of *Caplin v. Inder*? Yes.
2. Do you recollect who the Magistrates were? I can't say that I do.
3. Did you remain till the conclusion? Yes.
4. Did anything occur to attract your attention in that case? Yes; I think I heard you say when the Bench had dismissed the case, you, Dr. Harris, asked who they had awarded the horse to.
5. Were other Magistrates present? I think Captain Browne was one, and Mr. Bell.
6. Did you hear any remark among the bystanders? No.
7. Did you know the horse and his value? Yes; I think £20 was his outside value at that time.

The other parties declined to ask this witness any questions.

Doctor Harris said this closed his case in defence.

After the close of all the evidence on both sides, the Commissioner asked Dr. Harris:—

Do you wish to make any further exculpatory or explanatory statement as to any of the transactions inquired into under this Commission, or in explanation of your conduct in relation to any part of the evidence which has been brought before me under this Commission, or as to any of the documents which have been read under this Commission? No.

The Commissioner then read the two letters of April 2nd, 1858, written and sent by Dr. Harris to the Honorable the Colonial Secretary.

Dr. Harris then said he was ready now to proceed with his counter charges against Captain Browne, of having assaulted a Mr. Thomas on or about the morning of the 14th October, 1857, in a public house called the "Royal Hotel," kept by Mr. Readford.

Samuel Gustavus Hatton, examined:—

1. *By Dr. Harris*: You were billiard marker at Mr. Readford's billiard table in October 1857? Yes.
2. Do you recollect the evening of the 13th, when Captain Browne and Mr. Thomas were playing at billiards? Yes; I recollect their playing.
3. When did the game begin? Between 10 and 11, not earlier.
4. How long did they continue? I do not know when, but when I left the table I asked Dr. Thomas to score the game instead of me.
5. At what time did you leave? Between 10 and 11.

6. When you next entered the room, what then occurred? About 12 o'clock I returned to the room, and there was great confusion.
7. What induced you to return? I heard a noise, and went up to the billiard room.
8. What did you see? I saw Captain Browne looking for some studs or a ring.
9. Was there a great noise in the room? I heard a noise, which made me come.
10. What were the other persons in the room doing? Dr. Thomas was the only other person in the room besides Captain Browne, and Dr. Thomas was walking about.
11. Do you know where Dr. Thomas is now? No.
12. *By Captain Browne:* At this time were you marker, or the monthly lessee of the table? I rented the table from Mr. Readford by the month.
13. Was there not a club about that time of gentlemen who engaged that table from you exclusively as their own table for one evening in the week? Yes, there was such a club, who had the table on Wednesday evenings from about seven or eight o'clock.
14. Were not Captain Browne and Mr. Thomas members of that club? Yes; I think they were.
15. Do you know whether Readford's house was shut when you left the billiard room? Yes; Mr. Readford told me so.
16. How was this billiard room situated with reference to the hotel? It was not under the same roof; it was entirely detached.
17. Could you then enter it without going through the public-house, and was it entirely under your own control? Yes; there was no need to go through the public-house; it was entirely under my own control.
18. Was it not the common custom of gentlemen to enter the billiard room and continue playing after the public-house was closed? Yes; the common course was to do so, and occasionally to remain all night till sunrise.
19. *Re-examined by Doctor Harris:* When you entered the room did you see anything remarkable in Mr. Thomas' appearance? He was very much excited.
20. Did you see any marks on his hands or face? Not that I noticed.
21. *By Captain Browne:* Has there not been some serious difference between you and me lately? Yes; but that does not affect my feelings towards you.

Johnson Shuttleworth, storekeeper, (living next door to Mr. Readford's hotel) examined:—

Do you recollect the evening of the 13th October, 1857, when a noise occurred? I only know that between two and three o'clock in the morning I heard a great noise, but I saw nothing, and I do not recollect the date of the occurrence. I could not identify any voices.

Thomas Digby Miller, Esq., Police Magistrate, examined:—

1. *By Dr. Harris:* Have you any documents in the office relating to a case of Thomas v. Browne, about the date 14th October? I have not been able to find any such documents.
2. Were you Clerk of the Bench then? No, I was not Clerk of the Bench then.

William Browne, Esq., J.P., examined:—

1. *By Dr. Harris:* Were you Clerk of the Bench on October 13, 1857? Yes.
2. Do you recollect an information being granted by me to Dr. Thomas against yourself? I am not aware of any such information being granted; I recollect you, Dr. Harris, being about to grant a cross summons to Dr. Thomas against me, and on your persisting to do so against my advice I went out of the Court.

Norman Macbeath, examined:—

1. *By Dr. Harris:* Were you acting Chief Constable in October, 1857? Yes, I was, up to the 21st of that month.
2. Do you remember Dr. Thomas coming into Court then? Yes.
3. What did he come for? An information and summons.
4. On what charge? He told you after the opening of the Court that Captain Browne had assaulted him, and Captain Browne's dogs had bitten him.
5. Did you see any marks on his person—on his face? No, I did not see any; but the back of his head, I think, was scratched.
6. State what occurred then in the Court House? Captain Browne was then out of the Court House, but came in while Dr. Thomas was speaking to Dr. Harris, and said that he would not have the time of the Court taken up with informations now.
7. Do you know whether the summons was ever granted? No, I never saw it.
8. *By Captain Browne:* Is it not the usual course for the Magistrate issuing the summons to give it to the Chief Constable to serve it? Yes.
9. Did you on that day see any summons that had been granted against Dr. Thomas? I believe there was one issued against Dr. Thomas, but I did not see it.

Dr. Harris said this was all the evidence he had to give in support of his charge against Captain Browne, of the assault on Mr. Thomas in a public house.

Dr. Harris said he next would proceed with the charge against Captain Browne, of declaring that he would not allow me to issue the summons, or have the time of the Court taken up with such matters. There being at that time no other business before the Court.

Norman Macbeath, constable, examined :—

1. *By Dr. Harris*: Were you in the Court on the day Dr. Thomas applied to me for a summons against Captain Browne? Yes.
2. State what occurred with regard to Captain Browne and myself? Captain Browne said he would not have the time of the Court taken up now by giving out summonses.
3. Did he say anything further? Not that I recollect; you made answer then, that you, Dr. Harris, thought yourself as capable of giving out summonses as Captain Browne, and knew your duty as well.
4. Did he say anything further? Not that I recollect; I think you left the Court immediately after.
5. Who else was present? I think there were other Magistrates present, but I do not recollect who.
6. *By Captain Browne*: Had there been any other police work done that morning? No, it had not commenced.
7. Had Mr. Nicholas Bayly been at the Court on that day? Yes.
8. Look at the summons marked B? Yes.
9. Do you recollect the case mentioned in this summons? No; but I do recollect seeing this summons.
10. Is Laudragan in the Police Force now? No.

Captain Browne put in the Information sworn by him, and Summons granted by N. P. Bayly, Esq., J. P., as against Dr. Thomas, for assault on Captain Browne, on the 13th October.

A. No. 1.

(*Complaint on 9 Geo. IV, cap. 31, for an Assault and Battery.*)

Mudgee, New South Wales, }
to wit.

Be it remembered, that on the fourteenth day of October, in the year of our Lord one thousand eight hundred and fifty-seven, at Mudgee, in the Colony of New South Wales, William Browne, Esq., Police Magistrate, of Mudgee, in the said Colony, personally cometh before me, Nicholas Paget Bayly, Esquire, one of Her Majesty's Justices of the Peace for the said Colony, and upon his oath complaineth to and informeth me, that Charles H. Thomas, chemist, of Mudgee, in the said Colony of New South Wales, did, on the thirteenth day of October, in the year of our Lord one thousand eight hundred and fifty-seven, at Mudgee, in the Colony aforesaid, unlawfully assault and beat the said William Browne, contrary to the statute in such case made and provided, and against the peace of our Lady the Queen; and thereupon the said William Browne prays that I, the said Justice, will proceed in the premises according to law.

W. BROWNE.

Sworn before me, at the Police Office, }
in the Town of Mudgee, this 14th }
day of October, A. D. 1857.

N. P. BAYLY, J. P.

[*Summons granted.*]

(A. 11 & 12 Vic., chap. 48.)

To Charles H. Thomas, of Mudgee, in the Colony of New South Wales, chemist.

Whereas information has been made before the undersigned, one of Her Majesty's Justices of the Peace in and for the said Colony of New South Wales, for that you did, on the 13th day of October instant, assault and beat William Browne, Esquire, Police Magistrate for the District of Mudgee, these are therefore to command you in Her Majesty's name to be and appear on the 21st day of October instant, at eleven o'clock in the forenoon, at the Police Office, Mudgee, in the said Colony, before such Justices of the Peace for the said Colony as may then be there, to answer the said information and to be further dealt with according to law.

Given under my hand and seal, this fourteenth day of October, in the year of our Lord one thousand eight hundred and fifty-seven, at Mudgee in the Colony aforesaid.

N. P. BAYLY. (l. s.)

260. Was there any other business done on that day—the 14th? I know that the case of the man for brutally killing a cat was on that day.
261. Do you know whether Dr. Harris sat on that day? I do not remember.
262. Do you recollect a case in which a warrant was issued against Turvey? Yes, but not the date.

Michael Kelly, constable, examined:—

1. *By Dr. Harris*: Do you recollect the morning that Dr. Thomas applied for a summons against Captain Browne? Yes.
2. State what date? I do not recollect.
3. Did you hear any conversation between myself and Captain Browne? Yes; they had some words but I do not recollect what they were.
4. *By Captain Browne*: Was there any business before or after that case? Yes.
5. Do you recollect the "Cat case"? Yes.
6. Was that before or after Dr. Thomas applied for the summons? After.
7. Do you recollect Mr. Nicholas Bayly being in the Court on that day? No, I do not.
8. What time did you come into Court that day? Between 10 and 11 o'clock.
9. Who were there then? Only Dr. Harris, Captain Browne, and Mr. Thomas.
10. Was police business transacted with closed doors on that day? I do not recollect.

Doctor Harris said this closed his case as to Captain Browne's declaration that "he would not allow me to issue the summons, or have the time of the Court taken up with such matters, there being at that time no other business before the Court."

Dr. Harris said, as to the next paragraph of the letter containing his counter charges against Captain Browne, viz., "he declared before witness that that fellow should not again sit upon the Bench, and that he would find means to strike me out of the Commission" he had no evidence to give of this counter charge, and therefore he abandoned it.

Dr. Harris, in like manner, abandoned the next paragraph of his letter of charge, viz., "From this time his persecution of me commenced, and having found a willing assistant in Mr. Archibald Cox, my inadvertency in signing the depositions was fixed on as the first point of attack."

Dr. Harris then proceeded with the next paragraph of his letter—"A warrant had been issued by him against one Turvey, for stealing this horse, and selling him to Inder. When Turvey was arrested, Caplin, who ought to have been the prosecutor, was excluded from the Court, and after all the evidence was taken he was called in and examined as a witness, without having any opportunity afforded him of even hearing what had been sworn to by Turvey's witnesses, and as he did not contradict what he never heard, Turvey was discharged and the former decision reversed." The depositions in *Regina v. Turvey*, (see printed correspondence, p. 7, 8,) were put in with the warrant hereunto annexed, dated 26th October, 1857.

C. 11 AND 12 VICT., CAP. 43.

Warrant in first instance.

To the Chief Constable of Mudgee, in the Colony of New South Wales, and to all other Peace Officers in the said Colony.

WHEREAS information hath this day been laid before the undersigned, one of Her Majesty's Justices of the Peace in and for the said Colony of New South Wales, for that Frederick Turvey did, at Guntawang, on the 30th day of May, 1856, obtain from George Inder the sum of eight pounds under false pretences; and oath being now made before me substantiating the matter of the said information: These are, therefore, to command you in Her Majesty's name forthwith to apprehend the said Frederick Turvey, and to bring him before some one or more of Her Majesty's Justices of the Peace in and for the said Colony, to answer to the said information, and to be further dealt with according to law.

Given under my Hand and Seal this twenty-sixth day of October, in the year of our Lord, One thousand eight hundred and fifty-seven, at Mudgee, in the Colony aforesaid.

W. BROWNE, P. M. (L. S.)

Dr. Harris stated that he referred in this paragraph to the proceedings on the 17th December, when he alleged Caplin had been excluded until after all the evidence had been taken; but after inspecting the depositions and how the originals followed each other in their present order, Dr. Harris reduced the charge to this—that in hearing this case Captain Browne excluded Caplin from Court until after Inder had been examined.

Dr. Harris said he could not produce any evidence of such exclusion, even during Inder's evidence.

As to the next paragraph of the letter of charge, viz.:—"Captain Browne then issued a summons to me for having this horse of Inder's illegally in my possession. When the case was called on the majority of the Bench declined to hear it; and on Captain Browne still persisting they left the Court. He and Mr. A. B. Cox then proceeded with the case, and although I remonstrated at the unseemliness of Captain Browne's rescinding his former decision he still persisted, until one of his friends remonstrated with him; he then postponed the case. For daring to address the Bench, he told one of his friends he could scarcely refrain from committing me to the lock-up."

Dr. Harris stated, that as to the proceedings here mentioned they took place, as stated, in his presence. The friend who remonstrated with Captain Browne was Mr. Edward Bayly, Clerk of the Police Magistrate.

The Magistrates who declined to act were D. R. Macdonald, Henry and Nicholas Bayly, Esqs. The friend whom he, Captain Browne, told he could scarcely refrain from committing me to the lock-up was Mr. Edward Bayly.

By the Commissioner : Do you produce this Mr. Edward Bayly ? No ; I do not know where he is. I made an appointment to bring him up in my gig to Mudgee to attend this Commission. I do not wish this part of the case to remain for Mr. Bayly's evidence. I do not expect I can find Mr. Bayly.

Dr. Harris declined to call any witnesses to substantiate this part of his charge.

TUESDAY, 18 JANUARY, 1859.

The Commissioner asked Dr. Harris whether he wished to make any further or other statements, or to call any further witnesses as to any of the transactions stated by way of counter charge against Captain Browne, in either of his, Dr. Harris', letters of 2nd April, 1858, and addressed by him to the Honorable the Colonial Secretary.

Dr. Harris—I find that such a length of time has elapsed since the occurrence complained of that many persons (I do not name any) decline to come ; the very words that were used in their hearing on these occasions having escaped their memory.

Dr. Harris declined to name any such persons ; and for these reasons Dr. Harris stated that he declined to make any further or other statements, or call any further witnesses as to any of those charges.

The Commissioner read over the evidence adduced by Dr. Harris in support of the first charge, and asked Captain Browne what he had to say to this charge.

Captain Browne.—The billiard room was a private room on that evening. I never was on that evening inside a public house. Mr. Thomas committed an assault on me on that evening, and subsequently apologized for that assault. As to setting a fierce mastiff dog on him, that statement is simply false ; and as to the dog having torn him, that also is false, and Dr. Harris must have known it.

George Taylor, examined :—

1. *By Captain Browne* : Were you present at a conversation between Dr. Thomas and myself, at the Maitland Hotel, Mudgee, on or about the 27th December, 1857 ? Yes.
2. Who else was present ? The Rev. Mr. McEwen, besides myself, Captain Browne, and Dr. Thomas.
3. What took place ? Dr. Thomas said he regretted that any difference had taken place between them to make a breach in the friendship that formerly existed, and that if Captain Browne would receive his apology and shake hands that they would be on as good terms as previously ; then Captain Browne advanced towards him and shook hands.
4. *By Dr. Harris* : To what did that apology refer ? He did not state distinctly ; there had been a difference.
5. *By Captain Browne* : Did Dr. Thomas then make any further reference to any persons or places which showed you what difference he was speaking of ? Yes ; he referred to Mr. Readford's billiard room.
6. Had Dr. Thomas been waiting for me to accept an apology ? Yes, for some days previously.
7. For what occurred in Readford's billiard room ?

In reply to Dr. Harris' second charge, Captain Browne made the following statement :—

Early on the morning of the 14th I swore an information before Mr. N. P. Bayly against Mr. Thomas for an assault on me, on which he granted the summons, which summons was then given to a constable to serve on Mr. Thomas. I then went into the business of the Court. I first heard a case with closed doors ; this took me about an hour and a-half or two hours. I then had the doors open to hear the other cases, eight or nine being before the Court, when Dr. Harris and Dr. Thomas walked together into the Court, and on Dr. Harris taking his seat on the Bench Dr. Thomas said he wanted a summons against me, and Mr. Harris said " I will grant one," when I said to Mr. Harris that the taking contradictory sworn informations and granting cross summonses was inconvenient and incorrect ; I shewed him the sworn information that had been taken, and he said " I know my duty." I then said, at all events I would not allow the time of the Court to be taken up by taking informations and granting summonses when there was another room for that purpose close by ; he then said " You are an interested person." I then got up, left the Bench, and walked out of Court. I met Mr. Brodribb, solicitor, coming to the Court ; I asked him to walk into Court to hear what was going on. At the time I objected to the time of the Court being taken up in that way there were a number of people in Court—ten, fifteen, or twenty—and a great deal of business. I most distinctly deny saying that I would not allow Mr. Harris to issue a summons. I could not prevent him ; he might have gone to a public-house to grant one.

Captain Browne, J.P., examined :—

1. *By Dr. Harris* : What time did Mr. Thomas come into Court ? About 12 o'clock, at the close of the " Cat Case."
2. Was not I present during one-half of the " Cat Case" ? No, you were not.

[Dr. Harris stated that he was present at least half an hour before the close of the " Cat Case," and was not outside the door with Dr. Thomas. I did not see Dr. Thomas that day until he came into Court for the summons.]

John Walter Devereux, examined :—

1. *By Capt. Browne*: Were you outside the Court on the 14th October? Yes.
2. Did you see Dr. Thomas? Yes.
3. With whom was he talking? With Dr. Harris.
4. Did you hear what they said? No; I was standing at a distance.

James Dudden Brodribb, examined :—

1. *By Capt. Browne*: Do you recollect the day in question? Yes—the 14th October.
2. Do you recollect my speaking to you as I was coming out? Yes.
3. What did I say? You told me to go and prevent Dr. Harris granting a cross summons returnable earlier than the one you, Captain Browne, had obtained. You, Captain Browne, said, “I dare not go in again; do it for me, as I may lose my temper.” I did come in, and remonstrated against such a proceeding the time Dr. Macdonald was on the Bench, and I remonstrated against Mr. Thomas entering into a detailed statement of the case. I said a simple statement of the assault was enough for the granting the summons.
4. Was the information allowed to be read? I do not recollect.
5. Did you make any further objection to the issuing the summons? I stated that the summons on this second information ought not to be granted returnable at an earlier date than that already granted.
6. *By Doctor Harris*: Do you recollect asking me any questions? Yes; I recollect asking you if that was to be the rule of this Court, as I should then know how to advise my clients.
7. Did you ask me anything about the awkwardness of the summons? Yes; I think I shewed you the awkwardness.
8. Do you recollect asking me anything about what I should do in that case? I think I did.

[Dr. Harris stated that he made the summons granted on Dr. Thomas' application returnable at the same date, so that the cases should be heard together.]

9. *By Captain Browne*: Did not Dr. Thomas apply for his summons to be made returnable earlier than Captain Browne's? Not that I recollect.

Thomas Digby Miller, Esq., Police Magistrate, examined :—

1. *By Captain Browne*: You are Police Magistrate, and how long connected with magisterial matters? Yes; for nearly twenty years, and Police Magistrate since 1852.
2. Did you ever know a sworn information or summons granted in open Court? No; I have never known it done, and always object.
3. Can you state whether it is usual to allow cross summonses? I have always discountenanced such a practice.

Captain Browne said this closed his evidence in defence to the second charge of Dr. Harris.

Captain Browne said that as to Dr. Harris' counter charge that he, Captain Browne, had declared before a witness that “that fellow should not again sit on the Bench, and that he would find means to strike me out of the Commission,” such statement was altogether untrue. Captain Browne also stated that he never persecuted Dr. Harris, nor had any inclination to do so; and the rest of his statement, about finding a willing assistant in Mr. A. B. Cox, was also untrue.

A. B. Cox, Esq., J.P., examined :—

1. *By Captain Browne*: Did I ever ask you to assist me in persecuting Dr. Harris? Decidedly not.

Captain Browne also denied that he was ever any party to any attack on Dr. Harris.

In reply to Dr. Harris' charge of excluding the evidence of Caplin until all the other evidence had been taken, Captain Browne said that such a charge was wholly untrue.

The warrant was issued at Inder's suit, and Caplin was called as Inder's first witness, and was not excluded in any way from Court.

In reply to the charge commencing at “Captain Browne then issued a summons to me, for having this horse of Inder's illegally in my possession. When the case was called, the majority of the Bench declined to hear it, and on Captain Browne still persisting they left the Court; he and Mr. A. Cox then proceeded with the case, and although I remonstrated at the unseemliness of Captain Browne rescinding his former decision, he still persisted, until one of his friends remonstrated with him; he then postponed the case.”

Captain Browne stated the summons was issued at the request of Inder's attorney; the majority of the Bench did not decline to hear it, and Doctor Macdonald did sit on the case two days afterwards. I do not think Henry Bayly was in Court. I do not think I ever told any of my friends that I could scarcely refrain from committing Dr. Harris to the lock-up; but Dr. Harris on that occasion was a defendant before the Court, and insulted the Bench, and I had occasion to warn him to be cautious what he was saying, three different times. No friend remonstrated with me, and I certainly

certainly should not have allowed my clerk to do so. I consulted with Mr. Cox, and we postponed the case. I wish to state that I called a full Bench afterwards to hear this case, particularly stating to those Magistrates whom I saw that I did not intend sitting on it myself. I was subsequently summoned in that case as a witness by Mr. Harris, but not called.

2. *By Dr. Harris*: How did I insult the Bench? You, Doctor Harris, said witnesses had been examined in an extraordinary way on a former occasion. You said Mr. Cox's conduct was extraordinary and improper; I said I saw nothing extraordinary, except your own conduct. You then went on and told me in open Court that I did not do my duty, and prevented you from doing yours. You then attacked me on this assault case; this made me caution you.

As to the counter charges against Archibald Bell Cox, Esquire, J.P., Doctor Harris stated that the letter to the Attorney General had emanated only from those two, Messrs. Browne and Cox.

Captain Browne stated that he did not even sign that letter, but it was signed by Messrs. Lowe and Cox.

Mr. Lowe stated, that in consequence of the difference of opinion of the four Magistrates who heard the case of *Inder v. Harris*, he, as the senior Magistrate, recommended that the documents should be sent to the Attorney General, with a letter accompanying them, which was agreed to by the whole of the Magistrates then present. He, Mr. Robert Lowe, subsequently spoke to Mr. Bell about it, and he coincided with their view; the letter was then written and signed, but only by Mr. Cox and himself, the only two Magistrates then present, when the letter was forwarded to Government.

By Dr. Harris: Was the difference on a legal point? Not that I recollect.

Did the statement as to false swearing refer to me? No, not at all.

By Mr. A. B. Cox: Had Captain Browne anything to do with the letter? Not that I am aware of.

Mr. A. B. Cox examined:—

By Dr. Harris: Did not you and Captain Browne concoct that letter between you? No, we did not.

Who wrote that letter? I do not know; I signed it in the Court.

Mr. Lowe stated that the original draft was prepared by Mr. Edward Bayly, under the direction of the four Magistrates. Mr. Lowe then made some alterations, and it was then re-copied by the next Court day, and next Court day I and Mr. Cox signed the fair copy to send to the Attorney General.

Did Dr. Macdonald and Mr. Betts ever see that letter? Yes, both saw it as altered.

Dr. Harris stated that when he wrote the letter of 2nd April, he had reason to believe that the complaints had emanated from two only.

By Mr. Cox: When did you see Dr. Macdonald? Early in January—the first week in January.

How could that refer to a letter not written till the 16th January? I had heard of the intention of the Bench, and I asked Dr. Macdonald if he had joined in censuring me, as they intended. He said, decidedly not.

Dr. Harris said he could not produce any evidence of Mr. A. B. Cox and Captain Browne having openly discussed their determination to prevent him, Dr. Harris, from sitting on the Bench, and that no means should be left untried to deprive him of his Commission.

Mr. Cox and Capt. Browne both stated that they “indignantly denied that there was any truth in such a charge against them.”

Dr. Harris, J. P., examined:—

By Mr. A. B. Cox: Where was this matter openly discussed? I was told by Edward Bayly that it was openly discussed in the hotel opposite.

What were Edward Bayly's words?

Dr. Harris said he knew nothing except from Mr. Edward Bayly, who did not say who were present at that discussion besides Messrs. Browne and Cox, nor did he ask him who else was present. Dr. Harris said, he meant that Edward Bayly who had been a dismissed clerk from Captain Browne's office.

Dr. Harris stated, that the persecutions and attacks he complained of as emanating from Mr. Cox were those stated in his letter of April 2nd to the Honorable the Colonial Secretary.

Mr.

Mr. Cox denied that he persecuted Dr. Harris in any way. What I did is what I considered my duty as a Magistrate. I most distinctly deny that in consequence of Capt. Browne and Dr. Harris having any misunderstanding that Dr. Harris was persecuted by me, as both Capt. Browne and Dr. Thomas were his personal friends. Dr. Thomas was so until he left the neighbourhood.

Dr. Harris proceeded with next counter-charge against Mr. Cox, viz.:—That his (Mr. Cox's) conduct on the hearing of the case of "Inder v. Harris" was more like a prosecuting Counsel than a Judge;—"that everything that his ingenuity could twist to my "disadvantage he did fully, and when he could not find facts he supplied insinuations."

Robert Lowe, Esq., J. P., examined:—

By Dr. Harris: How was the case conducted? We all knew that the case had given a great deal of trouble to the Bench, and we were all determined to get at the truth of the matter. Dr. Macdonald and Mr. Betts, for reasons which they stated, could not take much interest in the inquiry, and it therefore devolved upon me and Mr. Cox, and I took quite as much trouble in it as Mr. Cox. I saw Mr. Cox's conduct throughout all the inquiry, and he did not conduct himself in any degree as stated by Dr. Harris in his letter of April 2nd. We did not act as prosecuting counsel, nor twist any of the evidence, nor supply insinuations, nor act as stated in Dr. Harris' letter.

By Mr. Cox: Did you wish to dismiss the case? No; I always thought that Turvey was the rightful owner of the horse.

Mr. Lowe stated that the depositions were signed at the time taken; and, as to the letter, the rough draft was prepared the same evening by Mr. Edward Bayly, and between the 10th December and about the 16th January the alterations were made, and the fair copy prepared for signature, as I was determined to have the matter set straight before I left.

Mr. Cox stated that he was not out of Mudgee, his usual residence, from the 10th December to the 16th January, nor until after the 26th January did he leave the neighbourhood; he then left and did not return until the end of May or beginning of June.

Mr. Cox denied that he had induced Mr. Lowe to sign the letter.

Mr. Lowe said he thought the charge only fit to be laughed at.

Dr. Harris then stated that he had no other charges to make against Mr. Cox and Captain Browne, or either of those gentlemen.

As to Mr. Edward Bayly, Dr. Harris stated that he did not know where Mr. Edward Bayly was, nor did he think he would come up. He, Dr. Harris, does not think he would come to Mudgee as long as the Commissioner was there; he, Dr. Harris, believed that he, Mr. Edward Bayly, was purposely keeping out of the way.

JOHN F. HARGRAVE.

(A.)

£22 : 0 : 0.

Mudgee, 27 October, 1857.

Received from John Joseph Mills the sum of Twenty-two pounds sterling, for a bay horse, blaze down face, branded WC on the near shoulder, and GI on the off shoulder, my property.

Received payment,

Witness—THOMAS HAYES.

WILLIAM CAPLIN.

(B. 1.)

(A. 11 & 12 Vict., Cap. 43.)

Summons to the Defendant upon an Information or Complaint.

To Charles H. Thomas, of Mudgee, in the Colony of New South Wales, Chemist.

Whereas information has been made before the undersigned, one of Her Majesty's Justices of the Peace in and for the said Colony of New South Wales, for that you did on the 13th day of October instant, assault and beat William Browne, Esquire, Police Magistrate for the District of Mudgee: These are therefore to command you, in Her Majesty's name, to be and appear on the twenty-first day of October instant, at eleven o'clock in the forenoon, at Police Office, Mudgee, in the said Colony, before such Justices of the Peace for the said Colony as may then be there, to answer the said information, and to be further dealt with according to law.

Given under my Hand and Seal this fourteenth day of October, in the Year of Our Lord One thousand eight hundred and fifty-seven, at Mudgee, in the Colony aforesaid.

N. P. BAYLY, J. P.

(B. 2.)

Complaint on 9 Geo. 4, c. 31, for an Assault and Battery.

Mudgee, New South Wales, }
to wit. }

Be it remembered, that on the fourteenth day of October, in the year of our Lord one thousand eight hundred and fifty seven, at Mudgee, in the Colony of New South Wales, William Browne, Esquire, Police Magistrate of Mudgee in the said Colony, personally cometh before me, Nicholas Paget Bayly, Esquire, one of Her Majesty's Justices of the Peace for the said Colony, and upon his oath complaineth to and informeth me that Charles H. Thomas, chemist, of Mudgee, in the said Colony of New South Wales, did, on the thirteenth day of October in the year of our Lord one thousand eight hundred and fifty-seven, at Mudgee in the Colony aforesaid, unlawfully assault and beat the said William Browne, contrary to the statute in such case made and provided, and against the Peace of our Lady the Queen, and thereupon the said William Browne prays that I, the said Justice, will proceed in the premises according to law.

W. BROWNE, P.M.

Sworn before me at the Police Office, }
in the Town of Mudgee, this 14th }
day of October, A.D., 1857. }

N. P. BAYLY, J.P.

[Summons granted.]

(C.)

C. 11 & 12 Vic., cap. 43.

Warrant in the first instance.

To the Chief Constable of Mudgee in the Colony of New South Wales, and to all other Peace Officers in the said Colony.

Whereas information hath this day been laid before the undersigned, one of Her Majesty's Justices of the Peace in and for the said Colony of New South Wales, for that Frederick Turvey did, at Guntawang, on the 30th day of May, 1856, obtain from George Inder the sum of eight pounds sterling, under false pretences; and oath being now made before me substantiating the matter of the said information: These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said Frederick Turvey, and to bring him before some one or more of Her Majesty's Justices of the Peace in and for the said Colony, to answer to the said information, and to be further dealt with according to law.

Given under my Hand and Seal this twenty-sixth day of October,
in the year of our Lord one thousand eight hundred and
fifty-seven, at Mudgee in the Colony aforesaid.

W. BROWNE, P.M.

REPORT.

(In reference to the case of W. Browne, Esq.)

TO SIR WILLIAM THOMAS DENISON, Knight Commander of the Most Honorable Order of the Bath, Governor General in and over all the Colonies of New South Wales, Tasmania, Victoria, South Australia, and Western Australia, and Captain General and Governor-in-Chief of the Territory of New South Wales and its Dependencies.

MAY IT PLEASE YOUR EXCELLENCY,—

I, John Fletcher Hargrave, the Commissioner appointed by a certain Commission and Letters Patent dated the 31st day of December, 1858, directing me among (other matters) to make diligent, full, and minute inquiry into a certain charge preferred by Mr. Edward Bayly against William Browne, Esq., have the honor to report to your Excellency the annexed Minutes of Evidence taken before me at the Court House, Mudgee, on the 19th day of January instant, in the presence of Thomas Digby Miller, Esq., Police Magistrate, and of the said William Browne, Esquire, and other persons then and there present and concerned therein.

I have also the honor to report to your Excellency, that in pursuance of the powers and authorities in that behalf contained in the said Commission, I have required the assistance of the said Thomas Digby Miller, Esq., and have held such meetings for the purposes of the said Commission as I considered lawful and necessary, at the Police Office in Mudgee aforesaid, and have summoned to such meetings the abovenamed Mr. Edward Bayly and William Browne, Esq., and all such persons as I judged necessary, by whom I might be better informed of the truth of the matters mentioned in the said Commission, and have inspected all such documents as I deemed expedient as tending to discover the truth in the said matters, and have inquired of the premises by all other lawful ways and means; and after due examination of the premises, do, by this my report in writing under my hand and seal, certify to your Excellency, as required by the said Commission, what I have found touching the premises. And I find as follows:—

That the said charges preferred by the said Edward Bayly against the said William Browne, are defined and contained in a certain letter annexed hereto (marked D), written and sent by the said Edward Bayly to the Honorable the Colonial Secretary, and dated "Royal Hotel, Sydney, 17th November, 1858;" and the said Edward Bayly not appearing before me by himself or by any one on his behalf to support the said charges, I thought it my duty to hand the said letter to the said William Browne, and to permit him to make such statement as he thought proper, and to call and examine such witnesses as he deemed necessary to disprove the allegations contained in the said letter.

And, in the absence of any evidence or proof by the said Edward Bayly in support of the allegations contained in the said letter, I find that the said William Browne has sufficiently disproved the said charges.

Which finding I humbly submit to the consideration of your Excellency.

I have, &c.

JOHN FLETCHER HARGRAVE.

Given under my Hand and Seal, at Mudgee, this 27th day of
January, 1859.

JOHN F. HARGRAVE.

MINUTES OF EVIDENCE.

(In reference to the case of W. Browne, Esq.)

WEDNESDAY, 19 JANUARY, 1859.

The Commissioner inquired whether Mr. Edward Bayly or William Browne, Esq., J. P., were present, or any one in behalf of those gentlemen.

William Browne, Esq., was present.

The Commissioner read the letter, dated 17th November, 1858, Royal Hotel, Sydney, signed Edward Bayly, and addressed to the Honorable the Colonial Secretary, and handed the letter to Captain Browne.

The Commissioner said, that as Mr. Edward Bayly was not present to support the charges contained in that letter Captain Browne was at liberty to make any statement he pleased in answer to the charges contained in the letter.

Captain Browne said, Mr. Edward Bayly was, in last January, acting as my private clerk, and as such had access to, and kept, under my superintendence, the Land Sale Accounts. On a sale of Suburban Allotments on the 5th January he purchased an allotment of land at Redbank Creek, for £9; not having the money with him he requested me to allow him to enter the deposit as paid, being 18s., or 10 per cent on the purchase money, and he would repay me the next day. I paid the deposit on that sale in due course into the Treasury by next post after the sale, and thought no more of the matter. At the end of the month from the sale I paid in the balance of the purchase moneys, and forwarded the balance sheet of that sale according to the account kept by Mr. Edward Bayly in the Land Sale Book, after comparing the figures on the sheet with the sale account. Some time after this Mr. Julien, a storekeeper in Mudgee, called at the office, and said that Mr. Bayly had offered him an allotment of land for sale, but; that he, Mr. Julien, having some doubt about Mr. Bayly's statement had come to me to learn if it was all right; I told Mr. Julien that it was not all right, for that Mr. Bayly had not paid the balance money, and had in consequence forfeited his allotment. After this I examined the Sale Account Book, and found that Mr. Bayly had falsely entered the balance of this allotment as paid, although I had never received a shilling either of the deposit, the balance, or the deed fee. I wrote to the different offices in Sydney to recover the balance money and the deed fee, that I had paid in by mistake through this false entry. The money was returned to me, with the accompanying memorandum from the Treasury, dated 1st June, 1858, marked D.

*The Treasury, New South Wales,
1st June, 1858.*

MEMORANDUM,

The undermentioned sum has been this day placed to the credit of your account at the E. S. & A. Chartered Bank.

PARTICULARS.	PERIOD.		AMOUNT.		
	FROM	TO			
Amount overpaid for Land Sale, 5th January, '58— Lot 28 .....	.....	.....	9	2	0
	TOTAL.....£		9	2	0

To W. A. BROWNE, Esq.,
A. G. C.,
Louisa Creek.

JNO. WELLS.

On receiving this document and the money, I ordered my then clerk, Mr. Kirkby, to correct the false entry, and enter the deposit on the allotment as forfeited, which he did.

I never undertook to pay the balance money at any time for Mr. Bayly, and never was asked to do so, and no communication whatever took place between Mr. Bayly and me with reference to that Land Sale as to paying in the balance or deed fees. He never repaid me the 18s. I lent him to pay the deposit, nor took any further notice of the transaction. So far from my being in January, 1858 in Mr. Bayly's debt, I settled with him in full to the 1st of January on that day, and there was then due from me to him £2 9s., as appears by the memorandum book; and on the 5th January I paid him £10 by a cheque on the Mudgee Branch of the Bank of New South Wales, which was duly honored. Instead of my being indebted to him on the 5th January, he, Mr. Bayly, was indebted to me about £8. Mr. Bayly never overpaid 8s., or 10s., or any other amount, as to that sale, so far as I know;

know; the returns of sale were constantly sent back for mistakes; but Mr. Bayly never paid any moneys, except as I have stated, by my allowing him to enter the deposit of 18s. as paid, and I sent in the total deposit, including that 18s. which, of course, is now lost to me.

In the month of February I told Mr. Bayly that he had robbed me, and put money received in Court into his own pocket, which he had no right to do, and was telling me such abominable falsehoods that I could put up with him no longer.

I have already stated all that took place between me and Mr. Julien as to this allotment, and no one else ever called upon me with reference to that allotment. I distinctly deny that any communication ever took place between me and Mr. Julien, or any one else, with reference to this allotment, to the purport or effect stated by Mr. Edward Bayly in his letter of the 17th November, 1858.

I admit that in February I requested Mr. Edward Bayly to make up his accounts, as no one else could do so; but never intended to take him back into my employ as my clerk, and never solicited him to resume his duties as stated in the said letter.

In March, 1858, Mr. Bayly summoned me to the Small Debts Court for £3 12s., as due to him for work done. His claim was adjourned from March 1st to the 15th of the same month, then adjourned to the 12th April, when it was dismissed with costs.

I considered it my duty to make the erasure of the payment of balance and deed fee; whether I received the amount from the Treasury or otherwise, my account would be altogether wrong; I caused the said erasure to be made in due course of my duty, and also directed the entry of forfeitures to be made at the same date by the said Mr. Kirkby. The balance at the foot of the page was also duly altered by my directions. There was no other mode of my recording the return of the £9 2s. in my Land Sale Book, except by erasing the amount as paid, and inserting only the deposit of 18s. with the proper entry of the forfeiture, as it now stands in the book.

[The Commissioner inspected the book.]

—————
Jacob Julien, examined:—

1. *By the Commissioner*: Do you recollect calling upon Captain Browne with reference to an allotment of land? Yes.
2. How long ago? I do not recollect.
3. Did Mr. Bayly ever offer you any land for sale? Yes. He called me to him, and offered me a suburban allotment at Redbank. This was in 1858, about four or five months ago.
4. What did he say to you? He said he would sell his allotment at Redbank cheap, as he was hard up for cash.
5. Did you buy it? No; I would not buy it.
6. Why not? I came over to the office with him to Captain Browne.
7. What took place? Captain Browne referred him to the books—that he had no title to it. Mr. Bayly examined the books in Captain Browne's presence and in mine, and Captain Browne said he had not paid for the land.
8. What did Captain Browne say to you in his presence? That the land was not paid for.
9. If Mr. Bayly has said that Captain Browne told you the money had been paid, has he said that which is untrue? Decidedly.
10. Did Captain Browne ever tell you then, or on any other occasion, that the money had been paid for that land? No, never.
11. Did Captain Browne say anything on that occasion about writing out a receipt? No.
12. Did Captain Browne ask you to wait for a few moments while he wrote out a receipt? No.
13. Did Captain Browne say anything about your waiting for a few moments while he wrote the receipt out for the money already paid? No; no such conversation ever took place.
14. If Mr. Bayly has said any such conversation took place, is there any truth in it? None whatever.
15. Were you going to a sale that day? No; I was going to no sale whatever.
16. Do you recollect the time this took place? About a fortnight after he left this office.
17. What did you say on that occasion with reference to Mr. Bayly's title to the land—were you satisfied with it or not? I was satisfied he had no title, and told him so.
18. In whose presence? In Captain Browne's.
19. What did you do then? I walked out of the office.
20. Have you ever had any other communication with Mr. Bayly with reference to this land? No, I have not; I have not spoken to him since.

—————
Thomas Digby Miller, Esquire, Police Magistrate, examined:—

1. *By the Commissioner*: Did you succeed Captain Browne as Agent for the sale of Crown Lands in this district? Yes.
2. If money were returned to you from the Treasury at Sydney as purchase money, how would you rectify the mistake? If I had closed the account I should be obliged to make an erasure, to make the totals correspond with the amount actually paid to Government.
3. How could the necessity of the erasure appear? By reference to the reports of sale and attested accounts forwarded to the Treasury, Audit Office, and Surveyor General's Office.

William Browne, Esq., J. P., examined:—

1. *By the Commissioner*: Have you ever abused your authority in order to oppress Mr. Edward Bayly? Never, in any way; I have always been a kind friend to him.
2. Did you ever dissuade him from sending a letter to Government complaining of you? No, never.
3. Did you ever issue any execution against his property? I did.
4. In what character? As Registrar of the Court of Requests, at Mr. Dickson's suit against Mr. Bayly. Mr. Dickson would have cause of action against me if I had not issued execution.
5. Did you ever hear of such execution being illegal? Yes, Mr. Bayly has brought an action against me.
6. Had you any personal feelings against Mr. Bayly with reference to that execution? Not the slightest.
7. Did you place constables in Mr. Bayly's house? No; it was not my province, but the bailiff's to whom I gave the writ of execution.
8. When the writ had been delivered to the bailiff what office had you further to do? Nothing whatever.
9. Did you interfere any further in the matter? No, no further whatever.
10. Did you keep the constables in Mr. Bayly's house six days? No.
11. Did you give the Chief Constable, as bailiff, any orders about the sale? No, none whatever.
12. Did you order the Chief Constable to bid at that sale? No; I gave him no orders whatever.
13. Did you interfere in any way in the sale of Mr. Edward Bayly's goods under that execution? In no way whatever.

Charles Hardy, Bailiff of the Small Debts Court, examined:—

1. *By the Commissioner*: Do you recollect a sale of goods belonging to Mr. Edward Bayly? I do.
2. At whose suit? Mr. Dickson's.
3. What did you do when you received the writ of execution? I put a constable in possession—only one. He was relieved as usual.
4. How long were they in possession? Five clear days.
5. What was then done with the property? It was put up for sale.
6. Who was present at the sale? Dr. Harris, Mr. Edward Bayly, Mr. Christian, and one of my men.
7. Was Captain Browne present? No one else than I have named.
8. What took place? Three days before the sale I sent a notice down by one of the men, that the sale would take place on the 25th March. He posted it against the door-post, and Mr. E. Bayly took it down. I spoke to Mr. E. Bayly about taking it down, and he said his reason for taking it down was that he intended to pay the amount when the first article was put up for sale. On the day of sale I put up a table for sale. I explained why I was there and why I sold.
9. Was any objection made to the sale? Yes; Mr. Devereux made an objection. Mr. E. Bayly had asked me to wait until he came. Mr. Devereux said there was a bill of sale given to Mr. Sinden by Mr. Bayly some time previous, and that the bill of sale was in his office, but as he did not produce it I continued with the sale.
10. Did Captain Browne in any way interfere with the sale? No.
11. Did he order you to bid for the articles? No.
12. Did you bid? Yes; on their keeping me there a quarter of an hour I said the table was worth a pound, and I would give that for it.
13. Did you give that for it? No.
14. What took place then? Mr. Christian asked the amount of debt and costs, and I told him £5 16s, on which he said he would pay it for Mr. Bayly, and he did so pay it.
15. Did Captain Browne give you any orders whatever about the sale? No.
16. Was there any one present at the sale except those you have named? No.

No one appearing on Mr. Edward Bayly's behalf the Commissioner adjourned the meeting *sine die*.

JOHN F. HARGRAVE.

(D. 1.)

Royal Hotel, Sydney,
17th November, 1858.

Sir,

I have the honor to inform you that in January last I was acting as clerk for Captain Browne, then Police Magistrate for the District of Mudgee. On the 5th and 6th days of January a Government land sale took place at the Police Office. I then purchased 2a. 1r. 20p., the land being situated at Redbank Creek, near Mudgee; the deposit of ten per cent. was duly paid, and the remainder of the purchase money Captain Browne undertook to pay at the expiration of the month, he being considerably more than the amount required in my debt. At the expiration of the month the returns of sale were made out, and Captain Browne remitted to the Treasury the amount of the balance due by me, and received a receipt for the same, but as eight or ten shillings were overpaid by me the returns of sale were sent back to be corrected.

I was then living on intimate terms of friendship with Captain Browne, and did not conceive it necessary to get from him the usual printed receipt; and several other parties who had purchased land at the sale paid their money without receiving any receipt from Captain Browne.

In the month of February I had words with Captain Browne, in consequence of his behaving in a most ungentlemanly manner towards me, and I refused to have any further transactions with him, nor would I act any longer as his clerk. At that period a resident in Mudgee wished to re-purchase the land in question from me, and as I had no receipt from Captain Browne I proceeded with the party to the Police Office, and he then asked if the land was mine, and if the full amount of purchase money had been paid. Captain Browne assured him that such was the case, and produced the land sale book to satisfy the party, and also stated that if he would wait for a few minutes he would write out a receipt; but the party being in a hurry to proceed to a sale then going on, expressed himself satisfied, and left.

I was then most urgently solicited by Captain Browne to resume my duties as his clerk, but I declined doing so, and requested a settlement of my account. He then lost his temper, refused to give me a settlement, and said he would also detain the receipt for the land. As the money had been paid to the Government, and acknowledged, I did not trouble myself any further about the matter, but at the expiration of two or three months after I wrote to the Surveyor General for a deed of grant; I received no reply to my letter, and wrote the second, and again the third time, and after considerable delay I received a notification from the Surveyor General stating that a deed of grant for the land in question had been made out in my favor, but afterwards cancelled, in consequence of Captain Browne having stated that I had not complied with the terms of sale.

I afterwards called upon Mr. Miller, P.M. of Mudgee, in company with Mr. Jones, a solicitor, and requested him to allow us to see the Land Sale Book, which he kindly did; we then saw that the original entry had been *erased*, and the land marked off as forfeited.

I trust, Sir, that you will be good enough to cause inquiry to be made in the matter, in order that I may obtain justice from Captain Browne, and recover my land.

I beg also to state that in several instances he has abused his authority in order to oppress me; so much so, that I considered it my duty to prefer charges against him and forward the same to the Government, but on the eve of dispatching the letter I was prevailed upon by mutual friends not to forward it for the present, as they thought Captain Browne would eventually do me justice.

I may mention that upon one occasion he took advantage of his position as Registrar of the Court of Requests to issue (illegally) an execution against my property, and as I declined to pay the amount demanded, (knowing it to be illegal), he placed constables in my house, and retained them there for a period of six days, and then had my property put up for sale, and as no person would bid for a single article, the Chief Constable, (as bailiff) acting under Captain Browne's order, *bid himself*, and I was then compelled to pay the money. An action is now pending in the Supreme Court against Captain Browne for the trespass.

I have, &c.,
E. BAYLY.

To The Honorable
The Colonial Secretary,
Sydney.

(D. 2.)

The Treasury, New South Wales,
1 June, 1858.

MEMORANDUM.

The undermentioned sum has been this day placed to the credit of your Account at the E. S. & A. Chartered Bank.

PARTICULARS.	PERIOD.		AMOUNT.		
	FROM	TO			
Amount overpaid for Land Sale, 5th January, 1858— Lot 28 .....	.....	.....	9	2	0
	TOTAL.....£		9	2	0

To W. A. BROWNE, Esq.,
A. G. C.,
Louisa Creek.

JNO. WELLS.

1858-9.

Legislative Assembly.
NEW SOUTH WALES.

DR. HARRIS.

(PROCEEDINGS OF EXECUTIVE COUNCIL IN REFERENCE TO.)

Ordered by the Legislative Assembly to be Printed, 23 March, 1859.

PROCEEDINGS of the Executive Council on the 7th February, 1859, with respect to the Report of J. Fletcher Hargrave, Esq., B. L., in the case of Richard Harris, Esq., J. P.

Minute No. 59-6. Confirmed 14 February, 1859.

REFERRING to the proceedings on the 7th December last, with respect to certain charges preferred against Richard Harris, Esq., J. P., and the counter-charges preferred by him against other Magistrates of the Mudgee Bench, His Excellency the Governor General lays before the Council two Reports from J. Fletcher Hargrave, Esq., B. L., the Commissioner appointed pursuant to their advice on the above date, to investigate the several matters arising out of the charges and counter-charges in question, which are set forth in detail in the Proceedings of the Council on the 22nd November, 1858.

2. Accompanying the Commissioner's Reports are Minutes of Evidence taken by him upon the various points which required elucidation; and with respect to the original charges, the Commissioner has submitted his finding, which is briefly to the following purport, viz :—

1. That Richard Harris, Esq., J. P., was present on the Mudgee Bench on the 14th October, 1857, at the investigation of a charge of disputed ownership, touching a horse which previously to that date had passed into his own possession, by purchase from one of the parties to the charge; and although not actively interfering as a Magistrate in the said investigation, he, by retaining his seat on the Bench, and by attaching his signature as a Magistrate to the deposition book, would and did necessarily give ground for the impression that he was in fact the sitting Magistrate adjudicating with the Police Magistrate upon the charge in question; and—

2. That the conduct of the said Richard Harris, Esq., J. P., was, under the circumstances, at least indiscreet and injudicious.

3. With respect to the counter-charges preferred by Richard Harris, Esq., J. P., against Captain Browné, the late Police Magistrate of Mudgee, and Archibald Cox, Esq., J. P., the Commissioner reports that those counter-charges, so far as they relate to the former gentleman, have been either altogether or partially abandoned by Dr. Harris, and where not completely so abandoned, have been substantially and sufficiently disproved. That so far as they relate to Captain Browne and Mr. Cox jointly, they have been either altogether abandoned by Dr. Harris, or sufficiently denied and disproved; and that so far as they relate to Mr. Cox particularly, they have been altogether disproved by that gentleman.

4. With respect to the charges preferred against Captain Browne by Mr. E. Bayley, the Commissioner has in a separate Report submitted the result of his inquiry, which is to the effect that Mr. Bayley not having appeared in support of his charges, and upon consideration of the evidence in disproof submitted by Captain Browne, he is of opinion that that gentleman has sufficiently disproved the said charges.

5. The Council having given to the circumstances placed before them the fullest consideration, are unable to resist the conviction that, even giving to Richard Harris, Esq., J. P., the full benefit of his statement that the proceeding in connexion with which his conduct has been brought to the notice of the Government was the result of inadvertence, he must still be considered worthy of the gravest censure for the course pursued by him in preferring the counter-charges against the other Magistrates above-mentioned—charges which, notwithstanding their very serious character, and the deliberate shape in which they were asserted, either were withdrawn by him, on the opportunity of proof being afforded, or, where not withdrawn, have been disproved.

6. It has been with the Council a matter of grave doubt whether under these circumstances it has not become their duty to advise the issue of a *supersedeas* removing Dr. Harris from the Commission of the Peace; and they have only abstained from taking that course upon consideration that the circumstances of the charges in question having been put forth in defending himself may be regarded as some slight palliation.

7. They are nevertheless of opinion that Dr. Harris should be severely reprimanded, and advise that he be reprimanded accordingly.

8. With regard to the Magistrates against whom the counter-charges in question were preferred, the Council deem it unnecessary to do more than express their concurrence in the findings at which the Commissioner has arrived.

Executive Council Office,
Sydney, 17 February, 1859.

59-120.

A. ORPEN MORIARTY,
Clerk of the Council.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

MR. WALSH AND THE MAGISTRATES OF BERRIMA.

(CORRESPONDENCE RELATIVE TO REFUSAL TO HEAR MR. WALSH.)

Ordered by the Legislative Assembly to be Printed, 30 March, 1859.

RETURN to an *Address* of the Honorable the Legislative Assembly of New South Wales, dated 11 March, 1859, praying that His Excellency the Governor General would be pleased to cause to be laid upon the Table of this House:—

“ All Correspondence between the Magistrates of Berrima, or
 “ any of them, or between the Clerk of the Bench at Berrima,
 “ and the Government, or Mr. Gordon, or C. H. Walsh, Esq.,
 “ his Solicitor, or between the latter gentleman and the Govern-
 “ ment, relative to the refusal of the said Magistrates to hear
 “ Mr. Walsh in their Court in his professional capacity.”

(*Mr. Murray.*)

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MR. WALSH AND THE MAGISTRATES OF BERRIMA.

No. 1.

MR. JOHN GORDON to THE ATTORNEY GENERAL.

Cross Roads, Goulburn,

6 March, 1858.

SIR,

I have the honor to submit to you the following statement, the truth of which I am ready to prove:—

On the 6th January last an information was filed against me at Berrima, for illegally selling spirits, and a summons granted thereon. Although I reside ten miles from Berrima, this summons was not served until the 12th January—twenty-four hours only previous to the day of hearing, namely, the 13th January.

On the 13th January I attended at the Police Office, Berrima, pursuant to the summons. On its being called on I complained of the shortness of the time given me to prepare for my defence. I was asked if I had any witnesses; I said not, but I referred to preparing myself with professional assistance, which I could not have from Goulburn in the time allowed. The Bench decided upon going on with the case; and on the deposition herewith I was convicted and fined £30. I protested against the decision, and then and there stated my intention of taking the case to a higher Court; and for that purpose I then applied for a copy of the proceedings.

A glance at the depositions must be sufficient to satisfy you there was no evidence before the Justices on which I could or ought to have been convicted; and it is clear a prohibition would have been at once granted by the Supreme Court. Independently of the failure of the case for the prosecution, I had a good defence on the merits.

The copy of the proceedings was not given to me by the Clerk of the Bench on that day, though I applied for them after the rising of the Court.

I applied to him again on the 18th and the 20th January, and the 3rd February; and it was not until the 10th February that a portion of them was given to me. In addition to the application made by myself, Mr. Powell, the Postmaster of Berrima, applied for them several times between the days above-named, on my behalf, but failed in obtaining them.

Immediately on procuring the deposition I laid it before my attorney, who advised me that I was then too late to move for a prohibition—my residence being within one hundred miles of Sydney. The motion should be made within twenty days of the conviction, while the depositions were not given to me until thirty-one days after the conviction. I was also late to appeal.

The portion of the proceedings supplied by the Clerk of the Bench contains only three folios, and could have been copied in a very short space of time.

In reply to a letter addressed by my attorney to the Clerk of the Bench, on the subject of his having detained the papers so long, Mr. Liardet, the Clerk writes:—"Mr. Gordon asked me for it (the deposition) on the day he was fined, again on the 20th, and again on the 3rd instant—both Court days. I was so occupied on each occasion and during the intervals, it was impossible I could comply with his request, unless I worked after hours."

To Mr. Powell and myself his excuse was that he forgot all about them.

I would not be unwilling to accept either of those excuses, if they were well-founded. I am sure you will not believe the Clerk of the Bench at Berrima has so much to do as to be unable to find time, from the 13th January to 10th February, to copy three folios of depositions; and as to forgetting the matter, the number of times he was applied to renders that version improbable.

But, Sir, I believe the detention of the documents to be designed, and to form one of many acts of injustice and oppression committed towards me by the Clerk of the Bench at Berrima for some years past.

It

It is notorious in Berrima, and expression has often been given to the feeling, that I cannot obtain the same measure of justice or accommodation in the Police Office there that others may, and for this reason:—

About three years ago the Chief Constable of Berrima summoned me to the Small Debts Court, for slander, claiming damages of £10. I attended on the summons; but in consequence of there being no Magistrate in attendance the case was adjourned for a week. I attended again with a like result. On the third occasion I did not attend; in my absence, one Magistrate, Mr. Oxley, (the brother-in-law of the clerk), gave judgment against me by default, without examining a single witness, for £10. For four months no steps were taken to levy the amount, though I resided within ten miles of Berrima, on a well stocked farm, and it was only when I was found twenty miles from home on my way to Sydney, my teams were levied on for £11 13s., damages and costs, which I then paid. Being advised of the illegality of the proceeding, I instructed my attorney to proceed in the matter. In accordance with my instructions he had a personal interview with Mr. Liardet and Mr. Oxley, and he offered to forego proceedings if the sum actually levied off me were returned; this was refused. Notice of action was given and disregarded. An action was commenced against Mr. Oxley, Mr. Liardet, and the Chief Constable, and after a declaration was filed, the defendants then offered to return the sum levied. I could not accept this without costs—they consented to pay the costs, and I accepted just the sum so illegally levied off me, though I was advised that from the illegality of the proceedings, and the harshness attending the levy, substantial damages would have been given me.

Instead of appreciating my forbearance and moderation, I have been the victim of petty annoyance at the hands of the Police authorities in Berrima ever since, and I cannot but regard the detention of the depositions in this case as part of the system. I have hitherto abstained from complaining; now I feel bound to do so.

By the inexcusable and unwarrantable delay of the Clerk of the Bench, I have been deprived of the remedies open to me by law against the unjustifiable and illegal conviction of the Justices. I have had to pay the full penalty and costs, but I have every confidence that you, as Minister of Justice, will give me such redress as will teach Mr. Liardet that he cannot with impunity exercise his brief authority to the injury and annoyance of any man, however humble his position may be.

I have, &c.,

JOHN GORDON.

THE HONORABLE

THE ATTORNEY GENERAL,

Sydney.

(No. 403.—58-6.)

[Enclosure in No. 1.]

9th January, 1858.

Chief Constable v. John Gordon, charged with illegally selling Spirituous Liquors on the 8th November, 1857.

Office copy of the proceedings herein.

This deponent, John Edward Lignum, on oath saith as follows:—I purchased a bottle of rum from Mrs. John Gordon on the 8th of last November; it was given to me in a bottle, in the house of Mrs. Gordon; on this particular occasion I did not pay immediately for it; it was to be deducted from my wages, and I was to pay 4s. 6d. for it; I swear my account is strictly true, and that I purchased the bottle of rum in question, and it was delivered to me.

JOHN EDWD. LIGNUM.

Sworn before us, at Berrima, this }
13th January, 1858. }

H. M. OXLEY, J. P.
CHARLES L. NICHOLSON, J. P.
JOHN MORRICE, J. P.

The defendant, John Gordon, states,—I have nothing to say in my defence.

JOHN GORDON.

Statement made before us, the day }
and year first before written. }

H. M. OXLEY, J. P.
CHARLES L. NICHOLSON, J. P.
JOHN MORRICE, J. P.

MR. WALSH AND THE MAGISTRATES OF BERRIMA.

New South Wales, }
Berrima to wit. }

Judgment of the Court is, that John Gordon is fined in the sum of thirty pounds, and ordered to pay costs of Court, 8s. 2d., for illegally selling spirituous liquor, called rum, to one John Edward Lignum, at the residence of the said John Gordon, at the Ploughed Ground, in the District of Berrima, on the 8th day of November, 1857, and in default of immediate payment the law to take its course in that respect.

Police Office, Berrima,
13 January, 1858.

H. M. OXLEY, J. P.
CHAS. L. NICHOLSON, J. P.
JOHN MORRICE, J. P.

This is to certify that the foregoing is a true copy of the proceedings in the case of the Chief Constable v. John Gordon, (sly grog selling), heard before the Bench of Magistrates at Berrima, on the 13th January, 1858, when the defendant was fined £30.

J. EVELYN LIARDET, C. P. S.

Police Office, Berrima,
10 February, 1858.

[Costs of Copy of the Proceedings 1s.]

No. 2.

THE SECRETARY TO THE CROWN LAW OFFICERS to J. E. LIARDET, Esq.

(No. 58-120.)

Attorney General's Office,
Sydney, 8 March, 1858.

SIR,

I have the honor, by direction of the Solicitor General, to forward herewith to you a copy of a communication received from Mr. John Gordon, on the subject of the delay in furnishing him with a copy of the depositions against him at the suit of the Chief Constable, which you will have the goodness to return to me as soon as possible, accompanied with any observations which you may have to offer thereon.

I have, &c.,

J. EVELYN LIARDET, Esq.,
Clerk of Petty Sessions,
Berrima.

W. E. PLUNKETT.

No. 3.

J. E. LIARDET, Esq., to THE SECRETARY TO THE CROWN LAW OFFICERS.

(No. 58-58.)

Police Office, Berrima,
13 March, 1858.

SIR,

In reply to your letter dated the 8th instant, No. 58-120, I have the honor to convey, for the information of the Honorable the Crown Law Officers, that I cannot receive the complaint therein enclosed as proceeding from Mr. Gordon, but emanating from his attorney, Mr. Walsh—(Vide letter marked E)—and it contains such a tissue of uncalled for charges against this Bench, and the whole Police Establishment of this district, for years past, chained together with a view to injuring me in the present instance.

I have paragraphed the complaint, and answered the charges seriatim.

1. The information was exhibited by the Chief Constable before Mr. Morrice, J.P., and the summons signed on Saturday the 9th January, 1858, but did not come into my hands until Monday the 11th, when I at once filed and filled them up, and returned them to the Chief Constable, for service.

2. Mr. Gordon did not object to the case being heard on account of the shortness of time allowed him to prepare, or ask for a postponement, to obtain professional advice; had he done so, I am sure the Bench would have complied with his request. When the case for the prosecution was concluded, and the usual question put to Mr. Gordon, he said, "I have nothing to say in my defence;" which was taken down, signed by him and the Magistrates. (Vide the original proceedings herewith transmitted.) I believe he said nothing more.

3. With regard to the charge contained in the 3rd paragraph of the complaint, I have no observation to make on it.

4. In reply to paragraphs 4 and 5, I beg to refer to my letter, dated the 23rd ultimo, No. 58-36, and further, on Mr. Powell reminding me, at the Post Office Mr. Gordon

required a copy of the case, I supplied it, giving him the information, deposition of the witness, Mr. Gordon's statement, and the judgment, but not the summonses to the defendant and witnesses, which I have never given in any case, or been asked for.

5. Paragraph 6.

6. Paragraph 7. *Vide No. 4 above.*

7. With regard to paragraphs 8, 9, and 10, I did say to Mr. Powell, and to Mr. Gordon, the last time I saw him, I had forgotten all about them, which was true, but had Mr. Gordon complied with the requirements of the Act, 14 Victoria, No. 43, and paid me for the copy of the proceedings beforehand, I should have been compelled to have given him a receipt, and noted it, and thereby it would not have slipped my memory, and he would have received the proceedings in time.

8. Paragraph 11. I positively deny that the detention of the documents was designed, or that I have ever committed any acts of injustice and oppression towards Mr. Gordon.

9. Paragraph 12 contains a most unfounded charge against the whole Bench of Magistrates; the reasons assigned are so frivolous and foreign to the present case under discussion, I am sure you will excuse further reference to them.

10. Paragraph 13. I cannot conceive how the mere fact of Mr. Gordon having been fined so frequently by this Bench, comprising five Magistrates, for offences against the Vagrant Act—drunkenness, assaults, and other minor offences—and the acts of the Bailiff of the Court of Requests, can be construed into having any connexion with the detention of the depositions in this case, or as part of the system of petty annoyance. Moreover, Mr. Gordon acknowledged to me in this office, so recently as the 2nd instant, that he was satisfied I had no design in the matter—that it was an oversight—he had always received attention from me in the office.

11. Paragraph 14. Mr. Gordon has not been deprived of the remedies open to him by law, against the conviction of the Justices; because the honorable the Crown Law Officers, and the convicting Magistrates, have consented not to take any advantage of the delay caused by me in not furnishing a copy of the depositions; and, moreover, I offered to refund to Mr. Gordon the amount of penalty, in the event of his being barred from an appeal, which would have resulted in the reversal of the Magistrates' decision.

12. I sincerely regret I should have inadvertently caused so much troublesome correspondence, and it must be plain to any competent person, from the length of time I have been in office, I could not but anticipate it, had I been guilty of the highly dishonorable design imputed to me, which I most firmly deny.

I have, &c.,

THE SECRETARY TO THE
CROWN LAW OFFICERS.

J. EVELYN LIARDET, C.P.S.

No. 4.

THE SECRETARY TO THE CROWN LAW OFFICERS to MR. JOHN GORDON.

(No. 58-191.)

*Attorney General's Office,
Sydney, 14 May, 1858.*

SIR,

In acknowledging the receipt of your letter of complaint, of the 6th March last, against Mr. J. E. Liardet, C. P. S. Berrima, I have now the honor, by direction of the Attorney General, to state, that, upon receipt of your letter of the above date, a copy of same was transmitted to Mr. Liardet, with a request that he would at once forward to this office a report, with such observations thereon as he might have to offer, (the enclosed is a copy of Mr. Liardet's reply thereto). I am at the same time to remark, that Mr. Liardet's conduct in delaying so unreasonably the giving a copy of the depositions is, in the Attorney General's opinion, exceedingly reprehensible, but that he does not at present feel called upon to take any steps against Mr. Liardet, provided that he can place you in the position in which you would have been placed had the copy depositions been given when asked for. That can be done only by the Justices—the informer (*i.e.*, the Chief Constable), and the Attorney General consenting to waive all objection on the ground of delay, which the Attorney General is willing to do under the circumstances. Mr. Liardet, in the letter of which the enclosed is a copy, says, that he has offered to pay the £30, the amount of the fine

fine imposed upon you. If that be so, it will be for you to say whether you will accept that money or go on with the prohibition. I have also the honor to send herewith a copy of a communication which has this day been addressed to Mr. Liardet on the foregoing subject.

I have, &c.,

MR. JOHN GORDON,
Cross Roads, Goulburn.

W. E. PLUNKETT,
Secretary to the Law Department.

No. 5.

THE SECRETARY TO THE CROWN LAW OFFICERS to J. E. LIARDET, ESQ.
(No. 58-192.)

Attorney General's Office,
Sydney, 14 May, 1858.

SIR,

In acknowledging the receipt of your letter of the 13th March last, and its enclosures, and in reference to the previous correspondence on the subject of complaint by Mr. John Gordon against you, I am now directed to inform you that the Attorney General agrees with the Solicitor General that your conduct in not giving Mr. Gordon a copy of the extremely short depositions against him until after the expiration of twenty days, although they were repeatedly applied for, is highly reprehensible; but I am at the same time desired to remark, that the Attorney General will not deem it necessary to take any further notice of the matter, if you can place Mr. Gordon in the same position in which he would have been as to applying for a prohibition had he received the copy depositions in proper time. For that purpose the consent of the Chief Constable (who was the informer) will be required, as well as the Justices' and the Attorney General's consent, which, for himself, Mr. Martin has no objection to give.

Original depositions and letters herewith returned.

I have, &c.,

J. E. LIARDET, ESQ., C. P. S.,
Berrima.

W. E. PLUNKETT.

No. 6.

J. E. LIARDET, ESQ., to THE SECRETARY TO THE CROWN LAW OFFICERS.
(No. 58-131.)

Police Office, Berrima,
26 May, 1858.

SIR,

In reply to your letter dated the 14th instant, No. 58-192, I have the honor to convey, for the information of the Honorable the Attorney General, that I have this day obtained the consent of Mr. James Sheppard to an application for a prohibition in the case noted in the margin, and forwarded it to Mr. Walsh, on behalf of the defendant, John Gordon. The consent of the Bench of Magistrates at Berrima has already been given; and, in conclusion, I again beg to express my regret at having inadvertently caused so much unnecessary correspondence in the matter.

The Queen v. John Gordon, Sly grog selling. Heard, 13 Jan., 1858.

I have, &c.,

THE SECRETARY TO THE
CROWN LAW OFFICERS,
Sydney.

J. EVELYN LIARDET, C.P.S.

No. 7.

THE BENCH OF MAGISTRATES, BERRIMA, to THE ATTORNEY GENERAL.
(No. 58-210.)

Police Office, Berrima,
12 August, 1858.

SIR,

We have have honor to call your attention to your letter, dated 8th March last, No. 58-120, addressed to Mr. J. Evelyn Liardet, Clerk of Petty Sessions of this District, and enclosing a letter of complaint from Mr. John Gordon—arising out of a case of "Regina v. John Gordon, sly grog selling,"—for that officer's report thereon, with a view to your favoring us with a copy of Mr. Gordon's complaint against Mr. J. Evelyn Liardet, as we are given to understand there are certain charges made against this Bench therein.

We have, &c.,

THE HONORABLE
THE ATTORNEY GENERAL.
Sydney.

H. M. OXLEY, J.P.
JOHN MORRICE, J.P.

No. 8.

THE SECRETARY TO LAW OFFICERS to THE BENCH OF MAGISTRATES, BERRIMA.

(No. 58-346.)

*Crown Law Offices,**Sydney, 19 August, 1858.*

GENTLEMEN,

In compliance with the request contained in your letter of the 12th instant, I have honor to forward herewith to you a copy of Mr. Gordon's letter of complaint against the Clerk of your Bench, which was some time since prepared in this office and forwarded to Mr. Liardet, for the purpose of enabling him to furnish some explanation in respect of the statement therein contained, and subsequently returned with report thereon.

I have, &c.,

THE BENCH OF MAGISTRATES,
Berrima.

W. E. PLUNKETT.

No. 9.

THE BENCH OF MAGISTRATES, BERRIMA, to THE ATTORNEY GENERAL.

(No. 58-249.)

*Police Office, Berrima,**14 October, 1858.*

SIR,

We have the honor to enclose you the notices served upon us by Mr. C. H. Walsh of Goulburn, attorney for the plaintiff in the case noted in the margin, who has applied to have our judgment reversed in the matter.

2. We also transmit you the original proceedings as taken before us, and upon which we inflicted the fine of Fifty pounds on defendant; this having been the second time defendant has been fined this year for a similar offence.

3. From our knowledge of defendant's character, and his reputation of being a noted sly grog seller, we felt we had no other course open to us but to fine him.

4. We trust we have not been wanting in official etiquette in thus applying to you to uphold and defend us in the decision we came to in this matter.

We have, &c.,

H. M. OXLEY, J.P.

CHARLES L. NICHOLSON, J.P.

JOHN MORRICE, J.P.

THE HONORABLE

THE ATTORNEY GENERAL,

Sydney.

No. 10.

J. E. LIARDET, ESQ., to THE ATTORNEY GENERAL.

*Metropolitan Hotel, Sydney,**18 October, 1858.*

The Chief Constable v. John Gordon.

Sly Grog Selling.

Heard 13th January, 1858.

SIR,

With reference to the previous correspondence in the matter of Mr. John Gordon's complaint against me, 23rd February to 26th May, 1858, in consequence of my not having supplied him with a copy of the depositions in time to enable him to apply for a prohibition against the Justices' decision herein, I do myself the honor to inform you that after the voluminous correspondence from Mr. Walsh addressed to you, evidently with a view to prejudicing you against me, and my having complied with Mr. Walsh's request in every particular on behalf of his client, and six months having expired since a further reference to this business, from which circumstance, I had reasonable grounds for believing the matter settled, I regret to convey I have been served with a writ for £100 by Mr. Walsh in the matter, through one of his clerks, sent down from Goulburn to Berrima, as I believe, for the purpose of augmenting costs, instead of its having been served by the bailiff at Berrima in the usual way. I firmly believe the case has been got up vexatiously, and with no other view than to harass and put me to expense by Mr. Walsh. I therefore trust, from your knowledge of the case, you will be able to perceive it to be one of great hardship as re-opened

to

The Chief
Constable
v.
John Gordon.
Sly grog selling.
Heard 22nd
September, 1858.
To be returned.
£50.

to me, and under these circumstances, coupled with my pecuniary inability to bear the costs of the defence, I trust you will favor me by advising the Government, which I have so long and faithfully served, to defend this action on my behalf, with a view to repel private aggression, attempted with the intention of bringing the public duties of my office into contempt.

I have, &c.,

THE HONORABLE
ATTORNEY GENERAL.

J. EVELYN LIARDET, C.P.S

No. 11.

THE SECRETARY TO THE CROWN LAW OFFICERS to THE BENCH OF MAGISTRATES, BERRIMA.
(No. 58-404.)

Crown Law Offices,
Sydney, 21 October, 1858.

GENTLEMEN,

In acknowledging the receipt of your letter of the 14th instant, and other papers transmitted by you, in the matter of an application by John Gordon for a prohibition to be directed to Henry M. Oxley, Charles L. Nicholson, and John Morrice, Esquires, Justices of the Peace, and to Jeremiah Frewin, Chief Constable of Berrima,—I beg to inform you that, having submitted the papers in question for consideration by the Solicitor General, and having obtained that officer's opinion and directions thereon, I have now the honor to state, that it appears that the decision of the Justices in question cannot be upheld. The first and sixth grounds of objection are fatal to the validity of the conviction. Every information must now be confined to a statement of one offence—(see 11 and 12 Vict., cap. 43, sec. 10)—and the information charges two distinct offences. There ought also to have been an express and formal averment of a previous conviction to justify the imposition of a fine of £50.

Upon the face of the proceedings, therefore, the Justices already named have clearly exceeded their jurisdiction, and the prohibition must issue.

I have, &c.,

W. E. PLUNKETT.

THE BENCH OF MAGISTRATES,
Berrima.

No. 12.

THE BENCH OF MAGISTRATES, BERRIMA, to THE SECRETARY TO THE CROWN LAW OFFICERS.
(No. 58-259.)

Police Office, Berrima,
29 October, 1858.

SIR,

We have the honor to call your attention to our letter of the 14th instant, No. 58-249, addressed to the Honorable the Attorney General, relative to the case noted in the margin, with a view to your returning the original proceedings taken before this Bench against Gordon, at your earliest convenience, copies of which have been applied for.

The Chief Constable v. John Gordon. Sly Grog Selling. Application for a Prohibition.

We have, &c.,

THE SECRETARY TO THE
CROWN LAW OFFICERS,
Sydney.

H. M. OXLEY, J.P.
WM. JNO. CORDEAUX, J.P.

No. 13.

THE SECRETARY TO THE CROWN LAW OFFICERS to THE BENCH OF MAGISTRATES, BERRIMA
(No. 58-424.)

Crown Law Offices,
Sydney, 1 November, 1858.

GENTLEMEN,

In compliance with the request contained in your letter of the 29th of last month, I have now the honor to return herewith to you the papers connected with the case noted in the margin, transmitted to the Attorney General with your letter of the 14th ultimo.

The Chief Constable v. John Gordon. Sly Grog Selling. Application for a Prohibition.

I have, &c.,

THE BENCH OF MAGISTRATES,
Berrima.

W. E. PLUNKETT.

No. 14.

THE SECRETARY TO THE CROWN LAW OFFICERS to J. E. LIARDET, ESQ.

(No. 58-437.)

*Crown Law Offices,**Sydney, 10 November, 1858.*

SIR,

In acknowledging the receipt of your letter of the 13th ultimo, respecting the matter of Mr. John Gordon's complaint against you in reference to the case noted in the margin, I am directed by the Attorney General to state, that he regrets very much his inability to comply with your request. You have, undoubtedly, in his opinion, laid yourself open to a charge of neglect of duty, and when an individual is damaged by neglect of duty on the part of a public officer, it would, he thinks, ill become the Government to interpose and use the public purse to protect him from the consequence of his own negligence. In the opinion of the Solicitor General, a public officer ought only to be defended at the public expense when he has carried out the express instructions of the Government, and is sued by some person who believes those instructions to be illegal. In all cases public officers must act upon their own responsibility.

Chief Constable
v. John Gordon.
Sly Grog Selling.
Heard 13 Jan'y,
1858.

I have, &c.,

J. E. LIARDET, ESQ., C.P.S.,
Berrima.

W. E. PLUNKETT.

No. 15.

J. E. LIARDET, ESQ., to THE SECRETARY TO THE CROWN LAW OFFICERS.

(No. 58-282.)

*Police Office, Berrima,**13 November, 1858.*

The Chief Constable v. John Gordon.—Sly Grog Selling.

SIR,

In reply to your letter, dated the 10th instant, No. 58-437, I have the honor to convey, for the information of the Honorable the Attorney General, that I have already been censured by the Honorable the Crown Law Officers in this matter, and I respectfully submit I have suffered enough thereby. On reviewing the correspondence, and drawing attention to the latter portion of the 11th paragraph of my letter, dated the 13th March, 1858, No. 58-58, viz.:—"I offered to refund to Mr. Gordon the amount of penalty, in the event of his being barred from an appeal, which would have resulted in the reversal of the "Magistrates' decision." This took place previously to Mr. Gordon making his complaint against me. I am therefore impressed that Mr. Gordon, not having accepted my proposal at the time, but preferred bringing the matter under the notice of the Government to injure me, and after obtaining all he required to place him in a position to carry on his application for a prohibition, which he abandoned doing, has no further claim upon me. I trust the Honorable the Attorney General will perceive this to be a case of very great hardship, and of no ordinary nature, that I require his support, which if withheld will prove fatal to my case. I am of opinion the jury would consider it a bad one in consequence. This being the first time I have been censured, or made a mistake in my office, I trust the Honorable the Attorney General will not allow me to be placed in so critical a position, probably on the brink of ruin, through the act of inadvertence on my part, and thereby gratify vindictive feelings on the part of Mr. Gordon and his attorney.

I have, &c.,

THE SECRETARY TO THE
CROWN LAW OFFICERS,
Sydney.

J. EVELYN LIARDET, C. P. S.

No. 16.

THE SECRETARY TO THE CROWN LAW OFFICERS to J. E. LIARDET, ESQ.
(No. 58-453.)

*Crown Law Offices,
Sydney, 18 November, 1858.*

SIR,

In acknowledging the receipt of your letter of the 13th instant, further on the subject of the case noted in the margin, and again soliciting the Law Officers to defend you in the matter, I am directed by Mr. Attorney General Lutwyche to state, that he has read and considered your application, and that he sees no reason to depart from the opinion communicated in my letter to you of the 10th of the present month.

The Chief
Constable n.
John Gordon.
Charged with Sly
Grog Selling.
Heard 13 Jany.,
1858.

I have, &c.,

J. EVELYN LIARDET, ESQ.,
Clerk of Petty Sessions, Berrima.

W. E. PLUNKETT.

No. 17.

THE BENCH OF MAGISTRATES, BERRIMA, to THE CROWN LAW OFFICERS.
(No. 58-288.)

*Police Office, Berrima,
1 December, 1858.*

SIRS,

We have the honor to ask your advice under the following circumstances, as the business of this Court is likely to be entirely put a stop to unless we are set right in the matter. This day, on a case being called on, Mr. C. H. Walsh, an attorney of the Supreme Court, appeared for the defendant, when, before the case was entered upon, Mr. Oxley, the presiding Magistrate, requested from Mr. Walsh an explanation touching certain offensive expressions said to have been used by him in a letter to the Crown Law Officers, reflecting upon the conduct of this Bench, and Mr. Oxley in particular.

Mr. Walsh refused to give any explanation, and insisted on his right under any circumstances to appear in this Court. Mr. Oxley submitted that in case an attorney offered a direct insult to a Bench, the Bench had a right to refuse to hear him; this Mr. Walsh denied, and insisted upon appearing without making any explanation whatever. The consequence of this is, that the business of this Bench for the day has been entirely put a stop to. Mr. Oxley expressed himself perfectly willing to allow Mr. Walsh to proceed under protest, that the Bench had a right to guard its own dignity; this, Mr. Walsh positively refused to do, and threatened that if he was not allowed to appear on his own terms he would file a criminal information against Mr. Oxley.

We have, &c.,

THE HONORABLE
THE CROWN LAW OFFICERS,
Sydney.

H. M. OXLEY, J.P.,
CHARLES L. NICHOLSON, J.P.

No. 18.

C. H. WALSH, ESQ., to THE HONORABLE THE ATTORNEY GENERAL.

Goulburn, 3 December, 1858.

SIR,

I have the honor to inform you your Secretary's letter of the 14th May last to Mr. John Gordon, in reference to his complaint against Mr. Liardet, Clerk of Petty Sessions, at Berrima, was sent by him to me as his attorney.

On reading the statement in it, that Mr. Liardet had offered to pay the thirty pounds, the amount of the fine imposed upon Mr. Gordon, and that it was for Mr. Gordon to say whether he would accept that money or go on with the prohibition,—

I addressed to Mr. Liardet Letter No. 1.

In reply to which I received Letter No. 2.

The consents furnished to me I annex—Nos. 3 and 4.

Upon looking to the terms of these consents, and taking into account that qualified and conditional, and imperfect as they are, they were not supplied for upwards of three months

months after my client had agreed to act on them, and being of opinion that it would be then more than hazardous to apply to the Supreme Court for a prohibition, and that as consent could not confer jurisdiction, I felt bound to advise my client that I could not advise him to risk an application for a prohibition after such a lapse of time, and that I thought it better for him to resort to his remedy by action against Mr. Liardet for neglect of duty. My client instructed me accordingly, and an action has been commenced by the issuing of a summons, but not prosecuted because of the want of means on the part of Mr. Liardet to pay the amount to which he would be liable for damages and costs in the event of a verdict against him; and I have advised my client to discontinue his present action, and proceed in the District Court when established.

I have been informed that Mr. Liardet attributes not only my client's proceedings but also my advice to him to vindictive feelings. I do not feel bound to answer for my client's feelings in the matter, or indeed for my own; still I may say that if Mr. Liardet will but produce the entire correspondence I have had with him in this and other matters, I believe no one will say I have been influenced by vindictiveness.

Referring to Mr. Liardet's letter, I beg to call your attention to its terms. He sends Mr. Shepherd's consent, not by the orders of the Attorney General—not even at his suggestion—but, “in compliance with a request from the Honorable the Attorney General”; and with reference to my request for the £30, which the Attorney General thought he offered to pay, he says, “I neither understand it or have any further remark to make.”

My client, Mr. Gordon, in his letter of the 6th March, 1858, complained of the system of annoyance to which he has been subjected by the Clerk of the Bench and the Police authorities at Berrima, and as a full corroboration of that complaint, I beg to submit the following statement:—

On the 9th September a Police Constable in disguise was sent to Gordon's residence, where he offered himself and was engaged as a farm servant. During the course of the week, on the 11th and 12th September last, he managed, (as many servants under similar circumstances do in this Colony), to get spirits from Gordon's wife, and paid for it—he swears in Gordon's presence, though Gordon's wife and himself deny this. A prosecution at the suit of the Chief Constable is then established, and upon this evidence of this constable spy a conviction is obtained, and Gordon fined £50. On application to the Supreme Court a prohibition was granted, and the fine which had been levied ordered to be returned.

Under ordinary circumstances one would have supposed that this unconstitutional spy prosecution would have been abandoned, and that there would have been an end of the case.

The Berrima Police authorities knew well that men had escaped punishment for felonies committed in their district merely upon technicalities, and who were not prosecuted again, but not so this Mr. Gordon. On the 25th November last, separate summonses were issued against him for the two offences included in the former conviction requiring him to appear on the 1st December instant, to answer the self same charge for which he had been already convicted, and not merely convicted, but for which he had already undergone the punishment, having been obliged, in order to prevent the conviction being executed, to pay the amount of the fine, and remain out of it until it was returned by order of the Supreme Court.

As a lawyer, I feel justified in saying there was nothing in this case to authorize the renewal of this prosecution, save a desire on the Police authorities at Berrima to give my unfortunate client the full benefit of the law.

It costs the Police but little trouble or expense to institute proceedings of this kind, but the costs of defending them are ruinous to a poor man. I am of opinion this second prosecution cannot, and will not, succeed. That, however, will be small relief to my client, since to meet them it will cost him nearly as much as if he submitted to be convicted. It would therefore be an act of the greatest justice and humanity to my client to put a stop to these proceedings.

I have, &c.,

THE HONORABLE
THE ATTORNEY GENERAL.

CHAS. H. WALSH.

No. 19.

C. H. WALSH, ESQ., to THE ATTORNEY GENERAL.

Goulburn, 3 December, 1853.

SIR,

I have the honor to submit to you the following statement :—

John Gordon, of the Ploughed Ground, near Berrima, was summoned to appear before the Justices there on the 1st December instant, to answer charges for illegally permitting the sale of spirits. He retained me to defend him, and I accordingly came from Goulburn to Berrima for that purpose.

In Berrima I was employed by David Robert Eden to appear for him on the same day in a case under the Small Debts Court Act, 10th Victoria, No. 10. I went to the Police Office at Berrima when the Court of Petty Sessions opened. Messrs. Henry M. Oxley and C. L. Nicholson were the only Magistrates present. Mr. Oxley presided, as he usually does. The list of small debts cases was gone into, and on the case of Campbell v. Eden (that in which I was retained for the defendant) being called on, I said I appeared for the defendant; whereupon Mr. Oxley said the Bench would not allow me to appear until I had given some explanation of a letter which I had written to the Crown Law Officers, in which, as he alleged, I stated that justice could not be procured at that Bench while he sat on it. I was amazed at this statement, and instinctively denied I had written any such letter, or made any such statement; he then asserted that I had, and referred to a letter addressed by a client of mine, one Jon Gordon, to the Attorney General, complaining of the Berrima Bench, and of him, Mr. Oxley, in particular. I replied that the letter he referred to was written by me for my client, upon his instructions, and I was responsible to my client for any advice I gave him, but not to their worships, and that responsibility I was willing to bear. I would not avoid any responsibility attaching to me for the course I pursued in reference to that letter, but as it had nothing whatever to do with the proceeding then before Court, or the party for whom I then appeared, he ought not to be prejudiced—that he had a right to my assistance, and I urged my right to appear. Mr. Oxley said he would not permit me unless I explained or retracted the statements in the letter. I said I would not make any statement about the letter in order to entitle me to appear. I contended I was there, not by permission of their worships; but by right—that the same statute which gave them the right to sit on the Bench and try the case, gave my client the right to appear by his attorney—that I therefore contended the Court was not justified in stopping me, and that I must insist on my right to appear. I asked (addressing myself to Mr. Nicholson) if I was to understand that the objection to my appearing proceeded from the Court or only from Mr. Oxley. Mr. Nicholson did not say anything, but from his manner I understood he did not agree with Mr. Oxley in the objection, and afterwards he stated openly in Court that he did not object to my appearing. I again urged my right to appear, relying on the statute. Mr. Oxley asked for the Statute, and Mr. Liardet, the Clerk of the Bench, handed to him the volume of Callaghan's Acts, containing the Act 10 Victoria, No. 10, and pointed his attention to sections 44 and 45. I said the latter section could not apply, as the matter complained of was not a proceeding under that Act. Mr. Oxley said even if it did not apply, he had the power to prevent my appearing, and he would do so—that he could or would put me out of the Court. I said he had no right to do so, that it was an open Court; I was there to appear for my client, and so long as I conducted myself properly he would not be justified in putting me out of the Court. He said he would not permit me to appear. I replied, I did not seek to appear by his permission, that I had a right to be there, and for my client I must insist on that right. Mr. Oxley said, "Then the business of the Court must come to a dead lock, for I will not allow you to appear." I then said, "As your refusal to allow me to appear cannot rest here, in order to prevent any misunderstanding or contradiction hereafter, as to the nature of your objection, and the grounds of it, I think it would be desirable that you should direct the clerk to take down in writing the particulars of it." Mr. Oxley then dictated to the clerk as follows: "I object to Mr. Walsh appearing in this or any other case until he gives some explanation of a letter written to the Crown Law Officers, accusing me of impartiality and injustice, and declaring that so long as I sat on the Bench his client could not obtain justice." I then requested the clerk to make a note that I appeared for the defendant, and insisted on my right to do so without making any explanation; and that I refused to give any explanation of the letter referred to, to enable me to be heard. During the discussion, and again after

these statements were taken down, Mr. Nicholson said he thought the matter might be settled; that I had already denied having written such a letter as Mr. Oxley referred to, and that if I would repeat that, he was sure Mr. Oxley would permit me to appear. I refused to do so, saying, I would make no statement to procure permission to appear—I must insist on my right to appear; that, as the dispute was obviously a personal one between me and Mr. Oxley, the Court was not entitled to call for an explanation, and that I must contend that Mr. Oxley had no right to prevent my appearing. I then said I contemplated taking proceedings, for which I had no desire; that I believed Mr. Oxley was misled and mistaken, and influenced by personal feeling arising out of a misunderstanding between him and me; and that though I was sure I was right and he was wrong in the matter, I would consent to abide by what any two gentlemen would say we should do towards each other in reference to the dispute. Mr. Oxley said he had no personal feeling—I was in error in saying so. I replied I could not exonerate him from being influenced by personal feeling after the correspondence which had passed between us in Hall's case—that I looked upon his opposition to me as purely personal, and if necessary I would demonstrate it—that I judged him by his acts rather than his professions; but that as a matter affecting us as gentlemen I was willing to refer it—I was willing to abide by what Mr. Norton (Mr. Oxley's uncle and attorney in the case of Hall v. Oxley, above referred to) would say between us. Mr. Oxley agreed to submit the matter, saying, as I had named Mr. Norton, he would name another. An observation was then made by Mr. Nicholson, as to my being allowed to appear, subject to the result of this arbitration (as he called it.) Mr. Oxley said of course I would be allowed to appear, subject to the reference. I then said they had quite misconceived my proposition; that I never intended to, and would not, refer my right, or my client's right, to appear by me in that Court—that what I proposed to refer was what I conceived to be the personal misunderstanding between Mr. Oxley and myself. Mr. Oxley then called on Mr. Nicholson, the Clerk of the Court, and the Chief Constable, to remember that I had proposed to refer the matter; that he had agreed to do so, and that I now backed out of my proposition. I asked Mr. Oxley if, when he consented to refer the matter, he considered he was referring his conduct as a Magistrate; he said, "Certainly not." I replied, "How, then, can you suppose I was referring my rights and conduct as an advocate? My offer to refer can only be understood as treating the case as a matter of dispute or misunderstanding between two gentlemen." Mr. Oxley said he wondered how I could talk of referring the matter as a dispute between two gentlemen, when I had, in a letter addressed to him, said he was not a gentleman. I said, "I hope you will recollect I am not the party publishing the contents of our correspondence. What I proposed to refer was all the correspondence that had passed, of which you complain, and out of which this controversy has arisen; that I wished it to be distinctly understood I would not refer my right to appear in the present, or any other case in which I was entitled to appear as attorney, and that, so far as the present case was concerned, I still insisted on my right to appear." Mr. Nicholson then rose from the Bench, stating he was obliged to return home, and could not stay any longer; but he wished to state he had no objection to my appearing—that it was not because of anything which had occurred he was leaving, but pressing business called him away. Mr. Oxley then said he must adjourn all cases requiring two Magistrates; and, accordingly, he went through the list, adjourning them for one week. I objected to his adjourning that in which I appeared; he said he would do so, and that if he were wrong it could be set right. After the list of cases under the Small Debts Act were then gone through, the cases on the Police Summons List were called. On the case of Jeremiah Frewin against John Gordon, for a breach of the Publicans' Act, being called on, I said I appeared for the defendant. The complainant, who is the Chief Constable, said I could not appear—that it was a contempt of Court of the defendant if he did not appear. I submitted the defendant was entitled to appear by his attorney, and referred to the statute. Mr. Oxley looked at the Act, and, without saying more, adjourned the case; he also adjourned a second case, between the same parties. I said I wished to know if my appearance had been recorded, and if it were on it. He adjourned the cases; he said he had a right to adjourn the cases, and he would do so. I said, not in the absence of the parties. He said "You may appear under protest;" I said I would not appear conditionally or under protest—that under such circumstances I must object to my appearance being recorded, and I requested the clerk to take a note of this. Mr. Oxley said, addressing the clerk, "Don't mind him, he is only saying that to annoy me."

I have endeavoured as faithfully as I possibly can to give a correct statement of what passed on the occasion. I cannot, and I do not believe it possible for any person whatever to give all that was said, much less in the order in which it was said, but I believe I have given its substance and effect. I have not wilfully or knowingly withheld any part of the conversation I can recollect or consider material. During the discussion in Court I conducted myself with proper respect to the Court, and I do not believe I uttered a word that can be construed into offence or disrespect, while at the same time I maintained, with what I considered becoming firmness, my client's and my own right to appear; no complaint or observation was made to me in Court of any want of respect or of impropriety of demeanor.

The letter to which Mr. Oxley referred is in your office; it is dated 6th March, 1858; from John Gordon to the Attorney General. It is the only letter I have written on the subject, and upon reference to it, you will perceive that it is utterly untrue that I have accused Mr. Oxley of "partiality and injustice," and declaring that "so long as he sat on the Bench my client could not obtain justice."

I have known Mr. Oxley for the last five or six years, and until within the last year I have been upon friendly terms with him. Since the period that Gordon made the complaint, in the letter of March last, against Mr. Liardet, the Clerk of the Bench, who is connected by marriage with Mr. Oxley, his feelings towards me have become altered, and I have recently heard he has on several occasions spoken of me in offensive terms, and expressed his determination to prevent me appearing before him as a Magistrate, and I believe that this change of feeling has been aggravated because as an attorney of the Supreme Court I brought an action against him on behalf of Mr. Jacob Halls, and in reference to which the following correspondence has passed between us:—

HALL v. YOU.

Goulburn, 16 November, 1858.

SIR,

My agents inform me they have not yet received the balance of debt and costs, amounting to £52 1s. 1d. In order to prevent the issuing of an execution, I have to request you will forward me the above amount at your earliest convenience.

Your obedient servant,
C. H. WALSH.

H. M. Oxley, Esq.,
Berrima.

Wingecarribbee, Berrima,
16 November, 1858.

Sir,

I am really surprised that you should have taken the liberty of addressing me personally in this case. You must know that I only communicate through my attorney, to whom I have already paid all that they demanded from me on your account. I beg that for the future you will not have the impertinence to address me personally in this or any other matter.

Yours obediently,
H. M. OXLEY.

Mr. C. H. Walsh,
Attorney, Goulburn.

HALL v. OXLEY.

Goulburn, 18 November, 1858.

SIR,

I have to acknowledge your letter of the 16th instant, and while admitting the mistake I have made in extending to you in this case the courtesy usually offered to gentlemen, I beg to assure you that whenever I may have occasion on behalf of a client to compel you to pay an honest debt, I shall not fail to do so, even though you may consider it impertinence.

Yours obediently,
C. H. WALSH.

H. M. OXLEY, Esq.,
Berrima.

In addressing the letter dated 16th November to Mr. Oxley, I believe I did not violate any rule of professional etiquette; the letter was written after judgment was signed, and all controversy in the action at an end, and I have frequently before, in cases where the defendant has been well known to be respectable and solvent, addressed to defendants personally similar letters before issuing execution.

I have known other practitioners to adopt the same proceeding, and for the same reason which led me to adopt it in this case, namely, to save the defendant from the annoyance of a levy by a bailiff. I therefore consider his reply as most uncalled for, and when, on the 1st instant, I referred to the correspondence in Hall v. Oxley, and its terms, Mr. Oxley said how could he address me otherwise after I had written the letter I did for Gordon.

I have been considerably exercised as to the course I should adopt in this matter, and after careful consideration, I feel bound to submit the case to you, as Minister of Justice, because of the proceeding of Mr. Oxley having arisen out of matters still *sub judice* in your office.

Referring to the grounds of Mr. Oxley's objection to allow me to appear, I appeal to the records of your office, which are sufficient to prove his statement utterly untrue.

I feel I am justified in submitting to you that, having regard to the character of Mr. Oxley's statement—his reason for not hearing me—his language in his letter to me of the 16th November last—his annoyance with me for advising Mr. Gordon with respect to the complaint against Mr. Liardet, his connection—Mr. Oxley cannot be acquitted of suffering personal feeling to influence him in the discharge of his duty as a Magistrate, while his interference with me as an advocate discloses such ignorance (if he can be said to be ignorant with the statute before him), of the rights of suitors as to prove his incompetency even on that ground for the office of Justice of the Peace.

I have, &c.,

THE HONORABLE
THE ATTORNEY GENERAL.

CHARLES H. WALSH.

[Enclosure 1 in No. 19.]

Goulburn, 17 May, 1858.

Sir,

My client, Mr. Gordon, has this day received a letter from the Secretary to Law Department in reference to the complaint against you, in which he states you have offered to pay the thirty pounds, the amount of the fine imposed upon Mr. Gordon, and that it is for Mr. Gordon to say whether he will accept that sum or go on with the prohibition.

As Mr. Gordon's only object is to recover back the fine which was most unjustifiably imposed on him, I have advised him to accede to your offer, and accept the thirty pounds. You will therefore forward it to — for him.

I am, &c.,

J. E. Liardet, Esq.,
Berrima.

C. H. WALSH.

[Enclosure 2 in No. 19.]

(No. 58-130.)

Police Office, Berrima,
26 May, 1858.

Sir,

In compliance with a request from the Honorable the Attorney General, I have the honor to enclose you Mr. James Sheppard's consent to the defendant, in the case noted in the margin, applying for a prohibition writ in that matter.

2. With reference to the request by your letter of the 17th instant, I neither understand it, or have I any further remark to make upon it. This will therefore end the business on my part.

I have, &c.,

C. H. Walsh, Esq.,
Goulburn.

J. EVELYN LIARDET.
C. P. S.

[Enclosure 3 in No. 19.]

Police Office, Berrima,
22 February, 1858.

The Queen v. Gordon.—Illegally Selling Spirits.

It having been represented to us that in consequence of the delay in supplying the defendant in this case with the copy of the proceedings against him, he has been prevented lodging an appeal against our decision within the time allowed by law, we hereby declare our intention not to take advantage of Mr. Gordon's neglect, but to allow the appeal to be heard, if it can be legally.

H. M. OXLEY, J.P.
CHARLES NICHOLSON, J.P.
JOHN MORRICE, J.P.

[Enclosure 4 in No. 19.]

The Queen v. Gordon.—Sly Grog Selling.
Heard 13th January, 1858.

I hereby consent to Mr. John Gordon, the defendant herein, appealing against the decision of the Bench of Magistrates in this case, or applying for a writ of prohibition, if it can be done legally, as I desire to take no improper advantage in the case. I do so in conjunction with the Bench of Magistrates at Berrima, but will not consent to bear any expense there

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Heard 13th Jan.,
1858.

there may be attached to the appeal further than to forfeit my portion of the fine, if the Magistrates' decision in the case be reversed thereby.

Prosecutor or Informer,
JAMES SHEP

Witness—JEREMIAH IRWIN.
Police Office, Berrima,
26 May, 1858.

No. 20.

C. H. WALSH, ESQ., to THE ATTORNEY GENERAL.

Goulburn, 10 December, 1858.

SIR,

Referring to my letter to you dated the 3rd instant, I have the honor to inform you that in the cases of the Chief Constable v. John Gordon, which were declared by Mr. Oxley to be adjourned on the 1st instant to the 8th instant, fresh summonses were issued for the 8th instant.

I attended at Berrima for the purpose of appearing for the defendant, and I was present at the opening of the Court.

Mr. Nicholson, J.P., appeared on the Bench, taking the seat usually occupied by the Chairman. Immediately after Mr. Oxley entered the Court, and on Mr. Nicholson's offering him the Chairman's seat he refused to take it, stating that he did not intend again to sit on the Bench until he knew his position as a gentleman and a Magistrate. If he were to be insulted with impunity by any person calling himself an attorney, he would not sit as a Magistrate. I inquired if he referred to the cases I was engaged in, he replied he referred to everything, and then he left the Court.

Mr. Nicholson being the only other Magistrate present, the result was the entire business for the day, consisting of upwards of ten cases, in some of which the parties had been to the Court on four or five previous occasions, was adjourned to next Wednesday, the 15th instant.

This is the second time my client has been obliged, at considerable expense and trouble, to procure my attendance at Berrima. I shall have to attend again on the 15th instant, I fully anticipate with a similar result, and I may ask when is this proceeding to end?

Independently of the extent to which I am personally concerned in the matter, this conduct of Mr. Oxley is productive of the greatest hardship and loss to a very large number of persons interested in the other cases, who did not fail to complain loudly of the course pursued, as one said, "We have Magistrates staring us in the face, and our cases won't be decided."

I would respectfully urge this matter on your attention, and I again beg leave to repeat my complaint against Mr. Oxley of having on this last occasion, as well as on the former, suffered personal feeling to interfere with him in the execution of his duty as a Magistrate.

I have, &c.,

CHAS. H. WALSH.

THE HONORABLE
THE ATTORNEY GENERAL.

No. 21.

C. H. WALSH, ESQ., to THE ATTORNEY GENERAL.

Goulburn, 15 December, 1858.

SIR,

I have the honor to inform you that, in pursuance of the adjournment of Gordon's cases referred to in my letter to you of the 10th instant, I have again this day attended at the Police Office, Berrima, now for the third time, to appear for Gordon.

Messrs. Oxley and Cordeaux were the Magistrates in attendance. There were several cases on the list, when the first was called the parties appeared, and were informed by Mr. Oxley (acting as Chairman) the case should be adjourned for another week, as the Bench were determined not to hear any case until the Attorney General replied to the Bench's letter of this day fortnight, and which he supposed it had not been convenient for the Attorney General to do before then. The case was accordingly adjourned.

When the cases in which I was concerned, namely Gordon's, were called on, Mr. Oxley said at once they were adjourned also, and after recording my appearance, they were adjourned for a week. I protested against the adjournment, there being two Justices present competent to deal with the cases, but without effect, and both cases stand adjourned for a week.

I will of course have, for the fourth time, to attend for my client. In the meantime I feel I may take the liberty of again urging this matter on your early attention.

Is it not a monstrous hardship on my client (without alluding to the expense and inconvenience of bringing me a journey of nearly one hundred miles on each occasion,) to be obliged to leave his farm in the harvest, and attend this Court from day to day, merely because Mr. Oxley chooses to imagine I have made a statement, with respect to which Mr. Oxley is grossly mistaken?

Am I not at liberty to ask again when will there be an end to this proceeding?

I should add, that during the proceeding to-day Mr. Cordeaux was silent.

I cannot avoid again urging my complaint against Mr. Oxley of being actuated by personal feeling, and submitting to you that it is most unjustifiable in a Magistrate to delay and deny justice to an entire district, merely because he happens to have a personal misunderstanding with the attorney of a party who is defendant in two cases.

I have, &c.,

THE HONORABLE
THE ATTORNEY GENERAL.

CHAS. H. WALSH.

No. 22.

THE BENCH OF MAGISTRATES, BERRIMA, to THE ATTORNEY GENERAL.
(No. 58-309)

Police Office, Berrima,
15 December, 1858.

SIR,

We have the honor to call your attention to our letter dated the 1st instant, No. 2014—58-288, with a view to your favoring us with your reply thereto at your earliest convenience. The business of the Court is adjourned until we are set right in the matter.

We have, &c.,

THE HONORABLE
THE ATTORNEY GENERAL,
Sydney.

H. M. OXLEY, J. P.
WM. JNO. CORDEAUX, J. P.

No. 23.

THE ATTORNEY GENERAL to THE BENCH OF MAGISTRATES, BERRIMA.
(No. 58-502.)

Crown Law Offices,
18 December, 1858.

GENTLEMEN,

I do myself the honor to acknowledge the receipt of a letter from your Bench, dated 1st instant, and delivered here on the 3rd instant, as well as of another communication referring to the former letter, which bears date the 15th instant, and which reached me to-day. I regret that the extreme pressure of the various duties which devolve upon me has prevented my forwarding an earlier reply, and I must beg you to attribute this form of communication to no other motive than for an immediate return to what I conceive to be the proper line of magisterial duty. Mr. Plunkett, the Secretary to the Law Officers, is not in the office at present, and I therefore write in my own name, with a view to greater despatch.

2. Since the receipt of your first letter three separate communications have been addressed to me by Mr. Walsh, and one by a person named James Rodgers. From the statements contained therein, and corroborated by your own correspondence with me, it appears that the whole business of the Berrima Bench, Civil and Criminal, has been purposely suspended, because one of your number thought he had a right to know whether he was fortified by the opinion of the Attorney General in refusing to hear an attorney in a civil suit, who was reported to have employed some offensive expressions, in a letter addressed to

to the Crown Law Officers, reflecting upon the conduct of the Berrima Bench, and of Mr. Oxley in particular.

3. I cannot sufficiently deplore the marked departure which has been made in this instance from the principles which should always regulate the administration of justice, and from the practice which has prevailed in this Colony.

The right of a party to a civil suit to appear by attorney has been recognized in England by centuries of legislation, and is conferred by the 44th section of the Colonial Act, from which the Court of Petty Sessions derives its own jurisdiction in cases of small debts; and whenever the Magistrates have found any legal difficulty which appeared to them to require a reference to the Crown Law Officers, the practice has hitherto been to adjourn the further hearing of the particular case under consideration until some future day, when it was probable that the expected reply might be received.

4. The Berrima Bench, however, has fallen into the strange mistake of supposing that they were authorized by the Act which gave them civil jurisdiction to prohibit an attorney from practising before them in their capacity of Judges of a Court for the recovery of small debts, upon the ground that he was believed to have written "contemptuously" of them in a matter having reference to the exercise of a different jurisdiction; and they have thought themselves justified in refusing to hear any of the suits pending before them, and in keeping a prisoner in custody, unless he should be let out sooner on bail, until the opinion of the Attorney General should be received upon the point submitted to him.

5. Without undervaluing the importance of the question upon which you have done me the honor to ask my advice, I desire to express my opinion that its importance was not paramount to the interests of suitors, or the liberty of the subject; and it seems to me that Magistrates are hardly entitled to expect immediate answers to legal questions from the Crown Law Officers, whose attention is frequently absorbed by other subjects of greater urgency.

6. I shall conclude by repeating that I think the Bench had no right to refuse Mr. Walsh a hearing upon the ground assigned, and by stating that I shall feel it my duty to bring the whole of the circumstances under the immediate consideration of the Governor and the Executive Council.

I have, &c.,

THE BENCH OF MAGISTRATES,
Berrima.

ALFRED P. LUTWYCHE.
Attorney General.

No. 24.

JAMES RODGERS to THE ATTORNEY GENERAL.

Berrima, 15 December, 1858.

SIR,

I beg to inform you that I am a tinsmith, on my way from Goulburn to Sydney. On the 7th instant I was taken into custody by the police at Berrima for playing cards in a public house, lodged in the lock-up a close prisoner, £27 of money found on my person, my own property, and in no way in dispute, were taken from me by the Chief Constable. On the 8th instant I was brought before the Bench of Magistrates, at Berrima—the party who gave me in charge was present to prosecute; on the case being called, we were told that in consequence of a dispute between the Magistrates and Mr. Walsh, the lawyer, the case would not be heard, but remanded for a week; I was accordingly taken back to prison, where I remained in close custody until this day, when I was again brought before the Bench to be told that in consequence of the dispute I have referred to, the case should be remanded for another week; back to prison I should have gone, had not two persons in the town offered to go bail for my appearance, and I was admitted to bail to appear again on the 23rd.

Now, Sir, I want to know is it British Law that a working man, such as I am, should be kept in prison for nine days, and detained another week without a hearing of the complaint against me, for no other reason than merely because the Bench and a lawyer happen to have a row. Is this to be tolerated in a land where British law prevails? I beg your immediate interference to save me from ruin in this case.

I am, &c.,

THE HONORABLE
THE ATTORNEY GENERAL.

JAMES RODGERS.

No. 25

No. 25.

THE BENCH OF MAGISTRATES, BERRIMA, to THE ATTORNEY GENERAL.

(No. 58-311.)

*Police Office, Berrima,**22 December, 1858.*

SIR,

In reply to your letter, dated the 18th instant, No. 58-502, we have the honor to inform you we are unable to answer your letter as fully as we are desirous of doing in the absence of Mr. Walsh's and James Rodgers' letters, on which you appear to have grounded your communication to us, and been very much misled thereby, instead of solely on our letter of the 1st instant, which alone, in our opinion, should have guided your reply in this instance.

2. Our letter simply asked the question, had Magistrates the power to protect themselves from the insults of an attorney, or were they bound to hear him, however contemptuously and defiantly he might treat them; this you have not done us the favor to answer. We feel we have been so treated by Mr. Walsh, and we do not consider it consistent with what is due to ourselves as gentlemen and Magistrates, to sit in any case unless we have the power to protect ourselves. We regret the public have been put to inconvenience, but, considering that we have for years past, at great personal expense and trouble, faithfully discharged our duties as Magistrates, we are assured that no respectable individual in this district would regret the loss of time occasioned by a matter in which our honor was at stake.

3. We rejoice to hear that you consider it your duty to bring the subject before His Excellency the Governor General and the Executive Council, and, in order to prevent further delay to the public business, we have determined, pending their decision, to hear all cases in which Mr. Walsh is not retained.

We have, &c.,

H. M. OXLEY, J.P.

WM. JNO. CORDEAUX, J.P.

CHARLES L. NICHOLSON, J.P.

THE HONORABLE

THE ATTORNEY GENERAL.

No. 26.

THE SECRETARY TO THE CROWN LAW OFFICERS to THE BENCH OF MAGISTRATES, BERRIMA.

(No. 58-515.)

*Crown Law Offices,**Sydney, 24 December, 1858.*

GENTLEMEN,

I am directed by the Attorney General to acknowledge the receipt of your letter of the 22nd instant.

2. The Attorney General desires me to say that he will not bring the subject to which it relates before the Governor General and the Executive Council until you have had an opportunity of offering such further explanations as the perusal of Mr. Walsh's and Mr. James Rodgers' letters may lead you to make. For this purpose copies of those letters will be forwarded to you as soon as possible, but as to-morrow and Monday next are both observed as holidays, it will not be practicable to transmit the copies until Wednesday.

3. I have only to add, that the Attorney General regrets that you have not already acted upon the opinion expressed in his letter to you of the 18th instant—that the Bench had no right to refuse Mr. Walsh a hearing upon the ground assigned by you in your communication of the 1st instant, and suggests for your reconsideration the propriety of acting upon it forthwith.

I have &c.,

W. E. PLUNKETT,

Secretary to Law Department.

THE BENCH OF MAGISTRATES,
Berrima.

No. 27.

C. H. WALSH, ESQ., to THE ATTORNEY GENERAL.

Goulburn, 24 December, 1858.

SIR,

I have now the honor to submit to you a statement of what took place at Berrima on the 22nd instant, the day to which Gordon's cases had been adjourned.

I attended there—Messrs. Oxley, Nicholson, and Morrice, Magistrates, were present. On opening the Court Mr. Oxley stated that for the last three weeks no business had been done. The Bench had heard from the Attorney General that the matter occasioning this had been referred by him to the Executive Council, and the Bench had determined, for the public convenience, to proceed with all cases in the list, except such as Mr. Walsh was concerned in,—these they would not proceed with pending the reference of the matter to the Executive.

I asked if Mr. Oxley spoke for himself or for the entire Bench; he replied he spoke on behalf of the Bench.

The first case called on was *Brodhurst v. Chapman*, for a common assault. I stated I appeared for the defendant. Mr. Oxley informed the parties on their appearing, that as I was concerned in it, it must be adjourned for a fortnight.

The next case was the Chief Constable *v. Gordon*, for illegal sale of spirits, (one of those referred to in my former letters,) no sooner was it called, than Mr. Oxley said this case is dismissed. I said I appeared for the defendant, and I objected to the case being dismissed without the parties being heard. Mr. Oxley said the case was dismissed. The second case between the same parties was called on, and in the same way declared to be dismissed.

The course thus pursued by the Bench dismissing the cases without a word of inquiry, or assigning a reason or hearing the defendant, I submit was most illegal and irregular. It deprived the defendant of an opportunity of applying for amends and costs, which he was entitled to do under the 13th Victoria, number 29, section 70, and 11 and 12 Victoria, c. 43, section 18, and was manifestly adopted to get rid of the necessity of recognising my appearance, and thus prevent me from practising my profession according to the law of the land.

Some other cases were then disposed of, but on a case of the Chief Constable against the same John Gordon, for making use of indecent and obscene language in a public place in the town of Berrima, being called, I stated I appeared for the defendant. Mr. Oxley said the defendant must appear personally. I appeared for him, and I was entitled to do so under the statute. Whereupon Mr. Oxley broke out into a most violent passion, raising his voice, shouting at me, and amongst other things said to me:—"He shall appear"—"I'll issue a warrant to compel him to appear"—"The Bench won't be insulted"—"Our summonses must be obeyed"—"Do you think I'll sit here to be insulted by a fellow like you?"—"I don't care a rap for you"—"I won't be insulted by you"—"You are a bully; I won't be bullied by you." I asked the other Magistrates to remember this language, that I would take it down, and complain of it. Mr. Oxley said—"You may take it down, and go sneaking to the Attorney General with it"—"I don't care for my commission"—"So help me God I will not sit here to submit to this"—"You shall not have your own way, you have had it long enough"—"I'll put you down"—"You shall not appear." I said I should insist on my right to appear. Mr. Oxley said—"If you don't hold your tongue I'll put you out of the Court."

An effort on the part of the other Magistrates to check this had but little effect. Another case was called on, during which Mr. Oxley asked his brother Magistrates to express an opinion as to whether I had a right to appear or not, and they took to looking up the point in Nichols' Justices Act; but observing they failed to find the clause, I asked for the book, and pointed it out to them. They shewed it to Mr. Oxley, who, on Gordon's being re-called, said—"I am wrong; Mr. Walsh has a right to appear, but according to our arrangement, this case will be adjourned for a fortnight;" and it was accordingly adjourned. There was, however, no retraction or qualification of the abuse and insult offered to me.

I shall make no comments on the facts I have now stated, but I feel I owe it, not only to myself individually, but to my profession, and to the administration of justice, to punish by law, and as the law allows, this conduct of Mr. Oxley. He is clearly chargeable with a misdemeanor. He has maliciously obstructed the course of justice. He has denied and delayed justice.

The judgment of Lord Campbell in the recent case of the Queen v. Marshall, 4 Ellis, and Blackburne, 480, 24. L.J., 2. B., 242, places this beyond doubt.

The facts in that case were precisely similar to those I complain of, and I would respectfully invite your attention to it, for I conceive it furnishes clear directions as to the course to be now pursued.

It decides that having complained to you the Supreme Court would not grant me a rule for a criminal information; it also decides that the conduct I complain of is a misdemeanor, to punish which I may proceed by indictment (see judgment of J. Wightman), and Lord Campbell, by referring to the practice of Lord Eldon, suggests that the verdict of a jury may be required before action be taken on the complaint made.

If you should think it necessary in this case to adhere to Lord Eldon's rule, I am ready and prepared to put the law in motion. I cannot, however, hope to do so in the ordinary course; that is, to go before a Magistrate of the Police District in which the defendant resides, lay an information, obtain a summons, and have the complaint heard and decided on at the Bench of the district. In this case the Magistrates who usually act at Berrima would be required as witnesses, and even if it were not so, it would be hard to expect Mr. Oxley's brother Magistrates, over whom he has presided, to investigate the charge, and, if proved, commit him for trial; besides, I feel compelled to say I cannot acquit them altogether of blame in permitting, by their inaction, things to exist in the Berrima Police Court as they have for the last month.

In the event of a proceeding, I would respectfully apply to have a Magistrate sent specially to Berrima to investigate the complaint, or that the Police Magistrate in the adjoining district of Goulburn should be instructed to entertain it. The latter would be the more convenient to me personally, but the former would be manifestly the least inconvenient to all parties—Mr. Oxley, the witnesses, and the documentary evidence being all at Berrima. And if my application in this particular were granted, I would beg to request that, having regard to the grave nature of the complaint, the character of the evidence by which it must be supported, the importance of the case to the defendant, and the great influence which such a proceeding must have on the administration of law by Justices of the Peace, that the Magistrate to be specially appointed should be a barrister; or one otherwise familiar with legal principles and the rules of evidence.

I have, &c.,

THE HONORABLE
THE ATTORNEY GENERAL.

CHAS. H. WALSH.

No. 28.

THE SECRETARY TO THE CROWN LAW OFFICERS to THE BENCH OF MAGISTRATES, BERRIMA.
(No. 58-578.)

*Crown Law Offices,
Sydney, 29 Decemeeer, 1858.*

GENTLEMEN,

Adverting to my letter of the 24th instant, I have now the honor, in accordance therewith, to forward copies of the communications addressed to the Attorney General by Mr. Walsh and a person named James Rodgers, to which allusion was made in my letter of the above date.

I have, &c.;

THE BENCH OF MAGISTRATES,
Berrima.

W. E. PLUNKETT,
Secretary to Law Department.

No. 29.

No. 29.

THE BENCH OF MAGISTRATES, BERRIMA, to THE ATTORNEY GENERAL.

(No. 59-1.)

Police Office, Berrima,

1 January, 1859.

SIR,

In reply to your letter dated 24th ultimo, we have the honor to convey we are still in ignorance as to our position as Magistrates on the Bench, since you have not done us the honor to inform us whether we have the power to protect ourselves from the insults of an attorney practising in our Court or not.

If you should give it as your opinion we have not that power, then we shall not consider it necessary to ask your advice as to what course we should pursue, which is unerringly pointed out to us by our sense of what is due to ourselves as gentlemen.

It is for us to judge how far Mr. Walsh has insulted our Bench in this particular case, and we respectfully beg leave to state that we protest against Mr. Walsh's and James Rodgers' communications being taken into consideration in its present stage, and against your placing us on the defensive by them. We very much regret we cannot follow your advice, and hear Mr. Walsh.

The question referred to you does not merely affect this Bench, but the relative position of Magistrates and Attorneys throughout the Colony.

We have, &c.,

H. M. OXLEY, J.P.

CHARLES L. NICHOLSON, J.P.

WM. JNO. CORDEAUX, J.P.

THE HONORABLE

THE ATTORNEY GENERAL,

Sydney.

No. 30.

THE BENCH OF MAGISTRATES, BERRIMA, to THE ATTORNEY GENERAL.

(No. 59-11.)

Police Office, Berrima,

5 January, 1859.

SIR,

We have the honor to acknowledge the receipt of several letters addressed to you by Mr. Walsh, and one from James Rodgers, relative to matters connected with this Bench, forwarded for our perusal by the Secretary to the Crown Law Department.

2. As we have not been regularly or officially called on to report upon the statements therein contained, we refrain from conveying more than, while there may be some color of truth, the greater portion of the communications is a mis-statement of what really passed, and unconnected with the matter at issue.

We have, &c.,

H. M. OXLEY, J.P.

CHARLES L. NICHOLSON, J.P.

THE HONORABLE

THE ATTORNEY GENERAL,

Sydney.

No. 31.

C. H. WALSH, ESQ., to THE ATTORNEY GENERAL.

Goulburn, 7 January, 1859.

SIR,

I have the honor to inform you that, in pursuance of the adjournment in Gordon's case, I attended at the Berrima Police Court on the 5th instant.

Messrs. Oxley, Nicholson, and Morrice were the Magistrates in attendance.

On Gordon's case being called I said I appeared for the defendant, whereupon Mr. Morrice retired from the Bench, saying he would not sit in the case. Mr. Oxley then said the Bench would hear me if I would apologize for the disrespect I had shewn to it on former occasions.

I denied having been guilty of any disrespect, and said I would not therefore make any apology.

Mr. Nicholson said that originally he had no objection to hear me, but that he now thought I had been disrespectful to the Bench. I asked in what manner? He said, for instance, the way in which you advised your client not to appear, and in which you told the Bench he should not appear. I said I was responsible to my client alone for the advice I gave him in that respect, and that when informing the Bench my client would not appear, I used no other words than "he shall not appear." "Yes," said Mr. Nicholson, "but then you must admit there is a great deal in the way in which a thing is said—we are the judges of what may be disrespect, and I think you have insulted the Bench." I replied, I would not admit I had in any way insulted the Bench. I would make no apology: I would not argue the question with them, but must still insist on my right to appear for my client.

Mr. Oxley retired from the Bench, saying he would not sit any more. Mr. Nicholson then said the case must be adjourned until they heard from the Attorney General.

I reminded him that the case could only be adjourned on the appearance of the parties, and I wished to know if he was adjourning the case on my appearance, as that would be hearing me. He then said he could not enter my appearance, and the case should go over for want of appearance. The prosecutor said he appeared. Mr. Nicholson said the case should lapse. The Clerk of the Bench suggested there might be a fresh summons. Mr. Nicholson said he would not sign any fresh summons.

In addition to this there was a good deal of altercation between Mr. Oxley and myself as to the course he intended to pursue, and the proceedings which I intended to institute against him for his conduct.

With respect to this charge of disrespect or contempt, which Messrs Oxley and Nicholson now, at the last hour, have made, there is not a particle of foundation for it, or truth in it; it is an after thought now put forward, because these Justices have had a hint that they alone are judges of what is contempt, and in this respect irresponsible. It transpired in the course of the discussion that since I had been there on the 22nd of December, they had a conversation with a barrister on the subject of the dispute between the Bench and me. In this I see the secret of the charge of contempt. Who can doubt but that it is the result of a suggestion from him? If I had been guilty of disrespect on the occasion to which Mr. Nicholson refers on the 22nd December, why was it not complained of at the time? Why did the Bench (Mr. Oxley in particular) half-an-hour after I used the words now complained of, admit they were wrong in refusing my appearance, then record it, and upon it adjourn the case for a fortnight, stating as their reason, not that I was disrespectful or in contempt, but that it must be adjourned according to their arrangement, namely, the arrangement which they had come to not hear any cases in which I was concerned until the Executive Council had decided the matter referred by you to it, and which arrangement they had announced at the sitting of the Court? If a contempt had been committed, can there be a doubt but that these Justices would have gladly availed themselves of it at the time?

I could not be ignorant of the disposition of the Justices to take advantage of any opportunity afforded by me, I was therefore most studiously on my guard. I can say with confidence that this charge of contempt is utterly without foundation.

I submit that this adjudication for disrespect by Messrs Oxley and Nicholson, and their acting on it, is the most disreputable and disgraceful act they have been guilty of in connection with this case. Is it not monstrous that these Justices when obliged to abandon, because of its untruth, the original ground on which I was refused a hearing, and after their conduct in not hearing me had been the subject of complaint to the authorities, after they had been called on for an explanation and so put on their defence, and after one of them, (Mr. Oxley) knew that criminal proceedings were about to be instituted against him, they should come down and declare—falsely declare—me, their accuser, guilty of disrespect or contempt committed a fortnight before, in urging my client's right to appear by me, claim for themselves the sole right of deciding upon this contempt, and thereupon decide I am not to be heard until I apologize—decide in fact the very point in respect of which they may be said to be on their trial—accused judges—deciding in their own favor?

Are such men fit to be intrusted with the liberty, the position, or the character of any man? I

I submit the entire of this case to you, with the fullest confidence that such steps will be taken as will shew Justices of the Peace, and these Justices in particular, that they cannot, with impunity, so grossly violate every principle of justice.

I have, &c.,
CHAS. H. WALSH.

THE HONORABLE
THE ATTORNEY GENERAL.

No. 32.

THE SECRETARY TO THE CROWN LAW OFFICERS to THE BENCH OF MAGISTRATES, BERRIMA.
(No. 59-14.)
Crown Law Offices,
Sydney, 13 January, 1859.

GENTLEMEN,

Adverting to the correspondence which has taken place with you on the subject of the adjournment of the business of the Police Court at Berrima, I am directed by the Attorney General to inform you that the matter has been laid before the Executive Council, and so far as the Council are enabled to form an opinion from the correspondence, they coincide in the view expressed in the letter of the Attorney General under date 18th December last, that the Bench acted erroneously in refusing to hear Mr. Walsh, and they regret that the man Rodgers should have been detained in custody under circumstances which afford no excuse for his detention, without the charge against him being investigated. Before, however, arriving at a final decision, the Council have advised that a communication be addressed to you, calling upon you to afford such explanation as you may deem advisable with reference to the letters of Mr. Walsh and James Rodgers; and I am desired to invite you to furnish such explanations accordingly as you may deem necessary thereon.

I have, &c.,
W. E. PLUNKETT.

THE BENCH OF MAGISTRATES,
Berrima.

No. 33.

THE SECRETARY TO THE CROWN LAW OFFICERS to THE BENCH OF MAGISTRATES, BERRIMA.
(No. 59-37.)
Crown Law Offices,
Sydney 24 January, 1859.

GENTLEMEN,

Adverting to my letter of the 13th instant, in reference to the correspondence with you on the subject of the adjournment of the business of the Court at Berrima, wherein it was mentioned that the matter had been laid before the Executive Council, and, so far as the Council were enabled to form an opinion from the correspondence, that they coincided in the view expressed in the Attorney General's letter to you of the 18th ultimo, that the Bench acted erroneously in refusing to hear Mr. Walsh, and regretting that the man Rodgers should have been detained in custody under the circumstances, which afforded no excuse for his detention without the charge against him being investigated,—

I am now directed to draw your attention to that paragraph of my last communication, stating—"That before arriving at a final decision the Council advised that a communication should be addressed to you, calling for such explanations as you might deem advisable with reference to the letters of Mr. Walsh and James Rodgers," and I am again desired to invite you to furnish such explanations as you may deem proper, or that you will have the goodness to say whether you consider any further remarks from you on the subject to be necessary.

I have, &c.,
W. E. PLUNKETT.

THE BENCH OF MAGISTRATES,
Berrima.

No. 34.

THE SECRETARY TO THE CROWN LAW OFFICERS to THE BENCH OF MAGISTRATES, BERRIMA.
(No. 59-48.)

Crown Law Officers,
Sydney, 31 January, 1858.

GENTLEMEN,

I am directed by the Attorney General to draw your attention to my letter of the 24th instant, and to the previous communications addressed to you on the subject of the adjournment of the business of the Court at Berrima; and I am again desired to request that you will state whether you have any further remarks to make with reference to the letters of Mr. Walsh and James Rodgers, as the subject will be submitted for the decision of the Executive on Monday next.

I have, &c.,

THE BENCH OF MAGISTRATES,
Berrima.

W. E. PLUNKETT.

No. 35.

THE BENCH OF MAGISTRATES, BERRIMA, to THE ATTORNEY GENERAL.
(No. 59-30.)

Police Office, Berrima,
2 February, 1859.

SIR,

In reply to your letters of the 13th and 24th instant, we have the honor to inform you that, from the extraordinary course you have adopted towards this Bench in the matter, we very much regret we cannot communicate with you further on the subject, and have, therefore, done ourselves the honor to convey the whole case to the Honorable the Chief Secretary, as the head of the Government.

We have, &c.,

THE HONORABLE
THE ATTORNEY GENERAL,
Sydney.

H. M. OXLEY, J. P.
CHARLES L. NICHOLSON, J. P.

No. 36.

THE BENCH OF MAGISTRATES, BERRIMA, to THE COLONIAL SECRETARY.
(No. 59-32.)

Police Office, Berrima,
2 February, 1859.

SIR,

We have the honor to transmit herewith copies of all correspondence between this Bench and the Honorable the Attorney General, together with a short statement of the facts out of which it has arisen, and to explain, at the same time, that we have thought it incumbent on us to address the head of the Government in consequence of the extraordinary course pursued by the Attorney General in declining, without assigning any reason for so doing, to answer the question submitted to him by us, and condemning and censuring us on the *ex parte* statement of interested parties before giving us an opportunity of offering any explanation.

2. On the 1st December, 1858, Mr. C. H. Walsh appeared in this Court as an advocate—Messrs. H. M. Oxley and C. L. Nicholson the sitting Magistrates. On the case being called upon in which Mr. Walsh was retained, Mr. Oxley requested an explanation of a certain letter said to have been written to the Crown Law Officers, accusing Mr. Oxley of systematic partiality as a Magistrate (Mr. Oxley never expected anything more from Mr. Walsh than, perhaps, an evasive answer of some sort, and only mentioned the circumstance in order to shew that he was quite aware of what had been done by Mr. Walsh, and that he was unwilling to retain his seat on the Bench in his presence without taking some notice of it). Mr. Walsh not only declined to make any explanation whatever, but took occasion most gratuitously to insult, not only Mr. Oxley but the Bench; it is unnecessary to repeat the language used by Mr. Walsh, it will be quite sufficient to say that a gross insult was offered. Mr. Oxley remarked that he could not allow such conduct to pass unpunished. Mr. Walsh then told him that he dared him to interfere with him, that he had not the power, &c., &c., &c. Mr. Oxley remarked, that, as a point of law had been thus raised, he would take the opinion of

of the Attorney General, and at the same time expressed his readiness to allow the business to proceed under protest—that Magistrates had the power to protect themselves from insults given to the Bench; this offer Mr. Walsh refused, in the most insulting and offensive manner, and said he would not allow the business to go on unless Mr. Oxley made a most humble apology to him. Mr. Nicholson here left the Bench, and all the cases requiring two Magistrates were adjourned for a week. We then wrote the letter marked A to the Attorney General. On the next court day, no answer having been received, Mr. Oxley declined to take his seat on the Bench, and Mr. Nicholson adjourned the Court. On the following court day Mr. Oxley and Mr. Cordeaux attended, and, in the absence of any answer from the Attorney General, the cases were again adjourned, and the letter B written to the Attorney General. (We may here remark, in parenthesis, that the reason why the Magistrates refused to sit was, that they had been treated contemptuously and defiantly, and their power to protect themselves called in question; they would, therefore, be exposing themselves to continued insult until their status on the Bench was clearly defined.) The letter marked C from the Attorney General was received before the next court day; and it would be superfluous to deny that the Magistrates felt indignant that they should be addressed in such a manner by a gentleman in no way their superior—told in pretty plain language that the Attorney General was condescending by writing to them under his own hand—severely censured on the unanswered statements of interested parties, and their question left entirely unanswered. Against this we protested, and called the attention of the Attorney General again to the point at issue, in the letter marked D, in the following words, viz. :—“ Our letter simply asked the question had Magistrates the power to protect themselves “ from the insults of an attorney, or were they bound to hear him, however contemptuously “ and defiantly he might treat them” On the next court day, in order that the public might not be further inconvenienced, we heard all cases in which Mr. Walsh was not concerned. The letter E was next received from the Attorney General, still leaving unanswered our question, to which we replied by the letter F, urging for the third time an answer. The letters of Mr. Walsh and James Rodgers were then received from the Attorney General, to whom they had been addressed, complaining of the conduct of this Bench. On the next occasion on which the Court sat we, willing that the cases in which Mr. Walsh was retained should be disposed of, offered to hear that person if he would apologize for the insults he had previously offered, instead of doing which, he behaved in a still more insulting way than on the 1st December, when Mr. Oxley said that he was sorry that he had consented to sit as a Magistrate until the point raised had been satisfactorily settled, and that for the future he should not do so, and then left his seat. Mr. Walsh remarked in the coarsest terms that Mr. Oxley would not long have the power to sit, as a supersedeas would soon relieve the public of his presence on the Bench, and that he would place him on the floor of the Court on his trial.

3. The above is a brief narration of the circumstances out of which the correspondence alluded to has arisen; and we may now remark that the statements made by Mr. Walsh in his communications to the Attorney General are in the main grossly false, or, where the truth is stated it is so disguised as to convey an entirely wrong impression of what really took place; and that we shall decline to make any observations on the letter of James Rodgers, further than to state that the case against him was not adjourned for the reasons mentioned by him, but that the ends of justice demanded a remand for reasons which the Magistrates do not feel called upon to particularize.

4. From what has been stated, you will gather that we felt that we had been insulted, and the point was raised that we must submit to such insult; we asked the opinion of the Attorney General, (we did not ask whether or not certain behaviour amounted to an insult, we considered that we should be the sole judges on that point, and were quite willing to take upon ourselves the responsibility of applying the law to any particular case; we thought the Attorney General was the proper person to supply us with that law whenever we were in doubt; if it is not the duty of that officer to give us legal advice he should have said so, and we would then have acted upon what we believed to be the law, or have taken the opinion of a private barrister); that the Attorney General declined week after week to answer the question put to him, and in addressing this Bench took into consideration communications from other parties which should, in our opinion, have been made the subject of a separate inquiry; and, lastly, that the Magistrates, feeling that they had been placed in

1858-9.

Legislative Assembly.
NEW SOUTH WALES.

**CASE OF JOHNSON & ROSS v. ISAACS,
POSTMASTER, KEMPSEY.**

(RETURNS RELATIVE TO.)

Ordered by the Legislative Assembly to be Printed, 9 April, 1859.

RETURN, in part, to an *Address* from the Honorable the Legislative Assembly of New South Wales, dated 22 March, 1859, to the Governor General, praying that His Excellency would be pleased to cause to be laid upon the Table of this House,—

“ (1.) Copies of all correspondence between the Bench of Magistrates of Port Macquarie and the Postmaster General, relative to a letter addressed to Captain Johnson and R. S. Ross, Esquire, J. P., by J. Warne, Esquire, J. P., of Kempsey.

“ (2.) Copies of all correspondence between the Postmaster General and the Bench of Magistrates at Kempsey, relative to such letter.”

(*Mr. Williamson.*)

SCHEDULE.

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—

Copies of the depositions taken in the case of Johnson & Ross v. Isaacs, Postmaster, Kempsey, have not yet been received.

—

CASE OF JOHNSON & ROSS v. ISAACS, POSTMASTER AT KEMPSEY.

No. 1.

THE POSTMASTER GENERAL to THE COLONIAL SECRETARY.

General Post Office,
Sydney, 31 March, 1859.

SIR,

In compliance with the request contained in your letter of the 24th instant, I have the honor to forward copies of the correspondence that has taken place between myself and the Benches of Magistrates at Kempsey and Port Macquarie, on the subject of a letter addressed to Messrs. Scott Ross and R. G. Johnston.

2. The envelope of the letter which has caused this correspondence is in the possession of this department, and can be produced if required.

THE HONORABLE
THE COLONIAL SECRETARY.

I have, &c.,
W. H. CHRISTIE,
Postmaster General.

No. 2.

THE PORT MACQUARIE BENCH to THE POSTMASTER GENERAL.

Police Office, Port Macquarie,
10 September, 1858.

SIR,

We have the honor to forward herewith a declaration made before us by the Postmaster of this district, touching the tampering with an official letter addressed to us by John Warne, Esq., J. P., of Kempsey, the envelope of which (also forwarded) has evidently been cut open by some party or parties connected with the Post Office at Kempsey. Declaration of M. Spence, dated 10 September.

We beg leave also to draw your attention to the fact, that the Post Office at Kempsey is under the same roof as the public-house kept by one R. S. McDougall, and that the official letter above referred to has especial reference to that individual, arising out of an assault committed by him in this district, for which he was convicted, and fined by us.

We have the honor further to inform you, that it has come under our knowledge that great irregularities exist at the Post Office at Kempsey, inasmuch as it is a matter of notoriety that persons have been known to take their letters from the respective pigeon-holes, instead of their being received by them *direct* from the Postmaster.

We should feel obliged by your informing us of the result of your investigation of this matter, as it is our intention to institute criminal proceedings against the Postmaster at Kempsey, which will of course depend upon your report.

THE POSTMASTER GENERAL,
Sydney.

We have, &c.,
R. SCOTT ROSS, J. P.
R. G. JOHNSTON, J. P.

[Enclosure in No. 2.]

I, Michael Spence, Postmaster of Port Macquarie, hereby declare, on honor, that on Monday evening last I received with the mail from Kempsey a letter, addressed to R. Scott Ross and R. G. Johnston, J. P.'s, the envelope of which is marked A, to which I have now affixed my name; my attention was drawn to the very peculiar manner in which this letter was stamped, viz., in one place *over the seal* it had been twice stamped, one over the other, and in two other separate places distinct from that first described; I also observed that the said letter had been cut open and "gummed" up afterwards, with the view, I have no doubt, of the contents being known. Whilst sorting the letters, I observed Capt. Johnston, J. P., one of the gentlemen to whom the letter was addressed; in less than five minutes from that time I took it over and delivered it to Capt. Johnston, in the presence of Mr. Becke, and especially drew their attention to the condition of the letter—that it had evidently been cut open by some

some sharp instrument, and closed afterwards. Capt. Johnston then in my presence opened the letter as it now appears—at the end, to avoid disturbing the seal. I must observe further, that the Kempsey postmark appears in one place dated the 4th, while that *over the seal* is dated the 6th September instant.

M. SPENCE,
Postmaster.

Made before us at Port Macquarie, this }
10th day of September, 1858. }
R. SCOTT ROSS, J. P.
R. G. JOHNSTON, J. P.

No. 3.

THE POSTMASTER GENERAL to THE PORT MACQUARIE BENCH.

(No. 58-1528.)

General Post Office,
Sydney, 18 September, 1858.

GENTLEMEN,

I have the honor to acknowledge the receipt of your letter, dated the 10th instant, preferring charges against the Postmaster at Kempsey.

2. I have transmitted the papers connected therewith to the Bench of Magistrates at that place, and have requested them to make a rigid investigation into all the circumstances of the case.

THE BENCH OF MAGISTRATES,
Port Macquarie.

I have, &c.,
W. H. CHRISTIE,
Postmaster General.

No. 4.

THE POSTMASTER GENERAL to THE KEMPSEY BENCH.

(No. 58-1528.)

General Post Office,
Sydney, 18 September, 1858.

GENTLEMEN,

I have the honor to transmit to you a communication, made to me by the Bench of Magistrates at Port Macquarie, and will feel greatly obliged by your making a rigid investigation into the matter.

2. I need not say that if the Kempsey Postmaster (who was strongly recommended to me) is in any way to blame, I am not only ready to dismiss him, but should wish him punished, as I conceive the law provides for by the 4th and 44th clauses, 15 Vict., c. 12.

TO THE BENCH OF MAGISTRATES,
Kempsey.

I have, &c.,
W. H. CHRISTIE,
Postmaster General.

No. 5.

THE KEMPSEY BENCH to THE POSTMASTER GENERAL.

Police Office, West Kempsey,
McLeay River, 2 October, 1858.

SIR,

We have the honor to acknowledge the receipt of your letter to this Bench, of date as per margin, enclosing a communication made to you by the Bench of Magistrates at Port Macquarie, relative to the alleged tampering, by some party or parties connected with the Post Office at Kempsey, with a letter addressed by J. Warne, Esq., J. P., to R. S. Ross and R. G. Johnston, Esqrs., J. P.'s, and requesting that we would make a rigid investigation into the matter.

2. We handed to Mr. Warne your communication, and its enclosures, and have taken that gentleman's statement as to the state of the envelope when he delivered it into the Post Office. We have also had before us the Kempsey Postmaster, and invited him to make any observations or explanation that he thought fit. His statement is also enclosed.

3. As regards the fact that the Post Office at Kempsey is under the same roof as a public-house, we believe that in other parts of the Colony like offices are similarly situated; and

Dated 18 Sept., 1858.

Herewith returned.

Three—
One from R. S. Ross and
R. G. Johnston, J. P.'s,
dated 10 September;
Declaration of Mr. Spence,
made 10 September, 1858;
and one Envelope, ad-
dressed to Messrs. R. S.
Ross and R. G. Johnston,
J. P.'s.

and although we consider that such should be avoided where possible, we feel bound to state that hitherto the management of the present office at Kempsey has been to our satisfaction. The room set apart for the office is outside the inn, and has a separate entrance.

4. So far as concerns the present Postmaster, we have not seen any irregularity, nor do we believe that persons have been by him permitted to "take their letters from the "respective pigeon-holes," nor is any practice of the kind "a matter of notoriety" here.

We have, &c.,

(For the Bench)

THE POSTMASTER GENERAL,
Sydney.

CHAS. SPENCER, J.P.
A. ALLARDICE, J.P.

[Enclosure 1 in No. 5.]

I, John Warne, of the McLeay River, Esquire, J.P., do hereby declare, upon honor, that the letter envelope addressed to Messrs. R. Scott Ross and R. G. Johnston, J.P's., Port Macquarie, herewith annexed and marked A, to which I now affix my name, was by me put into the Post Office at Kempsey, in this district, on Saturday, the fourth day of September last, and that at the time of its being so posted such envelope was securely gummed, and that there was no cut or other defacement over the spot where the same was sealed or fastened, and that the apparent cut at that place now thereon has been made since such envelope left my possession as aforesaid.

I may state, further, that although the subject of the letter contained in the said envelope had reference to Mr. R. S. M'Dougall, it was of no moment to him that I had shewn to him the letter to which the reply was contained in the envelope in question, and had he expressed a wish to see such reply, I should have felt no hesitation either in shewing it to him, or informing him the purport thereof.

Made before us, this 16th day of }
October, 1858, at the Police }
Office, West Kempsey.

J. WARNE, J.P.

CHAS. SPENCER, J.P.
A. ALLARDICE, J.P.

[Enclosure 2 in No. 5.]

Kempsey, 16 October, 1858.

I, Gilbert Isaacs, Postmaster of Kempsey, in vindication of a charge preferred against me by the authorities of Port Macquarie of having opened a letter passing through my office, do hereby make a declaration, upon honor:—

- 1st. That, prior to the charge, I was perfectly ignorant of such a letter having been posted here; that no one single individual (not even my assistant, Mr. M'Dougall) had entered my office from the time the letter was posted until its despatch; that no letter was ever tampered with by me, nor could it possibly have been meddled with by any other person; and that the letter in question bearing the Kempsey postmark is the only clue by which I know of its having been in my possession.
- 2nd. In reference to the stamping of the letter,—the several stamp marks occurred through my not having made the impressions distinct, as particularly required in one of the Post Office Regulations; and the letter bearing the postmark of the 4th and 6th is accounted for by the letter having been mixed with those to be stamped on the 6th; and with regard to the postmark being over the seal, it was a mere casualty, in support of which statement I beg respectfully to call upon Mr. F. Panton, J.P., who has received from me letters similarly stamped.
- 3rd. In contradiction to Messrs. Ross and Johnston's statement of parties assisting themselves to letters from the pigeon-holes, I beg to state that it is grossly false, and that no party, since the management of the Kempsey Post Office has been in my hands, has ever been admitted within the office during business hours; in support of this statement I beg to refer you to our Bench of Magistrates, and, in vindication of character, offer a testimonial signed by nearly all the principal landholders, storekeepers, and leading men of the Macleay River. To the above statements I am willing, if required, to make solemn oath.

I would now wish humbly to refer you to the circumstance of the Postmaster of Port Macquarie forwarding a copy of depositions transmitted to Mr. M'Dougall to Sydney, thereby precluding him, by loss of time, from an immediate intended action, and which could not possibly, from size of letter, be accidental; also to the case of Fahy v. M'Dougall, and to the pending action between M'Dougall and Messrs. Ross and Johnston, and to state it as my firm belief that the letter in question was cut in Port Macquarie, with the view of laying a foundation by which a charge might be brought against Mr. M'Dougall, but which could not be arrived at except through me.

Made before us, at the Police Office, }
West Kempsey, this 16th day }
of October, 1858.

GILBERT ISAACS,
Postmaster.

CHAS. SPENCER, J.P.
A. ALLARDICE, J.P.

[Enclosure 3 in No. 5.]

WE, the undersigned, hereby certify that we have known Mr. G. Isaacs, the Postmaster at Kempsey, since his arrival in this district (now about four years), and, since our knowledge of him, we have believed that he was a sober and trustworthy person. We wish further to express our satisfaction of the management of the Post Office at Kempsey, and to add that it is with astonishment we learn that a charge has been made against him of having opened a letter passing through his office.

A. Cochran.	Isaac Harvey.
J. W. Wilson.	Thomas Burns.
James Thompson.	William Fairweather.
Francis Scote.	Noah Paine.
Alexander Mackenzie.	A. K. Oakes.
W. Briggs, C. P. S.	George Henderson.
Edwin M. Lane.	M. C. Oakes.
Thomas Boulton.	Sarah Cox.
Andrew Nicholson.	Alfred Cox.
Hananiah Hilder.	P. M. Guigan.
Alfred Tree.	Henry Sargent.
Thomas Biddle.	Alfred Copeland.
E. Herbert.	James Hannigan.
A. Paton.	W. C. Rogers.
G. Dave.	Robert D. Burnet.
B. Evans.	William H. Thornton.
G. C. Hamilton.	John Martin.
D. Blair.	John A. Haley.
Ethiel James Morrell.	John R. Bushey.
A. Bannerman.	George Benson.
John Ferrier.	John Edwards.
Thomas H. Thompson.	Michael Swancy.
Campbell Key.	John Gleeson.
Wm. Washington.	William Matterson.
Frank M'Corneick.	Benjamin Cooke.
James Pursell.	William Smith.
James Damby.	W. S. Cheers.
Edward Hampson.	John Pearce
F. Chapman.	Michael Murray.
Henry Galton.	Thomas Washington.
John Boulton.	Joseph Kerrison.
James Boulton.	William Feast.
C. Lawson.	C. Cuspin.
W. J. Salmon.	Robert Wauch.
C. Christian.	J. Reidder.
Thomas L. Smith.	J. Norton.
William Tracey.	J. Wickham.
his	E. Woolmer.
John + Curnoe.	W. C. Chapman.
mark	Frederick D. Cheers.
S. Miles.	Thomas Alozey.
James Harris.	Henry Hilder.
William Sanders.	Griffles Fees.
Thomas Christian.	William G. Ducat
John Simpson.	E. Ball.
Thomas Smith.	Charles Thompson.
Isaac Ainsworth.	H. C. Lawson.
J. B. Ainsworth.	John Lance.
T. A. Salmon.	W. Walsh.
Charles Parish.	

No. 6.

THE POSTMASTER GENERAL to THE PORT MACQUARIE BENCH.

(No. 58-1735.)

General Post Office,
Sydney, 28 October, 1858.

GENTLEMEN,

With reference to the charge preferred by you against the Kempsey Postmaster, of tampering with a letter addressed to the Port Macquarie Bench, I have the honor to enclose, for your information, a copy of my letter to the Kempsey Bench on the subject, together with their reply thereto.

I have, &c.,

W. H. CHRISTIE,

Postmaster General.

THE BENCH OF MAGISTRATES,
Port Macquarie.

No. 7.

No. 7.

THE PORT MACQUARIE BENCH to THE POSTMASTER GENERAL.

Police Office, Port Macquarie,

1 November, 1858.

SIR,

We have the honor to acknowledge the receipt of your letter of 28th ultimo; and with reference to the second paragraph of the copy therewith transmitted of a letter from the Kempsey Bench, the enclosures therein named do not accompany your letter, viz., Mr. Warne's statement as to the condition of the envelope when received by us, as also the Postmaster's explanation.

When these documents are received by us we shall communicate with you again on the subject.

As this is a serious allegation, it is our determination to sift the case to the bottom, in which view, by your letter of 18th September last, you appear fully to concur.

On public grounds, we consider that the third and fourth paragraphs of the letter of the Kempsey Bench to be most unsatisfactory.

We have, &c.,

R. SCOTT ROSS, J.P.,

Acting Police Magistrate.

R. G. JOHNSTON, J.P.

THE POSTMASTER GENERAL,
Sydney.

No. 8.

THE POSTMASTER GENERAL to THE PORT MACQUARIE BENCH.

(No. 58-1837.)

*General Post Office,**Sydney, 10 November, 1858.*

GENTLEMEN,

I have the honor to enclose copies of the documents referred to in your letter of the 1st instant, such being—

- (1.) Mr. Warne's statement as to the condition of the envelope when received by the Port Macquarie Bench.
- (2.) The Postmaster's explanation.

I have, &c.,

W. H. CHRISTIE,

Postmaster General.

THE BENCH OF MAGISTRATES,
Port Macquarie.

No. 9.

THE PORT MACQUARIE BENCH to THE POSTMASTER GENERAL.

Police Office, Port Macquarie,

15 November, 1858.

SIR,

We have the honor to acknowledge the receipt of your communication of the 10th, in reference to the Postmaster at Kempsey, and are much surprised at the statements made by Mr. Isaacs, entertaining, as we do, the highest opinion of Mr. Spence, our Postmaster, for integrity and honesty, it has pained us much to find his character so fearfully maligned by Isaacs.

It is our intention to proceed to the Macleay this week with Mr. Spence to prosecute, as the law provides for, under the 4th and 44th clauses of the Act, 15 Vict., c. 12.

We will communicate further with you after the case has been heard by the Kempsey Bench.

We have, &c.,

R. SCOTT ROSS, J.P.

Acting Police Magistrate.

R. G. JOHNSTON, J.P.

THE POSTMASTER GENERAL,
Sydney.

8 CASE OF JOHNSON & ROSS v. ISAACS, POSTMASTER, KEMPSEY.

No. 10.

THE PORT MACQUARIE BENCH to THE POSTMASTER GENERAL.

*Police Office, Port Macquarie,
22 November, 1858.*

SIR,

Since addressing you on the 15th, we have the honor to inform you that we have been to Kempsey. In consequence of the long distance at which Magistrates reside from the Police Office it was impossible to form a Bench, added to which, we found that the envelope which forms the basis of proceeding had been returned to you by the Bench.

To insure a hearing of the case, it has been postponed until Saturday, the 11th December, in order to allow the Magistrates no excuse for non-attendance, added to which, Mr. Warne, J.P., has assured us he will use his influence to bring it about. Will you, therefore, be good enough to send us the envelope; at the same time will you favor us with the course to be pursued—Is an authority from you to prosecute necessary in this matter, having reference to the 4th clause of the Act 15 Vict., No. 12? Something must be done, inasmuch as the defence made by Isaacs has not only, we conceive, implicated Mr. Spence, but has also thrown an imputation on the characters of Captain Johnston and myself.

I have, &c.,

(for the Bench,)

THE POSTMASTER GENERAL,
Sydney.R. SCOTT ROSS, J.P.,
Acting Police Magistrate.

No. 11.

THE POSTMASTER GENERAL to THE PORT MACQUARIE BENCH.

(No. 58-1942.)

*General Post Office,
Sydney, 1 December, 1858.*

GENTLEMEN,

I have the honor to acknowledge the receipt of your letter of the 22nd ultimo, and, in compliance with your request, to forward the envelope of the letter said to have been tampered with at the Kempsey Post Office.

It appears to me no authority from me is required as to any prosecutions for postal offences.

I have, &c.,

THE BENCH OF MAGISTRATES,
Port Macquarie.T. K. ABBOTT,
(for the Postmaster General.)

No. 12.

THE PORT MACQUARIE BENCH to THE POSTMASTER GENERAL.

(No. 58-152.)

*Police Office, Port Macquarie,
24 December, 1858.*

SIR,

I have the honor to enclose a copy of the proceedings taken against the Postmaster at Kempsey, on the 11th instant. You will perceive that two Magistrates sat in the case, and that they were unable to agree upon a decision. Mr. Kemp, I believe, was for a conviction. Mr. Allardice, who has been residing for the last 18 months at the public-house where the Post Office is, and kept by M'Dougall, could not, for reasons best known to himself, arrive at the same decision.

I think you will agree with me that a public-house is a most unfit residence for a Magistrate. I have deemed it my duty to make you aware of this fact, so that you may be enabled to arrive at a just conclusion on the facts adduced on the case.

When the defendant was called on for his defence he had nothing to offer, excepting the statement made by him on the 18th October last. I would also inform you that he asked leave to *withdraw* therefrom the last paragraph, commencing, "I would now wish humbly," &c., to the end.

You will perceive from the evidence that the letter could not have been in any other hands than his own, clearly proving to my unprejudiced mind his highly guilty conduct in the matter.

I would mention, from my own knowledge, that many parties who signed the certificate of character very much regret having done so, and would not had they known the whole circumstances of the case.

In viewing the matter from the beginning to the end—the rigid investigation which you ordered, in the way it has been carried out, is calculated to defeat the ends of justice; for I can conscientiously state I have met with nothing but opposition from a section of the Bench at Kempsey, and viewed with surprise and regret their evident leaning towards the defendant.

You will be good enough to let me know the decision you have arrived at in the case.

THE POSTMASTER GENERAL,
Sydney.

I have, &c.,

R. SCOTT ROSS, J.P.

[Enclosure in No. 12.]

New South Wales, }
To Wit. }

Robert Gudgeon Johnston, of Port Macquarie, Esquire, and lately a Justice of the Peace, maketh oath and saith:—On Monday evening, the 6th of September last, shortly after the arrival of the mail from Kempsey, I was standing in Horton-street, in the town of Port Macquarie, in conversation with Mr. Becke, when the Postmaster, Michael Spence, brought me a letter, which was enclosed in one envelope, now produced, and on which I now affix my initials, and particularly called my attention to the state of the said envelope, which evidently had been cut open and afterwards closed up, bearing the Kempsey postmark over the spot where the wafer is in general placed, with the view, I then conceived, and still conceive, of concealing the evident attempt at mutilation of the seal as before described; the letter in question is addressed to Messrs. R. Scott Ross and R. G. Johnson, J.P.'s; I opened the said letter at the side thereof to avoid interfering with the seal, and after perusing it I took it to Mr. Robert Scott Ross, J.P., and pointed out to that gentleman the state of the letter when delivered to me, and expressed my opinion as to its having been tampered with; I do most firmly and truly believe that Mr. Spence, the Postmaster of Port Macquarie, is incapable of any improper act in respect to the said letter, and that, consequently, the tampering therewith must have originated in some other quarter. I regret, from physical infirmity, I am prevented proceeding to Kempsey to give *visa voce* evidence herein.

R. G. JOHNSTON.

Sworn before me, at Port Macquarie, the }
9th day of December, 1858. }

J. H. CRUMMER, J.P.,

Police Magistrate.

Exhibited before us, this 11th }
day Dec., 1858. }

R. A. H. KEMP, J.P.

A. ALLARDICE, J.P.

A true Copy,

W. BRIGGS, C.P.S.

New South Wales, }
M'Leay River, to wit. }

Police Office, West Kempsey.

Saturday, the 11th day of December, 1858.

Present:—Robert Augustus Haddon Kemp and Archibald Allardice, Esqs., J.P.'s.

Gilbert Isaacs, of Kempsey, M'Leay River, in the Colony of New South Wales, Postmaster, at that place, summoned to answer to a complaint made against him, that on the 4th day of September, now last past, there came into his hands, by reason of his employment as Postmaster as aforesaid, a certain letter addressed to "Messrs. R. Scott Ross and R. G. Johnston, J.P.'s, Port Macquarie," and that while the said letter was in his possession by virtue of his said office, he did either open or willingly permit and suffer the same to be opened, (15 Vict., No. 12, Sect. 4.) appears on his summons and pleads not guilty.

John Warne, Esq., being sworn on his oath, saith:—I am a Magistrate of this Colony, and reside on the M'Leay River; I remember posting a letter at the Kempsey Post Office, on a Saturday early in September last, addressed to "Messrs. R. Scott Ross and R. G. Johnston, J.P.'s, Port Macquarie;" the envelope now handed to me is the envelope in which that letter was contained; I do not recollect whether I put the letter into the box at the Post Office, or whether I delivered it to the defendant, Mr. Isaacs, the Postmaster; at the time I put the letter in the Post Office there was no cut immediately over the seal of the envelope as there now appears to be; it was in a perfect state when I put it into the Post Office. Judging from the appearance of the envelope it has the look of having been tampered with, or cut open at a place immediately over the seal, and judging from the appearance it appears to have been fastened after being cut; upon looking at the envelope I should say that the Post Office stamp "Kempsey" has been placed upon the envelope four times; two of the impressions are one over the other; one of the marks is Sept. 4, and I think the

the other three are Sept. 6, but I cannot say positively as to one of them; since the defendant has been Postmaster, I have been in the Post Office either once or twice; I have never received my letters other than at the window of the Office, and when I have been in it has been either to write or address a letter; I am not aware that defendant has an assistant who has made the necessary declaration; I have heard that he has.

J. WARNE.

Sworn before us, this 11th day }
of December, 1858.

R. A. H. KEMP, J.P.
A. ALLARDICE, J.P.

Mr. Michael Spence, being sworn on his oath, saith:—I am Postmaster at Port Macquarie; on the 6th of September last, between 4 and 5 o'clock in the afternoon, I received the Kempsey mail bags from the post boy; I immediately opened them and commenced sorting the letters, in doing which I noticed a letter with the Kempsey postmark in two places, which is very unusual and against the regulations, this made me look at the letter more closely, and I then noticed that it had every appearance of having been opened, by the envelope having been cut; the letter was addressed to "Messrs. R. Scott Ross and R. G. Johnston, "J.P.'s., Port Macquarie;" the envelope now handed to me is the envelope of the letter in question; I recognise it by my signature being thereon; immediately upon receipt of that letter I put my Post Office stamp upon it; not more than two minutes after stamping the letter I saw Captain R. G. Johnston, one of the gentlemen to whom the letter was addressed, and pointed out to him the circumstance of the letter having every appearance of having been opened; the envelope in question contained the letter sent to Messrs. Ross and Johnston by Mr. Warne; I requested Captain Johnston to take the letter out without disturbing the seal, so that an investigation might be made into the matter, and Captain Johnston then opened the envelope by destroying the end of it as it now appears; a letter has no business to be stamped but on the day on which it is posted; I have held the office of Postmaster at Port Macquarie about 8 years; the first stamp on the envelope is "Kempsey, "Sept. 4," this was on a Saturday; the other three stamps are evidently Sept. 6; over the seal there are two stamps of Sept. 6, and marked "Kempsey"; it could not have been five minutes after the arrival of the mail bags before I handed the letter to Captain Johnston; my usual practice after the arrival of the mail is to stamp and sort all the letters before delivery; I had not completed the sorting of the mail when I delivered this letter to Captain Johnston; my reason for delivering this letter to Capt. Johnston before the letters were sorted was because I saw that this letter had been cut open; directly I presented the letter to Capt. Johnston I told him to look at it, that it had every appearance of having been opened.

By the Defendant:—I knew that the letter in question was from Mr. Warne, from my previous knowledge of his handwriting.

M. SPENCE.

Sworn before us, this 11th day }
of December, 1858.

R. A. H. KEMP, J.P.
A. ALLARDICE, J.P.

Robert Scott Ross, Esq., being sworn on his oath, saith:—I am a Magistrate of the territory, and reside at Port Macquarie; on the 6th September last, between the hours of 4 and 6 o'clock in the afternoon, I was standing in Horton-street, in the town of Port Macquarie, in this Colony, when I was addressed by Capt. Johnston in very nearly the following words, as near as I can remember, "Here's a letter from Mr. Warne in answer to one which we sent "the other day; Mr. Spence has just drawn my attention to the fact that it has been "cut open," and added, "I've opened it (meaning the envelope) at the end, as you now "see, so as not to interfere with the seal"; the envelope now produced is the one in question, and is in the same state as when given to me by Captain Johnston on the 6th September last; Captain Johnston, in answer to my inquiry, said that he had had it in his possession some two or three minutes; not ten minutes could have elapsed from the time Captain Johnston received the letter from Spence until I saw the former; the envelope in question bears no less than 4 Kempsey postmarks—a double one over the seal where the envelope is cut; and these four marks are of two days, September 4 and 6.

R. SCOTT ROSS.

Sworn before us, this 11th day }
of December, 1858.

R. A. H. KEMP, J.P.
A. ALLARDICE, J.P.

Frederick William Chopman, Esq., being duly sworn on his oath, saith:—I reside on the McLeay River; I know the defendant, Mr. Isaacs; I believe he is Postmaster at Kempsey; the Post Office is a building attached to the public-house; to the best of my knowledge and belief it is under the same roof as the public-house; I have known Mr. Isaacs some 4 or 5 years; not intimate with him; since defendant has been Postmaster at Kempsey I have been in the Post Office perhaps three or four times; I won't swear that I have not been in half-a-dozen times—but certainly not a dozen times; to the best of my belief I never received a letter from the defendant while I was in the office; I have no interest in the Kempsey Post Office; I am not aware whether McDougall, the landlord of the inn, is a servant of the defendant's, in respect of the post office.

By

By the Defendant :—So far as I can recollect, when I have been in the Post Office I have not been there on matters connected with the office.

By Mr. Ross :—I have heard it said that no persons have a right in the Post Office but those connected with the office, but this I only know from report.

F. W. CHAPMAN.

Sworn before us, this 11th day }
of December, 1858. }

R. A. H. KEMP, J.P.
A. ALLARDICE, J.P.

The defendant desires to refer the Bench to a statement previously made by him in this matter, that he has nothing to add thereto, nor has he any witnesses to call; defendant has an assistant, Mr. McDougall, who has made the usual declaration.

The Bench being unable to agree upon a decision upon the evidence adduced, the parties are released from further attendance this day.

R. A. H. KEMP, J.P.
A. ALLARDICE, J.P.

A true copy.
W. BRIGGS, C.P.S.

No. 13.

THE POSTMASTER GENERAL to THE KEMPSEY BENCH.

*General Post Office,
Sydney, 6 January, 1859.*

GENTLEMEN,

Referring to your letter of the 25th October last, I have the honor to forward further papers in the case of the complaint made against the Kempsey Postmaster.

I cannot but think that you must be the best judges of Mr. Isaacs' conduct and character as Postmaster, and should you, after a careful perusal of these papers, be of opinion that the removal of Mr. Isaacs is desirable, I am prepared at once to carry out your recommendation.

I have, &c.,

W. H. CHRISTIE,
Postmaster General.

THE BENCH OF MAGISTRATES,
Kempsey.

No. 14.

THE KEMPSEY BENCH to THE POSTMASTER GENERAL.

*Police Office, West Kempsey,
1 February, 1859.*

SIR,

We have the honor to acknowledge the receipt of your communication to this Bench, of date as per margin, forwarding further papers in the case of the complaint against the Kempsey Postmaster, and stating that should we, after a careful perusal of those papers, be of opinion that the removal of Mr. Isaacs is desirable, you are prepared to carry out our recommendation.

2. The matter has received our attentive consideration, and we do not feel called upon to recommend the removal of Mr. Isaacs from the appointment.

3. For ourselves, we indignantly deny having in any way opposed Mr. Ross in the investigation into the alleged tampering. Mr. Warnie being a witness could not sit in the case. Mr. Spencer was absent from the district at the time of the hearing, and Mr. Panton only returned from New England to his residence, 25 miles from this office, the night before the complaint was heard before Messrs. Kemp and Allardice, the remaining members of the Bench.

We have, &c.,

J. WARNE, J.P.
CHAS. SPENCER, J.P.
F. GOULBURN PANTON, J.P.

THE POSTMASTER GENERAL,
Sydney.

No. 15.

A. ALLARDICE, ESQ., J.P., to THE POSTMASTER GENERAL.

*Court House, West Kempsey,**River Macleay, 14 Feb., 1859.*

SIR,

I do myself the honor to refer to a communication from you, under date the 6th January last, addressed to the Bench of Magistrates here. That letter did reach whilst I was on the point of starting for my run at the River Bellingett, but I was only able to return yesterday, and thus have been prevented from replying earlier to any correspondence relating to me. Your letter has been acknowledged officially by the Bench of Magistrates here, and purposely, before leaving, I decided to abstain from being a party to it.

Mr. R. Scott Ross' letter to you of 24th December, 1858, as per copy transmitted, with accompanying documents in his case with the Postmaster here, *Ross v. Isaacs*, brought before the Kempsey Bench of Magistrates, has my attention.

My first view of the matter was not to condescend to notice such undignified correspondence, and it is only altered by feeling that possibly it may be my duty to my brother Magistrates on this Bench to at once dispose of Mr. Ross' statements.

Perhaps you will excuse my shewing Mr. Ross' imprecise way of making statements. He states, Mr. Allardice "has been residing for the last 18 months at" a house as described by him, to which I shall refer. I can, if I choose, prove I had not been absent from my station at the head of this river for 12 months preceding the 11th day of December, 1857. This letter is dated the 24th December, 1858: this statement to you consequently simply is untrue. He states, "I have deemed it my duty to make you aware of this fact—that a "public-house is a most unfit residence for a Magistrate." The "Rose Inn" in Kempsey is best inn or hotel there; the Magistrates of the Bench, without exception, visit there, and when business requires them to remain in Kempsey stay at it; when at intervals my operations made it necessary for me to be in Kempsey I did so too, and intend to do so again, whenever it suits my pleasure or convenience. In words it is true that a member attending Parliament in Sydney and residing at the Australian Club lives at a public-house. Such words, if stated to a gentleman who did not know me, might convey a certain meaning. Mr. Ross uses these words, and his words thus might have the effect of a malicious misrepresentation.

Mr. Ross, in his letter, states, "Mr. Kemp, I believe, was for a conviction, Mr. Allardice, for reasons best known to himself, could not arrive at this same decision." If reasons were not known, one reason was well known to myself why I was not for a conviction, which was, because in my judgment Mr. Ross had not made out a case. His imputation is the gravest which can be made in the most sacred province of the Magistrate. Individually, however, I will not proceed legally against him, on three grounds: The first is, business may require my absence for several months in Victoria; the second is, privately, I should not have the inconvenience of litigating for a public benefit; and the third is, I feel so immeasurably beyond the reach of being raised by praise or lowered by censure proceeding from the spirit of malevolence, that I am to his remarks utterly indifferent.

The Bench could only deal with the evidence brought before it. It appears the first time the envelope was shewn, and before it had been handled and pulled in different ways, that the circular cut behind the seal left a ligature unsevered. If so the letter was unopened, and the case was at an end.

They were unable to perceive any interest that Mr. Isaacs could have in opening the letter; and unable to believe that, if capable of committing such an offence, he would have opened it in such a palpable way.

They could not at same time ignore the knowledge that from Mr. Ross, in the absence of a Police Magistrate, having adopted the extreme course of issuing a warrant against Mr. McDougall, it was believed illegally, all the parties to the case before the Court were involved in virulent conflict.

The Magistrates on this Bench collectively, I presume it may fairly be assumed, had a greater interest than Mr. Ross in preserving the integrity of correspondence, and would require no extraneous suggestion to recommend an instant dismissal if they suspected their correspondence was passing through unreliable hands. Thus far for the equities in the case.

So

So far as law went, in my opinion, subject of course to legal correction, Mr. Ross had no case at all. The information was laid under Act 15 Vict. 12, G, 4, under which there was no offence committed. That clause only required a declaration to be made, which had been made. No doubt it was the intention of the Legislature to make a breach of the promises in that declaration penal, but the clause did not give the Magistrates power to convict for a breach of oath. It simply required the declaration to be made. If there was an offence it was under the Post Office Regulations, but these were not produced, or made a part of the case before the Court.

I beg to be allowed to submit, that if a breach is not provided for in the Post Office Regulations it ought to be, or clause 4 should be amended so as to have that effect. The chief witness called by the complainant was Mr. Spence. He came before the Bench, no doubt recommended thus by Mr. Ross and Captain Johnston in their letter to you of 15 November, 1858—"Entertaining, as we do, the highest opinion of Mr. Spence, our Postmaster, for integrity and honesty, it has pained us much to find his character so fearfully maligned by Isaacs." The Bench could not forget the fact that to one woman he could not have acted with much integrity, having had the misfortune to be sent to this country for bigamy, and they would have esteemed it, if not more honest, more candid had he, in a case where information ought to have been given precisely, added to the clause in his letter of 24th December, 1858, to you, viz. :—"I would also remind you of a complaint made some few months back by Mr. Chapman, of his having forwarded a letter to the Kempsey Post Office, containing a considerable sum of money, and which letter was never heard of, to his pecuniary loss"—the statement of the fact that this occurred in November or December 1856, or twelve months before Isaacs applied for the appointment.

On public grounds, as a member of the magistracy, I had determined to bring the entire case before the Honorable the Attorney General, with a solicitation for him to take immediate legal action in the matter. Mr. Ross has made an imputation; he should be made to prove it. One of my brother Magistrates, whose legal opinion I much respect, advises me, however, to allow the matter at this point to drop, the case now having become too insignificant for my attention. Deference to his opinion will induce me to take that course.

Mr. Ross, in his letter, 24th December, 1858, states,—“I can conscientiously state I have met with nothing but opposition from a section of the Bench at Kempsey.” He cannot, I infer, include me, as I was on the Bench at every sitting in the case, coming frequently long distances for that purpose, excepting at one Bench, when the river was in flood, and Mr. Ross knew I was thirty miles above Kempsey, and it was impracticable to cross it to come down; I therefore am able to speak for my brother Magistrates, and to say, that whether it had been an important case, Mr. Ross' case, or one of no consequence, it would have received the same attention at their hands. I can therefore as conscientiously state that the impression under which he labors is erroneous.

A copy of this letter I request you will be so good as transmit to the Port Macquarie Bench of Magistrates.

I have, &c.,

THE POSTMASTER GENERAL
Sydney.

A. ALLARDICE, J. P.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

MESSRS. W. ROTTON AND F. WILLIAMS.
(PETITION PRAYING REDRESS.)

Ordered by the Legislative Assembly to be Printed, 8 February, 1859.

To the Honorable the Legislative Assembly of New South Wales.

The humble Petition of Walter Rotton and Frederick Williams, of Singleton, in the Colony of New South Wales,—

SHEWETH:—

That, on or about the twenty-second day of March last, at nine o'clock at night, your Petitioners became bail for the appearance of one John Gaggin at the Police Office, Sydney, on the following Monday, the twenty-ninth day of the said month of March last.

That bail was taken in the Court House, Singleton, when your Petitioners were told "that it was only a matter of course," and they were not informed of the character of the offence with which the said John Gaggin was charged.

That the 4th section of the 2nd Victoria, No. 8, enacts, *inter alia*, that each and every Justice of the Peace before whom any recognizance shall be entered into or taken, shall and is hereby required to give, at the time of entering into such recognizance, to the person or persons surety or sureties so entering into the same, and to each of them, a written paper or notice in the form or to the effect stated in the Schedule marked B to this Act annexed, adapting the same to the particular circumstances of the case, which form is as follows:—

" Colony of New South Wales, }
" to wit. }
" Take Notice that you, A. B., of _____, are bound in the sum of one hundred
" pounds, and your sureties, C. D. and E. F., in the sum of fifty pounds each, to appear at
" the Quarter or General Sessions of the Peace, to be holden at Sydney, in the Colony of
" New South Wales, on the _____ day of _____ next, and unless you
" personally make your appearance accordingly, the recognizances entered into by yourself
" and your sureties will be forthwith levied on you and your bail. Dated this
" day of _____ one thousand eight hundred and fifty-
" _____ Justice of the Peace."

That the 11th and 12th Victoria, cap. 42, sec. 21, commonly known as Sir John Jervis' Act, in like manner provides for the remanding of prisoners and taking of bail, and requires the like notice to be given to the sureties, and to which two last Acts your Petitioners humbly refer your Honorable House.

That your Petitioners were not served with any such notice as above specified, nor had they then, nor have they since, received any further notice with reference to the said recognizances, until Mr. George Smith, the Sheriff's Bailiff of Muswellbrook, appeared with a warrant demanding the sum of fifty pounds from each of your Petitioners.

That your Petitioners were compelled to enter into a bond to appear at the Court of Quarter Sessions, to be held at Sydney on the twenty-sixth day of May last, to appeal against execution being issued on the said warrant.

That your Petitioners appeared by their Attorney at the said Court of Quarter Sessions, for the purpose of prosecuting the said appeal, when it was adjourned, and finally went over to the following month of June, to enable the Crown Prosecutor to communicate with the Bench of Magistrates at Singleton; but on the advice of the Chairman of the said Court, to prevent execution being issued on the warrant, your Petitioners paid over the sum of one hundred pounds to the Sheriff of New South Wales, to abide the event of your Petitioners' appeal, but such payment was made under protest.

That, on the appeal subsequently coming before the said Court of Quarter Sessions, it appearing that the said Sheriff had, on the third day of June last, paid the said one hundred pounds into the Colonial Treasury, His Honor the Chairman of the Court declined to entertain the appeal, on the ground that he had no jurisdiction over the money, it having left the Sheriff's hands and been paid over to the Government.

That your Petitioners humbly inform your Honorable House that the said sum of one hundred pounds is still in the hands of the Honorable the Colonial Treasurer, and that the Government have declined to return the same to your Petitioners.

Your Petitioners, therefore, humbly pray, that your Honorable House will take the premises into your consideration, and cause such proceedings to be taken as to your Honorable House shall seem fit.

And your Petitioners, as in duty bound, will ever pray, &c.

Dated this twenty-eighth day of January, in the year of our Lord one thousand eight hundred and fifty-nine.

WALTER ROTTON.
FREDERICK WILLIAMS.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

DOUGLASS v. WISDOM.

(CORRESPONDENCE RELATIVE TO THE CASE OF.)

Ordered by the Legislative Assembly to be Printed, 8 March, 1859.

RETURN to an *Address* of the Honorable the Legislative Assembly of New South Wales, dated 15 February, 1859, praying that His Excellency the Governor General would be pleased to cause to be laid upon the Table of this House,—

“Copies of all the Correspondence of the Crown Law Officers
“relative to the case of Douglass v. Wisdom.”

(Mr. Murray.)

DOUGLASS *v.* WISDOM.

No. 1.

THE SECRETARY TO LAW DEPARTMENT to THE HON. H. G. DOUGLASS, M.D.

*Attorney General's Office,**Sydney, 7 December, 1857.*

SIR,

Regina
v.
Robert Wisdom.
Libel.

In reference to the proceedings lately instituted by you against the individual whose name is noted in the margin, I am directed to state that the Attorney General does not consider it a case in which he is called upon to prosecute on behalf of the public; but that if you submit any information which the evidence will sustain, he will be prepared to sign it if you desire to prosecute privately, provided such be submitted prior to the approaching Gaol Delivery, with a view to the trial being proceeded with during the present Criminal Sessions at Darlinghurst.

I have, &c.,

W. E. PLUNKETT,

Secretary to Law Department.

THE HONORABLE H. G. DOUGLASS, M.D.,
Castlereagh-street, Sydney.

No. 2.

THE HON. H. G. DOUGLASS, to THE ATTORNEY GENERAL.

REGINA *v.* WISDOM.

Union Club, Wynyard Square,
9 December, 1857.

SIR,

I have the honor to acknowledge the receipt of a communication, dated the 8th instant, from your office, in reference to the proceedings lately instituted by me against "Robert Wisdom," in which I am informed that you do not consider it a case in which you are called upon to prosecute on behalf of the public, but that if I submitted any information which the evidence would sustain, you would be prepared to sign it, if I desired to prosecute *privately*.

In reply, I beg to state that I instituted proceedings against Mr. Wisdom upon public grounds alone, and to convince him that persons who wrote malicious and unfounded libels upon public men committed an offence punishable by law; and my views upon the subject were confirmed by the Magistrates who committed Mr. Wisdom for the offence.

As, however, you have decided this to be a case in which you are not called upon to prosecute on the part of the public, I shall most certainly decline to prosecute him privately.

I have, &c.,

HENRY G. DOUGLASS, M.L.C.

THE HONORABLE
THE ATTORNEY GENERAL.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

CLERK OF PETTY SESSIONS AT ARMIDALE.
 (INQUIRY INTO THE CONDUCT OF.)

Ordered by the Legislative Assembly to be Printed, 7 April, 1859.

RETURN to an *Order* made by the Honorable the Legislative Assembly of New South Wales, dated 30 March, 1859, That there be laid upon the Table of this House,—

“ Copies of all Correspondence between the Government and
 “ the Bench of Magistrates at Armidale, in connection with the
 “ inquiry into the conduct of Mr. Bligh, Clerk of Petty Sessions
 “ at Armidale.”

(*Mr. Deniehy.*)

SCHEDULE.

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CLERK OF PETTY SESSIONS AT ARMIDALE:

No. 1.

To His Excellency the Governor General of New South Wales, in Council.

The humble Petition of the undersigned residents in Armidale and the surrounding Districts,—

RESPECTFULLY SHEWETH:—

That the manner of conducting the administration of justice in the Armidale Police Office, as pursued by Messrs. West and Maister, Justices of the Peace, has given occasion to serious complaints amongst the public, and those Magistrates have ceased to command that respect which ought to characterise their responsible position; and the feeling is almost universally entertained that the main cause of the present unsettled and dissatisfied state of the public mind is the undue influence which the Clerk of the Bench (Mr. Bligh) exercises over the two Justices alluded to.

That it would be impossible to set forth in the body of a Petition the very many ways in which the action of these Justices and the Clerk is daily brought to bear on some one or other of the community, whose feelings are known to be opposed to the parties now complained against; but your Petitioners would respectfully submit the following, as a few of the many that might be stated, to shew how unfairly matters are conducted at the Police Court at Armidale.

That it is a well-known fact, that for days and days together the Clerk of the Bench does not attend at the Police Office, and that through this gross violation of duty the public are deprived of the means of obtaining justice. For instance—parties have attended at the Police Office to obtain summonses under the Masters' and Servants' Act, which the law directs the Clerk of the Bench to issue, but, owing to his absence from his duties, those parties are either obliged to go away in disappointment, or else remain in town, at great personal inconvenience and expense; and that it is known that on some of the occasions on which the Clerk has been absent from his duties he has been transacting business as a Commission Agent.

That parties have attended to obtain deeds of grant from the Clerk of the Bench, whose duty it is to issue them, but in consequence of his absence they are obliged to attend day after day, until he makes his appearance at the Court House.

That it is frequently the case, when information is sought to be obtained from the Clerk, difficulty is thrown in the way, so as to put parties to unnecessary trouble and inconvenience.

That it is well known that the Clerk has been in the habit of charging parties for drawing out applications for auctioneers' licenses, a form comprising not more than one folio of 72 words, the sum of two guineas; and this in direct violation of the established regulation, which forbids Clerks of Petty Sessions to receive payment for work done by them directly or indirectly connected with their public duties.

That, in like manner, until very recently, most of the publicans in this district had to pay to the Clerk of the Bench from £1 to £2 each for drawing their applications for licenses; and this injustice has been submitted to from the knowledge those parties had of the power which the Clerk exercised, and the dread that, in the event of their not complying with this demand, some objection or difficulty might be thrown in the way of their getting their licenses, and thus be deprived of their means of living.

It is patent to almost every one in the district that Messrs. West and Maister in almost every case consult the Clerk of the Bench, and the impression on the public is that they are, more or less, influenced in their decisions by the clerk's views. It has also come to the knowledge of some of your Petitioners that the Clerk of the Bench has advised litigants as to the mode of conducting their cases, and raising objections.

That

That your Petitioners have reason to believe that an injustice has been perpetrated on the public in the following way :—The Bench of Magistrates authorised a constable to be set apart to assist the Clerk of the Bench in his clerical duties, and it has been stated that the person who, for nearly two years, performed this duty, and received a salary from the Government as a constable, never was sworn in as a constable. This allegation your Petitioners are not enabled to prove, as they have not access to the Government records ; but they believe a proof can be had at the Office of the Honorable the Colonial Secretary, as the oath of every constable is by law required to be filed in that office.

Your Petitioners respectfully submit that the office of Justice of the Peace ought to be exercised with the most sacred scrupulousness and honor, and that the moment the least act of impropriety is practised by a member of the Bench, that moment he ought to cease to hold the office. It is a trust that must not be tampered with, and the Justice of the Peace should not merely be a fair man, but he should be above suspicion.

In order to shew that such is not the character of these two Justices, your Petitioners have, with pain, witnessed the one-sided and partial manner in which examinations have been conducted. Within the last few days your Petitioners have been made to feel how unsafe it is to trust these men with such powers. A respectable inhabitant of this town was brought before the Court to answer to a charge preferred against him by the Chief Constable. There were five Magistrates on the Bench, and the Chief Constable having been called upon to give his evidence as prosecutor refused to do so. The Bench dismissed the case. Notwithstanding which, Dr. West, from the judgment seat, suggested to the Chief Constable to prosecute the case again, and it was done so accordingly.

That, as a natural sequence to this irregular conduct of those Justices, the constabulary have made themselves obnoxious to the public ; and, acting on the impulses which usually prompt ignorant men to please those in authority over them, informations and proceedings have on several occasions been filed against parties who are known to be inimical to those Justices, which fact may be fully established on reference to the records of the Armidale Police Office.

Your Petitioners beg to observe that, besides the two Justices alluded to, there are only three others who make it a rule to attend the Armidale Court, and that for several weeks past only one of the three, and on one occasion only, attended—namely, Mr. Palmer.

Your Petitioners, therefore, respectfully submit that the only remedy for the existing evils is the removal of the Clerk of the Bench from this district, and the appointment of a Police Magistrate to whom the public could look up with confidence and respect.

Your Petitioners, therefore, solicit that your Excellency will be pleased to take the premises into consideration.

And, as in duty bound, they will ever pray.

William Hipgrave.
S. W. Davies, clerk, Armidale.
James Starr, freeholder, do.
Wm. H. Stevens, miller, do.
Patk. Cantwell, householder, do.
Patk. Regan, laborer, do.
Geo. Markham, freeholder, do
William McCrossin, freeholder, Uralla.
Robt. Forster, solicitor, Armidale.
George Cooper, storekeeper, do.
John Turnbull, miller, do.
Henry Geldard, tailor, do.
John M'Cutchon, currier, do.
Richard Taylor, freeholder, do.
(for a Police Magistrate only.)
Charles Castle, householder, do.
George Burton, do. do.
Owen Welsh, laborer, do.
James Daley, resident, do.
Henry M'Shane, carpenter, do.
James Grange, sawyer, do.
David Collins, wheelwright, freeholder, do
Wm. O'Brien, Armidale.
J. T. Cornish, butcher, do.
Owen Gorman, freeholder, do.
Thomas Williams, miner, do.
James Eames, freeholder, do.

William Denton, freeholder, do.
Walter Craigie, freeholder, do.
Henry Crowe, waiter, do.
James Andrews, householder, do.
Thomas Lane, do. do.
James Davidson, do. do.
John Sutherland, do. do.
Lawrence Madden, do. do.
Edward McCabe, do. do.
Moss Moses, do. do.
Patk. Kenedy, freeholder, do.
John Harper, do. do.
his
Edwd. + Spear do. do.
mark
John O'Brien, householder, do.
John Dick, do. do.
his
Peter + Darby, hired employ, do.
mark
Christopher Caffee, freeholder, do.
William Spokes, do. do.
William Crate, do. do.
Lewis Markham do. do.
William Brice, laborer, do.
Wm. Simpson, Armidale.
Timothy Harrington, laborer, Gostwick.

- Josiah Hall, confectioner, Armidale.
 George Holmes, householder, do.
 his
 Charles × James, freeholder, do.
 mark
 (for a Police Magistrate only.)
 J. H. Shaw, watchmaker, do.
 Cornelius Ryan, freeholder, do.
 his
 James × Kennell, horsedealer, do.
 mark
 John M'Kenzie, wheelwright, freeholder, do.
 Richd. Townsend, farmer, do.
 George Clutterbuck, freeholder, do.
 Henry Morrow, freeholder, do.
 George Robinson, carpenter, do.
 Charles Daly, resident, do.
 John Bowe, sheepholder, Spring Mount.
 Andrew MacGroggor, shearer, do.
 his
 Robt. × Bates, mail-driver to Armidale.
 mark
 Thomas Lancaster, householder, Guyra.
 his
 John × Handebo, freeholder, Armidale.
 mark
 Wm. Handebow, do. do.
 Charles Handebow, do. do.
 James Ewan, householder.
 John Brown, do.
 Alexr. Bell, tailor, Armidale.
 George Wood, freeholder, do.
 his
 Andw. × Cook, householder, do.
 mark
 his
 Danl. × Brogan, freeholder, do.
 mark
 Patrick Stanly, miner, Rocky River, do.
 Michel Laolar, laborer, do.
 William Hunter, shearer, do.
 Ralph Taylor, bullock-driver, do.
 John Glaser, laborer, do.
 Charles Hewitt, householder, do.
 Wm. Armstrong, storekeeper and freeholder.
 Simon Upward, brickmaker, Armidale.
 Richard Child, freeholder, do.
 his
 John × Burns, laborer, do.
 mark
 Wm. Stanmers, storekeeper, clerk, do.
 Wm. Ewins, householder, do.
 John Kilkelly, Kelly's Plains.
 John Murray, carpenter, Armidale.
 Michl. Fenn, laborer, do.
 Samuel Ireland, cabinetmaker.
 Owen Sheils, freeholder.
 (for a Police Magistrate only.)
 Joseph Salter, do.
 Andrew Waters, freehold, Kelly's Plains.
 William J. Waters, do.
 William Richardson, Armidale.
 John Dogherty, Kelly's Plains.
 John Ditton, do.
 William Ditton, do.
 Richard Fox, do.
 W. Nelson, do.
 James Nelson, do.
 William Marden, do.
 Thomas Jones, senr., Fairview.
 J. Jones, do.
 Thomas Jones, junr., do.
 James Lennon, near Armidale.
 Patrick Lennon, do.
 Jacob Burrmyrlner, Armidale.
 Charles Selmus, baker, do.
 John Davis, Bundurra.
 G. Burk, do.
 Cornelius Wilbee, shoemaker, Armidale.
 William Wansell, do.
 William Brice, do.
- Abraham Odell, freeholder, do.
 Charles Rich, do. do.
 James Wright, splitter, Armidale.
 Henry Meyer, Uralla.
 John Black, Armidale.
 George Adams, carpenter, Rocky River.
 Samuel Jany, Mihi Creek.
 his
 Michael + Murphy, Armidale.
 mark
 Enos Scott, do.
 Thomas Mullin, New England.
 Patrick Kueklew, Armidale.
 James Bryant, Black Creek.
 Alexander Mitchell, Uralla.
 David Stun, Mihi Creek.
 Charles Cleveland, do.
 William Wright, do.
 Samuel M'Donald, do.
 John Stone, do.
 Allen M'Lelar, Inmore.
 Sandy M'Gay, do.
 William Knowles, do.
 his
 Alan + Baxter, do.
 mark
 his
 James + Gann, do.
 mark
 Jannes Starr, Mihi Creek
 his
 Thomas + Finn, Armidale.
 mark
 William Hayes, Rocky River.
 his
 Thomas + Linn, Mihi Creek.
 mark
 George Maclean, do.
 Thomas Maclean, do.
 Richard Towns, do.
 William Fenton, do.
 Bernard Woods, Walcha.
 Charles Smythe, do.
 Arthur Geo. Richards, do.
 John Walsh, do.
 Patrick Hynes, do.
 William Martin, do.
 James M'Intyre, do.
 Hugh Fraser, do.
 John Walsh, Mihi Creek.
 his
 Eziba + Hinton, Walcha.
 mark
 his
 Robert + Hallas, do.
 mark
 J. H. Daniel, do.
 J. Jefferys, do.
 Thomas Lisle, do.
 Robert Barry, do.
 Samuel Ward, do.
 John Magee, do.
 his
 William + Long, do.
 mark
 John Murray, do.
 William Davidson, do.
 Archibald Davidson, do.
 his
 William + Harris, do.
 mark
 Robert Levingston, do.
 John Clare, do.
 John Wallon, do.
 John Williams, do.
 his
 Charles + Bales, Gostwyck.
 mark
 his
 Elijah + Bayley, Walcha.
 mark

his	John Garryhee, miner, do.
James + Sims, do.	William Osborne, publican, do.
mark	James Lillcrap, miner, do.
his	Richard Watson, do., do.
Peter + M'Guire, do.	James Arbuckle, do., do.
mark	Thomas Carrick, do., do.
his	John Murray, baker, do.
William + Brown, do.	Jas. B. Rigney, storekeeper, do.
mark	William Cleghorn, do., do.
his	Thos. Williams, innkeeper, do.
William + Lupter, do.	G. M'Vittie, miner, do.
mark	John Redding, do., do.
his	John De Fane, do., do.
William + Stephens, do.	Martin Tynan, do., do.
mark	James Kerwin, do., do.
Daniel M'Keage, do.	George Daniels, do., do.
his	Bernard Rooney, innkeeper, do.
Con. + Calaghan, do.	Thomas Hood, miner, do.
mark	John Goode, do., do.
his	Hon Conrod Glintznoling, butcher, do.
James + Kennel, do.	George Wriede, miner, do.
mark	Henry Alexander, storekeeper, do.
his	Peter Newart, miner, do.
James + Wall, do.	Charles Mackay, do., do.
mark	John O'Neill, do., do.
his	M. Brown, do., do.
John + Bruen, do.	William Hill, do., do.
mark	Chan Chine, do., do.
John Monahan, Armidale.	William Ganly, do., do.
Edward Allingham, jur.	Guorg Kumock, do., do.
Henry Murphy.	A. R. Benson, Uralla, butcher, do.
John Nixon.	William Geary, miner, do.
John Giles.	John Thomson, do., do.
John Cornwell.	George Sammis, do., do.
William White.	Charles Abraham, do., do.
Batt O'Neil.	
John Barker.	
Thomas Worrallo.	
Archibald Macfarlane.	
Robert Allingham.	
James Johnson.	
Patrick Campbell.	
John Saunders.	
C. Allingham.	
Peter Crokeley.	
H. Hayes, storekeeper, Rocky River.	
Jas. K. Osborne, do., do.	
Alfred Benjamin, do., do.	

I hereby certify that the undermentioned parties have authorised me to attach their names to this petition.

W. DENTON.

N. S. Smith, Rocky River.
James Smith, do.
Jeremiah Giles, do.
Isaac Faulkner, do.
William Blake, do.

Remarks in reference to Signatures described as under.

Richard Taylor, after signing, wished to qualify this act, on grounds to the following effect:—That he is under obligations to Mr. Maister and Mr. Bligh, and therefore wishes his signature merely to refer to the necessity for a Police Magistrate.

Charles James, after signing, also wished that his signature should be held to refer to a Police Magistrate only.

Owen Sheils wishes his signature not to refer to Mr. Maister, on the ground that he has stock running on Tilbuster Station, and that he is apprehensive of their being impounded if he does not qualify his signature.

W. CRAIGIE,
(For the Committee.)

Applications for Licenses.

Owen Sheils states that he paid Mr. Bligh thirteen shillings for drawing out an application for a slaughtering license and obtaining the same, whereas the Government fee is only two shillings and sixpence. Messrs. Geo. Markham and William Denton state, that Mr. Bligh demanded, and they paid, two guineas each for drawing out applications for auctioneer's licenses, independently of the Government fee of two pounds, while others about the same time obtained their certificates at a cost of only two shillings and sixpence each. William Ewins states that Mr. Bligh charged, and he paid, one pound one shilling for drawing out an application for a confectioner's license. Through the absence of Ewins the application lapsed, and for drawing out the application a second time one pound was charged and paid. These sums were distinct from the Government fees. Mr. Forster states that Mr. Scholts; Mr. Naughten, and Mr. Monahan, asked him to prepare their licenses, as Mr. Bligh, on previous occasions, had charged them two pounds each for drawing out their applications; whereas Mr. Forster, a duly qualified solicitor, charged only ten shillings each.

Absence from duty.

Mr. Denton states that he had to call thrice upon Mr. Bligh before he could obtain money paid into Court after a verdict under the Small Debts Act, and that Mr. Bligh was absent on the first and second occasions. Mr. Forster and Mr. Denton state, that on the polling day at the last General Election Mr. Bligh left the Court House about 12 o'clock, for the purpose of conducting a sale of his private effects. Mr. Denton states that Mr. Macinnis informed him that Mr. Bligh had obtained £90, from valuing property and acting otherwise as a Commission Agent at Glen Innes and the Mole River Stations; and Mr. Forster states that on this occasion Mr. Bligh was absent from the Court for more than ten days, and that during that term he (Mr. Forster) applied repeatedly for certain deeds of grant which he had been authorised to receive, but could not obtain them owing to Mr. Bligh's absence. Mr. Hipgrave states that he called at the Court House three times on one day, on business, and that on each occasion he saw no one in the Court Room; and that, although he made considerable noise, neither Mr. Bligh nor any other person made his appearance. He also states, that on the 3rd December instant he called at the Court House between ten and eleven o'clock in the forenoon, and that he found no one there until he had called a third time, when he saw Mr. Creagh (Mr. Bligh's clerk), who gave him no satisfactory information whether it would be possible to see Mr. Bligh that day or not. The landlady of the inn in which Mr. Bligh resides informed him (Mr. Hipgrave) that Mr. Bligh had gone out to Tibbister on the previous evening, and that she did not think he would be back before Monday.

A nut to crack by the Secretary for Lands and Works.

Mr. Craigie states, and is prepared to depose, as follows:—Months ago—I think about twelve months—John Cochrane, a farmer on Gostwyck, who I have every reason to believe is a credible person, in calling at the *Express* office, as usual, for his paper, told me that he had selected a piece of country land adjoining some which he had formerly bought. He further stated that, he paid the purchase money to Mr. Bligh, and that as he was under the impression that he might have some trouble afterwards in making everything right, he offered Mr. Bligh £5 to undertake the matter and save him any trouble whatever. He then said that Mr. Bligh asked him for the money, which he paid him. Subsequently he complained to me that he had not yet obtained the deed, and this complaint was repeated. Latterly he told me that, through the assistance of Mr. Palmer, J. P., in writing a letter and attesting his signature, he had procured the deeds of the land which he bought first, but that he could get no satisfaction with reference to the deed he expected for the selected land. I asked him why he had not sent for all the deeds at once? He acknowledged that it would have caused no extra trouble, but stated that as he had paid Mr. Bligh to get the deed, he should expect him to do something for the money. This was several months ago, and I am not aware whether the matter has been settled or not. Assuming Cochrane's first statement to be correct, I expressed a strong opinion to him relative to the gross impropriety (if not something more) of receiving money from a man, for which no just equivalent could be given, by an official whose duty should be to impart information whenever necessary, and not to levy black mail from ignorance.

NOTE.—I am instructed by the Committee on the Administration of Justice, and a Police Magistrate for Armidale, to hand the statements in Mr. Forster's handwriting and mine to Mr. Hipgrave, the delegate to the Government on the subject, in support of the petition and the objects of his mission.

W. CRAIGIE,
Chairman of Committee.

I, John Glover, of Bendemeer, do most solemnly declare that I paid W. R. Bligh, C.P.S., of Armidale, 17s. 6d. for a slaughtering license for W. Mason.
Bendemeer,
11 December, 1858.

JOHN GLOVER.

I, Henry Perry, of Bendemeer, do declare, that I made an agreement with W. R. Bligh, to the effect that John Dixon would pay him thirty shillings for four deeds of his brother Richard's and two of his own, at the same time the said W. R. Bligh well knowing that it was contrary to the Government rules—he, W. R. Bligh, having shown me the rules—and told me that he would not give them up until I promised him 5s. for each deed in John Dixon's name as his agent.

HENRY PERRY.

Mr. Forster's Statement v. Bligh.

Called on one occasion to get a summons under the Masters and Servants Act, but could not obtain it in consequence of Mr. Bligh's absence.

On another occasion called to get a sum of money paid into Court under the Small Debts Act, but could not get it, for the like cause. Mr. Bligh's clerk afterwards paid it.

Had a purchase deed drawn by Mr. Bligh, for which he charged the purchaser (Mr. Francy) 6 guineas (as Francy states).

Has been informed by Abraham O'Dell that when he was under committal for trial he gave Mr. Bligh £20—£5 for himself to prepare a brief of his case for counsel, and £15 to be forwarded to Mr. Purefoy—and that afterwards he had to retain counsel afresh, Mr. Bligh never having forwarded either brief or fee to Mr. Purefoy.

Was

Was informed by Mr. Creagh that whilst he received pay from Government nominally as a constable for doing clerk's duty to Mr. Bligh, yet he never was sworn in as a constable.

In the case, *Keats v. Girard*, Keats stated that he had received advice from Mr. Bligh how to conduct his defence, and what objections to raise.

As to difficulties thrown in the way of obtaining information, &c.

On one occasion applied for a *spa dieces tecum*. Dr. West expressed a doubt whether it ought to be issued, and asked Mr. Bligh whether it should be issued, and Mr. Bligh said that he was not sure whether there was any legal objection.

MEMO.—The objection is to the *manner* of the authorities in raising the difficulties.

It has been publicly noticed, and stated to Mr. Forster, that the public saw that every difficulty was thrown in his way in the conduct of cases.

Mr. Bligh has frequently been seen going into the private room with the Magistrates when they retire to consider their verdict.

Mr. Trim informed me this day, (11 December, 1858), that he employed Mr. Bligh to write a letter to a Mrs. Quinlan for not putting up a dividing fence between their lands, and that afterwards Mr. Bligh charged 35s. for doing so; and on Trim complaining, Mr. Bligh said, "Well, I'll make you out a bill of items"—whereupon, Mr. Trim said, "Oh! no, I'll pay you for I know you will make out the bill larger."

Mr. Bligh has conducted a sale for Mr. Palmer under the Landlord and Tenant Law, acting as agent, and at a distance from his office, thus neglecting his official duties.

As a proof of the insolence of the police, and the unfairness of Dr. West.—Mr. Forster on one Court day spoke to a constable as to his interfering in a case then being tried, and received a most insolent answer from the constable. Mr. Forster complained to the Court, when Dr. West said, "Well, I don't see that you had any right to speak to the constable."

Mr. Denton says that he, as agent for Mr. Neil, paid to Mr. Bligh £2 for surveying a quarter of an acre of ground.

Mr. Forster says that he afterwards applied to Mr. Bligh for the particulars, when Mr. Bligh said he was not paid for this purpose.

That Mr. Bligh used to make a charge of 5s. for every plaint under the Small Debts Act for recovery of dishonored promissory notes, in this way—he made parties suing for dishonored notes file a declaration, for which he charged 5s. for taking the declarations as a Commissioner for Affidavits. Although it is stated that the Bench sanctioned this, it is certain they had no power to authorise such a charge, contrary to law.

No. 2.

THE CLERK OF PETTY SESSIONS, ARMIDALE, to THE PRIVATE SECRETARY.

Armidale, 11 December, 1858.

Sir,

I have the honor to request that you will be good enough to lay before His Excellency the Governor General the following statement.

I am informed that a petition from some persons in this town and district is about to be forwarded to the Governor General in Council, praying (*inter alia*) for my removal from the office of Clerk of Petty Sessions at Armidale.

I can have no doubt that (if considered worthy of any notice) I shall at least be permitted an opportunity of explanation in this matter.

It seems right, however, that I should now state that this petition has been prepared by a committee composed of six people, four of whom are my personal enemies, and are of no standing even in this petty community, either as to position or substance.

One of the remaining two members refused to act in the matter, and on being applied to by me stated that he could not divulge what had passed in committee, because the members were pledged to secrecy before the proceedings began.

That I have ascertained by personal interview that nearly fifty of the inhabitants, representing nearly the whole of the respectability, intelligence, and substance of this township, decline to sign this petition, or to acquiesce in its prayer, except as to the appointment of a Police Magistrate.

That many of the signatures are those of uneducated people, who have signed under the impression that it referred to the appointment of a Police Magistrate only.

That two large farmers, Charles James and Richard Taylor, on hearing that the petition contained other matters applied to the persons who had obtained their signatures to have them removed.

That

That George Markham, one of the committee, who, as I can shew, bears me strong malice, and, moreover, desires an appointment as Clerk of Petty Sessions for himself, has obtained signatures at the Rocky River Gold Field, where the duties of Clerk of Petty Sessions are performed by another person.

I enclose a newspaper containing what purports to be a report of the proceedings, and of which the person entrusted with the carriage of the petition is a proprietor.

The tone of the speeches will, I think, sufficiently indicate the low and prejudiced character of the movement, and the malice of some of the speakers.

I may mention that the speakers referred to as Kames and Jumball are men of the very lowest grade—one a notorious drunkard, the other a man who was transported for seven years for housebreaking, and who has frequently been before this Court charged with various offences.

I have, &c.,

THE PRIVATE SECRETARY,
Sydney.

W. R. BLIGH.

No. 3.

MR. MARSH to THE GOVERNOR GENERAL.

*Salisbury Court, Bendemeer,
15 December, 1858.*

SIR,

Excuse the liberty I take in addressing you, but a delegate has been sent from Armidale to Sydney with a petition for a Police Magistrate for that place. I should be most happy to see one appointed. That petition is signed by a great many, but I hear that in the same there is a request that you would remove Dr. West from the Commission of the Peace, and Mr. Bligh from his position of Clerk of Petty Sessions. I know little of Dr. West, as he has not been long in the district, but should consider him an efficient Magistrate. But I feel myself bound to speak as to Mr. Bligh, as one of the oldest Magistrates in the district, as well as one of the oldest residents. Mr. Bligh has acted as Clerk of Petty Sessions for some ten years. I have sat on the Armidale Bench, I think, oftener than any other Magistrate (save those resident in the town), and I do not hesitate to say that no person could perform his duty better than the said Mr. Bligh. I think you will see that there is not one Magistrate's signature to the requisition to discharge Mr. Bligh, and as far as I can hear there are few respectable signatures thereto; many were obtained from people who did not know what they signed. I hope, therefore, that your Excellency will postpone your decision as to the removal of Mr. Bligh until the 10th of January, 1859, by which time I hope to be able to send you the opinion of the Armidale J. P's. We are to meet on the 4th.

I have, &c.,

HIS EXCELLENCY
THE GOVERNOR GENERAL.

C. W. MARSH.

No. 4.

THE UNDER SECRETARY to POLICE MAGISTRATE, MAITLAND.

*Colonial Secretary's Office,
Sydney, 11 January, 1859.*

SIR,

I am directed by the Colonial Secretary to inform you that, in a petition from the inhabitants of Armidale and its vicinity on the subject of the manner in which the Administration of Justice is conducted at the Armidale Police Office, certain charges are preferred against the Clerk of Petty Sessions at that place, which, it appears to the Government, should, without loss of time, be investigated.

2. Those charges are, in substance, as follows, viz. :—

- 1st. That the clerk has frequently absented himself for several days from the Police Office, (thereby causing much inconvenience to the public,) on some of which occasions he has been employed in transacting private business as a commission agent.

2nd.

2nd. That it has frequently happened when information has been sought from the clerk, that difficulty had been thrown in the way of the applicants, so as to put them to unnecessary trouble and inconvenience.

3rd. That the clerk has been in the habit of disregarding the regulation which forbids Clerks of Petty Sessions to receive fees for services directly or indirectly connected with their public duties, by employing himself in preparing applications for Auctioneers' and Publicans' Licenses, and charging fees for their preparation.

3. It is the desire of the Government that the matters involved in these several charges should be investigated by you, and I am directed to request that you will proceed to Armidale for the purpose, and on the completion of the investigation forward a report thereof for the information of the Government.

4. I enclose the petition referred to, as well as a letter from Mr. Bligh, the Clerk of Petty Sessions, with other correspondence bearing on the subject of the complaints against him.

5. The Magistrates, as well as the petitioners, have been apprised of your appointment to conduct the inquiry.

I have, &c.,

W. ELYARD.

E. D. DAY, Esq.,

Police Magistrate, Maitland.

No. 5.

THE UNDER SECRETARY to W. HIPGRAVE, Esq.

Colonial Secretary's Office,

Sydney, 11 January, 1859.

SIR,

I am directed by the Colonial Secretary to inform you that the Petition from certain inhabitants of Armidale and its vicinity, which you recently delivered to him, has been brought under the consideration of the Executive Council.

2. Upon an attentive consideration of the matters brought under notice by the Petitioners, the Council do not perceive that, with respect to the Magistrates more particularly referred to, there is anything alleged which so far partakes of the nature of a direct charge against them as to call for inquiry on the part of the Government; but it is considered desirable that the charges which have been preferred against the Clerk of the Bench should, without loss of time, be investigated, and instructions have accordingly been given to Edward D. Day, Esq., Police Magistrate at Maitland, to proceed to Armidale to hold an inquiry into the matters involved therein, and to forward a report thereof to the Government.

I have, &c.,

W. ELYARD.

W. HIPGRAVE, Esq.,

And other Residents in Armidale signing the Petition.

No. 6.

THE UNDER SECRETARY to BENCH, ARMIDALE.

Colonial Secretary's Office,

Sydney, 11 January, 1859.

GENTLEMEN,

I am directed by the Colonial Secretary to transmit for your information a copy of a letter which has been addressed to certain inhabitants of Armidale, with reference to a petition in which they express their dissatisfaction at the manner in which the Administration of Justice is conducted at that place, and prefer certain charges against the Clerk of Petty Sessions.

2. You will observe that instructions have been given to Edward D. Day, Esq., Police Magistrate at Maitland, to proceed to Armidale to investigate the several charges against the Clerk of Petty Sessions; and I am directed to request that you will intimate this to Mr. Bligh, as well as afford Mr. Day any facilities which may be necessary from you in the discharge of the duty intrusted to him.

I have, &c.,

W. ELYARD.

THE BENCH OF MAGISTRATES,

Armidale.

154—C

No. 7.

No. 7.

THE BENCH, ARMIDALE, to THE GOVERNOR GENERAL.

To His Excellency the Governor General of New South Wales and its dependencies, and the Members of the Executive Council for the same.

We, the undersigned Justices of the Peace for the Territory of New South Wales, residing in the district of Armidale, have hereby to submit to the consideration of your Excellency and your Honorable Council the following circumstances:—

1. That a letter from the Under Secretary to this Bench of Magistrates, dated the 11th instant, and enclosing copy of a communication addressed to certain inhabitants of Armidale in answer to a petition preferring (*inter alia*) certain charges against the Clerk of Petty Sessions at Armidale has been received at this office.

2. That this letter informs us that Mr. E. D. Day has been instructed to proceed to Armidale to investigate the said charges against the Clerk of Petty Sessions.

3. That the Clerk of Petty Sessions, being an officer placed by the Government under the control and direction of the Bench of Magistrates, we consider ourselves the proper persons to inquire into any alleged improprieties in his official conduct.

4. That we feel it our duty to protest against the course taken by the Government in this matter as casting an unmerited imputation upon our character and integrity.

5. It is our deliberate opinion that in this matter the Government have acted in an unbecoming manner, and have offered an uncalled for indignity to the Magistrates of this district, and we assert that if the Government persist in carrying out the course of proceeding herein before adverted to it will exhibit such a total want of confidence in us that it will be impossible to continue the performance of our magisterial duties with satisfaction to ourselves, or advantage to the public.

J. B. WEST, J.P.
 JOB W. CHEESEBROUGH, J.P.
 J. H. DARBY, J.P.
 W. HENRY MORSE, J.P.
 WM. MAISTER, J.P.
 DONALD M'INTYRE, J.P.
 ARCHD. MOSMAN, J.P.
 C. W. MARSH, J.P.
 H. A. THOMAS, J.P.
 A. H. PALMER, J.P.,
 (by his Agent, A. Mosman.)

Police Office,
 Armidale, 19 January, 1859.

No. 8.

THE BENCH, ARMIDALE, to THE COLONIAL SECRETARY.

Police Office, Armidale,
 15 January, 1859.

SIR,

Having reference to your letter of 11th instant, M. 14-531, forwarding copy of a letter to certain inhabitants of Armidale, in reply to a petition, expressing their dissatisfaction at the manner in which the Administration of Justice is conducted at that place, and informing them that, with respect to the Magistrates more particularly referred to, the Council do not perceive that there is anything alleged which so far partakes of the nature of a direct charge against them as to call for inquiry on the part of the Government,—

We have to observe that as it appears from this communication that allegations have been made to the Government against Magistrates of this Bench, we desire to be informed what these allegations are, and by whom they were made.

Without reference to any opinion which the Executive may have thought fit to express as to this matter, we conceive we are entitled, as public officers, to be furnished with particulars

particulars of any public complaint or allegation against us, to enable us to take such steps as we may think advisable for the protection of our character, or the vindication of our conduct.

THE HONORABLE
THE COLONIAL SECRETARY,
Sydney.

We have, &c.,
(for the Bench,)
J. B. WEST, J.P.

No. 9.

THE POLICE MAGISTRATE, MAITLAND, to THE COLONIAL SECRETARY.

Police Office, Maitland,
9 February, 1859.

SIR,

I have the honor to report to you that, in obedience to your instructions, conveyed to me in your letter of the 11th of last month, I proceeded with as little delay as possible to Armidale, for the purpose of inquiring into the charges preferred against Mr. Bligh, the Clerk of the Bench at that place.

On my arrival I placed myself in communication with the committee selected by the petitioners, as well as with Mr. Bligh; this was on the 22nd ultimo. I found the committee prepared and willing to proceed with the investigation on the Monday following, the 24th, at 10 a.m. Mr. Bligh was however quite unprepared as to this matter, from the want of any official information as to the charges, and other details necessary to enable him to decide on his course of proceeding.

Mr. Bligh then requested to be furnished with certain information, which I supplied as far as I could; and that which I could not myself furnish, I requested the committee to enable me to supply. I beg to draw your attention particularly to this matter, and in connexion with it to refer you to the letters respectively numbered 4, 5, and 6, as Mr. Bligh, in his protest at the very commencement of the inquiry, states that I declined to give him this particular information.

After many unexpected obstacles the inquiry was commenced on the 27th January; Mr. Bligh was present, and protested against the inquiry being held, on the grounds:—

- 1st. That eight Magistrates of the Armidale Bench had instructed him that he was not justified in submitting to any inquiry by me into his official conduct; and
- 2nd. Because I had declined to furnish him with the information before referred to.

The inquiry, however, proceeded, and I took evidence on the 27th, 28th, and 31st January, and on 1st of February.

The inquiry was *ex parte*, although Mr. Bligh, in his letter to the Private Secretary of the 11th December last, says, in speaking of the petition, "I can have no doubt that, if (the petition be) considered worthy of any notice, I shall at least be permitted an opportunity of explanation in this matter." Although before the inquiry commenced I informed Mr. Bligh, more than once, that if at the close of the evidence in support of the charges he should require time to produce witnesses for his defence, I would be most willing to afford any reasonable time for that purpose; and although again invited by me at the close of the evidence against him to make a defence or statement, and to produce witnesses to impeach the testimony of those examined on the other side, Mr. Bligh, who was present, declared he was so only as a spectator. A clerk of his was present throughout, and took notes of the evidence, with my consent.

The evidence, as taken down by myself, read over to the several witnesses, signed by them and acknowledged to be correct, I have the honor to transmit herewith, together with the various papers exhibited and spoken of in the evidence; and also the whole of the correspondence between the parties principally concerned and myself; a perusal of which is, I conceive, necessary for the clear understanding of the proceedings.

The evidence in support of the charges being thus left unquestioned, I must regard it as substantially correct, and it shows:—

That Mr. Bligh has been repeatedly absent from his office during office hours, and that during some of these absences he was acting as a commission agent, or engaged in some other business from which he derived direct pecuniary gain.

That

That Mr. Bligh has charged large fees for preparing applications for publicans' licenses, for auctioners' licenses, &c. These fees varied in amount from two guineas to half a guinea each; and for writing for and delivering title deeds of land sold by the Crown he received a fee of five shillings on each deed.

The evidence also shews that Mr. Bligh has exacted an illegal fee of seven shillings and sixpence on each declaration made by publicans before receiving their licenses, as well as a fee of five shillings on each plaint filed in the Petty Debts' Court, for recovering the amount of dishonored promissory notes—a charge which the Civil Crown Solicitor shews not to be sanctioned by law. I applied to Mr. Bligh for full particulars as to these last two items, for the information of the Government, but no notice has been taken of my application. (*See Letter No. 18, pars. 2 and 3.*)

The fees and gratuities before spoken of appear to have been received for services directly connected with Mr. Bligh's official duties as Clerk of Petty Sessions, or Registrar of the Court of Petty Debts, and have therefore been received in direct violation of the order of the Governor General and Executive Council of 30th November, 1850. (*See Circular Letter 50-165.*)

The evidence also shews that Mr. Bligh received from one individual a gratuity of one pound for simply walking from the Police Office to the quarters of the Commissioner of Crown Lands,* and demanded from the same person the sum of five pounds, for procuring the signature of the Commissioner to one document, stating that "he had a good deal of trouble to get it signed," and that "he could not do it for less;" of this amount £3 was actually received by Mr. Bligh.

It is also shewn that Mr. Bligh had many other sources of emolument; he was employed by one licensed publican to collect his outstanding debts, at 10 per cent.; by another person for a similar purpose, at a commission of 25 per cent.; he also was employed as the agent of an Insurance Company, and in collecting rents, and as a land surveyor. He has acted professionally in the Police Court in cases for decision by the Bench; and on several occasions as a conveyancer and attorney. (*See Mr. Markham's evidence, in reference to the sum of five pounds paid by him for the benefit of the Armidale Hospital, and the deduction from that sum of £3 12s. 10d. for plaintiff's costs.*)

I must also refer to the evidence of Mr. Starr, as to the payment of four guineas for one application for a license, which was granted, although the notice of that application was posted three days short of the time fixed by the Licensing Act.

It appears to me that if Mr. Bligh had fewer out-door occupations his absence from office, so much complained of, would have been of less frequent occurrence, and there would have been no necessity for making application for the assistance of a constable as clerk. (*See application of 6th January, 1856.*)

Having adverted to such points of the evidence as seem to me to require particular notice, it now only remains for me to beg your attention to the letter addressed to me by eight Magistrates of the district, which, though dated on the 19th January, was not handed to me until the 27th, only one hour before the investigation began—nor was it mentioned to me in any way by Mr. Bligh.

To that letter I sent no reply, considering that it was not within my province to contend for the right of the Government to inquire into any complaints that may be made against any of its servants.

I beg to add that my application to Doctor West, J.P., for permission to hold the inquiry in the Police Office, when not required for Police purposes, was refused. The expense of hiring a room for the purpose was therefore unavoidably incurred. (*See Letters Nos. 10, 15, and 14.*)

The

* I was Commissioner of Crown Lands, and the following were the circumstances adverted to: a person named Dogherly called upon me with reference to some land; I do not remember Mr. Bligh accompanying him. I told him to send me an application, and to procure some respectable signatures in support of it, and that I would then give him an answer. Some time afterwards Mr. Bligh called upon me one morning, as I was on the point of leaving home, and handed me the document, with numerous signatures attached. At his urgent request I dismounted from my horse, and walking back into the office with Mr. Bligh, wrote an answer to the application by a minute upon the original, and handed it back to him, requesting him to show it to the applicant, and keep the paper for my return. On my return Mr. Bligh gave me the paper, with a letter, (addressed to the applicant, and embodying my note) which he had prepared in the interim for my signature, and which I signed; I had of course no idea of Mr. Bligh's being employed and paid by the man, and thought he wrote the letter to oblige me; but it is right that I should add that the matter was in no way connected with Mr. Bligh's official duties.

The whole of the documents transmitted to me, with your letter of the 11th December last, are herewith returned.

THE HONORABLE
THE COLONIAL SECRETARY.

I have, &c.,
EDW. D. DAY,
Police Magistrate.

(Copy.)

Armidale, 3rd February, 1859.

E. D. Day, Esq., Dr. to E. Molloy.

For the use of a room for the Inquiry£1.

Recd. payment.

(A True Copy)

ELLEN MOLLOY.

EDW. D. DAY, P.M.

DOCUMENTS EXHIBITED AND REFERRED TO IN THE EVIDENCE.

A.

Armidale, 3 November, 1856.

Sir,

Your application for an Auctioneer's District License has been duly filed, and you are indebted to me in the sum of £2 2s.

Mr. Wm. Denton,
Rocky River.

Your obedient servant,
W. R. BLIGH.

B.

Received from Henry Rose, *pro* Henry Mulligan, (£10 15s. 6d.) Ten pounds, fifteen shillings, and sixpence, due to John Monohan.

W. R. BLIGH.

Armidale, 24 August, 1857.

C.

No. 4,700.

New South Wales,
The Treasury, 2 July, 1857.

Received from John Monohan the sum of Seventeen pounds, one shilling, and ninepence, sterling, for balance of Lot 21 of sale at Armidale, 27 May, portion 107, 5a. 2r., Town of Armidale... .. £16 1s. 9d.
Fee on Deed 1 0 0

£17 1 9

E. W. HOLLINWORTH,
pro Treasurer.

Entd. J. W.

D.

The undersigned having been appointed Agent for the Liverpool and London Fire and Life Insurance Company, is prepared to receive proposals for assurances, and to afford information as to the terms upon which they can be effected.

Beardy-street, Armidale.

W. R. BLIGH.
18 February, 1858.

E.

Dear Sirs,
I have received your account against the Insurance Company receipted, and am much obliged.

Messrs. Hipgrave and Craigie.

Yours faithfully,
W. R. BLIGH.
17 May, 1858.

F.

Armidale, 11 January, 1859.

Received from Robert Forster, Esq., the sum of £1 14s. 6d., sterling, *pm.* on Fire Policy No. 110,501.

W. R. BLIGH.

G. *Armidale, 6 July, 1857.*
 £8 : 15 : 0
 Received from James Eames the sum of £8 15s., acct. rent of premises belonging to the Trustees of Mrs. A. Mosman, to 17th June, 1857.
 W. R. BLIGH,
Trustee.

H. *Armidale, 19 August, 1856.*
 £5 : 0 : 0.
 Received from George Markham the sum of Five pounds for settlement in McLean v. Markham, to be applied £3 12s. 10d. in liquidation of plaintiff's costs, balance to Armidale Hospital.
 W. R. BLIGH.

I.
 £10 : 0 : 0.
 Received from Wm. Melville the sum of £10, rent of Thomas Rae's premises to 20th February, 1859.
 W. R. BLIGH.
 14 December, 1858.

K.
 Received from G. Markham & Co. £2 2s., payment in full of all demands to date.
Armidale, 10 July, 1857.
 W. R. BLIGH.

L.
 J. H. Gannon. Dr. to W. R. Bligh.
 Rent of premises known as "Daniel O'Connell Inn," to 6th June, 1858 £15 0 0
 " " " " " 6th Sept., 1858 15 0 0
 Received payment,
 W. R. BLIGH.
 25 September, 1858.

M. *Inverell, May 5, 1858.*
 Sir,
 With reference to the premises you now occupy, I beg to refer you to Mr. Bligh, to whom I have given my instructions.
 I am, Sir,
 Your obedient servant,
 Solomon Cohen, Esq., *Armidale.*
 CATHERINE CAMPBELL.

CORRESPONDENCE CONNECTED WITH THE INQUIRY.

No. 1. *Armidale, Saturday, 22 January, 1859.*
 Sir,
 I presume you are aware that I have been instructed by the Government to investigate certain charges preferred against you in a petition from some of the inhabitants of Armidale and its neighbourhood.
 Having communicated with the Committee appointed by the Petitioners, I am now enabled to say that the inquiry will commence at 10 o'clock a.m. on Monday next, if you are quite prepared.
 Will you be so good as to inform me if you are so prepared.
 I shall be obliged by your obtaining for me permission from the Magistrates to hold this inquiry in one of the private rooms at the Police Office.
 I beg to add, that should you require any information from me on this subject, and will favor me with a call, I shall be glad to communicate it to you.
 W. R. Bligh, Esq. I am, &c.,
 EDW. D. DAY.

No. 2. *Sunday Morning.*
 Sir,
 Your note of yesterday reached me late in the evening, and I was therefore unable to reply to it at once.
 It is my intention to call upon you on Monday morning, when I shall be glad to be furnished with such information as is necessary to guide my movements in the matter to which you allude.
 E. D. Day, Esq. I am, &c.,
 W. R. BLIGH.

No. 3.

Armidale, 24 January, 1859.

Gentlemen,

Mr. Bligh has just applied to me for a copy of the petition, and also for permission to inspect it, before he can say he is prepared to go into the inquiry.

Mr. Bligh informs me that he has received no direct official notice to prepare for this inquiry, and I think it is but fair, therefore, to comply with his request.

To make a copy of the document will take some time, and therefore the inquiry cannot commence at 10 o'clock this morning, as I proposed; but I will again communicate with you as soon as I receive Mr. Bligh's answer.

I am, &c.,

EDW. D. DAY.

Walter Craigie, and
Robert Forster, Esquires.

No. 4.

E. D. Day, Esq.

Sir,

Having reference to your communication of 22nd instant, stating that you have been instructed by the Government to investigate certain charges preferred against me by some inhabitants of the town of Armidale and its neighbourhood,—

I have the honor to state that I am at present quite unprepared as to this matter, from the want of any official information as to the nature of the charges, and other details necessary to enable me to decide upon my course of proceeding.

That I may deliberate and decide as to what action it is advisable I should take in this matter, I request that you will kindly afford me full information upon the following points:—

1st. As you informed me, in an interview which took place between us this morning, that you were instructed to inquire into certain charges set forth in a petition which was in your possession, will you allow me to see this petition, and to take, or be furnished with, an exact copy of it—bearing in mind that a view of the original document is essential to my interest, and to guide my preliminary deliberations, for these reasons:—

- (1.) That the whole document may be a forgery.
- (2.) That as the proceedings at this inquiry will be published, I should be permitted, as far as possible, to shield my character by shewing, if I can, the falsity of the signatures, and its want of weight as an assertion of public feeling.
- (3.) That a compliance with this request is a measure of right and justice to me, and cannot in any way prejudice the interest of the Government or the merits of the inquiry which you are instructed to institute.

2nd. Will you inform me as to the mode in which you propose to conduct this inquiry—whether the examination of the parties called in proof of statements on either side be taken on oath, and, if not, how? Will you afford me power to compel the attendance of such witnesses as may be necessary for my defence, or to compel answers to such questions as I may deem it necessary to put to witnesses on either side touching the subject of the inquiry? If the inquiry is conducted *ex parte*, will you permit me to be present and take notes of the proceedings?

3rd. As to the nature of the charges—Will you furnish me with a list, signed by the petitioners, or their authorised representative, setting forth the whole of the charges I am called upon to answer, specifically and *seriatim*, and containing in each case a full and succinct statement of the time, place, and manner in which the alleged breach or neglect of duty was committed; also the names of the persons to be called in proof of each particular charge?

4th. Will you furnish me with the name or names of the person or persons by whom the petitioners propose to conduct their side of the proceedings, and shew that they are duly authorised by the petitioners for this purpose?

5th. Will you permit me to call evidence as to the character of the witnesses who may be produced against me, with a view to impeaching the value of their testimony?

On your furnishing me with the particulars hereinbefore requested, I shall be prepared to communicate (after reasonable time for deliberation) the course of action which I may be advised to take in the matter.

I have, &c.,

W. R. BLIGH.

Armidale, 24 January, 1859.

No. 5.

Armidale, 24 January, 1859.

Gentlemen,

Amongst other information which Mr. Bligh requests to be supplied with, before he can decide on his course of proceeding with respect to the inquiry, he asks for:—

- “ A list, signed by the petitioners, or their authorized agents, setting forth the
“ whole of the charges he is called upon to answer, specifically and *seriatim*;
“ and containing in each case a full and succinct statement of the time, place,
“ and manner, in which the alleged breach or neglect of duty was committed;
“ also, the names of the persons to be called in proof of each particular
“ charge;” and, also,

“ The

"The name or names of the person or persons by whom the petitioners purpose to conduct their side of the proceedings, and shewing that they are duly authorized by the petitioners for this purpose."

Will you be so good as to enable me to furnish the information thus required at your earliest convenience?

Robt. Forster, and
Wr. Craigie, Esquires.

I am, &c.,
EWD. D. DAY,

No. 6.

Armidale, 24 January, 1859.

Sir,

The Committee appointed by the petitioners to carry out the prayer of the Petition preferred against Mr. Bligh having met and read your letter to us of this day's date, direct us to state that as it would, in their mind, tend to defeat the ends of justice to comply with Mr. Bligh's demand at this stage of the proceedings, they (the Committee) respectfully decline making any statements until the same are elicited in due course of inquiry before you.

E. D. Day, Esq.,
Armidale.

We have, &c.,
ROB. FORSTER.
WALTER CRAIGIE.

No. 7.

Armidale, 25 January, 1859.

Sir,

As requested in your letter of yesterday, I send you herewith a copy of the petition. The original petition you can peruse throughout whenever you please to call. I have not copied the signatures, for I cannot really see how it would assist your defence to do so; but if, after reading them over, you still demand a copy, however great the trouble or delay may be, I will prepare it.

I have already informed you how the inquiry will be conducted; and that I cannot examine witnesses on oath, cannot enforce the attendance of witnesses, and cannot compel them to answer questions. My duty will be simply to take such evidence as may be offered to me on either side.

I shall not object to your being present and taking notes, if the inquiry be an *ex parte* one.

I have applied to Messrs. Craigie and Forster, the gentlemen who, on behalf of the Committee, have been in correspondence with me on this subject, to furnish me with the several particulars named in the 3rd and 4th paragraphs of your letter, and they write to say that, in the opinion of the Committee, to comply with your demand at this stage of the proceedings would tend to defeat justice, and they decline making any statements until the same are elicited in due course of inquiry before me.

There are however some documents in my possession which I received with the petition which I shall read over to you if you desire it, as they may assist your defence.

No objection shall be made by me to your producing evidence to impeach the testimony of witnesses produced against you.

Please to let me have your reply as early as possible, as it may become necessary for me to apply for further information for my guidance from the Government.

W. R. Bligh, Esq.

I am, &c.,
EDW. D. DAY.

No. 8.

E. D. Day, Esq.

Sir,

I have received yours of to-day in answer to mine of 24th instant, and have to express my thanks for the information thereby conveyed.

Adverting to the statement, that Messrs. Craigie and Forster, with whom you have been in correspondence on behalf of the Committee, decline to furnish full particulars of the charges which I am called upon to answer, on the ground that at the present stage of the proceedings a compliance with this request on my part would defeat the ends of Justice,—

I do myself the honor to point out, that unless I am now precisely informed both as to the nature and number of the charges I have to answer, it is impossible for me to decide as to my course of action, or to prepare to defend myself.

Preciseness in setting forth the whole particulars of the charges is essential to afford me the opportunity of collecting written or oral evidence to rebut them.

Information as to the names of the witnesses is essential, that I may, if I think proper, impugn their veracity by evidence as to their character or motives.

I feel bound to say that the refusal to furnish these particulars is an attempt to injure me by concealment, for which, if these parties are concerned only for the public good, there can be no necessity and no excuse.

I feel confident that neither yourself nor the Government will concur in refusing to me in an extra judicial inquiry a right to which a common felon is entitled.

I am, &c.,
W. R. BLIGH,
25 Jan., 1859.

No. 9.

No. 9.

Armidale, 25 January, 1859.

Sir,

We have the honor to invite your attention to the fact that the Committee appointed at the public meeting at which the petition in reference to the charges touching Mr. Bligh's alleged misconduct as a public officer was adopted, have been in attendance, and prepared to adduce evidence on the ensuing investigation, during yesterday and to-day, and that if such investigation be postponed much longer they will be subjected to inconvenience still greater than that to which they have already been put.

We have also the honor most respectfully to state, that several of the witnesses by whose evidence it is intended to substantiate certain of the charges to be made against Mr. Bligh, the Clerk of the Bench, have engagements which will oblige them to leave Armidale at an early date, while others are already in Armidale from the country for the purpose of tendering their statements, and who cannot remain from their avocations for more than a very brief period. It follows, therefore, that if the investigation be not begun to-morrow, these parties will either need to wait, at inconvenience and loss, until they can appear before you, or that a personal examination must be supplanted in pressing cases by a written declaration, to be brought forward subsequently at the official investigation.

We beg to state that the Committee, acting on behalf of the petitioners, are anxious that the intended investigation should be initiated as early as possible, more especially as they are informed that a report is current in town to the effect that they are either unwilling or unprepared to proceed immediately with the matter, which, it is almost unnecessary to say, meets with their unqualified contradiction.

In conclusion, and in accordance with the request of the Committee, may we take the liberty of inquiring whether the investigation can be initiated at ten o'clock to-morrow, and if not then, at what time will it probably be begun? And also, what course would you be good enough to suggest to meet the case of intending witnesses who are now, or will be to-morrow, in town from the country, but who cannot remain for more than one day?

We are sorry that this communication should be sent at so late an hour, but the Committee have waited until now in the hope of receiving another communication from you fixing the date of the investigation. Under these circumstances, may the Committee take the liberty of requesting the favour of a reply before they separate this evening?

We have, &c.,

(On behalf of the Committee,)

E. D. Day, Esq.,
&c., &c., &c.

ROBT. FORSTER.
WALTER CRAIGIE.

No. 10.

Armidale, 26 January, 1859.

SIR,

I have been instructed by the Government to institute an inquiry into certain charges preferred against Mr. Bligh, Clerk of Petty Sessions, and contained in a petition from some of the inhabitants of Armidale and its vicinity; and I shall feel much obliged if you will permit me to hold that inquiry in the Police Office, when not required for Police purposes.

I have, &c.,

Dr. West, J. P.,
Armidale.

EDW. D. DAY.

No. 11.

Armidale, 26 January, 1859.

SIR,

I have received your letter of yesterday, and I perceive that, although I have furnished you with all the information I possess, you are still undecided as to the course you intend to follow.

You require that the charges against you should be set forth with all the precision, as to time, place, &c., required in an indictment, and unless these particulars be furnished to you, you seem to think that the Government have no right to inquire into any complaint that may be preferred against you.

I cannot agree with your view of the case, and as my instructions are explicit enough, I shall proceed with the investigation, and you must exercise your own discretion as to your course in the matter.

It seems to me that any further delay would be mere waste of time. Besides, I have received a letter from the Committee last night, at 9 o'clock, in which they urge me strongly to proceed, as their witnesses cannot remain in town much longer, and any further delay will materially obstruct them in supporting the charges with evidence.

I am, &c.,

W. R. Bligh, Esq.

EDW. D. DAY.

P. S.—As soon as I can decide, I will let you know when and where the investigation will be held.

E. D. D.

No. 12.

Armidale, 26 January, 1859.

SIR,

With this I send you a copy of the signatures to the petition, prepared as accurately as I can make the names out.

Having received no reply from you in reference to the application for the use of the Police Office, which you said you would make at my request, and having also received no reply to a note I addressed to Dr. West to the same effect, I have determined to hold the inquiry in a large room adjoining Mrs. Molloy's store; and I beg to inform you that the inquiry will commence at 10 o'clock to-morrow morning.

You will oblige me by acknowledging the receipt of this communication without delay.

I am, &c.,

EWD. D. DAY.

W. R. Bligh, Esq.,
Armidale.

No. 13.

E. D. Day, Esq.

Sir,

I have yours of to-day. I require sufficient precision in the list of charges furnished to me to enable me to know what it is alleged I have done, and to have a reasonable certainty as to the time when I am said to have done it.

The fact that I have held office here as C. P. Sessions for 12 years, at any time during which period the causes of these charges may be said to have arisen, is sufficient to shew that I am justly entitled to what I ask.

The convenience of a Committee will, I presume, be consulted by you to such an extent only as a fair and impartial conduct to both sides permit you to go; and I can see no just reason why, on the bare assertion of two men—who are notoriously inimical to me, for private reasons—you should urge on this inquiry with unnecessary haste.

If this Committee decline to furnish me with particulars of the charges I have to answer, I presume they cannot complain of a delay which arises from their own improper conduct in refusing information which I have a right to demand.

I must inform you that persons you have alluded to as representatives of the Committee (Messrs. Forster and Craigie) are not in any way authorised by the petitioners to act in this matter, and that no Committee has ever been appointed by these petitioners to act in this inquiry on their behalf.

Therefore I strongly protest against your recognising their dictum or interference in this matter, more especially as one of them, Forster, is maliciously disposed towards me, from my having lately prosecuted a constable for neglecting to apprehend him when he was guilty of a breach of the Vagrant Act in Armidale; and the other, Craigie, because he is under the impression that I am interested in starting a newspaper in opposition to the *Armidale Express*, with which he is connected; and as these persons have not been selected by the petitioners, I have confidence that under this representation they will not be permitted by you to impede my just rights or to interfere in the matter.

I must repeat, that unless I am furnished in writing with a list, setting forth with reasonable precision as to nature, time, place, &c., the matters respecting my official conduct which I am called upon to answer, and allowed a reasonable time to consider them, I shall be unable to communicate to you my decision as to the mode of proceeding which I may find it advisable to adopt; and I have not yet been furnished with these particulars, or allowed this time.

I protest against your holding an *ex parte* inquiry without a compliance with these requests, and I beg you refer this point for the decision of the Government before adopting so extreme a step as a partial inquiry, where my personal enemies are to act as prosecutors, without authority, and give evidence against me without even the form of an oath to compel their veracity.

As you have stated to me your intention to admit the Reporter of the *Armidale Express* to take notes at the inquiry for publication, I beg your re-consideration of this point, on the grounds that Hipgrave and Craigie are the proprietors and reporters of this paper, and are also the main movers in the present proceeding against me, and have malice against me, for reasons already stated. As the matter is in your discretion, and as neither of these persons can give verbatim reports, from their ignorance of short-hand, I trust you will see the justice of preventing them from trying to strengthen their own case with the public by reporting their impressions of the statements made in support of their accusations.

I am, &c.,

W. R. BLIGH.

26 January, 1859.

No. 14.

E. D. Day, Esq.

Sir,

I have received your 2nd letter of to-day, and have to express my thanks for the copies signatures therein forwarded.

I spoke to Dr. West as to the room in the Police Office, and he said that he had conferred with his brother Magistrates, and (without intending any discourtesy to you) was unable to take any action in the matter. I am sorry I forgot to mention this to you at our last interview.

I am, &c.,

W. R. BLIGH.

Armidale, 26 Jan., 1859.

No. 15.

No. 15.

26 January, 1859.

Sir,

I regret that I am unable to say anything with respect to your wish to use the Court House, though I feel personally every desire to be courteous to you.

E. D. Day, Esq., P.M.,
&c., &c.

I am, &c.,
J. B. WEST.

No. 16.

26 January, 1859.

Sir,

I beg, in reply to your letter just received, to state that I cannot any longer delay the inquiry which I have been ordered by the Government to carry out.

My attention has been directed to the charges contained in the petition, and I shall to-morrow, as I have already stated to you, begin to receive any evidence that may be offered in support of those charges.

I need not repeat here what I have already told you, as to your being at liberty to cross-examine the witnesses if you choose to do so.

If, at the close of the evidence on the part of the petitioners you require time to produce witnesses for your defence, I shall be most willing to afford you any reasonable time for that purpose.

W. R. Bligh, Esq.

I am, &c.,
EDW. D. DAY.

No. 17.

Police Office, Armidale,
19 January, 1859.

Sir,

We have received a letter from the Colonial Secretary informing us that you have been instructed to proceed to this place for the purpose of investigating certain charges against the Clerk of this Bench, and requesting us to intimate this to Mr. Bligh, and afford you any facilities which may be necessary in the discharge of this duty.

We have to inform you that we have written to the Government, objecting to this proceeding, and we therefore decline any conference with you on the subject. We have also instructed Mr. Bligh that we do not consider that he is justified in submitting to any inquiry by you into his official conduct.

We have, &c.,

J. B. WEST, J.P.
JOB. W. CHEESEBROUGH, J.P.
ARCHD. MOSMAN, J.P.
WM. MAISTER, J.P.
S. H. DARBY, J.P.
DONL. MCINTYRE, J.P.
A. H. PALMER, J.P.,
(By his agent, A. MOSMAN.)
WM. HENRY MORSE, J.P.

E. D. Day, Esq.

No. 18.

Armidale, 1 February, 1859.

Sir,

The evidence in support of the charges against you having been taken, I beg to inform you that I am now prepared to take any statement or defence you may wish to make in reference to those charges, and to receive any evidence you may offer to impeach the credit of the witnesses examined, or otherwise.

2. In the course of the investigation it was stated in evidence that publicans on applying for their licenses had to make declarations, for each of which a fee of seven shillings and sixpence was charged by you. Will you be good enough to furnish me, for the information of the Government, with a statement shewing how many such declarations have been made in all; before whom made, and under what authority; the amount of fee charged on each; whether that fee was credited to the Government, and, if not, how disposed of?

3. With reference, also, to the declarations made in the Courts of Petty Debts in cases of dishonored promissory notes, as spoken of in evidence, and mentioned in your paper of the 30th March last, will you be good enough to furnish me, also for the information of the Government, with a statement shewing the entire number of such declarations, and their dates; and shewing how many of them were made by yourself?

I have, &c.,

W. R. Bligh, Esq.

EDW. D. DAY, P.M.

No. 19.

No. 19.

E. D. Day, Esq.

Armidale, 1 February, 1859.

Sir,

I have received your letter of to-day, informing me that you had taken evidence in support of charges against me.

In reply, I have the honor to state, that, on the grounds which have been fully set forth in previous correspondence between us, and on the record of the proceedings, I regret that I am compelled to decline a recognition of this inquiry in any manner.

I beg you will be good enough to forward to the Government the whole correspondence which has taken place between us in this matter.

I have, &c.,

W. R. BLIGH.

Armidale, 27 January, 1859.

PROCEEDINGS of an Inquiry ordered by the Government to be instituted into charges preferred against Mr. W. R. Bligh, Clerk of Petty Sessions, on a petition from certain inhabitants of Armidale and its neighbourhood, by Edw. D. Day, P.M.

The proceedings commenced by Mr. Day reading his instructions from the Government to hold this inquiry in full.

Mr. Bligh then said, William Russell Nelson Bligh appears, and makes the following statement:—I have received no instructions as to this inquiry from any person or persons having authority over me, excepting from the Bench of Magistrates at Armidale; a Bench composed of eight of these Magistrates have instructed me that I am not justified in submitting to any inquiry by Mr. Day into my official conduct, therefore I decline to submit to this inquiry; I further say that, if disposed to do so, I am unable to submit to this inquiry, because, although I have repeatedly requested Mr. Day to furnish me before the inquiry commenced with a list, in writing, setting forth, with reasonable precision, the whole of the charges against me, the nature of them, and the time and place when and where the cause of these charges arose, he has declined to do so. I protest against this inquiry being held under the circumstances hereinbefore set forth.

W. R. BLIGH.

27 January, 1859.

Mr. Day then read the correspondence which had taken place between himself and Mr. Bligh, as well as between him and Mr. Forster and Mr. Craigie, on behalf of the petitioners, to account for the delay that had taken place in beginning the inquiry.

Mr. Forster and Mr. George Markham acting for the Committee.

Nathaniel Buckler, called for the petitioners, states:—I am an auctioneer and clerk of the post office at Uralla; I was for a time employed by Mr. Bligh as a writing-clerk; this was about March three years past, but I will not be sure; during that time I drew up some applications for publicans' licenses—about eight or nine, or ten, perhaps—I do not know there was any fee charged for these, but I know my brother paid, and Bartholomew Ross, I think he paid; my brother paid two guineas; Ross and my brother were both applicants for a license for the same house. I don't recollect having any conversation with Mr. Bligh about both parties being applicants for the same house; I don't recollect remarking to Mr. Bligh anything about two fees being paid for applications for that house. I have paid Mr. Bligh myself two guineas for William Denton for an application for an auctioneer's license; this was about two years ago. Mr. Bligh wrote to me about that fee. I never protested to Mr. Bligh against receiving two fees for one house. I was engaged to Mr. Bligh at two pounds a-week salary; I received no share of the money paid for applications myself. I got no license myself from Mr. Bligh; never applied.

NATHANIEL P. BUCKLER.

Taken before me, this }
27th January, 1859. }

EDW. D. DAY, J.P.

William Denton states:—I am an auctioneer, and reside at Armidale; I received the note handed to me; it was received by me from a messenger of Mr. Bligh's; it is signed by Mr. Bligh with his usual signature, (*note marked A appended*); the two guineas demanded in that note are for drawing out an application for an Auctioneer's District License, and filing it; I paid the money through Mr. Nathaniel Peach Buckler for Mr. Bligh; in the following year, 1857, I came in myself to make an application for a license; Mr. Bligh brought me into his private office; I told him I wished an application to be drawn out for an Auctioneer's License, and asked him what he would charge me; he said the same as last year; I declined giving him that, and, after a good deal of bargaining, he consented to do it for ten shillings; I paid him the ten shillings; I applied on the 9th of October, 1858, for money (£3 7s. 6d.) the amount of a judgment in the Court of Requests; I applied again on the 11th of the same month; each time Mr. Bligh was absent, and I was not able to receive it; I applied again the next day, the 12th, when Mr. Bligh informed me it was Court day, and he could not attend to me, "I must call to-morrow"; I left the Court; he sent a constable after me; on my return Mr. Bligh left the Court and the money was paid to me by his assistant, Mr. Creagh. On or about the 7th January, 1858, I disposed of some land, and, in company with the vendor and purchaser, went to the Court House for the purpose of employing Mr. Bligh to convey this land; the original deed was for seven acres, but out of that I only sold six acres and three-quarters; the

the vendor, not knowing the description of the quarter acre, employed Mr. Bligh to survey it, and take a description (this was in my presence) for which he received the sum of two pounds. The private office I spoke of is in the Court House; it is generally known as Mr. Bligh's private office; I cannot say when the surveying was done; the contract for it was made between one and two o'clock in the afternoon.

Taken before me, at Armidale, }
this 27th January, 1859. }

W. DENTON.

EDW. D. DAY, P.M.

Abraham Odell, says he is a settler and a farmer. (This witness' evidence does not appear to bear on the charge against Mr. Bligh, and I have refused to receive it in consequence.)

John Monohan says:—I am a publican in Armidale; I applied to Mr. Bligh to get me a form of a publican's license the year before last; it was in April, 1857, I got the license; the form was an application; I paid two guineas for that form to Mr. Bligh, and I paid for a declaration that publicans were obliged to make on the licensing day, I think it was seven and sixpence; I paid this to Mr. Bligh; I declared that I was owner of the house and lived in such a place. Mr. Bligh has done agency business for me; he collected money for me at ten per cent.; I produce a receipt in Mr. Bligh's own handwriting, shewing that he received money for me in my absence (*receipt marked B.*); £10 15s. 6d. is the amount named in the receipt. I had a doubt on my mind that I would not get my license unless I employed Mr. Bligh to get me my license. I have often received deeds of grant from the Police Office for myself; I paid Mr. Bligh five shillings for a deed of grant in addition to the Government fee; (*the Treasury receipt for the same deed, £1, handed in.*) and, in addition to that fee of £1, I paid Mr. Bligh five shillings; the receipt is dated 2nd July, 1857, (*marked C.*); Mr. Bligh said the fee was five shillings for writing for the deed; I paid it. I paid Mr. Bligh four guineas which he demanded on account of Supreme Court summonses on the day the note now produced was drawn, 7 September, 1857; Mr. Bligh was then my agent; he was acting as agent for Mr. Palmer as well as for myself at the time. I paid Mr. Bligh no money for any deed since I paid the five shillings before spoken of. I only paid Mr. Bligh once for an application for a publican's license. I paid more than once five shillings for deed fees; I thought this was his own; he (Mr. Bligh) said he generally got five shillings from every body for getting up their deeds; he demanded of me five shillings.

JOHN MONOHAN.

Mr. Forster proposes to examine this witness as to the undue influence exercised by Mr. Bligh over two Magistrates of the district, which matter, not being included in the charges, I decline to receive.

James Eames, cabinetmaker, residing in Armidale, states:—I know Mr. Bligh, the Clerk of the Bench in Armidale; I have seen Mr. Bligh take the part of a lawyer against me in 1857, during the sitting of the Petty Sessions; I hired some men to build a house for me; it fell down, and I refused to pay them; they summoned me to Court, and Mr. Bligh acted as a lawyer against me; I told him so, and that I did not recognize him in any way but as Clerk of the Bench; I live within a few yards of the Court House; I can say of my own knowledge that Mr. Bligh is frequently absent from his office; I have been there plenty of times on business, and he has not been there; I have never paid Mr. Bligh anything for any work done for me; I have paid him 5s. for registering two dogs, and two shillings for sets off in the Court of Requests, when the fee is only one shilling; I have seen Mr. Bligh pleading for other men several times, as you (Mr. Forster, a solicitor,) would, not once, but several times, when the other party were done getting up and pleading. [On Mr. Forster producing a newspaper with a report of the case before alluded to, the witness was informed the defence was that the work was not according to contract, and was then asked who set up that defence; he replied it was Mr. Bligh.] Witness adds, he does not understand law terms. In the case I speak of I was the man who was summoned for the money; my defence was that the building was not according to agreement, and had tumbled down, and I refused to pay for it.

Taken before me, this }
27th January, 1859. }

JAMES EAMES.

EDW. D. DAY, P.M.

William Ewins states:—I am a schoolmaster, residing in Armidale; I know Mr. Bligh perfectly well; I have paid him for drawing up forms; in November, 1857, I wanted a confectioner's license, and also earlier in the year I wanted one; I think I applied to Mr. Bligh in the early part of July, 1857, or in the latter end of June; this was my first time of applying for a license, and I did not know where to procure a form of application, and therefore I called into the Court House and asked Mr. Bligh for a form, or where I could see one; he told me he did not keep forms for the public; I then asked Mr. Bligh if he would furnish me with a form if I paid him for one; he told me he would; I asked him what the cost would be; he said a guinea; the application was filed, and the money was paid to Mr. Bligh by myself; this application failed, for there were two adjournments of the Licensing Meeting; on the third day there was an inquest holding at the Court House, and thinking the Court would not sit, as I had other business, when it did sit after 2 o'clock, I did not attend, and lost my license; I applied again to Mr. Bligh in November; I believe; he gave me

me to understand that a new form was necessary; he told me a pound was the cost; I paid him that too; in substance he demanded it from me; it was Mr. Bligh's charge; I never paid any other fees to Mr. Bligh for myself or any one else, that I remember.

WILLIAM EWINS.

William Hipgrave, newspaper proprietor, and residing in Armidale, states:—Between the 6th and 8th of October, 1858, I had occasion to call upon Mr. Bligh on particular business, and I went to the Court House on three different occasions between 10 and 4 o'clock; on the first two occasions the Court was open, books and papers lying on the table, and no one was present, neither Mr. Bligh, constable, nor any one else; on the third occasion of my calling on that day the Court was shut; on Friday, December 3rd, 1858, I wanted to register the paper (the *Armidale Express*) anew; it was coming out on the following day under a fresh imprint; Mr. Bligh having undertaken to get it registered on the first occasion, and having done so, I was, therefore, anxious to see Mr. Bligh to get it done again, and being fully aware how negligent Mr. Bligh was in attending the Court, I went to his private lodgings (Mrs. Tysoe's) to make sure to catch him, that being Friday morning at 8 o'clock; on inquiring of Mrs. Tysoe for Mr. Bligh, she informed me he was not at home, that he had left on the previous evening for Tilbuster, and, by the clothes he ordered to pack, and from what he said, she did not think he would be in until Monday morning; I went to the Court at 20 minutes past 10 a.m. on the same day and the Court was not open; about 20 minutes or a $\frac{1}{4}$ to 11, I went again, and the Court was not open then; at 11, being anxious about my business, I went again; the Court was open and perhaps had been a few minutes before; I saw Mr. Creagh, Mr. Bligh's clerk; on asking Mr. Creagh whether Mr. Bligh was in the office, he told me no, and on asking him when he might be expected, he told me he did not know, he might be in in half an hour—or an hour, he did not know; I then said it was no use deceiving me, and I said I knew he was at Tilbuster, and would not be in before Monday; I then left the Court and got the document drawn up by another party, and hunted about the town for a Magistrate; saw Dr. West, and agreed to meet him at the Court at 12 or a little after; going to the Court at 12 the business was done, and Mr. Bligh was not in then. On various occasions before that I had to go to the Court to see Mr. Bligh on various matters, and found Mr. Bligh absent; one occasion was the publishing of some sketches which Mr. Bligh wished me to publish, and did not wish the manuscript of them to be seen; another occasion was about publishing a police report—another was about some title deeds; three different times I had to go about title deeds; I got them the third time. Since I have been in Armidale I have seen Mr. Bligh on various occasions riding about, when by the office clock I knew he should have been in his office. I can speak confidently of the matter of Mr. Bligh having acted in agency business within the last six or seven weeks, in fact, his name is published in the papers as agent for an Insurance Company, and he has acted in that capacity as relates to matters between our own office and the Company. Mr. Bligh drew up the document for registering our paper; he made no charge for that; we paid him what we thought was sufficient. [Mr. Forster here wishes to examine this witness on the subject of a letter in Mr. Bligh's handwriting, and signed by the Magistrates, recommending him for a higher appointment, which I decline to allow, as not being in the charges, nor tending to establish anything against Mr. Bligh.] I was appointed a delegate to present the Petition to the Colonial Secretary; I received some documents on my way down to Sydney; one from Mr. Perry, at Bendemeer, and the other I really cannot recollect from whom; I recollect the substance. I was not at the Police Office in the month of May last when a complaint was made to the Magistrates that the Clerk of the Bench was absent, that he was somewhere up the country.

WILLIAM HIPGRAVE.

Taken before me, this }
27th January, 1859. }
EDW. D. DAY, P. M.

William Crate states:—I am a watchmaker in Armidale; in the months of March and April, 1857, I lived at the Rocky River; during those two months I called at the Police Office, Armidale, on Mr. Bligh, on business, three different times; I could not see him; he was no where to be seen in the town; I stopped until 6 o'clock each evening to see if I could find him, and could not; the reason I stopped so late was that Mr. Bligh was putting me to great expense, because I had to pay a man a pound a day to take care of my place; the Rocky River is 14 or 15 miles from Armidale; it was on public business connected with Mr. Bligh's duties that I called upon him; it was in reference to land.

WILLIAM CRATE.

Taken before me, this }
27th January, 1859. }
EDW. D. DAY.

Proceedings adjourned till to-morrow at 11 a. m.

EDW. D. DAY.

Friday, 28 January, 1859.

John Dick, saddler, residing in Armidale, states:—I went to the Police Office this day week to pay in money for land; the Police Office was shut; I went there about two o'clock; I went to Mr. Bligh's lodgings at Mrs. Tysoe's; she informed me Mr. Bligh had gone to Tilbuster, and would not be home till Monday; I then went to Mr. Bligh's clerk; (I think his name is Creagh), I met him coming from his lodgings; we went to the Police

Police Office together; I wanted to pay him the money, on condition that I got a receipt or acknowledgment for the money; he would neither give me one or the other; knowing that if I did not pay the money that day I would forfeit the land and deposit paid, I went and got a witness, and paid the money to the clerk, and got no receipt or acknowledgment for it; I got the receipt the next day; I sent my boy for it, and he brought it to me. I know of my own knowledge that it is a frequent occurrence Mr. Bligh being absent from his office. I know of one occurrence of a lad from Walcha coming here to get deeds of land from Mr. Bligh, and the lad had to remain one or two nights in my house before he got them; he would not go back without them. The deposit I paid on the land was £2 11s or 12s., I am not exactly sure, and that amount would have been forfeited if I had not paid the money in the way I did on that day, or the next day, which was the last for paying the money. I never paid anything for getting anything done in the Police Office for myself; I never had anything done in the Police Court; the land business was the first transaction I had in the Court.

Taken before me, this }
 28th January, 1859. }
 EDW. D. DAY, P.M.

JOHN DICK.

Owen Gorman, a storekeeper, residing in Armidale, states:—At the land sale held here on the 23rd of December last I purchased some land, and on the 21st of the present month I went to the Police Office to pay the money; Mr. Bligh was not there, and the man who was there, Mr. Creagh, refused to give me a receipt; I asked him if he would take the money from me, so as to prevent my having any squabble afterwards with the Government about the land; by a good deal to do he took the money, but would not give me a receipt, nor have I got one since. I cannot state particular dates, but I know of my own knowledge that Mr. Bligh is frequently absent from office; I have gone there frequently with others on business, and have not found him there. I remember once, about fifteen or sixteen months ago, or perhaps twelve months ago, the constables were taking a man into custody, and he was resisting them; I heard them call to Creagh to help them; he did not go to them, and I asked him afterwards if he was a constable, and he said he was never sworn in.

Taken before me, this }
 28th January, 1859. }
 EDW. D. DAY, P.M.

OWEN GORMAN.

Walter Craigie, printer, residing in Armidale, states:—I have a written document, in Mr. Bligh's handwriting, which he requested to be inserted in the *Express* newspaper, and it was accordingly published in thirteen consecutive numbers, commencing 20th February, 1858, and ending 15th May, 1858 (*Document read by witness; see document marked D.*) This advertisement was countermanded by Mr. Bligh; we sent in a receipt afterwards (receipted as if the money had been paid), which was acknowledged by Mr. Bligh in a note I now hand in. (*Note read, and marked E.*) This was done by us without any arrangement with Mr. Bligh, as a means of remunerating him for some work he had done for the firm. We published another notice for the same Company, at Mr. Bligh's request; it first appeared 24th July, 1858, and its thirteenth and last appearance was according to special order from the Company, through Mr. Bligh, on 16th Oct., 1858. I have on several occasions during the last six months called at the Police Office during office hours on business, and Mr. Bligh was not there—I cannot recollect the particular dates—and on one occasion during that particular period there was no one in the office; I stayed for a minute or two and made a noise, but could not attract the attention of any one; on going out I looked round, but could see none of the officials belonging to the Court; on returning to my own office (the *Express* office) I remarked to Mr. Hipgrave that it was too bad to leave the Police Office without any one to protect it, as, if so disposed, I might have carried away half the books in the office; the Court was left quite unprotected. I have had to call at the Police Office more than once for title deeds, but this complaint is of longer date. I can only speak by hearsay of anything else but what I have mentioned.

Taken before me, this }
 28th January, 1859. }
 EDW. D. DAY, P.M.

WALTER CRAIGIE.

James Eames recalled, states:—I produce a receipt signed by Mr. Bligh, dated Armidale, 6th July, 1857, for £8 15s, on account of rent of premises belonging to the Trustees of Mrs. A. Mossman, to 17th June, 1859; I paid this amount to Mr. Bligh. (*Receipt appended, G.*) The receipt is signed by Mr. Bligh, as Trustee for Mrs. Mossman.

Taken before me, this }
 28th January, 1859. }
 EDW. D. DAY, P.M.

JAMES EAMES.

Dominick Doherty, publican, Rocky River, states:—Once I wanted to build a public house on a Government Reserve at Kentucky; it is about fifteen months ago; I was directed to Mr. Bligh that he might assist me in doing so; Mr. Gannon desired me to go to him; I went to Mr. Bligh accordingly, and stated my case to him; he told

told me he would go with me to Mr. Moriarty, the Crown Lands Commissioner; Mr. Moriarty told me if I got a few respectable signatures he had no objection to signing it; coming to the Court House from the Commissioner's house, I told Mr. Bligh I did not want his services for nothing, and putting my hand in my pocket, I gave him one pound, and said I had no more money in my pocket; I then got signatures, and came in again in about a fortnight and gave the paper to Mr. Bligh; he took it up to the Commissioner's, and brought it back to the Court House and gave it to me, and said he had a great deal to do to get it signed; I told him I did not want his trouble for nothing, and asked him what his demand was; he told me it was five pounds—he could not do it for less than five pounds; I paid him three pounds, and told him I would send the other two in, as I had no more at the time; I could not occupy the ground afterwards, as a new bridge was built at Kentucky; I did not consider it would pay to build upon it, on account of the new road being opened; through that I thought I had paid Mr. Bligh sufficient on account of me not occupying the ground, and did not pay the two pounds till about from six weeks to two months afterwards, as near as I can guess; Mr. Bligh billed me for them—I mean six weeks or two months after I got the documents I was billed for the two pounds; I shewed the bill (in writing) to Mr. Buchanan, and told him I had a good mind to publish it in the *Express*; I shewed the bill to others also; I shewed it to Mr. Markham, who advised me not to publish it; Mr. Markham told me Mr. Bligh was a man in authority, and to publish the matter would do me no good. I said Mr. Markham used the word "vindictive" in speaking of Mr. Bligh, but now I say he spoke words to that effect. I met Mr. Bligh afterwards in Armidale, and told him if I occupied the ground I would pay him the £2, but if I did not occupy it I would not pay the money; I paid Mr. Bligh in all four pounds; he did not ask for the first pound I paid; I gave it to him for his trouble in going to the Commissioner's. I believe I could find the bill. I am not certain that Mr. Markham used the word vindictive, or words to that effect; I think it was to prevent me from exposing Mr. Bligh that Mr. Markham spoke at all.

D. DOHERTY.

Taken before me, this }
 28th January, 1859. }
 EDW. D. DAY, M. P.

William Melville, poundkeeper and farmer at Armidale, states:—I remember a number of cattle being impounded in my pound about seven or eight months ago by Donald M'Intyre; Mr. Bligh applied to me for the release of these cattle, as agent to Mr. Maister; Mr. Bligh said he had come as agent for Mr. Maister to release these cattle, and asked me if I would release them if he paid me the pound fees, without paying the damages (there were certain damages on them which he objected to pay me); I said I had no objection to release them if he gave me a note of hand to pay what the decision of the Court would come to, but he objected to do that, and therefore I did not release the cattle to Mr. Bligh; that is all; I released them afterwards to Mr. Maister himself. I have applied at the Police Office on business, between the hours of ten and four, and found Mr. Bligh absent; I cannot say on what particular occasions; when I was appointed Poundkeeper by the Magistrates I paid Mr. Bligh for a bond; I paid him one pound; I waited a whole Court day, and there was nothing settled until after the Court was over, and Mr. Bligh then asked me if I was provided with a bond; I said no, I said I thought if there was any bond required the Bench would have supplied me with that bond; about an hour afterwards I met Mr. Bligh, and I asked him if he could give me the bond; he said he could get it done for me, and that it would be a pound; that is the pound I said before I paid him. I pay the rent of my premises to Mr. Bligh; I believe they belong to Mr. Thomas Rae; Mr. Bligh told me he was acting as agent for Mr. Rae; I have got a lease of the premises; Mr. Bligh told me it would cost two pounds to draw the lease up—that Mr. Rae would have to pay one pound and I the other; I paid Mr. Bligh one pound, but never got any copy at all. I produce a receipt given me by Mr. Bligh for ten pounds rent, which I paid to Mr. Bligh for Mr. Rae; it is dated 14 December, 1858; it is in Mr. Bligh's handwriting. (*Document produced, marked I, appended.*)

WILLIAM MELVILLE.

Taken before me, this }
 28th January, 1859. }
 EDW. D. DAY, P.M.

Postponed till Monday, at 10 o'clock, for further evidence, at the request of the Committee.

EDWD. D. DAY, P.M.

Armidale, 31 January, 1859.

George Robert Allingham, publican, of Armidale, states:—I first employed Mr. Bligh about three or four years ago to draw up applications for a publican's license for me; on two occasions he charged me either two pounds or two guineas each time; the last time I employed him he charged me but one pound; the license then applied for is the license I now hold; Mr. Bligh said on that occasion that Mr. Forster was drawing out applications, and he (Mr. Bligh) would not charge his price; he asked two pounds, I said I would give him only one, and he took that. I bought my ran at Royanadah from Mr. Bligh; it was his own property I believe at the time; he charged me three pounds ten shillings for writing several letters to the

the Government relative to the boundary of the run ; I never received any satisfaction from those letters ; I afterwards sold the run in consequence of the annoyance I suffered from my neighbours, from not being able to find out the boundaries, or what portion I had a right to ; Mr. Bligh was Clerk of Petty Sessions at the time he said he wrote these letters for me ; I never saw them, although I paid for them, as stated before ; in all I paid Mr Bligh for three or more applications ; I do not know that I ever paid for a declaration on applying for a license.

G. R. ALLINGHAM.

Taken before me, this }
31st January, 1859. }

EDW. D. DAY, P.M.

James Starr, farmer and grazier, of Mihi Creek, states :—I held a publican's license at the MacDonal, in this district ; I have employed Mr. Bligh, since some eight years ago ; I have employed Mr. Bligh from that time until within the last nine months ; he collected my debts up to the time I left the MacDonal, about four years ago, at a commission of 25 per cent. ; since then, that is about nine months ago, I employed him to measure a piece of ground for me in Armidale ; he measured it, and I paid him nine pounds and some odd shillings ; I paid the amount and grumbled at it, and said, " You shall do nothing more for me " ; afterwards, when I grumbled, he said he would read the items for me ; I said, " Do so ; " he began, " One letter to Sydney, ten shillings ; one letter to Melbourne, a guinea ; " I stopped him there, and said, " Never mind, Mr. Bligh, I'll pay the money, " and said no more about it ; I paid it then ; this was about nine months ago ; I was with Mr. Bligh when he measured the ground ; it was in the middle of the day, and it occupied him three or four hours ; he finished it afterwards on another day in about an hour and a half ; a day or two afterwards I paid the money, as before stated. Mr. Bligh transferred property from me to Mr. Cruikshanks and from Mr. Cruikshanks to me by deed of conveyance, for which I paid ; there was a mortgage connected with the transfer, and I paid in all about £14 for the whole affair ; this was four years ago ; I sold the property to Cruikshanks, and got a station in exchange, with a mortgage on the property I sold for the balance ; I never made a declaration when applying for a license ; I never got a license but once, except through Mr. Bligh, and I had always to pay a fee to Mr. Bligh when he made out the application ; it was always two guineas ; I have held a license eight or nine years in the district ; I once sent in an application in my own writing, and Mr. Bligh told me it was informal ; I believe it was three days short of the time ; I got the license the same meeting ; I had to pay two guineas for it ; I drew up the application from the Publicans' Act ; Mr. Bligh said it was informal, but did not point out where ; it was after that I paid the two guineas ; I paid this as a fee to Mr. Bligh ; it was a general rule that all the publicans had to pay a fee, or they would not get the license ; when my informal application, as mentioned above, was sent in, I was in Sydney ; it was sent in by my wife in my absence ; two guineas were paid to Mr. Bligh on account of that application which I drew up myself ; Mrs. Starr was informed that the notice posted up at my house was incorrect by some days, and she wrote to me to say that if I was not here by a certain day I would not get my license ; I came up direct from Sydney to Armidale, and I was then three days too late to post the new application ; I saw Mr. Bligh at once when I came up, and asked him what was the reason he did not make an application for me instead of dragging me up from Sydney, and I would have paid him his charge whatever it was ; I then left Armidale, and Mr. Bligh promised to send the application after me by post, which was done, and posted on my premises ; for this I paid Mr. Bligh a second two guineas afterwards when he sent in his bill ; this occurred after the application written by myself was said to be three days too late ; notwithstanding that, I got the license the same meeting ; it cost me in fees to Mr. Bligh four guineas. I have a perfect recollection of all that I have stated, and am prepared to give the same statement if required on oath at any time.

JAMES STARR.

Taken before me, this }
31st January, 1859. }

EDW. D. DAY, P.M.

Robert Forster, Solicitor, of Armidale, states :—About the beginning of May, 1858, I attended at the Police Office here to receive money on account of a client—the amount of a judgment obtained in the Small Debts Court—during office hours ; I could not get it in consequence of Mr. Bligh being absent. About the 6th of the same month I attended at the Police Office to obtain a deed of grant on behalf of the Revd. Mr. Dunne, of Armidale ; I could not get it in consequence of the absence of Mr. Bligh. On the 6th of January, 1859, I attended at the Police Office to pay money on account of land purchased by me ; Mr. Bligh was absent on that occasion ; the gentleman who was acting for Mr. Bligh, Mr. Creagh, could not give me a receipt, and, consequently, I had to call another day. On the 12th January, 1859, I called at the Police Office on public business during office hours, and Mr. Bligh was not there. On the 21st January, 1859, I called at the Police Office during office hours, to pay money on account of land which I had purchased ; Mr. Bligh was not there, and I had to call again. On Thursday, the 11th February, 1858, Mr. Bligh, while doing duty as poll clerk at the election at Armidale, left the Court House ; Mr. Bligh had a notice of the sale of his property in the *Armidale Express* for that day ; Mr. Bligh was absent about half an hour. I hand in a receipt received by me from Mr. Bligh for money paid to him as agent for the London and Liverpool Insurance Company on the 11th January, 1859. (*See paper marked F.*) On the 27th January, 1859, I attended at the Police Office to file a defence ; Mr. Bligh refused to take it from me ; he told me the Court House was shut, and

when I repeated my request to him to take it he called for the Chief Constable; I then left; the defence was to be filed in the Small Debts Court, and Mr. Bligh, was, as Registrar, the proper officer to receive it. On the 28th I went again; I took Mr. George Markham with me; it was then ten minutes past 10, a.m.; the Court House was not quite closed; I knocked at it; Mr. Bligh came to the door, and said the Court was shut, and shut the door; I have, consequently, been made to enter an appearance in the case I was employed in, and the Court sits to-morrow. Some months since, but within the last twelve months, I attended at the Police Office to obtain a summons in the Small Debts Court; the cause of action was a dishonored promissory note; Mr. Bligh was not there, and Mr. Creagh, who was acting for him, told me that I should have to pay five shillings for a declaration which should be made; I did not understand what was meant, and declined paying; I reported this to the Bench afterwards, and Mr. Bligh stated in Court, in the presence of Mr. Palmer, J.P., who was on the Bench, that some of the Magistrates had made an order or rule that a declaration should be made in such cases or they would not give a verdict; Mr. Bligh went on to say that he did not receive the fee of 5s. by virtue of his office as Registrar, but as a Commissioner of the Supreme Court for taking Declarations and Affidavits; I applied to see the rule and it was not produced. Previous to the last licensing meeting, in April, 1858, I prepared four applications for publicans' licenses; on the licensing day, and immediately previous to the sitting of the Court, one of the parties who employed me, Mr. Bernard Naughten, told me I had not furnished him with the usual declaration; I prepared forms of declaration for the parties, and attended the licensing meeting with them in my hand, and when the name of one of the parties (I think Monaghan) was called, I informed the Bench that the parties had stated that declarations should be filed, and that as I was not aware of such a thing being required by law I had not furnished these declarations; one of the Justices asked the Clerk of the Court to explain about these declarations; Mr. Bligh stated to the effect that it was customary, or had been the practice, to obtain declarations from the publicans, to shew that they complied with the requirements of the Act, in posting notices and such like; I made no inquiry as to any charge for these declarations, nor before whom they were to be made; Mr. Bligh stated that the law did not specifically require such things to be done, and the Magistrates ordered them to be discontinued. With respect to the rule made by the Magistrates as to the declaration in the Small Debts Court, Mr. Bligh stated that it was not one of the rules sanctioned by the Attorney General.

ROB. FORSTER.

Taken before me, this }
31st January, 1859, }

EDW. D. DAY, P.M.

John Harper, carpenter, of Armidale, states:—In 1837 I bought half an acre of land from my brother; my mother and I went to Mr. Bligh to get a conveyance drawn out; I told Mr. Bligh that my mother was leaving the district in a fortnight after, and that I wanted the conveyance executed as soon as was in his power; Mr. Bligh told me he would have it for me in two weeks, and that his charge would be eight guineas for doing so; I got the conveyance, and had to pay the eight guineas before Mr. Bligh took the matter in hand at all. I went with my mother to Mr. Bligh in his own office at the Court House, about 12 o'clock, on this business, in the first place. About six months after that I sold Mr. Edward Baker half an acre of land in Armidale; Mr. Baker took me up to the Court House to Mr. Bligh; Mr. Baker employed Mr. Bligh in my presence as agent to get this conveyance ready, (it was in 1858, I kept no note of the date); Mr. Baker agreed to pay Mr. Bligh for this conveyance; afterwards Mr. Baker called upon me one day; he told me Mr. Bligh had the deed all ready, and wanted me up to the Court House to sign it; I went with Mr. Baker to the Court House to Mr. Bligh, and signed the deed; Mr. Bligh told me then that I had three pounds to give him; I told Mr. Bligh that I had nothing at all to do with paying the conveyance money, that Mr. Baker was to pay for it; Mr. Bligh told me then that he had a great deal of extra trouble with the deed, and that Mr. Baker was not entitled to pay this three pounds; I told Mr. Bligh that if he had told me that at the time I would not have come near him at all concerning the deed; Mr. Baker and Mr. Bligh had the money in their own hands at this time, and I had signed the deeds; I could get no legal advice at the time in Armidale, and I had to consent to have the three pounds taken out of the money; I heard Mr. Baker say to Mr. Bligh that he would pay no more than he had paid; I received the amount (by a cheque from Mr. Baker) for which I sold the land, less the three pounds which I have spoken of; the first conveyance Mr. Bligh made out for me was in March, 1857.

JOHN HARPER.

Taken before me, this }
31st March, 1859. }

EDW. D. DAY, P.M.

Patrick Kennedy, farmer, near Armidale, states:—I had occasion to apply to Mr. Merewether, Crown Lands Commissioner, relative to obtaining one year's lease of four acres of Government land (the lease of which had been cancelled for not paying the money within 60 clear days); I was fined £2 10s. for the neglect to pay, and this amount I paid into the Colonial Treasury; after this Mr. Merewether called upon me, and asked me if I had come to any final arrangement with the Government; I told him, No; he told me he would have to bring my land to sale, but he would give me another month, and said the best thing I could do would be to employ Mr. Bligh to write to the Government, as he knew a good deal about the Government offices; well, I employed Mr. Bligh, and gave him two guineas;

guineas; I heard no more for about three months, when Mr. Moriarty came to me;* he told me he was going to bring my land to sale; I told him I had employed Mr. Bligh to get writings done, and petition the Governor General for my land; I employed Mr. Bligh again, and gave him two guineas more, and then I heard that the value of the land was left to arbitration; I got the land by arbitration; I called a year and a half ago, or less, for my deeds at the Police Office three times, the first and second time Mr. Bligh was not there, and I got them a few days afterwards; I paid no extra fee for them, nor was any asked.

Taken before me, this }
31st January, 1859, }

PATRICK KENNEDY.

EDW. D. DAY, J.P.

George Markham, auctioneer, of Armidale, states:—In August, 1856, I borrowed a horse from a Mr. Gannon, residing at Armidale, and returned it to his stables after having used it for not more than nine or ten minutes; the horse proved to be the property of Mr. John M'Lean, and in consequence Mr. Gannon and myself were summoned to the Armidale Police Court; I immediately went to Mr. M'Lean to explain the circumstance; Mr. M'Lean refused to take any apology or explanation, and referred me to Mr. Bligh, in whose hands he placed the business; Mr. Bligh was then Clerk of the Bench, and he proposed that I should pay five pounds for the benefit of the Armidale Hospital, to settle the affair; I paid the amount, and Mr. Bligh, after I paid the amount—(which I did under the understanding that the whole was to go to the hospital)—told me the plaintiff's costs were to be taken from it; I said I paid £5 to the Armidale Hospital, you can do what you please with it; I subsequently received from Mr. Bligh the receipt which I now hand in, dated the 19th August, 1856, by which it appears Mr. Bligh deducted £3 12s. 10d. for plaintiff's costs, the remainder for the hospital, (*paper marked H*); all the proceedings taken in the plaintiff's case, as far as I know, were two summonses to the Police Office. I can say from my own knowledge of the fact that it was a general custom to charge in the Police Office from two guineas to one guinea for publicans' and auctioneers' licenses, butchers (for application) 10s. 6d., publicans' declarations 7s. 6d.; these declarations were invariably made before Mr. Bligh during the time he was in office; I cannot say in what capacity he took those declarations, whether as a Commissioner or Clerk of Petty Sessions, but I am quite positive I have been present when such declarations were made and paid for; these fees were charged by Mr. Bligh and not accounted for to the Government, as far as I know; they are not contained in any schedule connected with any Act; these declarations were endorsed upon the publicans' applications, and filed in the office; I was Clerk of the Bench for two years, during Mr. Bligh's absence in England, from March, 1854, to March, 1856, and I now speak from personal knowledge obtained principally before I was clerk, and since also. I hand in a receipt I got from Mr. Bligh for the sum of £2 2s. for drawing out two applications for auctioneers' licenses—one for myself, and one for my brother; this money was paid 10th July, 1857, (*see paper marked K*). I beg to hand in another document, dated 25th September, 1858, to shew that I paid Mr. Bligh £30 rent (on behalf of Mr. Gannon) as agent for Mrs. Campbell, (*see paper L*). I can positively state of my own knowledge that Mr. Bligh has acted as a professional man in the Police Court here; I have known him to act on several occasions, of which I can enumerate a few; this was in cases for decision by the Court of Petty Sessions of which he was the clerk at the time of his thus acting. I never while I was Clerk of the Bench in 1854 to 1856 saw any rule made by the Magistrates to require declarations to be made by suitors in the Small Debts' Court; I never made such a charge that I am aware of, and I am certain if any such rule or order had been deposited in the Court House it must have come under my notice; no such rule or order was appended to the rules sanctioned by the Attorney General. I asked Mr. Bligh to draw up our applications for auctioneers' licenses because I was absent at the time.

Taken before me, this }
31st January, 1859, }

GEO. MARKHAM.

EDW. D. DAY, J.P.

Adjourned till 11 a.m. to-morrow.

EDW. D. DAY, P.M.

Tuesday morning, 1st February, 1859.

John Thomas Cornish, butcher, of Armidale, states:—I held a butcher's license for three years running, ending better than two years ago; I employed Mr. Bligh to draw up my application for the license; the first year I paid half-a-crown for the application and license altogether to Mr. Bligh; for the following licenses I had to pay half-a-guinea each; I paid all to Mr. Bligh; I asked Mr. Bligh what the charge was, and he said half-a-guinea; I remarked the charge the first time was half-a-crown, but he said the charge was half-a-guinea, and of course I paid it.

Taken before me, this }
1st February, 1859, }

JOHN THOMAS CORNISH.

EDW. D. DAY, P.M.

No. 10.

* This witness is under some slight confusion as to the facts. A letter, or petition, signed by him, and prepared by Mr. Bligh, was in the Office at Armidale on my arrival there, awaiting report. Within a few days after I valued his land and improvements, in conjunction with Mr. Gilchrist, and on my report the matter was at once arranged by the Government. He had no occasion to employ any one after seeing me, and I saw nothing of Mr. Bligh in reference to the matter, or of any thing further done by Kennedy, or on his behalf.

No. 10.

THE UNDER SECRETARY to BENCH, ARMIDALE.

Colonial Secretary's Office,
Sydney, 1 March, 1859.

GENTLEMEN,

With reference to my letter of the 11th January last, apprising you of the appointment of Mr. Day, the Police Magistrate at Maitland, to investigate certain charges preferred against Mr. Bligh, Clerk of Petty Sessions at Armidale, I am now directed by the Colonial Secretary to inform you, that Mr. Day's report of the result of his inquiry has been brought under the consideration of the Executive Council.

2. This report is accompanied by certain correspondence between Mr. Day and the Bench of Magistrates at Armidale, as well as with Mr. Bligh and the parties from whom the charges against him have proceeded, and the minutes of the evidence taken in the course of the inquiry, with various original documents produced thereupon.

3. At the same time the Council had before them two letters, the one bearing date 19th January, 1859, signed by ten Magistrates of the Armidale District, namely, Messrs. West, Choesbrough, Darby, Morse, Maister, McIntyre, Mossman, Palmer, Marsh, and Thomas, expressive of their dissatisfaction at the course pursued by the Government in reference to the charges against the Clerk of Petty Sessions; and the other signed by J. B. West, Esq., J. P., on behalf of the Bench, demanding to be furnished with particulars of the allegations made to the Government with respect to the Magistrates named in the memorial.

4. It appears that Mr. Day was under the necessity of pursuing the inquiry *ex parte*, in consequence of Mr. Bligh, though present, and causing notes of the evidence to be taken, having declined to put any questions to the witnesses against him, or to produce any evidence in reply, alleging as his reason for pursuing this course:—

1st. That eight Magistrates of the Armidale Bench had instructed him that he was not justified in submitting to any inquiry by Mr. Day into his official conduct; and

2nd. That he had not been furnished with certain detailed information and particulars requested him.

5. Mr. Day has reported his finding upon the evidence laid before him on the part of the memorialists as follows, viz.:—

1st. That Mr. Bligh has been repeatedly absent from his office during office hours, and that during some of these absences he was acting as a Commission Agent, or engaged in some other business from which he derived direct pecuniary gain.

2nd. That Mr. Bligh has charged large fees for preparing applications for publicans' licenses, for auctioneers' licenses, &c., and that for writing for and delivering title deeds of land sold by the Crown, he received a fee of five shillings on each deed.

3rd. That Mr. Bligh has exacted an illegal fee of seven shillings and sixpence on each declaration made by publicans before receiving their licenses as well as a fee of five shillings on each plaint for recovering the amount of dishonored promissory notes filed in the Petty Debts Court.

4th. That the fees and gratuities above mentioned were received by Mr. Bligh for services directly connected with his official duties, and have therefore been received in direct violation of the Government regulation upon this point.

6. Various matters were also stated in evidence before Mr. Day with respect to sources of emolument of which Mr. Bligh has taken advantage, and among others that gentleman's having acted professionally in the Police Court in cases for decision by the Bench, and on several occasions as a Conveyancer and Attorney, and it is mentioned that Mr. Bligh in one instance received a fee of four guineas for one application for a license, which was granted, although the notice of that application was posted three days short of the time fixed by the Licensing Act.

7. In concluding his report, Mr. Day has referred to a letter addressed to him by the Magistrates already mentioned, and has represented that his application to Dr. West, J.P., for the use of the public Court room for the purpose of holding the inquiry, when not required

required for police purposes, was refused, and that he was consequently obliged to hire a private room for the purpose.

8. The Council having very carefully weighed the whole of the circumstances placed before them with respect to Mr. Bligh, have had no hesitation in advising that he be forthwith dismissed from his office of Clerk of Petty Sessions at Armidale, and I am directed to request that Mr. Bligh may be apprised that he is removed accordingly.

9. In communicating this decision to you, I am also desired to state, in order that it may be intimated to the Magistrates concerned in the correspondence which has been referred to, that the Executive Council can neither admit their right to dictate to the Government the course which it should pursue in the investigation of charges against one of its subordinate officers, nor approve of the terms in which they have seen fit to assert such a right in the present instance.

10. On the contrary, they cannot but regard the course taken by the Bench—and more especially their having directed the Clerk not to submit to the inquiry into his conduct, ordered by the Government, and their refusal to permit Mr. Day the use of the Court House—as having been highly irregular and improper, and eminently calculated, by obstructing inquiry, to defeat the ends of justice.

11. I am further directed to enclose, in compliance with the request contained in your letter of the 15th January, a copy of the original memorial, referring to certain of the Magistrates, but which was not, when my former letter was addressed to you, regarded as of a character sufficiently direct to call for action on the part of the Government.

THE BENCH OF MAGISTRATES,
Armidale.

I have, &c.,
W. ELYARD.

No. 11.

J. B. WEST, ESQ., J.P., to THE HONORABLE THE COLONIAL SECRETARY.

Police Office, Armidale,
7 March, 1859.

SIR,

In reference to your letter, addressed to the Bench of Magistrates of this place, in which it is stated, amongst other things, that I refused to Mr. Day the use of the public Court room, for the purpose of holding an inquiry into the conduct of the Clerk of Petty Sessions, I beg to state that no such refusal was given by me. I assume no authority over the use of the Court House beyond any other Magistrate of the territory, and I refer to my letter to Mr. Day on the subject to shew this.

THE HONORABLE
THE COLONIAL SECRETARY.

I have, &c.,
J. B. WEST, J.P.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

CLERK OF PETTY SESSIONS AT KIAMA.

(CORRESPONDENCE RELATIVE TO HIS PRACTISING PROFESSIONALLY.)

Ordered by the Legislative Assembly to be Printed, 17 March, 1859.

RETURN to an *Address* of the Honorable the Legislative Assembly of New South Wales, dated 15 February, 1859, praying that His Excellency the Governor General would be pleased to cause to be laid upon the Table of this House :—

“ Copies of all Correspondence of the Government with the
 “ Bench of Magistrates at Kiama, and Robert Owen, Esquire,
 “ and also with Mr. W. Meares, (if any), connected with the
 “ application of the Clerk of Petty Sessions at Kiama to be
 “ allowed to practise as a Certificated Conveyancer.”

(Mr. Deniehy.)

SCHEDULE.

No.	PAGE:
1. Under Secretary to the Bench of Magistrates, Kiama, relative to a statement that the Clerk of Petty Sessions acted as a Conveyancer. 22 September, 1858	2
2. Mr. Robert Owen to the Colonial Secretary, drawing attention to an intimation that the Clerk was about to apply to the Supreme Court for a Certificate to be admitted as a Conveyancer. 21 September, 1858	2
3. Bench, Kiama, to the Under Secretary, in reply to the letter of 22 September, 1858. 7 October, 1858	2
4. Mr. W. D. Meares to the Colonial Secretary, in explanation of his wish to practise as a Conveyancer. 15 October, 1858	3
5. Mr. Owen to the Colonial Secretary, referring to his former communication. 10 November, 1858	4
6. Under Secretary to Bench, Kiama, conveying permission for Mr. Meares to employ himself as a Conveyancer until further instructions. 20 December, 1858	5
7. Under Secretary to Mr. Owen, in reply to his communication on the subject. 7 February, 1859	5
8. Under Secretary, to Bench, Kiama, withdrawing the conditional permission given in his letter of 20 December, 1858	5

CLERK OF PETTY SESSIONS AT KIAMA.

No. 1.

THE UNDER SECRETARY to THE BENCH OF MAGISTRATES, KIAMA.

Colonial Secretary's Office,

Sydney, 22 September, 1858.

GENTLEMEN,

The attention of the Colonial Secretary having been drawn to a notice published in the *Sydney Morning Herald*, of the intention of the Clerk of your Bench to apply to the Supreme Court for a certificate to enable him to practise as a Conveyancer; I am directed to inquire whether Mr. Meares intends to resign if he obtain his object, or whether you have been consulted as to that gentleman undertaking other duties than those appertaining to his office.

2. I am directed at the same time to inform you, that Mr. Meares should not, in the opinion of the Colonial Secretary, practise as a Conveyancer while he holds the situation of Clerk of Petty Sessions.

I have, &c.,

W. ELYARD.

THE BENCH OF MAGISTRATES,

Kiama.

No. 2.

ROBERT OWEN, ESQ., to THE COLONIAL SECRETARY.

Wollongong, 21 September, 1858.

SIR,

I have the honor to call the attention of the Government to the application of Mr. William Devenish Meares, Clerk of the Bench, &c., at Kiama, to be admitted as a Conveyancer.

I respectfully submit that the duties of a Clerk of the Bench are incompatible with those of his proposed new profession.

However honorable Mr. Meares may be in his private character, it will be difficult to avoid improper influences being mixed up with public duties.

The appropriation of time to the performance of a professional business which is otherwise required and paid for, is a matter for the consideration of the Government.

I have, &c.,

ROBT. OWEN.

THE HON. CHARLES COWPER,

Colonial Secretary.

No. 3.

THE BENCH OF MAGISTRATES, KIAMA, to THE UNDER SECRETARY.

Police Office, Kiama,

7 October, 1858.

SIR,

We beg to acknowledge receipt of your letter of 22nd ultimo, respecting the intention of Mr. W. D. Meares, C. P. S., to apply to the Supreme Court for a certificate to enable him to practise as a Conveyancer, and inquiring whether Mr. Meares intended to resign if he should obtain his object, or whether we had been consulted as to that gentleman's undertaking other duties than those appertaining to his office; and also informing us that, in the opinion of the Colonial Secretary, Mr. Meares should not practise as a Conveyancer while he holds the situation of Clerk of Petty Sessions.

2. In reply, we have to state that, although not applied to officially by Mr. Meares, we believe that the fact of his intention to act as a Conveyancer in his private time was known to most of us; nor did we consider that we had anything to do with him or his private business so long as the duties of the office were carried on in the same satisfactory manner

manner that they have always been since he has held the appointment of Clerk of Petty Sessions.

3. With regard to implied incompatibility of Mr. Meares discharging the duties of Clerk of Petty Sessions and his practice as a Conveyancer during his spare time at his own house, we have to state that, from our knowledge of Mr. Meares, we are sure that he will never neglect the duties of his office as Clerk of Petty Sessions for any private business; and we were inclined rather to be of opinion that his knowledge of the law acquired in preparing for his examination as a Conveyancer would be of material advantage to the Bench here in many ways in the discharge of their public duties.

4. We were further strengthened in the opinion of our non-interference with Mr. Meares' private practice by the knowledge that it is not an unusual thing for the Clerks of Petty Sessions to carry on other business privately than their public duties; and when we consider the small amount of salary afforded to the office, we think that the enforcing a strict rule of complete withdrawal from any private attempt to supplement that salary would be apt to lead to the Clerks of Petty Sessions generally being of an inferior class to that which the duties of the office require, and thereby increase the difficulties always attendant on the proper discharge of their duties by the Justices of the Peace.

5. We hope, therefore, that the Honorable the Colonial Secretary will reconsider the opinion that he has given in the above matter, and throw no obstacle in the way of Mr. Meares' desire to provide for his family by practising as a Conveyancer in his own house in his leisure time.

We have, &c.,

ROBERT MENZIES, J.P.

JAMES M. GRAY, J.P.

ROBERT J. PERROTT, J.P.

M. HINDMARSH, J.P.

THOMAS CHAPMAN, J.P.

SAML. WM. GRAY, J.P.

DAVID L. WAUGH, J.P.

ROBERT B. FRY, J.P.

JAMES ROBB, J.P.

THOMAS KENDALL, J.P.

No. 4.

MR. W. D. MEARES to THE COLONIAL SECRETARY.

Royal Hotel, 15 October, 1858.

SIR,

When I had the honor of waiting on you yesterday, in reference to my practising as a Conveyancer, you mentioned that my being the agent for the sale of Crown Lands made my doing so objectionable. It did not occur to me at the time to state (what is really the case) that my power as agent is so limited as almost to preclude the possibility of my having any influence with the purchasers of Crown land to forward any business I might have as a Conveyancer.

The conditions of sale at every auction are, that the name of the purchaser shall be entered on the list by the auctioneer as each lot is sold, and the purchaser shall also sign his name; and upon these forms being complied with any alteration is out of the question. Should the grantee of any lot wish afterwards to sell, the circumstance of his having purchased from me as agent could not weigh with him in considering whether he should employ me, or any other person, in the matter of the deeds, for, as I should not be able to exercise any influence prejudicial to him, his determination would not be come to under any fear that in passing me by he might become liable to sustain any inconvenience.

I trust you will pardon me for troubling you with this note, for the point under your consideration is one of great importance to me.

I have, &c.,

THE HON. CHARLES COWPER,
Colonial Secretary.

W. D. MEARES.

No. 5.

No. 5.

ROBERT OWEN, ESQ., to THE COLONIAL SECRETARY.

Sydney, 10 November, 1858.

SIR,

I had the honor lately of addressing you on the subject of the proposed application of Mr. William Meares to be allowed to practise the profession of Conveyancer, still holding his several Government appointments, besides being Registrar of the Court of Requests. His appointments are Clerk of the Bench at Kiama, and Commissioner of Land Sales for the District of Wollongong.

As you were kind enough to inform me that the matter was still under consideration of the Government, I beg to be permitted the liberty of stating the following objections against this required permission:—

By the English law no practising Attorney is permitted to act in the Commission of the Peace—with the exception, probably, of the Mayor of a City Corporation; and I believe up to this time, although perhaps not actually law here, it has been, and is now, the practice of the Government to act in this Colony on the same principle.

There is no substantial distinction between a Conveyancer and an Attorney; a gentleman practising the former branch of business doing a great part of the same kind of business as an Attorney, excepting only Actions or Suits at Law or Equity; but these are, as the profession and the Court know *too well*, done indirectly through an agent—secretly, and without due responsibility to the Judges.

So much of this has been found objectionable, that it is known there has been an intention to bring in a Bill to prevent such a system being continued.

Mr. Meares was formerly in the Commission of the Peace, and is treated by the Magistrates as well informed on magisterial duties, and has undoubtedly, therefore, much influence with the Bench. Without the responsibility of a Magistrate—without reference to the principle involved in this matter of a subordinate Government employé, remunerated for his time and duties, it can scarcely be considered a sound policy to allow, in the country districts particularly, any one to carry on a profession which, say what we will, may, and must take a large portion of time from his proper duties under Government. Knowing how letters of recommendation can be solicited, and are granted, we cannot lay much weight upon the letters of the Magistrates, considering their relations with Mr. Meares, and considering, also, that they cannot be expected to see very clearly the source of influence which *may*, nay *must*, be exercised on suitors, or expectant suitors, in the Petty Sessions Court, whether in its Criminal or Civil Jurisdiction.

In the country districts innumerable questions are agitated between the residents, which are to be disposed of by the Court of Petty Sessions, and every one is liable to have such disputes brought before that tribunal—ought, therefore, a practitioner holding the influential office of Clerk of Petty Sessions, such as I have described, to carry on professional business without retaining with him a hold over persons inconsistent with the due and impartial administration of justice?

Besides, the Clerks of Benches now hold the office of Commissioner for sales of land. Now, I submit that none should, in that office, be exposed to the suspicion of favoring those who may be clients or expectant clients.

I place these considerations on public grounds, but the Government owe something to other legal practitioners who are entitled to the free unbiassed action of the public.

No objection can be here started to Mr. Meares, or any other gentleman seeking to pursue any profession or business he may think advantageous, but it should be, I respectfully submit, totally apart from such duties as are mixed up with the performance of public duties, and the decisions of our Courts of Justice.

I conceive a grave principle involved in this matter; and, should the decision of the Government be adverse to the views I have here respectfully stated, the profession will submit the matter for the consideration of Parliament.

I have, &c.,

ROBERT OWEN.

THE HONORABLE
THE COLONIAL SECRETARY.

No. 6.

THE UNDER SECRETARY to THE BENCH OF MAGISTRATES, KIAMA.

*Colonial Secretary's Office,
Sydney, 20 December, 1858.*

GENTLEMEN,

In acknowledging the receipt of your letter of the 7th October last, recommending, with reference to my communication of the 22nd September last, that the Clerk of Petty Sessions in your District be allowed to practise as a Conveyancer in his own house in his leisure time, I am directed to inform you, that if you feel satisfied that Mr. Meares' public duty will not in any respect be interfered with by his being allowed to employ himself as he requests, the Colonial Secretary approves of his doing so until further instructions.

I have, &c.,
W. ELYARD.

THE BENCH OF MAGISTRATES,
Kiama.

No. 7.

THE UNDER SECRETARY to ROBERT OWEN, ESQ.

*Colonial Secretary's Office,
Sydney, 7 February, 1859.*

SIR,

With reference to your letters of the 21st September and 10th November last, respecting an application made by the Clerk of Petty Sessions at Kiama to be admitted as a Conveyancer, I am directed by the Colonial Secretary to inform you that, under a report received from a full Bench of Magistrates at that place, who urged that Mr. Meares should not be prevented from acting in that capacity in his leisure time, it has been intimated to them that if they feel satisfied that his public duty will not in any respect be interfered with by his being allowed to employ himself in this way, there will be no objection to his doing so until further instructions.

I have, &c.,
W. ELYARD.

ROBERT OWEN, ESQ.,
Wollongong.

No. 8.

THE UNDER SECRETARY to THE BENCH OF MAGISTRATES, KIAMA.

*Colonial Secretary's Office,
Sydney, 17 February, 1859.*

GENTLEMEN,

With reference to my letter of the 20th December last, I am directed to inform you that the permission therein conditionally given for the Clerk of Petty Sessions in your District to practise as a Certificated Conveyancer is withdrawn, and to request that you will apprise Mr. Meares accordingly.

2. I am desired to add that the attention of the Government has been recently drawn, in a pointed manner, to the inconvenience of Clerks of Petty Sessions employing themselves in any way except in the performance of the duties of their office, and, that as it appears to the Colonial Secretary upon fuller consideration that the spirit of the Government regulations is opposed to such a practice, he feels it to be his duty to forbid it in all cases.

I have, &c.,
W. ELYARD.

THE BENCH OF MAGISTRATES,
Kiama.

1858-9.

Legislative Assembly.
NEW SOUTH WALES.

PERCIVAL HINDMARSH, ESQ.

(PROCEEDINGS AT THE INQUEST ON THE BODY OF.)

Ordered by the Legislative Assembly to be Printed, 29 March, 1859.

RETURN to an *Address* of the Honorable the Legislative Assembly of New South Wales, dated 8 March, 1859, praying that His Excellency the Governor General would be pleased to cause to be laid upon the Table of this House,—

“ Copies of the proceedings at the Inquest held by the Coroner,
“ on the 26th and 28th of February last, on the late Percival
“ Hindmarsh, Esquire.

(*Mr. Deniehy*)

PERCIVAL HINDMARSH, ESQ.

New South Wales, }
to Wit. }

AN Inquisition, indented, taken for our Sovereign Lady the Queen, at the house of William Daly, known as the sign of the "Neptune Inn," Princes-street, in the City of Sydney, this 26th day of February, and in the twenty-second year of the reign of our Sovereign Lady Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and in the year of our Lord one thousand eight hundred and fifty-nine, before J. S. Parker, gentleman, Coroner for the City and District of Sydney, on view of the body of a man named Percival Hindmarsh, then and there lying dead upon the oath of—

John Bell, Foreman,
Thomas Crossley,
Alfred Mayo,
John Girvan,
James Goostry,
Ebenezer Dewar,
Henry Dodds,
John Bros,
Nicholas Giffard,

good and lawful men of the said county, duly chosen, and who being then and there duly sworn, and charged to inquire for our said Sovereign Lady the Queen, when, how, and by what means the said deceased Percival Hindmarsh came by his death, do, upon our oath, say that we find that the said Percival Hindmarsh came by his death from natural causes.

RIDER.—The Jury beg to express their opinion, from the evidence produced, that the deceased Percival Hindmarsh was a man of steady, regular, and sober habits, and consider that there were not sufficient grounds to warrant an inquest.

In witness whereof, as well as the said Coroner, as the Jurors aforesaid, have unto this inquest set and subscribed their hands and seals the day and year first above written

(I.S.) JOHN S. PARKER, Coroner, HENRY DODDS, ALFRED MAYO, T. A. CROSSLEY, JNO. BROS,	JOHN BELL, Foreman, JOHN GIRVAN, N. GIFFARD, JAMES GOOSTRY, EBENEZER DEWAR.
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NOTE.—Gentlemen, I am bound to receive your verdict, but I must inform you that it is not in accordance with the evidence.

JOHN S. PARKER, Coroner.

Inquest adjourned from 4 o'clock p.m. Saturday the 26th, until 4 o'clock p.m. on Monday the 28th February instant, and the jurymen bound over in a bond of £10 to appear at the aforesaid hour at the "Neptune Inn," Princes-street, in the City of Sydney, then and there to reassemble to proceed in the aforesaid inquiry.

JOHN S. PARKER, Coroner.

26th February, 1859.

Cumberland }
to wit. }

INFORMATION of witnesses severally taken and acknowledged on behalf of our Sovereign Lady the Queen, at the house of William Daly, known as "Neptune Inn," Princes-street, in the City of Sydney, this 28th day of February, in the year of our Lord one thousand eight hundred and fifty-nine, before John Skottowe Parker, gentleman, Coroner for the City and District of Sydney, on view of the body of a man named Percival Hindmarsh, then and there lying dead, upon the oath of as follows, to wit:—

Finney Eldershaw, being duly sworn, deposeth on oath as follows:—I am clerk in the Legislative Council; I have known the deceased Percival Hindmarsh for about eight years; he was landing-waiter in the Customs, was a single man, and of late resided in Princes-

Princes-street; he was about forty-seven years of age, was a single man, and never, to my knowledge, had a day's illness, and I believe discharged his duty up to the 19th instant, and on that evening he was at my house, and seemed in perfect health, but appeared to me uneasy—fretful about the pending inquiries regarding the Customs Department; he left a little before half-past eight o'clock, by himself; on the 21st, in the morning, saw him again at his lodgings, having heard from Mr. Passmore that deceased was unwell; he was in bed, and perfectly conscious; deceased looked weak and about the Customs; I stopped with him about half an hour and left; I saw him again next day (22nd); I went of my own accord; he was in bed; I thought him better, but his mind was slightly wandering, and I accompanied the deceased, with Dr. Cox, to the Infirmary, about 10 o'clock on Thursday last, in a cab, by the advice of Dr. Cox, and deceased was not violent, but his mind was still wandering; I left him there, and on Friday morning, when I went to see him, heard he was dead.

Cross-examined by Coroner: I consider deceased's illness originated in fretfulness about the Customs; I am not aware of any other cause; I have never seen him suffer from the effects of drink, nor did he ever indulge, but he might indulge and I know nothing of it; I am aware he kept spirits in his own house.

By the Foreman: Have you any reason to suppose that Mr. Hindmarsh came by his death by any unlawful or improper means, administered by other hands or his own? None whatever.

Have you any reason to suppose deceased died by any other than natural causes? Certainly not, so far as I am competent to offer an opinion.

By a Jurymen: Did deceased not complain to you of the excessive exposure to the sun during the performance of his duty? He has several times complained, and particularly a week before he was taken ill.

Did it ever occur to you that deceased had a sun-stroke? The idea never occurred to me.

F. ELDERSHAW.

Sworn before me, this 28th day }
of February, 1859. }

JOHN S. PARKER, Coroner.

John Macfarlane, M.D., First Physician to the Infirmary, being duly sworn, deposed:—Deceased, Percival Hindmarsh, was brought to the Infirmary on Thursday morning, about 10 o'clock, and placed under my treatment; I found him exceedingly nervous, and very much depressed; he was slightly wandering; I ordered for him treatment which I considered proper, such as morphia, to produce sleep and tranquillize the system. He died at five o'clock on the morning of the 25th, of effusion within the chest.

By the Coroner: Was the complaint under which he was suffering the result of natural causes? It may or may not have been; I had never seen him before; there was no tremor when I saw him; his mind, as I have said before, was slightly wandering—probably from the effect of finding himself in a strange room with a number of other patients.

Have you not known men suffer in a similar manner from the effects of drink? Not necessarily; I have known effusion within the chest take place with persons in apparent ordinary health; I made no *post mortem* examination, but judged from evident symptoms; exposure to the sun might produce the wandering in his mind; he was under no restraint whatever under my observation; he was sent, I think, to the Infirmary, for more skilful nursing; he was not sent there by any means as a person dangerous to be at large; Dr. Cox told me, when he brought him to the Infirmary, that he had been treating him for an illness which I did not enter into; I do not remember that he said anything about *delirium tremens*; I did not examine him after death, nor did I expect his death was so near; he was a short thick-set man, of full habit, short-necked; it was my opinion, when he was brought to the Infirmary, that he was under the influence of some sedative; I think I did hear something about *delirium tremens* mentioned in the Infirmary.

By the Foreman: Do you suppose that deceased came by his death by any but by fair means? Certainly not; had such been my opinion, I should of course have communicated the circumstance to the Coroner; nothing came before me to shew that he did not die

of

of natural causes; sun-stroke might cause such symptoms as to resemble those of *delirium tremens*.

Would not the symptoms of the disease (*hydrothorax*) of which he died have shewn themselves some time before death? Yes, a short time; that is to say, some hours.

Sworn before me, this 28th day }
of February, 1859. }

J. MACFARLANE, M. D.

JOHN S. PARKER, Coroner.

William Marchant, being duly sworn, deposed:—I am an Agent; I have known the deceased for three or four years; he lodged with me in Upper Fort-street for about eighteen months previously to his removal to Mr. Lysnal's; he was in full health, a man of very regular habits; I never saw him drunk; I have been in the habit of seeing him daily; he occasionally came to my house; I saw no alteration in his appearance; he was always a steady man; he seemed lately however troubled in his mind about the inquiry in the Customs Department; I think the inquiry depressed his spirits; I saw no nervous excitement about him whatever; I have never heard that he has indulged in drink since he has been in Princes-street; I have seen him almost daily; he was always sober; he never told me anything about the Customs Department; he was a very reserved man; I only surmised that the Customs inquiry was the cause which troubled his mind.

Sworn before me, this 28th }
February, 1859 }

WILLM. MARCHANT.

JOHN S. PARKER,
Coroner.

Edward Lysnal, being duly sworn, deposed:—The deceased, Percival Hindmarsh, resided with me for about two years past; he was always, as far as I could see, healthy; he kept very regular hours; I never saw Mr. Hindmarsh drunk, but I have seen him excited from drink and the effects of the sun, caused through stooping whilst gauging casks; I have heard him complain of this repeatedly; he was taken ill on Saturday night; on Sunday morning he was very sick, during the night vomiting, and also had a violent cough; on Sunday morning his mind was a little wandering, wished to see a doctor; Dr. MacEwan was accordingly sent for, but in his absence his assistant, Dr. Cox, attended, and remained in attendance on deceased until his removal to the Infirmary; although the doctor was called in, he gradually got worse until his removal to the Infirmary; before he was removed he was delirious, but not very violent; the servant girl was left in the room in charge of him; he generally kept a case of gin in his room as long as I have known him; I have seen a gin bottle on his table, and a tumbler, but have no idea what he drank; I have never seen him so that he was incapable of putting out his own light, or requiring others to look after him; I have heard him walking about in his room at night; I have some indistinct notion of his falling out of bed some time back; I cannot say how long a case of gin lasted, but do not think more than four came to the house since he has resided with me; his friends participated freely with him; I have observed that deceased has suffered very much in his mind from the Customs inquiry, so much so that I have refrained from mentioning the subject to him, for fear of irritating him; he has never been an annoyance in my house until the last two days prior to his removal to the Infirmary; he attended to his duties on Saturday the 19th, and he complained on his return of the excessive heat of that day; he seemed much affected, and I was not surprised to hear that he was ill on the following morning; Dr. Cox asked me when he first saw the deceased whether he had been drinking; I told the doctor that I believed he had, and I mentioned that the probable effect of change of climate—the heat of the sun &c, might have produced the effect of delirium; Dr. Cox said, after examining him, that he was suffering from *delirium tremens*, but the deceased rapidly recovered, and was sensible a greater part of Monday, but, owing to so many friends visiting him, I believe it caused him to have a serious relapse; he was in an excessive state of perspiration; he trembled; was not violent; did not require holding; was not quiet from exhaustion; he was conscious, and knew me on Monday; on Tuesday he did not know me at all; he was only unconscious at intervals; he knew me on the evening of Tuesday.

By

By a Juror : He had birds in his room to which he was much attached ; he used to get out of bed at night at times to find them ; there were other reasons perhaps which would induce him to get up at night.

By the Foreman : During the time he has been living with me I never saw him in a position in which he was incapable of doing his public or private business ; I should not call Mr. Hindmarsh a man of drunken habits ; he did not indulge too freely when at home to my knowledge ; I had never any occasion to go into his room on account of noise ; I know of no cause for a Coroner's Inquest being held ; was much surprised to hear that such was to take place ; I am not aware that inquests are held upon cases of *delirium tremens*.

Sworn before me, this 28th }
February, 1859. }

EDWARD LYSNAL.

JOHN S. PARKER,
Coroner.

William R. T. Passmore, being duly sworn, deposed :—I am a landing waiter in the Customs ; I have known deceased since the latter end of 1853, or the beginning of 1854 ; he was generally employed out of doors, and very much exposed to the sun ; on Saturday the 19th he and I were gauging casks on Macnamara's Wharf, he complained then of the excessive heat ; he complained then that it affected his head, and was obliged to go into the landing-waiter's box to rest, requesting me to take the numbers of the casks for him ; I asked him to take a nobbler of brandy with me ; he declined, saying that he had already taken one in the morning, and would not take a second ; he was quite able to perform his work until he complained of the heat of the sun on the back of his head ; I did not see him again until Monday morning.

By the Coroner : As far as I know I solemnly swear that he was a sober man ; I never saw him overcome by drink ; I have been almost constantly with him on duty for the last twelve months.

By a Juror : I saw Mr Hindmarsh several times during his illness, and, as far as I know, I saw no occasion for an inquest ; I saw nothing wrong ; I sat up with him on Wednesday night ; he was delirious ; he trembled as if angry at my touching him ; never saw a person in *delirium tremens* ; he knew me the whole time ; he took his medicine from me regularly ; I have heard that he occasionally took a glass in his room.

By the Foreman : I never knew Mr. Hindmarsh unable to do his duty since I have known him ; he was in the habit of assisting his brother officers in their duties ; they applied to him for assistance having confidence in him ; he generally volunteered his services when others were pressed with work.

Sworn before me, this 28th day of }
February, 1859. }

W. R. T. PASSMORE.

JOHN S. PARKER,
Coroner.

James Charles Cox, M.D., being duly sworn, deposed :—I am at present acting for Dr. McEwan ; I was sent for on Sunday night (20th inst.), about six o'clock, to see the deceased ; I attended ; when I went into the room he was reclining on his bed with his clothes on ; he appeared agitated and confused ; I explained to him Dr. McEwan's absence, and tendered my services in his stead ; he perfectly understood me, and said he should be happy to be so attended. I examined him, asked him his complaint ; he complained of pain in his head and right side ; was tremulous, tongue furred, and very fidgetty ; he said he had been formerly attended by Dr. McEwan, and complained that his stomach was out of order ; from his appearance I thought he was verging on a state of *delirium tremens* ; I asked him at once if he had been drinking ; he said he had ; I asked him had he drunk much ; he said he had, and shewed me a gin bottle and glass in the room ; he told me he had drunk a few glasses the night before raw. I then examined his chest, and the state of his liver ; he had tenderness over the region of the liver ; I examined his chest, but could detect no symptoms of inflammatory action there ; I asked him if he had a cough ; he said not more than a slight one occasionally, which he had been accustomed to for some time. I prescribed for him, and treated him as I thought right.

By the Coroner: He made no remarks to me about suffering from the heat of the sun; he said he had some matters preying on his mind, which I did not inquire into; he had taken no narcotic; the effect appeared to me to be caused by ardent spirits.

I saw a case bottle on the floor, I think it was not quite empty; he told me he had only indulged at night. I did not think his case was hopeless; I thought it probable at one time that he had taken spirits again after I had ordered their removal out of the room; they were taken out of the room; he was not fit to answer any questions as to his condition; he was not removed to the Infirmary as being in a hopeless state; he was taken for safer attendance; I went to Dr. O'Brien and to a Custom House officer to get a fit attendant for him, but failed; before this he got out into the street, and went to the Custom House. I have had great experience in cases of this nature, and feel confident that that was the nature of his case whilst he was under my charge, and I mentioned the same in the Infirmary.

By a Juror: I have never seen a sun-stroke; I ordered the spirits to be removed from his room; on my first visit he told me he had indulged the night prior and on former nights. My statement that he got out of the house several times was made from information of the parties living in the house.

By the Coroner: Congestion of the liver, and the irritable state of his stomach, would produce vomiting.

JAMES C. COX, M.D.

Sworn before me, this 28th }
February, 1859. }

JOHN S. PARKER,
Coroner.

NOTE.—When Dr. Cox was under examination, the foreman constantly interrupted the proceedings, the Coroner remarking, you are determined to allow no evidence to be recorded that discloses facts. The foreman, Mr. Bell, remarked, that he was a most intimate friend of the deceased, and that he would have been his executor if he had but lived to have perfected it.

Coroner: You ought not to have been on this inquest then.

JOHN S. PARKER,

28 February, 1859.

Coroner.

1858-9.

Legislative Assembly.
NEW SOUTH WALES.

DR. CHARLES MULLER.

(CORRESPONDENCE WITH THE GOVERNMENT RESPECTING CITY CORONER.)

Ordered by the Legislative Assembly to be Printed, 7 April, 1859.

RETURN to an *Address* of the Honorable the Legislative Assembly of New South Wales, dated 2 April, 1859, praying that His Excellency the Governor General would be pleased to cause to be laid upon the Table of this House,—

“Copies of all Correspondence betwixt Charles Muller, of Sydney, Doctor of Medicine, and the Government, respecting certain alleged misconduct of the City Coroner for Sydney, whereof complaint was, by the said Charles Muller, formally made to the proper authorities in that behalf.”

(*Mr. Deniehy.*)

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DR. CHARLES MULLER.

No. 1.

DR. C. MULLER to THE COLONIAL SECRETARY.

Sydney, 1858.

SIR,

I have the honor to bring under your notice the following facts in connexion with a recent inquest held for the purpose of ascertaining the cause of the death of Mr. John Maloney, and presided over by the Coroner of Sydney, J. S. Parker, Esq.

The inquest was held, not at the request of the deceased's friends, but in consequence of a communication addressed to the Coroner by Dr. West (who had been the medical attendant of the deceased), and stating that Maloney's death had been occasioned by an improper course of treatment pursued by me as Mr. Maloney's last medical attendant.

It may be proper for me to inform you that I had been called in to attend Maloney within thirty-three hours of his decease, and Dr. West retired immediately after my professional assistance had been obtained.

I have briefly mentioned these circumstances in order that you may understand the position I would necessarily occupy with regard to an investigation of the kind suggested by Dr. West to the Coroner, and undertaken by the latter gentleman.

After the letter from Dr. West had been received by the Coroner, he proceeded to the house where the body was lying, and having seen it, he made use, as I am informed by deceased's friends, and believe, of language of an exceedingly violent and menacing character with reference to the treatment to which deceased had been subjected by me.

This visit took place before the *post mortem* examination or inquest was held.

The Coroner then proceeded to order a *post mortem* examination, of which I did not receive any official or other information from the Coroner, and probably I should have heard nothing of the matter unless Maloney's friends had cautioned me of some such investigation being about to be held, and I, upon receiving such information, had taken the precautions of writing to the Coroner, asking the hour at which the *post mortem* examination was to take place.

The examination having been made, an inquest was held by the Coroner; and although by the course adopted by Dr. West the Coroner must have been aware that I was virtually placed upon my trial for causing the death of Maloney, I beg to state that I was not officially or otherwise apprised by the Coroner of the time or place at which such inquest was to be held until after the inquest had been initiated.

I am credibly informed that the Coroner commenced the proceedings, that part of Dr. West's (my accuser) evidence was taken, when one of the jurymen stated, that as I was the accused I ought to have had an opportunity of being present to defend myself.

Thereupon the inquest was adjourned, and I then received an intimation that an inquest would be held on the following Monday.

I was present on the following Monday until the close of the proceedings, and during the greater part of them the Coroner's conduct was characterised by extreme partiality towards Dr. West, with whom he was openly, in the presence of the jury, in frequent communication during the progress of the investigation. In the examination of witnesses the Coroner repeatedly asked questions apparently to me, for the purpose of eliciting replies unfavorable to my course of treatment, and calculated seriously to injure my cause in the eyes of the jury; and although repeatedly remonstrated with by my solicitor, he still persisted in this unfair manner.

I beg further to state, that since the inquest, notwithstanding the evidence of an eminent practitioner in Sydney, a witness for the Crown, and my own evidence, and the finding of the jury "that the deceased came to his death from natural causes, and that no
" blame

"blame whatever was attributable to me, that I had done all that could be done to save the patient's life," the Coroner has publicly stated that, in spite of all the evidence, he was convinced the man died from loss of blood occasioned by my treatment.

I wish to make one other statement as to the Coroner's conduct, namely, that on the first day of the inquiry an extra constable was in attendance at the special request of the Coroner, although such a precaution is only taken in extreme cases, where apprehension upon committals is likely to ensue.

I am induced to make these charges from having been before subjected to similar unjust treatment on behalf of the Coroner.

I therefore have the honor to request that you will order an investigation into this matter, for the purpose of ascertaining whether the irregularities and injustice of which I complain really took place, and in order that you may take steps to prevent their recurrence.

THE HONORABLE
CHARLES COWPER, Esq.,
Colonial Secretary.

I have, &c.,
DR. C. MULLER.

No. 2.

THE UNDER SECRETARY to DR. MULLER.

*Colonial Secretary's Office,
Sydney, 22 April, 1858.*

SIR,

I have the honor, by direction of the Colonial Secretary, to acknowledge the receipt of your communication, without date, received this day, preferring a complaint against the Coroner of Sydney, in the recent inquest held on the body of Mr. John Maloney; and to inform you, in reply, that it has been forwarded to the Attorney General.

DR. CHARLES MULLER,
Sydney.

I have, &c.,
W. ELYARD.

No. 3.

THE UNDER SECRETARY to THE SECRETARY TO THE CROWN LAW OFFICERS.

(142.)

*Colonial Secretary's Office,
Sydney, 5 June, 1858.*

SIR,

Referring to the letter from Dr. Muller, complaining of the City Coroner's treatment of him upon more than one occasion, which was forwarded to the Attorney General under blank cover on the 22nd April last, I am directed to request that you will move Mr. Martin to favor the Colonial Secretary with his report upon the matter, as Dr. Muller has been repeatedly urging an answer to his complaint.

THE SECRETARY TO THE
CROWN LAW OFFICERS.

I have, &c.,
W. ELYARD.

No. 4.

THE UNDER SECRETARY to THE SECRETARY TO THE CROWN LAW OFFICERS.

(171.)

*Colonial Secretary's Office,
Sydney, 14 July, 1858.*

Sir,

Referring to my blank cover of the 22nd April last, and letter of the 5th ultimo, respecting Dr. Muller's complaint against the City Coroner, I am directed to request that you will move the Attorney General to have the goodness to favor the Colonial Secretary with an early report upon the subject.

THE SECRETARY TO THE
CROWN LAW OFFICERS.

I have, &c.,
W. ELYARD.

No. 5.

THE UNDER SECRETARY to THE SECRETARY TO THE CROWN LAW OFFICERS.

(204.)

*Colonial Secretary's Office,
Sydney, 21 August, 1858.*

Sir,

Referring to a letter from Dr. Charles Muller, complaining of the conduct of the Coroner in the case of an inquest on the late Mr. John Maloney, transmitted to the Attorney General under blank cover from this office on 22nd April last, and to my letters of the 5th June and 5th July calling attention to this matter, I am again directed to request that you will move the Attorney General to have the goodness to favor the Colonial Secretary with his report on the subject.

I have, &c.,

THE SECRETARY
TO THE LAW OFFICERS.

W. ELYARD.

No. 6.

THE UNDER SECRETARY to THE SECRETARY TO THE CROWN LAW OFFICERS.

(246.)

*Colonial Secretary's Office,
Sydney, 22 October, 1858.*

Sir,

Referring to my letters of the 5th June, 14th July, and 21st August last, respecting Dr. Charles Muller's complaint against the City Coroner, I am directed to request that you will be good enough to move the Attorney General to favor the Colonial Secretary with his opinion in the matter.

I have, &c.,

THE SECRETARY TO THE
CROWN LAW OFFICERS.

W. ELYARD.

No. 7.

THE UNDER SECRETARY to THE SECRETARY TO THE CROWN LAW OFFICERS.

(286.)

*Colonial Secretary's Office,
Sydney, 8 December, 1858.*

Sir,

Referring to my letters of the dates noted in the margin, relative to a communication submitted to the late Attorney General under blank cover on the 22nd April last from Dr. Charles Muller, preferring a complaint against the Coroner, Sydney, I am directed to request that you will move Mr. Attorney General Lutwyche to favor the Colonial Secretary with an early opinion in this matter.

I have, &c.,

THE SECRETARY TO THE
CROWN LAW OFFICERS.

W. ELYARD.

No. 8.

THE UNDER SECRETARY to THE SECRETARY TO THE CROWN LAW OFFICERS.

(9.)

*Colonial Secretary's Office,
Sydney, 17 January, 1852.*

SIR,

Referring to the letter from Dr. Charles Muller, preferring a complaint against the Coroner, Sydney, and to my several communications of the dates noted in the margin, calling attention thereto, I am directed to request that you will move the Attorney General to favor the Colonial Secretary with his opinion in this matter with as little delay as convenient.

I have, &c.,

THE SECRETARY TO THE
CROWN LAW OFFICERS.

W. ELYARD.

No. 9.

THE UNDER SECRETARY to THE SECRETARY TO THE CROWN LAW OFFICERS.

(63.)

*Colonial Secretary's Office,**Sydney, 14 March, 1859.*

SIR,

Drawing your attention to my several letters of the dates specified in the margin, relative to Dr. Charles Muller's complaint against the Coroner, Sydney, I am directed to request that you will move the Attorney General to have the goodness to favor the Colonial Secretary with his opinion on the matter at his earliest convenience.

5 June, 1858.
14 July, 1858.
21 August, 1858.
22 October, 1858.
8 December, 1858,
and
17 January, 1859.

I have, &c.,

W. ELYARD.

THE SECRETARY TO THE

CROWN LAW OFFICERS.

No. 10.

THE SECRETARY TO THE CROWN LAW OFFICERS to THE UNDER SECRETARY.

(No. 59-165.)

*Crown Law Offices,**Sydney, 4 April, 1859.*

Sir,

In returning the within letter of complaint transmitted by you under B. C. 22nd April last, from Dr. Charles Muller, M. D., against the City Coroner, in respect of some observations said to have been used at the inquest holden upon the remains of the late John Maloney, and in reference to your several letters calling attention thereto, I am directed to state that a communication, of which the enclosed is a copy, was addressed to Mr. Parker, calling upon that gentleman for such remarks as he might consider necessary. Mr. Parker addressed in reply the letters dated respectively 24th June and 1st July of same year, a copy of the latter communication having been forwarded to Dr. Muller; and as it appeared (all things considered) that the statements were contradictory and conflicting, arising in a great measure from some personal misunderstanding, and that it was not a case calling for the interference of the Government, the matter has since remained in abeyance.

22 June.

I have, &c.,

W. E. PLUNKETT.

THE PRINCIPAL

UNDER SECRETARY.

[Enclosure 1 in No. 10.]

(No. 58-247.)

*Crown Law Offices,**Sydney, 22 June, 1859.*

Sir,

In transmitting the within copy of a letter addressed to the Honorable the Colonial Secretary by Dr. Charles Muller, and subsequently referred for the Attorney General's report, complaining of the course pursued by you in reference to the inquest, holden upon the remains of the late John Maloney; I am directed to request that you will have the goodness to favor me, for the Attorney General's information, with any remarks which you may consider necessary in reference thereto.

I have, &c.,

W. E. PLUNKETT.

J. S. Parker, Esq.,

City Coroner,

Sydney.

[Enclosure 2 in No. 10.]

*City Coroner's Office,**24 June, 1858.*

Sir,

I do myself the honor to acknowledge the receipt of your communication of 22nd instant, with the charges preferred against me by Dr. Charles Muller to the Honorable the Colonial Secretary, and beg to say the case shall receive immediate attention.

I am, &c.,

JOHN S. PARKER.

City Coroner.

W. E. Plunkett, Esq.,

Secretary to Law Department,

Sydney.

[Enclosure 3 in No. 10.]

City Coroner's Office,
Sydney, 1 July, 1858.

Sir,

I do myself the honor to enclose, for the information of the Honorable the Attorney General, some remarks relative to the charges preferred against me, as City Coroner, by Dr. Charles Muller, relating to the death of a man named John Maloney, on whose body I held an inquest some months back, the particulars of which were forwarded to your office, clearly shewing how and on what grounds the proceedings were instituted; and at the same time I would remark Dr. Muller was communicated with both by Dr. Moon, (and self,) the gentleman that performed the post mortem examination, and on the day it took place Dr. Muller and his friend Dr. Williams were in attendance. It is true that I and my clerk entered the place and observed how the proceedings were conducted; but it is not true that I made the slightest remark whatever to any one, having only remained about five minutes in the place; I then left for the purpose of commencing the proceedings, and on inquiring from my constable the nearest public house for holding the inquest, the constable replied, "The Victoria Inn, South Head Road," and further remarked that a second constable would be required as he would find some difficulty in procuring a respectable jury, as it was a busy day (Saturday) and not, I would respectfully state, as inferred by Dr. Muller, to be in readiness to take charge of him. When the jury visited the body and returned to the room to initiate the proceedings, I inquired for Dr. Muller, when Dr. Moon informed me he had left in his gig with Dr. Williams. After examining one or two witnesses, and it being Saturday, I adjourned the inquest till the following Monday, and despatched a letter to Dr. Muller to be in attendance with his witnesses on that day, which was complied with; when all the evidence taken, with Dr. West's letter, was read over in the presence of Dr. Muller and his attorney, Mr. Garrick, (of the firm of Rowley, Holdsworth, & Garrick,) and he took copies of the same, when the case was fully and openly proceeded with in the presence of a crowded room, and the medical men present were, Drs. Moon, West, Williams, and Muller,—attorney for Dr. West, Mr. Ieeton; when a most searching cross-examination of the several witnesses took place. Again, Dr. Muller presumes in the presence of all these gentlemen to accuse me of partiality towards Dr. West; this accusation is not correct, for I am not under the slightest obligation either to Dr. West or any other doctor, and will maintain that my bearing and carriage is free from such charges. It is true Dr. West spoke to me once or twice on some minor points, which was done at the table openly, and in the presence of all at the table, including the reporters (two), and it does appear strange no remarks were made by any person about my proceedings, which I maintain throughout this lengthy proceeding were upright and honorable; but I must here observe that I had to check Dr. Muller, likewise his attorney, whose excited feelings frequently interrupted the several witnesses when under examination, and was obliged to animadvert upon their conduct, and even went so far as to threaten Mr. Garrick (Dr. Muller's attorney) with expulsion from the room, and he insulted Dr. West, which called for an apology afterwards, and I have no doubt in my own mind he is the chief mover in this case, and is smarting under my censure, for Dr. Muller's party openly made use of threatening language as to what they would do, &c., down stairs. It is not true that I spoke to Dr. Muller to induce him to say anything that would criminate himself, but I had, on the contrary, a deal of trouble in stopping him from making statements uncalled for. I would again call your attention, how I could be guilty of such impropriety of conduct in an open Court where so many persons were present, and no remarks were made at the time, and deferred till now, a period of more than four months; but to shew I am not the vindictive person Dr. Muller represents me to be, I can, if necessary, produce the testimony of unbiassed persons who were witnesses to my proceedings, and capable of refuting these charges.

I would again observe, that if I felt a pleasure in annoying Dr. Muller, as he would infer from his communication, I have had it in my power more than once to have carried it into effect, as can be seen by the following occurrence, and which took place shortly after the death of Maloney, which was still fresh in the minds of the public; the particulars are as follows:—A few months back a report appeared in the public prints respecting an attack made upon a female that resided in Castlereagh-street, and hearing of her death I considered it my duty to investigate the case, and sent for the medical gentleman that attended the woman, who was Dr. Foucart; he stated in the presence of witnesses that he met the deceased opposite Hyde Park in a very excited state, saying she was chased by men, the doctor informed he saw no men and persuaded the woman to return home, which she did with him, and the Doctor then observed that she was greatly excited and much exhausted, and swooned away, which continued till the woman was in a dangerous state, and, finding she was getting worse, recommended her friends to call in a second doctor, when Dr. Muller was sent for by them, who attended promptly, and after examining the patient declared she must be bled immediately, which Dr. Foucart objected to, saying, "If you do so she will die." Dr. Muller differed, saying, "It is the only chance left of saving her life." Dr. Foucart said, "If you do so it must be on your own responsibility." Dr. Muller then opened the street door, and called the passers-by into the room, addressing them in these words, pointing to deceased, "That if that woman was not bled at once she would die," when the people remarked "Bleed her!" when Dr. Foucart remarked, "This is strange proceedings; I will leave the place." Dr. Muller and the people objected, saying, "You must wait to see the result." Dr. Muller bled the woman, and shortly afterwards she gave a heavy sigh, when Dr. Muller remarked to the people, "There my friends! She is recovering"; Dr. Foucart observed, "Wait a little," when shortly afterwards, as anticipated by Dr. Foucart, she swooned off into a fit, which ended in epilepsy, and ultimately death.

W. E. Plunkett, Esq.,
Secretary to Law Officers.I remain, &c.,
JOHN S. PARKER,
City Coroner.

[Enclosure

[Enclosure 4 in No. 10.]

Phillip-street,
14 July, 1858.

Sir,

I have the honor to acknowledge the receipt of your letter of the 5th instant, forwarding to me a copy of an answer of the Coroner to charges which I made against this officer in a letter which I addressed to the Colonial Secretary some months past.

The several statements of the Coroner in this his answer are entirely false, and without a shadow of truth in them; and I reiterate the charges which I made in my former letter, and which I can substantiate by the testimony of respectable and disinterested parties

The fact of the Coroner importing into his answer a foreign matter, involving a charge of manslaughter against me in respect of the woman who died in Castlereagh-street, must strike you that the Coroner cannot be actuated by any friendly feelings towards myself.

This lie, emanate from whom it may, is nothing less than a deliberate invention.

I have the honor to request and propose, for the sake of the Coroner, as well as myself, and still more for the higher interests involved, that you will cause an investigation to be made of the whole matter.

I have, &c.,
DR. CHARLES MULLER.

The Honorable
James Martin, Esq.,
Attorney General.



747
1858-9.

Legislative Assembly.

NEW SOUTH WALES.

POLICE PROTECTION FOR DISTRICT OF ALBERT & LOWER DARLING.

(PETITION FROM RESIDENTS.)

Ordered by the Legislative Assembly to be Printed, 11 March, 1859.

To the Honorable the Speaker, and the Members of the Legislative Assembly, in Parliament convoked.

The Petition of the undersigned Stockholders, Magistrates, and others, resident in the District of Albert,—

HUMBLY SHEWETH :—

That your Petitioners have learnt with much concern that your Honorable Body have determined on amalgamating the Districts of Albert and Lower Darling, thereby depriving this very remote part of the district of the benefits hitherto resulting from the residence of the Commissioner of Crown Lands acting Police Magistrate.

2. That, from the union of these districts, and especially those parts of them embracing the east and west banks of the Darling, the population will necessarily be greatly augmented and concentrated, rendering police protection a *sine qua non* to the well-being of society, the prosperity of your Petitioners and the district generally.

3. That, notwithstanding the hitherto quiescent state of the district—attributable in a great measure, no doubt, to the presence of a Police Magistrate—the increasing population, from the river traffic and other sources, your Petitioners would humbly submit, renders an efficient police force for the suppression of crime and speedy disposal of misdemeanors and minor civil causes essentially necessary at some central point—say the junction of the Darling with the Murray.

4. That, the Albert District being the most remote to the westward from Sydney, many felonious cases have notoriously been quashed from the unwillingness of some, and inability of others, to defray the expense and sacrifice the time necessary to prosecute to conviction; and to your Petitioners it appears self-evident that, in the absence of adequate police protection, misdemeanors, &c., will share the same fate, and the *argumentum ad hominem* become the recognized law of the district.

5. That, by the removal of the present Commissioner, this district is now left entirely at the mercy of the evil deposed, and those whose habits and inclinations urge to a community of property and the repudiation of any difference in the interpretation of *meum* and *tuum*.

6. That, however willing to co-operate with and assist a Police Magistrate in the discharge of his important and valuable functions, it is absolutely incompatible with the vocations of unpaid Justices of the Peace in a district of such extent to devote their time to police business, being generally so fully occupied with the affairs of their stations as to be unable to give their attendance when really necessary.

7. Your Petitioners would beg to remind your Honorable House that there is no lock-up nor efficient police staff nearer than Balranald, a distance of 130 miles from the junction of the Darling with the Murray.

POLICE PROTECTION.—PETITION.

8. That, from the vast extent of, and handsome revenue derived from, the squattages alone in this district, (being equal to, if not greater than from any other in the Colony), your Petitioners are very sanguine that your Honorable House will readily admit the justice of their claim to some consideration, and more especially as not a farthing of public money is appropriated to the requirements of the district, with the exception of the trifling amount disbursed for the Native Police Patrol.

9. That, taking the premises into your most favorable consideration, your Petitioners humbly pray that an efficient police staff be appointed, and suitable buildings, (including court and watch-houses), be erected at the confluence of the Darling with the Murray.

And, as in duty bound, your Petitioners will ever pray.

October, 1858.

[Here follow 34 Signatures.]

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

RELIGIOUS ENDOWMENTS.

(PETITION FROM BRAIDWOOD.)

Ordered by the Legislative Assembly to be Printed, 27 January, 1859.

To the Honorable the Legislative Assembly of New South Wales, in Parliament assembled.

The Petition of the undersigned Magistrates, Clergy, and other Inhabitants of Braidwood, including the Gold Fields,—

SHEWETH :—

That your Petitioners learn with regret that the Salaries of the Chaplains on the various Gold Fields have been cut off by the disallowance of the Supplementary Grant of £14,000.

That the Gold Chaplains have an undoubted right to the Salaries of which they are deprived, as the circumstance of their Salaries having been paid by Government for a number of years supposes an understood agreement on both sides.

That the gold digging population have a special claim on Government support for their Clergy is a point which will hardly be disputed, when the large amount of direct taxes, paid by them in the shape of License Fees, is considered ; and it is impossible to see how the Revenue thus derived can be better applied than in supporting Ministers to prevent crime, rather than having recourse to the more costly means of its suppression by pains and penalties.

That your Petitioners wish particularly to remark, that the adverse vote of your Honorable House tells against the Gold Chaplains more than the other Clergy, who are not deprived of the Salaries allowed them by law, and the blow is the more severe in that it has come unexpectedly, and that no time was granted between the passing of the sentence and its execution.

That the circumstance, however, was accidental your Petitioners fully believe, and they feel the stronger hope on this account that it will be rectified shortly. At the same time your Petitioners wish to express to your Honorable House their full conviction that Religion can never be properly supported on the Gold Fields without aid from Government, or some other external source, on account of the fluctuating character of the population, and the precariousness of the employment.

May it therefore please your Honorable House to grant relief in the circumstances to the Gold Chaplains, so as to place them in a position not worse than other Clergymen in the Colony.

And your Petitioners will ever pray, &c.

[*Here follow 662 Signatures.*]

Braidwood, 11 January, 1859.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

RELIGIOUS ENDOWMENTS.

(PETITION FROM TURON GOLD FIELD.)

Ordered by the Legislative Assembly to be Printed, 27 January, 1859.

To the Honorable the Legislative Assembly of New South Wales, in Parliament assembled.

The humble Petition of the undersigned Members of the Church of England, Church of Rome, Presbyterians, and Wesleyans,—

HUMBLY SHEWETH :—

That your Petitioners are at present resident on the Turon Gold Field.

That your Petitioners deplore the recent decision of your Honorable House, by which the Stipends of the several Ministers of Religion now resident among them are *entirely* withdrawn.

That, from the peculiar circumstances attending the occupation of a gold field, the uncertainty of gold mining pursuits in our locality, and duration of residence, it is obviously impossible for such a community to support their own religious establishments, the power of doing so even by a settled community possessed of a resident proprietary having yet to be proved.

That this gold field at present numbers a Christian population of three thousand six hundred souls.

That your Petitioners approach your Honorable House fully convinced that it was not the intention of the decision referred to to deprive this numerous and peculiarly circumstanced community of the advantages of religious instruction, and therefore pray for such relief as your Honorable House may see fit to grant.

And your Petitioners, as in duty bound, will ever pray.

[*Here follow 408 Signatures.*]

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

RELIGIOUS ENDOWMENTS.

(BISHOP AND CLERGY OF CHURCH OF ENGLAND.)

Ordered by the Legislative Assembly to be Printed, 11 January, 1859.

To the Honorable the Legislative Assembly of New South Wales, in Parliament assembled.

The humble Petition of the undersigned, Bishop of Sydney, and Licensed Clergymen in the Diocese of Sydney,—

RESPECTFULLY SHEWETH :—

1. That your Petitioners have learnt with much concern that, by a Vote of your Honorable House when in Committee of Supply on the fourteenth instant, a Supplementary Grant to Schedule C was refused, and the aid thereby afforded to the Clergy of the Church of England withdrawn.

2. That by means of this Grant the Clergy on the Gold Fields have been wholly maintained, while a considerable majority of the others have been largely benefited.

3. That the suddenness of the measure, coming upon them within fourteen days of the close of the year, subjects those who have been the recipients of this aid to the most serious inconvenience, and is fraught with very great hardship.

Your Petitioners, therefore, respectfully urge upon your Honorable House to take the foregoing circumstances into your consideration, and to adopt such measures with reference to them as to your wisdom may seem fit; and your Petitioners, as in duty bound, will ever pray, &c., &c.

F. SYDNEY.
WM. M. COWPER.
ROBT. ALLWOOD.
W. N. CROXTON.
E. NIXON.
H. S. KING.
G. H. MORETON.

Sydney, December 21, 1858.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

RELIGIOUS ENDOWMENTS.

(PETITION OF THE REV. H. A. PALMER.)

Ordered by the Legislative Assembly to be Printed, 4 February, 1859.

To the Honorable the Legislative Assembly of New South Wales.

The humble Petition of Henry Andrew Palmer, Clerk in Holy Orders,
Minister of the Church of England at Sofala,—

SHEWETH:—

That your Petitioner was the first Minister of Religion appointed to labor on the Gold Fields.

That your Petitioner was licensed to the District of the Turon, by the late Bishop of Sydney, on the 1st of November, 1851, in consequence, as His Lordship informed your Petitioner, of a "communication by command of the Governor General, stating the desire of His Excellency that arrangements should be made for stationing clergymen permanently "resident at the gold diggings."

That His Lordship informed your Petitioner that the "Government had engaged to "provide stipends from the revenues arising from the gold."

That your Petitioner has for the past two years been in receipt of a stipend of £300, supplemented by an annual voluntary contribution by his parishioners of from £50 to £70, and has also been allowed forage in kind for one horse.

That your Petitioner cannot maintain himself in respectability at the Gold Fields, where the necessaries of life are much more expensive than in other parts of the Colony, upon less than the stipend already stated.

That the circumstances of the community in which your Petitioner resides render it impossible for him to depend upon his parishioners for a greater amount of aid than that already referred to.

That the recent decision of your Honorable House by which the supplementary grant for the maintenance of Public Worship has been refused, entirely deprives your Petitioner of all means of livelihood.

Your Petitioner therefore prays that your Honorable House will be pleased to take these circumstances into consideration, and grant such relief as to your Honorable House may seem due.

And your Petitioner will ever pray, &c.

H. A. PALMER.

Sofala, January 12, 1859.

1858.

—
Legislative Assembly.
NEW SOUTH WALES.

RELIGIOUS ENDOWMENTS.

(WITHDRAWAL OF SUPPLEMENTARY GRANT.)

Ordered by the Legislative Assembly to be Printed, 21 December, 1858.

To the Honorable the Legislative Assembly of New South Wales.

The Petition of the undersigned Presbyterian Ministers,—

RESPECTFULLY SHEWETH:—

That on the discovery of the Gold Fields in 1851, religious ordinances were supplied to the Presbyterian population engaged in gold digging pursuits by Ministers of the Synod of Australia in rotation, for some considerable time; but as gold digging became a regular and steady occupation, this temporary mode of supplying the ministrations of religion was found to be both inadequate and unsatisfactory.

That, in order to meet the spiritual wants of the people on the Gold Fields, communications were opened with the Government with reference to the appointment of Chaplains to labor in those districts.

That the Government having received these communications favorably, granted salaries for the maintenance of two Chaplains,—one for the Western and one for the Southern Gold Fields.

That, inasmuch as that portion of Schedule C allocated for the Presbyterian Church was already appropriated to Ministers of that denomination settled in other districts, the sums granted as salaries and allowances to those Chaplains of the Gold Fields formed a part of the £14,000 voted as a supplementary grant for religious purposes.

That, in consequence of the decision arrived at by the Assembly on the evening of the 16th instant, in the disposal of that supplementary grant, the entire salaries and allowances of those Chaplains have suddenly and unexpectedly been withdrawn.

That, in consequence of the advanced period of the year when the Assembly has decided upon this withdrawal, those gentlemen will have no time to make provision to meet the emergency which has thus so unexpectedly arisen.

Your Petitioners, therefore, humbly pray that your Honorable House will take the premises into your most favorable consideration, and take what steps may seem to you best to remedy the evil herein set forth, as otherwise deserving clergymen, occupying a useful sphere of labor, and ministering to a migratory population, will suddenly be reduced to a condition of great hardship and difficulty.

MATHEW ADAM,

Minister, Windsor.

JOHN M'GIBBON,

Minister, Woolloomooloo Presbyterian Church.

1858-9.

Legislative Assembly.
NEW SOUTH WALES.

RELIGIOUS ENDOWMENTS.

(BATHURST STREET BAPTIST CHAPEL.)

Ordered by the Legislative Assembly to be Printed, 14 January, 1859.

To the Honorable the Legislative Assembly of New South Wales.

The Petition of the Members of the Church and Congregation meeting
for Worship in the Bathurst-street Baptist Chapel, Sydney,—

HUMBLY SHEWETH :—

That your Petitioners are convinced that all State aid for religious purposes is wrong in principle, and unwarranted by the teachings of the Word of God.

2. That your Petitioners regard the politico-eccelesiastical system of this Colony, under which all forms of religion are supported indiscriminately by the public money, as a hindrance to the progress of the truth, and injurious to the best interests of the Christian Church.

3. That this system has operated with peculiar injustice to your Petitioners and a large number of their fellow-colonists, who, besides supporting their own Ministers, and expending annually large sums of money in erecting and maintaining their own places of worship, are also, by their contributions to the general revenue, compelled to aid in supporting the Ministers and operations of other denominations.

4. That your Petitioners have observed, with much gratification, the recent decisions of your Honorable House in reference to the proposed additional expenditure under Schedule C of the Constitution Act, and are convinced that the entire abolition of State aid for religious purposes would tend greatly to the advancement of pure and undefiled religion in the Colony.

Your Petitioners therefore humbly pray that your Honorable House will be pleased to take this matter into your consideration, and devise means for the speedy and entire abolition of State aid for religious purposes.

And your Petitioners will ever pray, &c.

[Here follow 108 Signatures.]

1858.

Legislative Assembly.

NEW SOUTH WALES.

RELIGIOUS ENDOWMENTS.

(WITHDRAWAL OF SUPPLEMENTARY GRANT.)

Ordered by the Legislative Assembly to be Printed, 21 December, 1858.

To the Honorable the Legislative Assembly of New South Wales, in Parliament assembled.

The Humble Petition of the Members of the Hebrew Faith, residing in
the City of Sydney,—

SHEWETH :—

That your Petitioners having learnt with feelings of deep regret that your Honorable House has, by an adverse vote, suddenly and most unexpectedly deprived them of the Stipend heretofore allowed them for a Minister of the Jewish Faith, feel it a duty incumbent upon them to urge upon your Honorable House such a reconsideration of the subject (if practicable) as will admit of the claim of the Jewish Community for a continuance of such allowance being argued upon its own merits, and entirely disconnected with such other items of expenditure in the Estimates as may be found partially provided for in Schedule C for Public Worship, the allowance being included in the additional expenditure asked for, and negatived, on Tuesday last.

2. Your Petitioners would humbly submit to your Honorable House that in depriving them of the Stipend previously granted towards the support of a Jewish Minister your Petitioners would be the only religious class excluded from State aid—Clergymen of other denominations still receiving partial support as provided in Schedule C—whereby a precedent would be created destructive of that religious equality which has been hitherto happily recognized in your Honorable House.

3. And your Petitioners therefore humbly pray that your Honorable House will be pleased to favorably reconsider the subject in the manner and form above alluded to.

And your Petitioners, as in duty bound, will ever pray.

[Here follow 204 Signatures.]

Sydney, 16 December, 1858.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

RELIGIOUS ENDOWMENTS.

(PETITION OF CERTAIN CITIZENS OF SYDNEY.)

Ordered by the Legislative Assembly to be Printed, 14 January, 1859.

To The Honorable the Legislative Assembly of New South Wales, in Parliament assembled.

The Petition of the Citizens of Sydney in Public Meeting assembled,—

HUMBLY SHEWETH:—

That on the third day of January, one thousand eight hundred and fifty-nine, a Public Meeting of the Citizens of Sydney was held in the Hall of the School of Arts, Sydney, at which the following Resolutions were adopted, namely:—

- (1.) "That this Meeting being of opinion that the system of State Endowments for religious purposes, existing in this Colony, is fraught with incalculable injury to the best interests of religion, and also with political injustice to a large portion of the community, hails with the utmost satisfaction the recent vote of the Legislative Assembly, withholding the Supplementary Grant of £14,000 in aid of such endowments."
- (2.) "That this Meeting rejoices in recognising the recent vote of the Legislative Assembly, as the precursor of the speedy and entire abolition of State Endowments for religious purposes in this Colony."
- (3.) "That, being deeply impressed with the soundness of these views, this meeting deprecates the proposed attempt of the ex-Attorney General, Mr. Martin, to procure the rescinding of the vote in question, and avows its determination to uphold by all constitutional means the decision of the Assembly."
- (4.) "That a Petition embodying the foregoing resolutions be presented to the Legislative Assembly without delay."

Your Petitioners therefore pray your Honorable House to take the premises into your favorable consideration, that the vote in question may not be rescinded, and that steps may be taken for the speedy and entire abolition of State Endowments for religious purposes in this Colony.

And your Petitioners will ever pray.

[Here follow 160 Signatures.]

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

RELIGIOUS ENDOWMENTS.

(PART RETURN RELATIVE TO.)

Ordered by the Legislative Assembly to be Printed, 9 February, 1859.

PART RETURN to an *Address* of the Honorable the Legislative Assembly of New South Wales, dated 21 December, 1858, praying that His Excellency the Governor General would be pleased to cause to be laid upon the Table of this House,—

“ (1.) A Return, shewing the amount paid from the Public
 “ Revenues of this Colony for Public Worship during the years
 “ 1857 and 1858, respectively, specifying in Tables, under the
 “ head of each religious denomination respectively, the aggregate amount paid to each—the number of Ministers of Religion
 “ in each receiving support thereby—the sums paid to each of
 “ such Ministers in each year—the names of all such Ministers
 “ —the locality or localities to which each Minister was officially
 “ attached during the period referred to—and from what special
 “ funds (if any) such sums were paid.

“ (2.) A Return, shewing respectively the sums paid for Public
 “ Worship during the same period in the City of Sydney, in
 “ the Sydney Hamlets, and in all other Towns containing, by
 “ the last Census, not fewer than 300 souls; specifying in
 “ Tables the same particulars as above, so far as applicable, as
 “ also the population of each Town; and distinguishing the
 “ aggregate amount expended in such Towns from the aggregate
 “ amount expended in the remainder of the Colony.”

(*Mr. Forster.*)

RELIGIOUS ENDOWMENTS.

No. 1.—1857.
A RETURN, showing the particulars of the Amount paid from the Public Revenues of the Colony of New South Wales for Public Worship for the Year 1857.

No.	NAME.	STATION.	PAID OUT OF THE SCHEDULE FOR PUBLIC WORSHIP.		PAID OUT OF THE CONSOLIDATED REVENUE FUND.					TOTAL.	
			Fixed Stipend.	In lieu of Forage.	Fixed Stipend.	Salary as Gaoi Chaplain.	In lieu of Forage.	In lieu of House Rent.	Temporary Addition to Stipend.		
<i>Sydney Diocese.</i>											
<i>Church of England.</i>											
1	Right Reverend Fredk. Barker, D.D.	Bishop and Metropolitan	1,700	0	.....	.....	.....	.....	.....	.....	.....
2	Venerable Archdeacon Cowper, D.D.	St. Philip, Sydney	460	0	.....	.....	.....	.....	.....	.....	.....
3	Rev. Robert Allwood	St. James, Sydney	200	0	.....	.....	.....	.....	.....	.....	.....
4	George King	St. Andrew, Sydney	200	0	.....	.....	.....	.....	.....	.....	.....
5	W. H. Walsh	St. Lawrence, Sydney	200	0	.....	.....	.....	.....	.....	.....	.....
6	Forster Ashwin	Holy Trinity	200	0	.....	.....	.....	.....	.....	.....	.....
7	G. F. Macarthur	Alexandria	200	0	.....	.....	.....	.....	.....	.....	.....
8	T. H. Wilkinson	Military Chaplain	150	0	.....	.....	.....	.....	.....	.....	.....
9	H. D. D. Sparling	Ashfield	150	0	.....	.....	.....	.....	.....	.....	.....
10	Thomas Sharpe	Bathurst	200	0	45 12 6	.....	.....	.....	.....	.....	.....
11	J. S. Hassall	Ferris	200	0	.....	.....	.....	.....	.....	.....	.....
12	James Allan	Braidwood	200	0	.....	.....	.....	.....	.....	.....	.....
13	E. B. Procter	Bungonia	200	0	.....	.....	.....	.....	.....	.....	.....
14	Edward Rogers	Camden	200	0	.....	.....	.....	.....	.....	.....	.....
15	Thomas Reddell	Campbelltown	8	1	3	.....	.....	.....	.....	.....	.....
16	C. M. Betts	Do.	41	18	8	.....	.....	.....	.....	.....	.....
17	C. C. Kemp	Campertown	200	0	.....	.....	.....	.....	.....	.....	.....
18	P. G. Smith	Canbury	150	0	.....	.....	.....	.....	.....	.....	.....
19	Henry Fingcombe	Carcoar	200	0	.....	.....	.....	.....	.....	.....	.....
20	Edward Syngé	Edward Syngé	100	0	.....	.....	.....	.....	.....	.....	.....
21	E. J. Nixon	Cook's River	100	0	.....	.....	.....	.....	.....	.....	.....
22	Thomas Druitt	Do.	100	0	.....	.....	.....	.....	.....	.....	.....
23	W. W. Simpson	Cooma	200	0	.....	.....	.....	.....	.....	.....	.....
24	G. N. Woodd	Drpto	200	0	.....	.....	.....	.....	.....	.....	.....
25	A. D. Soares	Denham Court, &c.	37	10	0	.....	.....	.....	.....	.....	.....
26	Wm. Sowerby	Queanbeyan	150	0	.....	.....	.....	.....	.....	.....	.....
27	G. F. Turner	Goulburn	200	0	.....	.....	.....	.....	.....	.....	.....
28	Wm. Lisle	Hunter's Hill, Ryde, &c.	200	0	.....	.....	.....	.....	.....	.....	.....
29	C. F. D. Priddle	Kelso	200	0	.....	.....	.....	.....	.....	.....	.....
30	W. F. Gove	Liverpool	200	0	.....	.....	.....	.....	.....	.....	.....
31	James Günther	Mudgee	200	0	.....	.....	.....	.....	.....	.....	.....
32	George Vidal	Mulgoe and Greendale	200	0	.....	.....	.....	.....	.....	.....	.....
33	Thomas Hassall	Narellan	270	0	0	.....	.....	.....	.....	.....	.....
34	R. L. King	Parramatta	200	0	45 12 6	.....	.....	.....	.....	.....	.....
35	Thomas Donkin	Prospect	200	0	.....	.....	.....	.....	.....	.....	.....
36	T. C. Fwing	Pitt Town	133	6	8	.....	.....	.....	.....	.....	.....
	Elijah Smith	Wollongong	66	13	4	.....	.....	.....	.....	.....	.....
	Edward Smith	Penrith and South Creek	200	0	.....	.....	.....	.....	.....	.....	.....
		Queanbeyan	50	0	.....	.....	.....	.....	.....	.....	.....
		Campbelltown	150	0	.....	.....	.....	.....	.....	.....	.....
		Carried forward	8,597	9	11	91	5	0	.....	.....	.....
			75	0	0	.....	.....	.....	.....	.....	.....
			110	0	0	.....	.....	.....	.....	.....	.....
			2,951	12	4	.....	.....	.....	.....	.....	.....
			11,825	7	3	.....	.....	.....	.....	.....	.....

* Of this sum £966 13s. 4d. has been provided out of the income derived by the Bishop from the Bishopsthorpe Estate.

RELIGIOUS ENDOWMENTS.

RETURN No. 1—Continued.

No.	NAME.	STATION.	PAID OUT OF THE SCHEDULE FOR PUBLIC WORSHIP.		PAID OUT OF THE CONSOLIDATED REVENUE FUND.				TOTAL.	
			Fixed Stipend.	In lieu of Forage.	Fixed Stipend.	Salary as Gael Chaplain.	In lieu of Forage.	In lieu of Forage.		Temporary Addition to Stipend.
		Brought forward.....	£	8,597 9 11	91 5 0	75 0 0	110 0 0	2,951 12 4	11,823 7 3	
		Church of England.—Continued.								
		Sydney Diocese—Continued.								
37	Rev. John Elder	Richmond		200 0 0				66 13 0	266 13 0	
38	W. B. Clarke	St. Leonard's		200 0 0				66 13 0	266 13 0	
39	William Stone	Sutton Forest, &c.		200 0 0	45 12 6			66 13 0	266 13 0	
40	H. T. Stiles	Windsor		166 13 4	45 12 6			44 8 8	362 5 6	
41	M. D. Meares	Wollongong		83 6 8			60 0 0	22 4 4	422 5 6	
42	C. F. Bristocke	Burwood		200 0 0				66 13 0	266 13 0	
43	Wm. Stack	Yass		200 0 0				100 0 0	300 0 0	
44	A. H. Stephen	Balmain		200 0 0				100 0 0	300 0 0	
45	D. P. M. Halbert	Chippendale		112 10 0				75 0 0	187 10 0	
46	Thomas Wilson	Gunning, Collector		66 13 4				33 6 8	100 0 0	
47	James Barmer	Pitt Town		200 0 0					200 0 0	
48	H. S. King	Kiama		200 0 0					200 0 0	
49	Thomas Hayden	Surry Hills		100 0 0					200 0 0	
50	H. A. Palmer	Darlinghurst					84 7 6	100 0 0	384 7 6	
51	William Coombes	Sofala					69 17 4	100 0 0	369 17 4	
52	C. H. Rich	Morro					30 0 0	100 0 0	330 0 0	
	Wm. Watson	Avaluen		50 0 0					50 0 0	
	P. P. Agnew	Wellington				210 0 0			210 0 0	
	John Fendrell	Sydney Gael and Cockatoo Island				30 0 0			30 0 0	
		Cockatoo Island		11,026 13 3	182 10 0	600 0 0	184 4 10	170 0 0	3,959 17 0	
		Carried forward.....	£	2,150 0 0	45 12 6	50 0 0	60 0 0	849 17 0	3,155 9 6	
		Newcastle Diocese.								
1	Right Reverend W. Tyrrell, D.D.	Bishop of Newcastle		500 0 0				116 13 0	616 13 0	
2	Rev. S. Hungerford	Armidale		100 0 0				66 13 0	166 13 0	
3	E. K. Yeatman	Brisbane		100 0 0		25 0 0		66 13 0	191 13 0	
4	A. E. Selwyn	Clarence River		100 0 0				100 0 0	200 0 0	
5	Joseph Cooper	Falbrook, &c.		200 0 0				100 0 0	300 0 0	
6	Alfred (Hennie)	Gosford		200 0 0				66 13 0	266 13 0	
7	R. T. Bolton	Hexham		150 0 0				66 13 0	216 13 0	
8	G. K. Rusden	East Maitland		200 0 0	45 12 6	25 0 0	60 0 0	66 13 0	397 5 6	
9	Robert Chapman	West Maitland		200 0 0				66 13 0	266 13 0	
10	J. R. Blomfield	Morpeth		33 6 8				11 2 2	44 8 10	
11	R. G. Boodle	Raymond Terrace		166 13 4				55 10 10	222 4 2	
		Muswellbrook		116 13 4				38 17 7	155 10 11	
		Morpeth		83 6 8				27 15 5	111 2 1	
		Carried forward.....	£	11,026 13 3	182 10 0	600 0 0	184 4 10	170 0 0	3,959 17 0	
		Carried forward.....	£	11,823 7 3					16,438 5 1	

RELIGIOUS ENDOWMENTS.

RETURN No. 1—Continued.

No.	NAME.	STATION.	PAID OUT OF THE SCHEDULE FOR PUBLIC WORSHIP.		PAID OUT OF THE CONSOLIDATED REVENUE FUND.				TOTAL.	
			Fixed Stipend.	In lieu of Forage.	Fixed Stipend.	Salary as Gaoil Chaplain.	In lieu of Forage.	In lieu of House Rent.		Temporary Addition to Stipend.
		Brought forward	£ 1,026 13 3	182 10 0	600 0 0	315 0 0	184 4 10	170 0 0	3,959 17 0	16,438 5 1
		Church of England.—Continued.								
		Newcastle Diocese—Continued.								
12	Rev. C. P. N. Wilton	Brought forward	2,150 0 0	45 12 6	.....	60 0 0	.....	60 0 0	849 17 0	3,155 9 6
13	" F. W. Adams	Newcastle	250 0 0	45 12 6	.....	.....	.....	.....	66 13 0	382 5 6
14	" John Cross	Paterson	200 0 0	.....	.....	.....	.....	60 0 0	66 13 0	266 13 0
15	" Thomas O'Reilly	Port Macquarie	150 0 0	.....	.....	.....	.....	.....	100 0 0	326 13 0
16	" Lovick Tyrrell	Port Macquarie	33 6 8	.....	.....	.....	.....	.....	11 2 2	250 0 0
17	" Colles Child	Raymond Terrace	83 6 8	.....	.....	.....	.....	.....	27 15 5	44 8 10
18	" James Blackwood	Morpeth	200 0 0	.....	.....	.....	.....	.....	66 13 0	266 13 0
19	" J. F. R. Whinfield	Scene	200 0 0	.....	.....	.....	.....	.....	66 13 0	266 13 0
20	" Thomas Horton	Singleton	150 0 0	.....	.....	.....	.....	.....	100 0 0	250 0 0
21	" Edward Williams	Wollombi	200 0 0	36 10 0	.....	.....	.....	.....	66 13 0	303 3 0
22	" Arthur Wayn	Lower Hawkesbury	100 0 0	.....	.....	.....	.....	.....	100 0 0	200 0 0
	" J. A. Greaves	Tamworth	83 6 8	.....	.....	.....	.....	.....	100 0 0	209 0 0
		Dungog	.....	.....	.....	.....	.....	.....	27 15 5	111 2 1
		Muswellbrook	4,100 0 0	127 15 0	.....	50 0 0	.....	120 0 0	1,716 8 0	6,114 3 0
		Total, Church of England...£	15,126 13 3	310 5 0	600 0 0	365 0 0	184 4 10	290 0 0	5,676 5 0	22,562 8 1
		Presbyterian Church.								
1	Rev. John Dougal	St. Andrew's, Sydney	200 0 0	.....	.....	.....	.....	.....	66 13 0	266 13 0
2	" James Fullerton	Pitt-street, Sydney	200 0 0	.....	.....	.....	.....	.....	66 13 0	266 13 0
3	" John M'Gibbon	Woolloomooloo	150 0 0	.....	.....	.....	.....	.....	100 0 0	250 0 0
4	" James Milne	Paddington	102 0 0	.....	.....	.....	.....	.....	100 0 0	202 0 0
5	" James Coutts	Paramatta	150 0 0	.....	.....	.....	.....	.....	100 0 0	250 0 0
6	" Matthew Adam	Windsor	150 0 0	.....	.....	.....	.....	.....	100 0 0	250 0 0
7	" George M'Fie	Fitt Town, Forland Head, &c.	150 0 0	.....	.....	.....	.....	.....	66 13 0	216 13 0
8	" William M'Kee	Campbelltown	150 0 0	.....	.....	.....	.....	.....	100 0 0	250 0 0
9	" Cunningham Atchison	Wollongong	150 0 0	.....	.....	.....	.....	.....	100 0 0	250 0 0
10	" James Nimmo	Newcastle	150 0 0	.....	.....	.....	.....	.....	100 0 0	250 0 0
11	" William Purves	Maitland	200 0 0	.....	.....	.....	.....	.....	66 13 0	300 0 0
12	" James S. White	Singleton	150 0 0	.....	.....	.....	.....	.....	100 0 0	216 13 0
13	" Robert Blain	Hinton	200 0 0	.....	.....	.....	.....	.....	66 13 0	266 13 0
14	" Wm. J. Nelson	Ipswich	160 0 0	.....	.....	.....	.....	.....	100 0 0	250 0 0
15	" Edward Holland	Port Macquarie	150 0 0	.....	.....	.....	.....	.....	66 13 0	216 13 0
16	" James B. Laughton	Bathurst	150 0 0	.....	.....	.....	.....	.....	66 13 0	216 13 0
17	" William Ross	Goulburn	160 0 0	.....	.....	.....	.....	.....	100 0 0	216 13 0
18	" Thomas Shirton	Paterson	160 0 0	.....	.....	.....	.....	.....	100 0 0	250 0 0
19	" Alexander M'Evon	Sofala	.....	.....	200 0 0	.....	.....	.....	100 0 0	330 0 0
20	" A. S. Pennycook	Araluen	.....	.....	200 0 0	.....	.....	.....	100 0 0	330 0 0
		Total, Presbyterian Church...£	2,852 0 0	.....	400 0 0	.....	.....	.....	1,793 4 0	5,045 4 0
		Carried forward	17,978 13 3	310 5 0	1,000 0 0	365 0 0	244 4 10	290 0 0	7,409 9 0	27,597 12 1

RELIGIOUS ENDOWMENTS.

RETURN No. 1—Continued.

No.	NAME.	STATION.	PAID OUT OF THE SCHEDULE FOR PUBLIC WORSHIP.		PAID OUT OF THE CONSOLIDATED REVENUE FUND.					TOTAL.		
			Fixed Stipend.	In lieu of Forage.	Fixed Stipend.	Salary as Gael Chaplain.	In lieu of Forage.	In lieu of House Rent.	Temporary Addition to Stipend.			
											17,978 13 3	310 5 0	1,000 0 0	365 0 0	244 4 10	290 0 0	7,409 9 0
		Brought forward	£								27,597 12 1	
		Methodist Church.										
1	Rev. H. H. Gaud	Sydney, Prince street	150	0	0					100	0	250
2	" Stephen Rabone	Farranatta	200	0	0					100	0	300
3	" Benjamin Chapman	West Maitland	150	0	0					100	0	250
4	" Joseph Oram	Bathurst	150	0	0					100	0	250
5	" John Eggleston	Sydney	172	10	6					100	0	272 10 6
6	" W. A. Quick	Newtown	150	0	0					100	0	250
7	" James Watkin	Windsor	150	0	0					100	0	250
8	" Charles Creed	Goulburn	150	0	0					100	0	250
9	" C. W. Rigg	Camden	150	0	0					100	0	250
10	" Samuel Wilkinson	Wollongong	150	0	0					100	0	250
11	" J. W. Dawson	Sofala				200	0	0	30	0	0	230
12	" William Kelynaek	Araluen				200	0	0	30	0	0	330
		Total, Wesleyan Methodist Church	1,572	10	6	400	0	0	60	0	0	3,232 10 6
		Church of Rome.										
1	Most Rev. J. B. Polding	Archbishop	800	0	0							983
2	Right Rev. H. G. Abbot Gregory	Vicar General	300	0	0							400
3	Rev. John McPherson	St. Mary's, Sydney	200	0	0							300
4	" Jerome Keating	St. Patrick's Sydney	200	0	0							300
5	" Michael Corish	St. Benedict's, Sydney	200	0	0							300
6	" D. V. M. O'Connell	Surry Hills	150	0	0					75	0	225
7	" J. J. Tierney	Balmain	150	0	0					66	13	216 13 0
8	" J. L. Rocher	Ryde	150	0	0					100	0	250
9	" John McGirr	Petersham	62	10	0					41	13	104 3 4
10	" N. J. Coffey	Farranatta	175	0	0					58	6	234 6 4
11	" Patrick Hallinan	Windsor	200	0	0					66	13	266 13 0
12	" Michael Brennan	Penrith	200	0	0					100	0	300
13	" Peter O'Farrell	Hartley	150	0	0					100	0	250
14	" John Grant	Rathurst	200	0	0					66	13	266 13 0
15	" James Phelan	Kelso	200	0	0					100	0	300
16	" Bernard Murphy	Carcoar	200	0	0					100	0	300
17	" Calaghan McCarthy	Mudgee	150	0	0					66	13	216 13 0
18	" Charles Lovat	Liverpool	200	0	0					66	13	266 13 0
19	" J. P. Roche	Campbelltown	200	0	0					75	0	275
20	" Luke Hand	Appin	150	0	0					27	15	175 15 0
21	" Cornelius Twomey	Berrima	62	10	0					58	6	120 16 6
22	" Richard Walsh	Albury	200	0	0					66	13	266 13 0
23	" Michael Kavanagh	Goulburn	200	0	0					66	13	266 13 0
		Queanbeyan	200	0	0					66	13	266 13 0
		Carried forward	4,787	10	0							6,760 18 5
		Carried forward	£			£			£			30,830 2 7

RELIGIOUS ENDOWMENTS

RETURN No. 1—Continued.

No.	NAME.	STATION.	PAID OUT OF THE SCHEDULE FOR PUBLIC WORSHIP.		PAID OUT OF THE CONSOLIDATED REVENUE FUND.					TOTAL.
			Fixed Stipend.	In lieu of Forage.	Fixed Stipend.	Salary as (Capt. Chaplain.	In lieu of Forage.	In lieu of House Rent.	Temporary Addition to Stipend.	
	Brought forward	£	19,551 3 9	310 5 0	1,400 0 0	365 0 0	304 4 10	290 0 0	8,609 9 0	30,830 2 7
	Church of Rome.—Continued.	£	4,787 10 0			70 16 8			1,902 11 9	6,760 18 5
24	Rev. Patrick Magennis	Yass	83 6 8						27 15 5	111 2 1
	"	Berrima	87 10 0						38 17 7	126 7 7
25	" John Maher	Albury	62 10 0						41 13 4	104 3 4
	"	Appin	25 0 0						12 10 0	37 10 0
26	" J. C. Simmer	Wollongong	183 6 8						61 1 11	244 8 7
	"	Paramatta	16 13 4			3 6 8			5 11 1	25 11 1
27	" Peter Young	Kiama	150 0 0						100 0 0	250 0 0
	"	Millendary	137 10 0						91 13 4	229 3 4
28	" W. X. Johnson	Wollongong	16 13 4						5 11 1	22 4 5
	"	Henry Woolfrey	150 0 0						100 0 0	250 0 0
29	" C. V. Dowling	Brisbane Water	150 0 0						100 0 0	250 0 0
30	" Joseph Martin	Newcastle	62 10 0						41 13 4	104 3 4
31	" John Kenny	Raymond Terrace	200 0 0						100 0 0	300 0 0
32	" J. T. Lynch	East Maitland	200 0 0						100 0 0	325 0 0
33	" J. T. Lynch	West Maitland	125 0 0			25 0 0			100 0 0	187 10 0
	"	Singleton	66 5 0						62 10 0	187 10 0
34	" John Rigney	Moreton Bay	75 0 0			8 6 8			37 10 0	102 1 8
35	" Henry Garnett	Macdonald River	93 15 0						50 0 0	125 0 0
	"	Moreton Bay	75 0 0			16 13 4			62 10 0	172 18 4
36	" William M'Ginty	Singleton	75 0 0						37 10 0	112 10 0
37	" Timothy M'Carthy	Ipswich	150 0 0						100 0 0	250 0 0
38	" Peter Powell	Armidale	150 0 0						100 0 0	250 0 0
39	" Michael M'Alroy	St. Leonard's	116 13 4						100 0 0	250 0 0
	"	Yass	87 10 0						100 0 0	250 0 0
	"	Patrick Birch	87 10 0						38 17 7	155 10 11
	"	Eugene Luckie	50 0 0						58 6 8	145 16 8
	"	John Sheridan	87 10 0						58 6 8	145 16 8
	"	Denis M'Guinn	200 0 0						25 0 0	75 0 0
40	" Edward O'Brien	Sofala	200 0 0						100 0 0	384 7 6
41	" Samuel Sheehy	Araruen	200 0 0						100 0 0	330 0 0
42	" Patrick Kenyon	Sydney Gaol	30 0 0						100 0 0	120 0 0
43	" A. J. Ford	Cockatoo Island	90 0 0						100 0 0	30 0 0
	"	Do.							100 0 0	90 0 0
		Total, Church of Rome	7,529 3 4		400 0 0	364 3 4	114 7 6		3,659 9 9	12,067 3 11
1	Rev. Herman Hoelzel	Methodist, Sydney			200 0 0					200 0 0
		Total	27,060 7 1	310 5 0	2,000 0 0	729 3 4	418 12 4	290 0 0	12,268 8 9	43,097 6 6

ABSTRACT

RELIGIOUS ENDOWMENTS.

ABSTRACT STATEMENT OF THE AMOUNT PAID FROM THE PUBLIC REVENUES OF THE COLONY OF NEW SOUTH WALES, FOR PUBLIC WORSHIP,
FOR THE YEAR 1857.

PARTICULARS.	CHURCH OF ENGLAND.	PRESBYTERIAN CHURCH.	WESLEYAN METHODIST CHURCH.	ROMAN CATHOLIC CHURCH.	JEWISH MINISTER, SYDNEY.	TOTAL.
Amount Appropriated under Schedule C for 1857	14,634 6 5	2,852 15 11	1,572 10 6	8,940 7 2	.....	28,000 0 0
Payments therefrom as per foregoing Return	14,470 4 11	2,852 0 0	1,572 10 6	7,529 3 4	.....	26,423 18 9
Surplus applied to meet additions to Stipends	164 1 6	0 15 11	.....	1,411 3 10	.....	1,576 1 3
Payments from the Vote of 1857 to Supplement Schedule C	6,509 3 4	2,192 8 1	1,660 0 0	2,762 13 5	200 0 0	13,324 4 10
Proportion of Bishop of Sydney's Stipend provided for out of Bishopthorpe Estate ..	6,673 4 10	2,193 4 0	1,660 0 0	4,173 17 3	200 0 0	14,900 6 1
Salaries of Gael Chaplains provided for by Votes for Gael Establishments	966 13 4	.....	.....	.....	.....	966 13 4
Allowance to Military Chaplain provided for by Vote for Military General Service ..	365 0 0	.....	.....	364 3 4	.....	729 3 4
.....	77 5 0	.....	.....	.....	.....	77 5 0
TOTAL	22,552 8 1	5,045 4 0	3,232 10 6	12,067 3 11	200 0 0	43,097 6 6

Audit Office, Sydney, New South Wales,
4th January, 1859.

W. C. MAYNE,
Auditor General.

No. 2.—1857.

A RETURN shewing the particulars of Sums paid for Public Worship, during the Year 1857, in the City of Sydney, in the Sydney Hamlets, and in all other Towns containing, by the last Census, not fewer than 300 souls.

RELIGIOUS ENDOWMENTS.

Town.	POPULATION, CENSUS OF 1856.	NAME OF MINISTER.	DENOMINATION.	PAID OUT OF SCHEDULE C.		PAID OUT OF THE CONSOLIDATED REVENUE FUND.			Total Payments to each Minister.	Total Paid in each Town.			
				Fixed Stipend.	Allowances.	Fixed Stipend.	Salary as Gaol Chaplain.	Allowances.					
				£	s.	d.	£	s.	d.	£	s.	d.	
Sydney	53,358	The Right Revd. F. Barker, D.D.	C. of E.	1,700	0	0	200	0	0	2,000	0	0	
		The Venerable Archdeacon W. Cowper, D.D.	"	460	0	0	116	13	0	676	13	0	
		Revd. Robert Allwood, B.A.	"	200	0	0	66	13	0	266	13	0	
		George King	"	200	0	0	66	13	0	266	13	0	
		W. H. Walsh, M.A.	"	200	0	0	66	13	0	300	0	0	
		Foster Ashwin	"	200	0	0	100	0	0	100	0	0	
		T. Hayden	"	100	0	0				120	0	0	
		P. P. Agnew	"				77	5	0	77	5	0	
		G. F. Macarthur	"	200	0	0	66	13	0	266	13	0	
		James Fullerton, L.L.D.	Presb.	200	0	0	66	13	0	266	13	0	
		John Dougall	"	150	0	0	100	0	0	250	0	0	
		John McGibbon	"	150	0	0	100	0	0	250	0	0	
		IL. H. Gaud.	Wesl.	172	10	6	100	0	0	272	10	6	
		J. Eggleston	"	800	0	0	133	6	0	933	6	0	
		Most Revd. John Bede Polding	R. C.	300	0	0	100	0	0	400	0	0	
Right Revd. H. G. Gregory	"	200	0	0	100	0	0	300	0	0			
Revd. John M'Encroe	"	200	0	0	100	0	0	300	0	0			
Jerome Keating	"	200	0	0	100	0	0	300	0	0			
Michael Corish	"	200	0	0	100	0	0	300	0	0			
Samuel Sheehy	"	200	0	0	100	0	0	300	0	0			
H. Hoelzel	"	200	0	0	200	0	0	200	0	0			
W. Stack	Jewish	200	0	0	100	0	0	300	0	0			
J. J. Therry	C. of E.	150	0	0	66	13	0	216	13	0			
C. C. Kemp	R. C.	200	0	0	66	13	0	266	13	0			
A. H. Stephen	C. of E.	200	0	0	100	0	0	300	0	0			
W. A. Quick	"	150	0	0	100	0	0	250	0	0			
James Milnes	Wesl.	102	0	0	100	0	0	202	0	0			
W. B. Clarke, M.A.	C. of E.	200	0	0	66	13	0	266	13	0			
Peter Powell	R. C.	150	0	0	100	0	0	250	0	0			
H. S. King	C. of E.	200	0	0	100	0	0	300	0	0			
D. V. M. O'Connell	R. C.	150	0	0	75	0	0	225	0	0			
John Sheridan	"	50	0	0	25	0	0	75	0	0			
John Maher	R. C.	62	10	0	41	13	4	104	3	4			
C. Twomey	"	87	10	0	58	6	8	145	16	8			
S. Hungerford	C. of E.	100	0	0	66	13	0	166	13	0			
T. McCarthy	R. C.	150	0	0	100	0	0	250	0	0			
T. Sharpe	C. of E.	200	0	0	66	13	0	266	13	0			
J. B. Loughton	"	150	0	0	66	13	0	216	13	0			
J. Oram	Presb.	150	0	0	100	0	0	250	0	0			
J. Grant	Wesl.	150	0	0	66	13	0	216	13	0			
J. Allan	R. C.	200	0	0	66	13	0	266	13	0			
E. K. Yeatman	C. of E.	100	0	0	66	13	0	166	13	0			
J. Hanly	"	93	15	0	62	10	0	155	25	0			
J. Rigney	R. C.	56	5	0	37	10	0	93	15	0			
Carried forward		8,934	10	6	200	0	0	3,360	6	0	12,390	9	0
Albury	645				250	0	0	250	0	0	250	0	0
Armidale	857				416	13	0	416	13	0	416	13	0
Bathurst	3,249				1,145	11	6	1,145	11	6	1,145	11	6
Braidwood	507				266	13	0	266	13	0	266	13	0
Brisbane	4,395				466	13	0	466	13	0	466	13	0

Sydney Hamlets

Surry Hills

RELIGIOUS ENDOWMENTS.

TOWN.	POPULATION CENSUS OF 1856.	NAME OF MINISTER.	DENOMINATION.	PAID OUT OF SCHEDULE C.		PAID OUT OF THE CONSOLIDATED REVENUE FUND.				Total Payments to each Minister. £ s. d.	Total paid in each Town. £ s. d.	
				Fixed Stipend. £ s. d.	Allowances. £ s. d.	Fixed Stipend. £ s. d.	Additional Stipend. £ s. d.	Salary as Gael Chaplain. £ s. d.	Allowances. £ s. d.			
Camden	458	Brought forward.....		8,934 10 6	45 12 6	200 0 0	3,360 6 0	340 0 0	50 0 0	12,930 9 0	12,930 9 0	
		Rev'd. E. Rogers.....	C. of E. Wesl.	200 0 0	.....	.....	100 0 0	.....	.....	.....	300 0 0	500 0 0
		C. W. Rigg.....	C. of E.	150 0 0	.....	.....	100 0 0	.....	.....	.....	200 0 0	500 0 0
Campbelltown	627	T. Reidtall.....	"	8 1 3	.....	.....	2 13 9	.....	.....	10 15 0	.....	.....
		" succeeded by G. M. Betts.....	"	41 18 8	.....	.....	13 15 10	.....	.....	55 14 6	783 2 3	.....
		" succeeded by E. Smith.....	"	150 0 0	.....	.....	49 19 9	.....	.....	199 19 9	.....	.....
Carcoar	364	W. M. Kce.....	Presb.	150 0 0	.....	.....	100 0 0	.....	.....	200 0 0	.....	.....
		J. P. Roche.....	R. C.	200 0 0	.....	.....	66 13 0	.....	.....	266 13 0	.....	.....
		H. Tingcombe.....	C. of E.	200 0 0	.....	.....	66 13 0	.....	.....	.....	266 13 0	.....
Dungog	356	B. Murphy.....	R. C.	200 0 0	.....	.....	100 0 0	.....	.....	300 0 0	.....	.....
		A. Wayn.....	C. of E.	100 0 0	.....	.....	100 0 0	.....	.....	200 0 0	.....	.....
		W. Sowerby.....	"	200 0 0	.....	.....	66 13 0	.....	.....	.....	291 13 0	.....
Goulburn	1,779	W. Ross.....	Presb.	160 0 0	.....	.....	66 13 0	.....	.....	226 13 0	.....	.....
		R. W. Ish.....	R. C.	200 0 0	.....	.....	66 13 0	.....	.....	291 13 0	.....	.....
		C. Creed.....	W. sl.	150 0 0	.....	.....	100 0 0	.....	.....	.....	250 0 0	.....
Hinton	418	R. Blain.....	Presb.	200 0 0	.....	.....	66 13 0	.....	.....	266 13 0	.....	.....
		W. L. Nelson, L.L.D.....	"	150 0 0	.....	.....	100 0 0	.....	.....	.....	250 0 0	.....
		W. M. Ginty.....	R. C.	200 0 0	.....	.....	66 13 0	.....	.....	.....	266 13 0	.....
Ipswich	2,459	W. Lisle.....	C. of E.	150 0 0	.....	.....	100 0 0	.....	.....	250 0 0	.....	.....
		J. Phelan.....	R. C.	200 0 0	.....	.....	100 0 0	.....	.....	.....	300 0 0	.....
		J. Barnier.....	C. of E.	200 0 0	.....	.....	66 13 0	.....	.....	.....	266 13 0	.....
Kelso	843	P. Young.....	R. C.	160 0 0	.....	.....	100 0 0	.....	.....	260 0 0	.....	.....
		C. F. D. Priddle.....	C. of E.	200 0 0	.....	.....	66 13 0	.....	.....	.....	266 13 0	.....
		G. Lovat.....	R. C.	200 0 0	.....	.....	66 13 0	.....	.....	.....	266 13 0	.....
Kiama	495	J. Cross.....	C. of E.	200 0 0	.....	.....	100 0 0	.....	.....	300 0 0	.....	.....
		T. O'Reilly.....	"	160 0 0	.....	.....	66 13 0	.....	.....	.....	226 13 0	.....
		E. Holland.....	Presb.	150 0 0	.....	.....	66 13 0	.....	.....	.....	216 13 0	.....
Liverpool	627	G. K. Busd n. M.A.....	C. of E.	200 0 0	45 12 6	.....	66 13 0	.....	.....	397 5 6	.....	.....
		J. Kenny.....	R. C.	200 0 0	.....	.....	100 0 0	.....	.....	300 0 0	.....	.....
		R. Chapman.....	C. of E.	200 0 0	.....	.....	66 13 0	.....	.....	.....	266 13 0	.....
Macquarie (Port)	495	W. Purves.....	Presb.	200 0 0	.....	.....	100 0 0	.....	.....	300 0 0	.....	.....
		B. Chapman.....	Wesl.	150 0 0	.....	.....	100 0 0	.....	.....	.....	250 0 0	.....
		J. T. Lynch.....	R. C.	200 0 0	.....	.....	100 0 0	.....	.....	.....	325 0 0	.....
Maitland (East)	1,555	J. R. Blomfield.....	C. of E.	33 6 8	.....	.....	11 2 2	.....	.....	44 8 10	.....	.....
		" succeeded by L. Tyrrell.....	"	83 6 8	.....	.....	27 15 5	.....	.....	111 2 1	.....	.....
		R. G. Boodle, M.A.....	"	83 6 8	.....	.....	27 15 5	.....	.....	.....	111 2 1	.....
Maitland (West)	4,441	J. Gündner.....	R. C.	200 0 0	.....	.....	66 13 0	.....	.....	266 13 0	.....	.....
		C. M' arthy.....	C. of E.	150 0 0	.....	.....	66 13 0	.....	.....	.....	216 13 0	.....
		R. G. Boodle, M.A.....	"	116 13 4	.....	.....	38 17 7	.....	.....	.....	155 10 11	.....
Morpeth	1,472	" succeeded by J. A. Greaves.....	C. of E.	83 6 8	.....	.....	27 15 5	.....	.....	111 2 1	.....	.....
		The Right Rev. W. Tyrrell, D.D.....	"	500 0 0	.....	.....	116 13 0	.....	.....	.....	616 13 0	.....
		Rev'd. C. P. N. Wilton.....	Presb.	200 0 0	45 12 6	.....	66 13 0	.....	.....	.....	362 5 6	.....
Mudgee	803	J. Nimmo.....	R. C.	150 0 0	.....	.....	100 0 0	.....	.....	250 0 0	.....	.....
		" C. V. Dowling.....	"	150 0 0	.....	.....	100 0 0	.....	.....	.....	250 0 0	.....
		Carried forward.....		16,134 10 5	136 17 6	200 0 0	6,443 2 4	440 0 0	170 0 0	.....	23,524 10 3	23,524 10 3
Muswellbrook	450	" succeeded by J. A. Greaves.....	C. of E.	83 6 8	.....	.....	27 15 5	.....	.....	111 2 1	.....
Newcastle	1,404	Rev'd. C. P. N. Wilton.....	Presb.	200 0 0	.....	.....	66 13 0	.....	.....	362 5 6	.....	.....
		J. Nimmo.....	"	150 0 0	.....	.....	100 0 0	.....	.....	.....	250 0 0	.....
		C. V. Dowling.....	"	150 0 0	.....	.....	100 0 0	.....	.....	.....	250 0 0	.....

RELIGIOUS ENDOWMENTS.

TOWN.	POPULATION, CENSUS OF 1856.	NAME OF MINISTER.	DENOMINATION.	PAID OUT OF SCHEDULE C.				PAID OUT OF THE CONSOLIDATED REVENUE FUND.				Total Payments to each Minister.	Total paid in each Town.
				Fixed Stipend.	Allowances.	Fixed Stipend.	Additional Stipend.	Salary as Chaplain.	Allowances.				
		Brought forward.....		f. s. d.	f. s. d.	f. s. d.	f. s. d.	f. s. d.	f. s. d.	f. s. d.	f. s. d.	f. s. d.	f. s. d.
Paramatta	5,420	Rev'd. R. L. King	C. of E.	16,134 10 5	136 17 6	200 0 0	6,443 2 4	440 0 0	170 0 0	291 13 0	23,524 10 3	23,524 10 3	
		" W. F. Gore	"	200 0 0	.....	200 0 0	.....	25 0 0	.....	300 0 0	.....	.....
		" J. Coultis	Presb. West.	150 0 0	.....	100 0 0	.....	.....	.....	250 0 0	.....	.....
		" S. Rabone	R. C.	200 0 0	.....	100 0 0	.....	.....	.....	300 0 0	.....	.....	1,421 7 1
		" N. J. Coffey	"	175 0 0	.....	58 6 4	.....	20 16 8	.....	251 3 0	.....	.....
		" J. C. Sumner	"	16 13 4	.....	5 11 1	.....	3 6 8	.....	25 11 1	.....	.....
		" T. W. Adams	C. of E.	200 0 0	.....	66 13 0	.....	.....	.....	266 13 0	.....	.....	516 13 0
		" T. Stirton	Presb.	150 0 0	.....	100 0 0	.....	.....	.....	250 0 0	.....	.....
		" Elijah Smith	C. of E.	200 0 0	.....	66 13 0	.....	.....	.....	266 13 0	.....	.....	566 13 0
		" M. Brennan	R. C.	200 0 0	.....	100 0 0	.....	.....	.....	300 0 0	.....	.....
		" E. Smith	C. of M.	50 0 0	.....	16 13 3	.....	.....	.....	66 13 3	.....	.....
		" A. D. Soares	"	150 0 0	.....	49 19 9	.....	.....	.....	199 19 9	.....	.....	533 6 0
		" M. Kavanagh	R. C.	200 0 0	.....	66 13 0	.....	.....	.....	266 13 0	.....	.....
		" L. Tyrrell	C. of E.	33 6 8	.....	11 2 2	.....	.....	.....	44 8 10	.....	.....
		" J. R. Blomfield	"	166 13 4	.....	55 10 10	.....	.....	.....	222 4 2	.....	.....	516 13 0
		" J. Martin	R. C.	62 10 0	.....	41 13 4	.....	.....	.....	104 3 4	.....	.....
		" E. Luethe	"	87 10 0	.....	58 6 8	.....	.....	.....	145 16 8	.....	.....
		" J. Elder	C. of E.	200 0 0	.....	66 13 0	.....	.....	.....	266 13 0	.....	.....	206 13 0
		" J. Blackwood	"	200 0 0	.....	66 13 0	.....	.....	.....	266 13 0	.....	.....
		" James S. White	Presb.	150 0 0	.....	66 13 0	.....	.....	.....	216 13 0	.....	.....	783 6 0
		" J. Rigney	R. C.	125 0 0	.....	62 10 0	.....	.....	.....	187 10 0	.....	.....
		" J. Hanly	"	75 0 0	.....	37 10 0	.....	.....	.....	112 10 0	.....	.....
		" H. A. Palmer	C. of E.	.....	.....	200 0 0	.....	.....	84 7 6	384 7 6	.....	.....
		" A. M'Ewen	Presb.	.....	.....	200 0 0	.....	.....	30 0 0	330 0 0	.....	.....	1,428 15 0
		" J. W. Dowson	West.	.....	.....	200 0 0	.....	.....	30 0 0	330 0 0	.....	.....
		" D. McGuinn	R. C.	.....	.....	200 0 0	.....	.....	84 7 6	384 7 6	.....	.....
		" E. Williams	C. of R.	100 0 0	.....	100 0 0	.....	.....	.....	200 0 0	.....	.....	200 0 0
		" H. T. Stiles	C. of E.	250 0 0	45 12 6	66 13 0	.....	.....	.....	362 5 6	.....	.....	1,128 18 6
		" M. Adam	Presb.	150 0 0	.....	100 0 0	.....	.....	.....	250 0 0	.....	.....
		" P. Hallinan	R. C.	200 0 0	.....	66 13 0	.....	.....	.....	266 13 0	.....	.....
		" J. Watkin	West.	150 0 0	.....	100 0 0	.....	.....	.....	250 0 0	.....	.....
		" M. D. Mcarves, M. A.	C. of E.	166 13 4	30 7 6	44 8 8	.....	.....	40 0 0	281 9 6	.....	.....
		" T. C. Ewing	"	66 13 4	.....	.....	.....	.....	.....	66 13 4	.....	.....
		" C. Atelison	Presb.	150 0 0	.....	100 0 0	.....	.....	.....	250 0 0	.....	.....	1,114 15 10
		" S. Wilkinson	West.	150 0 0	.....	100 0 0	.....	.....	.....	250 0 0	.....	.....
		" J. C. Sumner	R. C.	183 6 8	.....	61 1 11	.....	.....	.....	244 8 7	.....	.....	588 6 0
		" W. X. Johnson	"	16 13 4	.....	5 11 1	.....	.....	.....	22 4 5	.....	.....
		" C. F. Brigstocke	C. of E.	200 0 0	.....	66 13 0	.....	.....	.....	266 13 0	.....	.....
		" P. Magennis	R. C.	83 6 8	.....	27 15 5	.....	.....	.....	111 2 1	.....	.....
		" M. M'Alroy	"	116 13 4	.....	38 17 7	.....	.....	.....	155 10 11	.....	.....
		TOTAL.....		21,309 10 5	212 17 6	1,000 0 0	9,084 10 5	480 3 4	438 15 0	32,534 16 8	43,097 6 6	43,097 6 6	
		Remaining portion of the Colony		5,770 16 8	97 7 6	1,000 0 0	3,184 8 4	240 0 0	269 17 4	10,562 9 10	10,562 9 10	10,562 9 10	

W. C. MAYNE,
Auditor General.

Audit Office, Sydney, New South Wales,
7 January, 1859.

RELIGIOUS ENDOWMENTS.

No. 1.—1856.

A RETURN, shewing the particulars of the Amount paid from the Public Revenues of the Colony of New South Wales for Public Worship for the Year 1858.

No.	NAME.	STATION.	PAID OUT OF THE SCHEDULE FOR PUBLIC WORSHIP.			PAID OUT OF THE CONSOLIDATED REVENUE FUND.					TOTAL.	
			Fixed Stipend.	In lieu of Forage.	In lieu of Forage.	Fixed Stipend.	Salary as Chaplain.	In lieu of Forage.	In lieu of House Rent.	Temporary Addition to Stipend.		
<i>Sydney Diocese.</i>												
Church of England.												
1	Right Reverend Fredk. Barker, D.D.	Bishop and Metropolitan	1,700 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
2	Venerable Archdeacon Cowper, D.D.	St. Philip, Sydney	230 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
3	Very Rev. W. M. Cowper	Dean of Sydney	141 2 7	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
4	Rev. Robert Allwood	St. Philip, Sydney	66 13 4	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
5	George King	St. James, Sydney	200 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
6	W. H. Walsh	St. Andrew, Sydney	200 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
7	Forster Ashwin	St. Lawrence, Sydney	200 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
8	G. F. Macarthur	Holy Trinity, Sydney	116 13 4	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
9	T. H. Wilkinson	Kiama	83 6 8	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
10	H. D. D. Spaling	Alexandria	87 10 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
11	Thomas Sharpe	Alexandria	62 10 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
12	J. S. Hassall	Ashfield	150 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
13	James Allan	Appin	150 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
14	E. B. Proctor	Balmain	200 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
15	M. D. Meares	Bathurst	200 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
16	A. H. Stephen	Berrima	150 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
17	Edward Smith	Braidwood	200 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
18	P. G. Smith	Bungonia	200 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
19	J. A. Burke	Burwood	250 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
20	Henry Tingcombe	Chippendale	175 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
21	E. J. Nixon	Campbelltown	200 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
22	Thomas Drutt	Camperdown	200 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
23	W. R. Croxton	Canbury	150 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
24	W. W. Simpson	Carcoar	83 6 8	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
25	G. N. Wood	Caundon	116 13 4	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
26	Wm. Soverby	Cook's River	83 6 8	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
27	D. P. M. Hulbert	Coona	200 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
28	Edward Rogers	Darlinghurst (half salary)	41 13 4	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
29	G. E. Turner	Dapto	200 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
30	W. R. Croxton	Denham Court, &c.	200 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
31	Wm. Lisle	Goulburn	200 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
32	James Barnier	Gunning, Collector	150 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
33	C. F. D. Priddle	Camden	116 13 4	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
	W. F. Gore	Holy Trinity	83 6 8	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
		Hunter's Hill, Rydc. &c.	200 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
		Kiama	16 13 4	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
		Kelso	200 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
		Kiama	83 6 8	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
		Liverpool	200 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
		Marsfield	200 0 0	0 0	0 0	.....	.....	.....	.....	.....	.....	.....
		Carried forward	7,787 15 11	91 5 0	110 0 0	.....	.....	.....	.....	.....	.....	.....
			£									

* Of this sum £900 Os. Od. has as yet been provided out of the income derived by the Bishop from the Bishopsthorpe Estate.

RELIGIOUS ENDOWMENTS.

RETURN No. 1.—Continued.

No.	NAME.	STATION.	PAID OUT OF THE SCHEDULE FOR PUBLIC WORSHIP.		PAID OUT OF THE CONSOLIDATED REVENUE FUND.				TOTAL.	
			Fixed Stipend.	In lieu of Forage.	Fixed Stipend.	Salary as Gael Chaplain.	In lieu of Forage.	In lieu of House Rent.		Temporary Addition to Stipend.
		Brought forward.....	£ 7,787 15 11	91 5 0	.....	50 0 0	.....	110 0 0	2,619 2 0	10,658 2 11
		<i>Church of England.—Continued.</i>								
		<i>Sydney Diocese—Continued.</i>								
34	Rev. James Günther	Mudgee	200 0 0	.....	.....	.....	.....	.....	66 13 0	266 13 0
35	" George Vidal	Mulgoa and Greendale	200 0 0	.....	.....	.....	.....	.....	66 13 0	266 13 0
36	" Thomas Hassall	Narellan	250 0 0	45 12 6	.....	.....	60 0 0	.....	66 13 0	422 5 6
37	" R. L. King	Parramatta	200 0 0	.....	.....	25 0 0	.....	.....	66 13 0	291 13 0
38	" Thomas Donkin	Prospect	200 0 0	.....	.....	.....	.....	.....	100 0 0	300 0 0
39	" Thomas Wilson	Pitt Town	200 0 0	.....	.....	.....	.....	.....	100 0 0	300 0 0
40	" Elijah Smith	Penrith and South Creek	200 0 0	.....	.....	.....	.....	.....	66 13 0	266 13 0
41	" A. D. Soares	Queanbeyan	200 0 0	.....	.....	.....	.....	.....	66 13 0	266 13 0
42	" John Elder	Richmond	200 0 0	.....	.....	.....	.....	.....	66 13 0	266 13 0
43	" W. B. Clarke	St. Leonard's	200 0 0	.....	.....	.....	.....	.....	66 13 0	266 13 0
44	" William Stone	Sutton Forest, &c.	100 0 0	.....	.....	.....	.....	.....	33 6 6	133 6 6
45	" Thomas Horton	Sutton Forest, &c.	100 0 0	.....	.....	.....	.....	.....	33 6 6	133 6 6
46	" H. S. King	Sutton Forest, &c.	250 0 0	.....	.....	.....	.....	.....	66 13 0	316 13 0
47	" H. T. Stiles	Surry Hills	200 0 0	45 12 6	.....	.....	.....	.....	66 13 0	266 13 0
48	" T. C. Ewing	Windsor	200 0 0	.....	.....	.....	.....	.....	66 13 0	266 13 0
49	" C. F. Brigstocke	Wollongong	200 0 0	.....	.....	.....	.....	.....	66 13 0	266 13 0
50	" C. H. Rich	Yaas	200 0 0	.....	.....	.....	.....	.....	66 13 0	266 13 0
51	" William Coombes	Araluen	200 0 0	.....	.....	.....	.....	.....	66 13 0	266 13 0
52	" H. A. Palmer	Meroo	200 0 0	.....	.....	.....	.....	.....	66 13 0	266 13 0
53	" P. F. Agnew	Sofala	200 0 0	.....	.....	.....	.....	.....	66 13 0	266 13 0
	" Edward Synge	Sydney Gael and Cockatoo Island Military Chaplain	.....	.....	.....	240 0 0	.....	.....	82 0 0	*82 0 0
		<i>Newcastle Diocese.</i>	10,887 15 11	182 10 0	260 8 0	315 0 0	260 8 0	170 0 0	3,934 5 0	16,349 18 11
1	Right Reverend W. Tyrrell, D.D.	Bishop of Newcastle	500 0 0	.....	.....	.....	.....	.....	116 13 0	616 13 0
2	Rev. S. Hungerford	Armidale	100 0 0	.....	.....	.....	.....	.....	66 13 0	166 13 0
3	" E. K. Yeaman	Brisbane	75 0 0	.....	.....	18 15 0	.....	.....	49 19 9	143 14 9
4	" John Moseley	Brisbane	25 0 0	.....	.....	6 5 0	.....	.....	16 13 3	47 18 3
5	" A. E. Selwyn	Clarence River	100 0 0	.....	.....	.....	.....	.....	100 0 0	200 0 0
6	" T. L. Dodd	Dungog	50 0 0	.....	.....	.....	.....	.....	50 0 0	100 0 0
7	" Arthur Wayn	Dungog	75 0 0	.....	.....	.....	.....	.....	33 6 6	208 6 6
8	" Joseph Cooper	Hexham	200 0 0	.....	.....	.....	.....	.....	100 0 0	300 0 0
9	" Alfred Glennie	Falbrook, &c.	200 0 0	.....	.....	.....	.....	.....	66 13 0	266 13 0
10	" R. T. Bolton	Gosford	100 0 0	.....	.....	.....	.....	.....	66 13 0	266 13 0
11	" Thomas Horton	Hexham	100 0 0	18 5 0	.....	.....	.....	.....	66 13 0	263 18 0
12	" Thomas Horton	Lower Hawkesbury	100 0 0	18 5 0	.....	.....	.....	.....	33 6 6	161 11 6
		Lower Hawkesbury	.....	.....	.....	.....	.....	.....	.....	.....
		Carried forward.....	£ 1,650 0 0	36 10 0	.....	25 0 0	.....	.....	749 18 0	2,461 8 0
		Carried forward.....	£ 10,887 15 11	182 10 0	260 8 0	315 0 0	260 8 0	170 0 0	3,934 5 0	16,349 18 11

* From 1 November, 1867, to 30 September, 1868.

RELIGIOUS ENDOWMENTS.

RETURN No. 1—Continued.

No.	NAME.	STATION.	PAID OUT OF THE SCHEDULE FOR PUBLIC WORSHIP.		PAID OUT OF THE CONSOLIDATED REVENUE FUND.				TOTAL.
			Fixed Stipend.	In lieu of Forage.	Fixed Stipend.	In lieu of Forage.	In lieu of House Rent.	Temporary Addition to Stipend.	
		Brought forward	£ 17,759 13 9	310 5 0	1,000 0 0	320 8 0	260 0 0	7,257 3 1	27,272 9 10
		Methodist Church.							
1	Rev. H. H. Gaud	Sydney, Prince street	37 10 0					25 0 0	250 0 0
2	"	Bathurst	112 10 0					75 0 0	250 0 0
3	Joseph Orum	Bathurst	37 10 0					25 0 0	250 0 0
4	"	Sydney	112 10 0					75 0 0	272 10 6
5	"	Sydney	172 10 6					100 0 0	300 0 0
6	S. Ironside	Farramahi	200 0 0					100 0 0	250 0 0
7	Stephen Kibone	West Maitland	150 0 0					100 0 0	250 0 0
8	Benjamin Chapman	Newtown	150 0 0					100 0 0	250 0 0
9	W. A. Quick	Windsor	150 0 0					100 0 0	250 0 0
10	James Watkin	Goulburn	150 0 0					100 0 0	250 0 0
11	Charles Creed	Camden	150 0 0					100 0 0	250 0 0
12	C. W. Rigg	Wollongong	150 0 0					100 0 0	250 0 0
	Samuel Wilkinson	Aratuen			200 0 0	30 0 0		100 0 0	380 0 0
	William Kelynaek	Sofala			50 0 0	7 10 0		25 0 0	82 10 0
	J. W. Dowson	Sofala			150 0 0	22 10 0		75 0 0	247 10 0
	John Bowes	Sofala							
		Total, Methodist Church	£ 1,572 10 6		400 0 0	60 0 0		1,200 0 0	3,282 10 6
		Church of Rome.							
1	Most Rev. J. B. Polking	Archbishop	800 0 0					133 6 0	933 6 0
2	Right Rev. H. G. Abbot Gregory	Vicar General	300 0 0					100 0 0	400 0 0
3	Rev. John McEnroe	St. Mary's, Sydney	186 7 8					87 0 6	273 8 2
4	Jerome Keating	St. Patrick's Sydney	200 0 0					100 0 0	300 0 0
5	Michael Gorish	St. Benedict's, Sydney	200 0 0					100 0 0	300 0 0
6	"	Albury	150 0 0					100 0 0	250 0 0
7	Cornelius Twomey	Appin	200 0 0					100 0 0	300 0 0
8	John Maher	Armidale	150 0 0					100 0 0	250 0 0
9	Timothy McCarthy	Balmora	150 0 0					66 13 0	216 13 0
10	J. J. Tierney	Bathurst	200 0 0					66 13 0	266 13 0
11	John Grant	Berrima	150 0 0					100 0 0	250 0 0
12	Patrick Mage nis	Brisbane Water	150 0 0					66 13 0	216 13 0
13	Henry Woolfrey	Campbelltown	200 0 0					100 0 0	300 0 0
14	J. P. Roche	Carcoar	200 0 0					66 13 0	266 13 0
15	Bernard Murphy	Goulburn	200 0 0					100 0 0	300 0 0
16	Richard Walsh	Hartley	200 0 0					66 13 0	266 13 0
17	Peter O'Farrell	Liverpool	31 0 11					20 13 11	51 14 2
18	William McGinty	Ipswich	153 12 0					52 17 2	205 29 2
19	James Phelan	Kelso	150 0 0					100 0 0	250 0 0
	"	Hartley	41 7 11					20 13 11	61 21 2
	"	Kiama	118 19 0					79 6 1	197 25 1
	"	"	150 0 0					100 0 0	250 0 0
	"	"							
		Carried forward	£ 4,086 7 6					1,727 2 7	5,813 10 1
		Carried forward	£ 19,332 4 3	310 5 0	1,400 0 0	380 8 0	260 0 0	8,437 3 1	30,505 0 4

RELIGIOUS ENDOWMENTS.

RETURN No. 1—Continued.

No.	NAME.	STATION.	PAID OUT OF THE SCHEDULE FOR PUBLIC WORSHIP.		PAID OUT OF THE CONSOLIDATED REVENUE FUND.					TOTAL.
			Fixed Stipend.	In lieu of Forage.	Fixed Stipend.	Salary as Gaol Chaplain.	In lieu of Forage.	In lieu of House Rent.	Temporary Addition to Stipend.	
		Brought forward	£ 19,932 4 3	310 5 0	1,400 0 0	865 0 0	880 8 0	260 0 0	8,467 3 1	30,505 0 4
		Church of Rome.—Continued.	£ 4,086 7 6			50 0 0			1,727 2 7	5,863 10 1
		Brought forward	41 7 11						13 15 10	55 3 9
20	Charles Lovat	Liverpool	200 0 0						100 0 0	300 0 0
21	John Kenny	East Maitland	200 0 0			25 0 0			100 0 0	325 0 0
22	J. T. Lynch	West Maitland	131 5 0						87 10 0	218 15 0
23	Joseph Martin	Macedonald River	43 15 0			25 0 0			29 8 4	72 18 4
24	Henry Garnett	Millendary	150 0 0						100 0 0	250 0 0
25	John Rigney	Moreton Bay	150 0 0						66 13 0	216 13 0
26	Calaghan M'Carthy	Mudgee	150 0 0						100 0 0	250 0 0
27	C. V. Dowling	Newcastle	200 0 0			25 0 0			66 13 0	291 13 0
28	J. C. Sumner	Paramatta	200 0 0						100 0 0	300 0 0
29	Michael Brennan	Penrith	150 0 0						100 0 0	250 0 0
30	Patrick Birch	Petersham	200 0 0						66 13 0	266 13 0
31	Michael Kavanagh	Queanbeyan	150 0 0						100 0 0	250 0 0
32	Eugene Lutskie	Raymond Terrace	150 0 0						100 0 0	250 0 0
33	J. L. Rocher	Ryde	200 0 0						100 0 0	300 0 0
34	John Sheridan	Surry Hills	200 0 0						100 0 0	300 0 0
35	James Hanly	Singleton	150 0 0						140 0 0	290 0 0
36	Peter Powell	St. Leonard's	200 0 0						66 13 0	266 13 0
37	Patrick Hallinan	Windsor	200 0 0						66 13 0	266 13 0
38	W. X. Johnson	Wollongong	200 0 0						66 13 0	266 13 0
39	Michael M'Alroy	Yass	168 12 0			120 0 0			79 6 1	237 18 1
40	Patrick Donelly	Sydney Gaol				120 0 0			100 0 0	220 0 0
41	A. J. Ford	Kelso							100 0 0	100 0 0
42	Edward O'Brien	Cockatoo Island				200 0 0			80 0 0	280 0 0
43	Denis M'Guinn	Araban				200 0 0			94 7 10	294 7 10
		Sofala								
		Total, Church of Rome	£ 7,511 7 5	310 5 0	400 0 0	365 0 0	124 7 10	260 0 0	3,636 15 10	12,037 11 1
		Jewish Synagogue.								
1	Rev. Herman Hoelzel, succeeded by	Sydney			50 0 0					50 0 0
	" Morice Cohen	Sydney			150 0 0					150 0 0
		Total	£ 26,843 11 8	310 5 0	2,000 0 0	720 0 0	504 15 10	260 0 0	12,093 18 11	42,742 11 5

RELIGIOUS ENDOWMENTS.

ABSTRACT STATEMENT OF THE AMOUNT PAID FROM THE PUBLIC REVENUES OF THE COLONY OF NEW SOUTH WALES, FOR PUBLIC WORSHIP, FOR THE YEAR 1858.

PARTICULARS.	CHURCH OF ENGLAND.	PRESBYTERIAN CHURCH.	WESLEYAN METHODIST CHURCH.	ROMAN CATHOLIC CHURCH.	JEWISH MINISTER, SYDNEY.	TOTAL.
Amount Appropriated under Schedule C for 1858	14,684 6 5	2,852 15 11	1,572 10 6	8,940 7 2	.....	28,069 0 0
Payments therefrom as per foregoing Return.....	14,317 18 9	2,852 0 0	1,572 10 6	7,511 7 5	.....	*26,253 16 8
Surplus applied to meet additions to Stipends	316 7 8	0 15 11	.....	1,428 19 9	.....	*1,746 3 4
Payments from the Vote of 1858 to Supplement Schedule C	6,245 19 5	2,192 8 1	1,660 0 0	2,732 3 11	200 0 0	*13,030 11 5
Proportion of Bishop of Sydney's Stipend provided for out of Bishophorpe Estate ..	6,562 7 1	2,193 4 0	1,660 0 0	4,161 3 8	200 0 0	*14,776 14 9
Salaries of Gael Chaplains provided for by Votes for Gael Establishments.....	300 0 0	.....	.....	.....	.....	900 0 0
Allowance to Military Chaplain provided for by Vote for Military General Service ..	365 0 0	.....	.....	365 0 0	.....	730 0 0
.....	82 0 0	.....	.....	.....	.....	82 0 0
TOTAL	£ 22,227 5 10	5,045 4 0	3,232 10 6	12,037 11 1	200 0 0	42,742 11 5

* The whole of the claims for 1858 not having been yet disposed of, these totals cannot be relied upon as the amounts which will ultimately appear on the final settlement of the year's claims.

Audit Office, Sydney, New South Wales,
24th January, 1859.

W. C. MAYNE,
Auditor General.

RELIGIOUS ENDOWMENTS.

No. 2.—1858.

A RETURN shewing the particulars of Sums paid for Public Worship, during the Year 1858, in the City of Sydney, in the Sydney Hamlets, and in all other Towns containing, by the last Census, not fewer than 300 souls.

TOWN.	POPULATION OF 1856.	NAME OF MINISTER.	DENOMINATION.	PAID OUT OF SCHEDULE C.		PAID OUT OF THE CONSOLIDATED REVENUE FUND.				Total Payments to each Minister.	Total Paid in each Town.
				Fixed Stipend.	Allowances.	Fixed Stipend.	Additional Stipend.	Salary as Gaelic Chaplain.	Allowances.		
				£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Sydney	53,358	The Right Revd. F. Barker, D.D.	C. of E.	1,700 0 0	300 0 0	2,000 0 0	7,700 0 11	
		The Venerable Archdeacon W. Cowper, D.D. succeeded by Very Revd. W. M. Cowper	"	230 0 0	.....	.....	58 6 6	.....	288 6 6
		Revd. Robert Allwood, B.A.	"	207 15 11	.....	.....	27 15 6	.....	235 11 5
		" George King	"	200 0 0	.....	.....	66 13 0	.....	266 13 0
		" W. H. Walsh, M.A.	"	200 0 0	.....	.....	66 13 0	.....	266 13 0
		" Foster Ashwin	"	116 13 4	.....	.....	58 6 8	.....	175 0 0
		" succeeded by E. Rogers	"	83 5 8	.....	.....	41 13 4	.....	125 0 0
		" W. R. Croxton	"	41 13 4	.....	.....	.....	.....	41 13 4
		" P. F. Agnew	"	.....	.....	.....	.....	120 0 0	.....	
		" E. Synge	"	.....	.....	.....	82 0 0	.....	82 0 0
		" James Fullerton, L.L.D.	Presb.	200 0 0	.....	.....	66 13 0	.....	266 13 0
		" John Dougal	"	200 0 0	.....	.....	66 13 0	.....	266 13 0
		" John McGibbon	"	150 0 0	.....	.....	100 0 0	.....	250 0 0
		" H. H. Gaud	Wesl.	37 10 0	.....	.....	25 0 0	.....	62 10 0
		" succeeded by J. Oram	"	112 10 0	.....	.....	75 0 0	.....	187 10 0
		" S. Ironside	"	172 10 6	.....	.....	100 0 0	.....	272 10 6
		Most Revd. John Bede Polding	R. C.	800 0 0	.....	.....	133 6 0	.....	933 6 0
		Right Revd. H. G. Gregory	"	100 0 0	.....	.....	400 0 0	.....	500 0 0
		Revd. John M'Enroe	"	186 7 8	.....	.....	87 0 6	.....	273 8 2
		" Jerome Keating	"	200 0 0	.....	.....	100 0 0	.....	300 0 0
		" Michael Corish	"	200 0 0	.....	.....	100 0 0	.....	300 0 0
		" Samuel Sheehy	"	.....	.....	.....	.....	120 0 0	120 0 0
		" H. Hoelzel	Jewish	.....	.....	.....	50 0 0	.....	50 0 0
" succeeded by M. Cohen	"	.....	.....	.....	.....	.....	.....
" W. Stack	C. of E.	200 0 0	.....	.....	150 0 0	.....	350 0 0		
" J. J. Therry	R. C.	150 0 0	.....	.....	66 13 0	.....	216 13 0		
" C. C. Kemp	C. of E.	200 0 0	.....	.....	66 13 0	.....	266 13 0		
" A. H. Stephen	"	175 0 0	.....	.....	100 0 0	.....	275 0 0		
" W. A. Quick	Wesl.	150 0 0	.....	.....	100 0 0	.....	250 0 0		
" James Milne	Presb.	102 0 0	.....	.....	100 0 0	.....	202 0 0		
" W. B. Clarke, M.A.	C. of E.	200 0 0	.....	.....	66 13 0	.....	266 13 0		
" Peter Powell	R. C.	150 0 0	.....	.....	100 0 0	.....	250 0 0		
" H. S. King	C. of E.	200 0 0	.....	.....	.....	.....	200 0 0		
" John Sheridan	R. C.	200 0 0	.....	.....	.....	.....	200 0 0		
" C. Twomey	"	150 0 0	.....	.....	100 0 0	.....	250 0 0		
" S. Huncerford	Or of E.	100 0 0	.....	.....	66 13 0	.....	166 13 0		
" T. McCarthy	R. C.	150 0 0	.....	.....	100 0 0	.....	250 0 0		
Carried forward		7,665 7 5	.....	.....	200 0 0	2,738 5 6	10,893 12 11	10,893 12 11	

RELIGIOUS ENDOWMENTS.

TOWN.	POPULATION CENSUS OF 1856.	NAME OF MINISTER.	DENOMINATION.	PAID OUT OF SCHEDULE C.		PAID OUT OF THE CONSOLIDATED REVENUE FUND.				Total Payments to each Minister.	Total paid in each Town.
				Fixed Stipend.	Allowances.	Fixed Stipend.	Additional Stipend.	Salary as Chaplain.	Allowances.		
				£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Bathurst	3,249	Brought forward.		7,665 7 5		200 0 0	2,788 5 6	240 0 0		10,893 12 11	10,893 12 11
		Revd. T. Sharpe	C. of E.	200 0 0	45 12 6		66 13 0	25 0 0	50 0 0	387 5 6	
		" J. B. Laughton	Presb.	150 0 0			66 13 0			216 13 0	
		" J. Oran	Wesl.	37 10 0			25 0 0			62 10 0	1,145 11 6
		" succeeded by									
		" H. H. Gand	"	112 10 0			75 0 0			187 10 0	
		" J. Grant	R. C.	200 0 0			66 13 0	25 0 0		291 13 0	
Braidwood	507	" J. Allan	C. of E.	200 0 0			66 13 0			266 13 0	266 13 0
		" E. K. Yeatman	"	75 0 0			49 19 9	18 15 0		143 14 9	
		" succeeded by									
		" J. Moseley	"	25 0 0			16 13 3	6 5 0		47 18 3	466 13 0
		" J. Rigney	R. C.	150 0 0			100 0 0	25 0 0		275 0 0	
		" E. Rogers	C. of E.	116 13 4			58 6 8			176 0 0	
		" succeeded by									
		" H. Tingcombe	"	88 6 8			41 13 4			125 0 0	550 0 0
		" C. W. Rigg	Wesl.	150 0 0			100 0 0			250 0 0	
		" E. Smith	C. of E.	200 0 0			66 13 0			266 13 0	
Campbelltown	627	" W. McKee	Presb.	150 0 0			100 0 0			250 0 0	788 6 0
		" J. P. Roche	R. C.	200 0 0			66 13 0			266 13 0	
		" H. Tingcombe	C. of E.	116 13 4			38 17 7			155 10 11	
		" succeeded by									
		" J. A. Burke	"	83 6 8			27 15 5			111 2 1	566 13 0
		" R. Murphy	R. C.	200 0 0			100 0 0			300 0 0	
		" A. Wayn	C. of E.	50 0 0			50 0 0			100 0 0	200 0 0
		" succeeded by									
		" T. L. Dodd	"	50 0 0			50 0 0			100 0 0	
		" W. Sowerby	"	200 0 0			66 13 0	25 0		291 13 0	
		" W. Ross	Presb.	150 0 0			66 13 0			216 13 0	
		" R. Walsh	R. C.	200 0 0			66 13 0	25 0		291 13 0	1,049 19 0
		" C. Creed	Wesl.	150 0 0			100 0 0			250 0 0	
		" R. Blain	Presb.	200 0 0			66 13 0			266 13 0	266 13 0
		" W. L. Nelson, L. L. D.	"	150 0 0			100 0 0			250 0 0	
		" W. McHenry	R. C.	150 0 0			100 0 0			250 0 0	500 0 0
		" W. Lisle	C. of E.	200 0 0			66 13 0			266 13 0	
		" J. Phean	R. C.	41 7 11			20 13 11			62 1 10	566 12 11
		" succeeded by									
		" P. Donnelly	"	158 12 0			79 6 1			237 18 1	
		" J. Barner	C. of E.	89 6 8						83 6 8	
		" succeeded by									
		" W. R. Croxton	"	16 13 4						16 13 4	433 6 8
		" succeeded by									
		" F. Ashwin	"	83 6 8						83 6 8	
		" P. Young	R. C.	150 0 0			100 0 0			250 0 0	
		" C. F. D. Priddle	C. of E.	200 0 0			66 13 0			266 13 0	
		" C. Lovat	R. C.	41 7 11			18 15 10			55 3 9	533 5 11
		" succeeded by									
		" P. O. Farrell	"	158 12 0			52 17 2			211 9 2	
		" J. Cross	C. of E.	119 17 10			39 19 1		30 0 0	189 16 11	
		" T. O'Reilly	"	150 0 0			100 0 0			250 0 0	656 9 11
		" E. Holland	Presb.	150 0 0			66 13 0			216 13 0	
Macquarie (Port)	495										
		Carried forward.		12,968 11 9	45 12 6	200 0 0	5,194 12 7	390 0 0	80 0 0	18,878 16 10	18,878 16 10

RELIGIOUS ENDOWMENTS.

TOWN.	POPULATION, CENSUS OF 1856.	NAME OF MINISTER.	DENOMINATION.	PAID OUT OF SCHEDULE C.		PAID OUT OF THE CONSOLIDATED REVENUE FUND.				Total Payments to each Minister.	Total paid in each Town.
				Fixed Stipend.	Allowances.	Fixed Stipend.	Additional Stipend.	Salary as Catech. Chaplain.	Allowances.		
				£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Maitland (East)	1,555	Brought forward.....		12,968 11 9	45 12 6	200 0 0	5,194 12 7	300 0 0	60 0 0	18,878 16 10	18,878 16 10
Maitland (West)	4,441	Rev. G. K. Rusden, M.A.	U. of E.	200 0 0	45 12 6	.....	66 13 0	25 0 0	60 0 0	397 5 6	697 5 6
		" J. Kenny	R. C.	200 0 0	.....	.....	100 0 0	.....	.....	300 0 0	.....
		" R. Chapman	C. of E.	200 0 0	.....	.....	66 13 0	.....	.....	266 13 0	.....
		" W. Purves	Presb.	200 0 0	.....	.....	100 0 0	.....	.....	300 0 0	.....
		" B. Chapman	Wesl.	150 0 0	.....	.....	100 0 0	.....	.....	250 0 0	1,141 13 0
		" J. T. Lynch	R. C.	200 0 0	.....	.....	100 0 0	.....	.....	325 0 0	.....
		" R. G. Goodie, M.A.	C. of E.	200 0 0	.....	.....	66 13 0	.....	.....	266 13 0	.....
		" J. Günther	"	200 0 0	.....	.....	66 13 0	.....	.....	266 13 0	.....
		" C. McCarthy	R. C.	150 0 0	.....	.....	66 13 0	.....	.....	216 13 0	.....
		" J. A. Greaves	C. of E.	200 0 0	.....	.....	66 13 0	.....	.....	266 13 0	.....
		The Right Rev. W. Tyrrell, D.D.	"	500 0 0	45 12 6	.....	116 13 0	.....	.....	616 13 0	.....
		Rev. C. P. N. Wilton	Presb.	250 0 0	.....	.....	66 13 0	.....	.....	362 5 6	1,478 18 6
		" J. Nimmo	R. C.	150 0 0	.....	.....	100 0 0	.....	.....	250 0 0	.....
		" R. L. King	C. of E.	150 0 0	.....	.....	100 0 0	.....	.....	250 0 0	.....
		" W. F. Gore	C. of E.	200 0 0	.....	.....	66 13 0	.....	.....	291 13 0	.....
		" J. Coultis	Presb.	200 0 0	.....	.....	100 0 0	.....	.....	300 0 0	.....
		" S. Babone	Wesl.	150 0 0	.....	.....	100 0 0	.....	.....	250 0 0	.....
		" J. C. Sumner	R. C.	200 0 0	.....	.....	66 13 0	.....	.....	291 13 0	.....
		" F. W. Adams	C. of E.	200 0 0	.....	.....	66 13 0	.....	.....	266 13 0	.....
		" T. Sturton	Presb.	150 0 0	.....	.....	100 0 0	.....	.....	250 0 0	.....
		" Elijah Smith	C. of E.	200 0 0	.....	.....	66 13 0	.....	.....	266 13 0	.....
		" M. Brennan	R. C.	200 0 0	.....	.....	100 0 0	.....	.....	300 0 0	.....
		" A. D. Soares	C. of E.	200 0 0	.....	.....	66 13 0	.....	.....	266 13 0	.....
		" M. Kavanagh	R. C.	200 0 0	.....	.....	66 13 0	.....	.....	266 13 0	.....
		" J. B. Blomfield	C. of E.	200 0 0	.....	.....	66 13 0	.....	.....	266 13 0	.....
		" E. Lackie	R. C.	150 0 0	.....	.....	100 0 0	.....	.....	250 0 0	.....
		" J. Elder	C. of E.	200 0 0	.....	.....	66 13 0	.....	.....	266 13 0	.....
		" J. Blackwood	Presb.	200 0 0	.....	.....	66 13 0	.....	.....	266 13 0	.....
		" James S. White	R. C.	150 0 0	.....	.....	66 13 0	.....	.....	216 13 0	.....
		" J. Hanly	C. of E.	200 0 0	.....	.....	100 0 0	.....	.....	300 0 0	.....
		" H. A. Palmer	Presb.	200 0 0	.....	.....	100 0 0	.....	.....	300 0 0	.....
		" A. McEwen	Wesl.	200 0 0	.....	.....	100 0 0	.....	.....	300 0 0	.....
		" J. W. Dowson	"	50 0 0	.....	.....	25 0 0	.....	.....	82 10 0	.....
		succeeded by		.....	.....	.....	.....	.....	.....	.....	.....
		" J. Bowes	R. C.	.....	.....	150 0 0	75 0 0	.....	22 10 0	247 10 0	.....
		" D. McGuinn	C. of E.	.....	.....	200 0 0	100 0 0	.....	94 7 10	334 7 10	.....
		" E. Williams	C. of E.	100 0 0	.....	.....	.....	.....	.....	100 0 0	.....
		" H. T. Stiles	Presb.	250 0 0	45 12 6	.....	66 13 0	.....	.....	362 5 6	.....
		" M. Adam	R. C.	150 0 0	.....	.....	100 0 0	.....	.....	250 0 0	.....
		" P. Hallinan	Wesl.	200 0 0	.....	.....	66 13 0	.....	.....	266 13 0	.....
		" J. Watkin	C. of E.	150 0 0	.....	.....	100 0 0	.....	.....	250 0 0	.....
		" T. C. Ewing	Presb.	200 0 0	.....	.....	100 0 0	.....	.....	300 0 0	.....
		" C. Archison	Wesl.	150 0 0	.....	.....	66 13 0	.....	.....	216 13 0	.....
		" S. Wilkinson	R. C.	200 0 0	.....	.....	66 13 0	.....	.....	266 13 0	.....
		" W. X. Johnson	C. of E.	200 0 0	.....	.....	66 13 0	.....	.....	266 13 0	.....
		" C. F. Brigstocke	R. C.	200 0 0	.....	.....	66 13 0	.....	.....	266 13 0	.....
		" M. McAlroy	"	200 0 0	.....	.....	66 13 0	.....	.....	266 13 0	.....
		TOTAL.....		£26,843 11 8	310 5 0	2,000 0 0	12,093 18 11	730 0 0	764 15 10	42,742 11 5	42,742 11 5
		Remaining portion of the Colony		21,068 11 9	182 10 0	1,000 0 0	8,877 11 7	490 0 0	388 15 8	32,007 9 0	32,007 9 0
				5,774 19 11	127 15 0	1,000 0 0	3,216 7 4	240 0 0	376 0 0	10,735 2 5	10,735 2 5

W. C. MAYNE,
Auditor General.

Audit Office, Sydney, New South Wales,
31st January, 1859.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

REV. DR. LANG.

(PROCEEDINGS RELATIVE TO BY SYNOD OF AUSTRALIA, IN 1842.)

Ordered by the Legislative Assembly to be Printed, 8 March, 1859.

To the Honorable the Legislative Assembly of New South Wales.
The Petition of the undersigned Presbyterians and other friends of Religious Liberty at
Newcastle and its vicinity,—

HUMBLY SHEWETH:—

That your Petitioners are strongly of opinion that the present divisions and distractions of the Presbyterian body in New South Wales are in great measure, if not entirely, owing to certain anomalous proceedings of the Synod of Australia towards the Rev. Dr. Lang in the year 1842.

That your Petitioners have reason to believe that these proceedings were contrary to all law and justice, discreditable to those concerned, and ruinous to the peace and prosperity of the entire body of Presbyterians.

That your Petitioners are also of opinion that peace and harmony can never be restored to the Presbyterian body in this Colony, nor its present divisions healed, till these proceedings are investigated by a competent authority, and their real character exposed, and the wrongs they have inflicted publicly redressed.

That in the opinion of your Petitioners your Honorable House is the only competent authority that can prosecute such an inquiry, and declare its result, with satisfaction to the Presbyterians of this Colony.

Your Petitioners therefore humbly pray that your Honorable House will be pleased to appoint a Select Committee to inquire into the proceedings of the Synod of Australia towards Dr. Lang in the year 1842, and to report.

And your Petitioners, as in duty bound, will ever pray.

[Here follow 68 Signatures.]

1858-9.

Legislative Assembly.
NEW SOUTH WALES.

REVD. DR. LANG.

(PETITION FROM SCONE.)

Ordered by the Legislative Assembly to be Printed, 11 January, 1859.

To the Honorable the Legislative Assembly of New South Wales.

The Petition of the undersigned Presbyterians and other friends of Religious liberty at Scone, and its neighbourhood,—

HUMBLY SHEWETH:—

That your Petitioners are strongly of opinion that the present divisions and distractions of the Presbyterian body in New South Wales are in great measure, if not entirely, owing to certain anomalous proceedings of the Synod of Australia towards the Reverend Dr. Lang, in the year 1842.

That your Petitioners have reason to believe these proceedings were contrary to all law and justice, discreditable to those concerned, and ruinous to the peace and prosperity of the entire body of Presbyterians.

That your Petitioners are also of opinion that peace and harmony can never be restored to the Presbyterian body in this Colony, nor its present divisions be healed, till these proceedings are investigated by a competent authority, and their real character exposed, and the wrongs they have inflicted publicly redressed.

That in the opinion of your Petitioners your Honorable House is the only competent authority that can prosecute such an inquiry, and declare its result with satisfaction to the Presbyterians of this Colony.

Your Petitioners, therefore, humbly pray that your Honorable House will be pleased to appoint a Select Committee to inquire into the proceedings of the Synod of Australia towards Dr. Lang, in the year 1842, and to report.

And your Petitioners, as in duty bound, will ever pray, &c., &c.

[Here follow 102 Signatures.]

Scone, November, 1858.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

REV. DR. LANG.

(PETITION FROM MURRURUNDI.)

Ordered by the Legislative Assembly to be Printed, 11 January, 1859.

To the Honorable the Legislative Assembly of New South Wales.

The Petition of the undersigned Presbyterians and other friends of religious liberty at Murrurundi,—

HUMBLY SHEWETH :—

1. That your Petitioners are, both on religious and political grounds, opposed to the principle of State Churches under every form and modification.

2. That your Petitioners are of opinion that the commingling of the civil power in any manner with religious affairs is unscriptural, prejudicial to Christianity, entangling and embarrassing to a Legislature, hostile to civil and religious liberty, and a source of discord, strife, and bitterness to society.

3. That the State Churches' system in this Colony, where four different and contrary creeds are maintained from the Public Treasury with the pretension of respecting the principles of religious equality and political justice, which it nevertheless openly violates by excluding a number of persuasions, involves a national compromise of the question of religious truth.

4. That another peculiar evil of the system is the irresponsibility of the religious bodies or persons to the Legislature, from whom they receive large sums of public money.

5. That one of these bodies—the Synod of Australia—is alleged to have committed great injustice towards the Rev. Dr. John Dunmore Lang, and yet opposes any inquiry being instituted into their proceedings by the Legislature.

6. Your Petitioners therefore humbly pray your Honorable House to take these premises into favorable consideration by passing such a measure as will enable the Legislature to inquire into and control the proceedings of religious bodies in receipt of public money, while the system of religious endowment lasts, and particularly by passing a measure for the extinction of all religious endowments, and the entire separation of the Churches of this Colony from the State.

And your Petitioners, as in duty bound, will ever pray.

[Here follow 8 Signatures.]

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

REV. DR. LANG.

(PROCEEDINGS RELATIVE TO BY SYNOD OF AUSTRALIA, IN 1842.)

Ordered by the Legislative Assembly to be Printed, 27 January, 1859.

To the Honorable the Legislative Assembly of New South Wales.

The Petition of the undersigned Presbyterians and other friends of Religious Liberty in
the Town and District of Brisbane, Moreton Bay,—

HUMBLY SHEWETH :—

That your Petitioners are strongly of opinion that the present divisions of the Presbyterian body in New South Wales are in great measure, if not entirely, owing to certain anomalous proceedings of the Synod of Australia towards the Rev. Dr. Lang, in the year 1842.

That your Petitioners have reason to believe that these proceedings were contrary to law and justice, as well as discreditable to those concerned, and ruinous to the peace and prosperity of the entire body of Presbyterians.

That your Petitioners are also of opinion that peace and harmony can never be restored to the Presbyterian body in this Colony, nor its present divisions healed, till these proceedings are investigated by a competent authority, and their real character exposed, and the wrongs they have inflicted publicly redressed.

That in the opinion of your Petitioners your Honorable House is the only competent authority that can prosecute such an inquiry, and declare its result, with satisfaction to the Presbyterians of the Colony.

Your Petitioners therefore humbly pray that your Honorable House will be pleased to appoint a Select Committee to inquire into the proceedings of the Synod of Australia towards the Rev. Dr. Lang in the year 1842, and to report.

And your Petitioners, as in duty bound, will ever pray, &c.

[Here follow 242 Signatures.]

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

REV. DR. LANG.

(PROCEEDINGS RELATIVE TO BY SYNOD OF AUSTRALIA, IN 1842.)

Ordered by the Legislative Assembly to be Printed, 27 January, 1859.

To the Honorable the Legislative Assembly of New South Wales.

The Petition of the undersigned Presbyterians and other friends of Religious Liberty in the
Town and District of Ipswich, Moreton Bay,—

HUMBLY SHEWETH :—

That your Petitioners are strongly of opinion that the present divisions of the Presbyterian body in New South Wales are in great measure, if not entirely, owing to certain anomalous proceedings of the Synod of Australia towards the Rev. Dr. Lang, in the year 1842.

That your Petitioners have reason to believe that these proceedings were contrary to law and justice, as well as discreditable to those concerned, and ruinous to the peace and prosperity of the entire body of Presbyterians.

That your Petitioners are also of opinion that peace and harmony can never be restored to the Presbyterian body in this Colony, nor its present divisions healed, till these proceedings are investigated by a competent authority, and their real character exposed, and the wrongs they have inflicted publicly redressed.

That in the opinion of your Petitioners your Honorable House is the only competent authority that can prosecute such an inquiry, and declare its result, with satisfaction to the Presbyterians of the Colony.

Your Petitioners therefore humbly pray that your Honorable House will be pleased to appoint a Select Committee to inquire into the proceedings of the Synod of Australia towards the Rev. Dr. Lang in the year 1842, and to report.

And your Petitioners, as in duty bound, will ever pray.

[*Here follow 43 Signatures.*]

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

UNIVERSITY OF SYDNEY.

(RECEIPTS AND EXPENDITURE ON ACCOUNT OF.)

Ordered by the Legislative Assembly to be Printed, 11 January, 1859.

RETURN of RECEIPTS and EXPENDITURE on account of BUILDING the UNIVERSITY OF SYDNEY.

RECEIPTS.

Balance on hand on 1st January, 1858, in Debentures at that date, valued
at £1,944 4s. 5d., since realized for £1,876 9 3

EXPENDITURE.

To Cash paid Loveridge, Balance of Contract and extras ...	£521	17	1
" " Masoury of Tower	243	0	0
" paid for Plastering, Glazing, Plumbing, Iron- work, &c., &c.	258	13	7
" paid Mr. Blackett, Commission	145	0	0
" paid for Carpenters' Work, Roofing and Flooring Great Hall Doors, &c., &c.	499	5	0
			1,667 15 8
			£208 13 7

Balance in Commercial Bank at the credit of the Building Fund £208 13s. 7d.

WILLIAM CLARK,
for Accountant.H. KENNEDY,
Registrar.

Sydney, 31 December, 1858.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

LAND GRANTED TO SYDNEY UNIVERSITY.

(DEED OF GRANT AND CORRESPONDENCE IN REFERENCE TO.)

Ordered by the Legislative Assembly to be Printed, 7 January, 1859.

RETURN to an *Address* of the Honorable the Legislative Assembly of New South Wales, dated 12 November, 1858, praying that His Excellency the Governor General would be pleased to cause to be laid upon the Table of this House :—

“ (1.) A copy of the Deed of Grant made to the Senate of the
 “ University for College purposes, whereby the whole of the
 “ land at Grose Farm is granted to the four Denominations
 “ now receiving aid from the State.

“ (2.) A copy of the Draft Deed and of all Correspondence that
 “ has taken place in reference to the issue of such Grant
 “ between the Solicitor for the Senate of the University and the
 “ Civil Crown Solicitor, or between that officer and the Govern-
 “ ment or the Law Officers of the Crown.

“ (3.) Any other Correspondence not already laid upon the
 “ Table of the House, which has taken place between the
 “ Government and the Senate of the University, or the Heads
 “ of the different Denominations, or any other person, on this
 “ subject.”

(Mr. Gordon.)

SCHEDULE.

No.	PAGE.
1. Draft deed (prepared by Mr. Holroyd)	3
2. Deed of Grant to Senate of University of Land for University and Affiliated Colleges (as settled by Mr. Manning). 18 January, 1855	5
3. Colonial Secretary to Acting Deputy Surveyor General, respecting appropriation of Land at Grose Farm for University Buildings. 20 June, 1853.	8
4. Same to Civil Crown Solicitor, respecting issue of Deed of Grant. 30 June, 1853	8
5. Same to Surveyor General, notifying Site approved of by Executive Council for the University and Colleges (with sketch). 6 July, 1854	9
6. Registrar of University to Colonial Secretary, proposing certain alterations in the boundary line of the land alluded to. 28 September, 1854	9
7. Proceedings of Executive Council on the above subject. 16 October, 1854	10
8. Colonial Secretary to Registrar, notifying approval by Executive Council of the alteration desired. 1 November, 1854	10
9. Same to Surveyor General, on the same subject. 1 November, 1856	10
10. Same to Same, requesting to be furnished with description of the land for Deed of Grant. 15 January, 1855	11
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LAND GRANTED TO SYDNEY UNIVERSITY.

No. 1.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain
and Ireland, Queen, Defender of the Faith, &c. :

To all to whom these Presents shall come,

GREETING :—

WHEREAS by an Act of the Governor and Legislative Council of New South Wales, passed in the fourteenth year of Our reign, intituled “ *An Act to incorporate and endow the “ University of Sydney,”*” it was deemed expedient, for the better advancement of religion and morality, and the promotion of useful knowledge, to hold forth to all classes and denominations of Our subjects resident in the Colony of New South Wales, without any distinction whatsoever, an encouragement for pursuing a regular and liberal course of education : And it was thereby enacted that, for the purposes in the hereinbefore in part recited Act more particularly mentioned, a Senate, consisting of the number of persons in the hereinbefore in part recited Act thereafter mentioned, should, within three months after the passing of the hereinbefore in part recited Act, be nominated and appointed by the said Governor, with the advice of the Executive Council of the said Colony, by Proclamation to be duly published in the New South Wales *Government Gazette*, which Senate should and was thereby constituted, from the date of such nomination and appointment, a Body Politic and Corporate, by the name of the “ *University of Sydney,*” by which name such Body Politic should have perpetual succession, and should (amongst other things) be able and capable in law to take, purchase, and hold to them and their successors, not only such lands, buildings, hereditaments, and possessions as might from time to time be exclusively used and occupied for the immediate requirements of the said University, but also any other lands, buildings, hereditaments, and possessions whatsoever situate in the said Colony or elsewhere ; and that they and their successors should be able and capable in law to grant, demise, alien, or otherwise dispose of all or any of the property, real or personal, belonging to the said University : And whereas by a Proclamation bearing date the 24th day of December, A. D. 1850, printed and published in the New South Wales *Government Gazette*, by the order of His Excellency Sir Charles Augustus Fitz Roy, Knight Companion of the Royal Hanoverian Guelphic Order, Captain General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice-Admiral of the same, it was therein notified and proclaimed, that the said Governor, with the advice of the Executive Council, had nominated and appointed the following persons to be such Senate as aforesaid, that is to say,— The Reverend William Binnington Boyce ; Edward Broadhurst, Esquire ; John Bayley Darvall, Esquire ; Stuart Alexander Donaldson, Esquire ; the Right Reverend Charles Henry Davis ; Alfred Denison, Esquire ; Edward Hamilton, Esquire ; James Macarthur, Esquire ; Francis Lewis Shaw Merewether, Esquire ; Charles Nicholson, Esquire ; Bartholomew O’Brien, Esquire ; the Honorable John Hubert Plunkett, Esquire ; the Reverend William Purves ; His Honor Roger Therry, Esquire ; the Honorable Edward Deas Thomson, Esquire ; and William Charles Wentworth, Esquire : And whereas since the nomination and appointment of the said persons as such members of the Senate as aforesaid several vacancies in the said Senate have occurred : And whereas Henry Grattan Douglass, Esquire, and _____ have been duly appointed members of the said Senate, according to the provisions of the said in part recited Act, to fill up the vacancies which have occurred as aforesaid : And whereas it has been determined by the said Governor, with the advice of the Executive Council, that certain lands situate at Grose Farm, in the parish of _____ County of Cumberland, and Colony aforesaid, comprising in all one hundred and twenty acres, more or less, and bounded as hereinafter is more particularly mentioned and described, should be appropriated for the purposes hereinafter mentioned : Now know ye, that, for the carrying out of the purposes hereinbefore mentioned,

mentioned, We of Our special grace do for Us, Our Heirs and Successors, hereby grant unto the said University of Sydney, constituted under and by virtue of the hereinbefore in part recited Act, all that the land situate lying and being at Grose Farm, in the Parish of County of Cumberland and Colony aforesaid, containing by admeasurement one hundred and twenty acres, more or less, and bounded

with the rights, privileges, emoluments, members, and appurtenances thereunto belonging, or in anywise appertaining; to hold unto the said University of Sydney and their successors, yielding and paying therefore yearly unto Us, Our Heirs and Successors, the Quit-Rent of one peppercorn for ever, if demanded, upon the Trusts hereinafter mentioned, that is to say,— upon trust, to permit the said land to be used as a site for the erection of buildings for the said University, and for four Affiliated Colleges, representing the four Religious Denominations recognized by the state, that is to say,—The Church of England, The Roman Catholic, The Church of Scotland, and the Wesleyan Methodists, which may hereafter be founded in connection with the said University, and for other purposes incident thereto: And upon further trust, that the said University shall, as soon as conveniently may be, sub-grant from and out of the said land hereby granted as aforesaid, pieces or parcels of land, to consist of not less than eighteen acres each, to each and every of the several Religious Denominations hereinbefore mentioned, for erecting their respective Colleges, and for other purposes incident thereto, upon the separate Trusts in the said Deeds of Sub-Grant to be therein more particularly mentioned, described, and set forth: Provided always, and We do hereby declare, that when and so often as the said University shall sub-grant any piece or parcel of land, for the buildings and other purposes of the said several Colleges as aforesaid, the parties to whom the same shall be sub-granted for the purposes of carrying out the Trusts in the said Deeds of Sub-Grant, shall consist of a number of not less than five persons, two of whom shall be nominated by the said University (the Provost or Vice-Provost of the said University, in every such case, being one of such two Trustees,) two other Trustees shall be nominated by the founders of the said Affiliated College or the Head of the Religious Denomination applying for the said piece or parcel of land, as may be determined and arranged by the Constitution of every such College respectively, and one other Trustee shall be elected by the four Trustees so nominated as aforesaid; and in the event of the said four Trustees not being able to agree in the selection of a fifth Trustee, such last mentioned Trustee shall be appointed by the said University: Provided also, and we do hereby further declare, that in all and every such Deed or Deeds of Sub-Grant to be made for the purposes aforesaid, there shall be an express declaration of the Trusts, intents, and purposes for which all and every such Deeds or Deed of Sub-Grant were or was made; and that in the event of the said Trusts not being carried out according to the intents and purposes contained in all or every such Deeds or Deed of Sub-Grant to be made as aforesaid, it shall be lawful for the said University comprised as aforesaid in and upon the land by all or every such Deeds or Deed of Sub-Grant alienated to re-enter and resume possession of the same: Provided also, and we do hereby declare, that in all and every of the Deeds or Deed of Sub-Grant to be made as aforesaid, it shall be expressly provided that all designs, plans, and sections, to be made in respect of any buildings to be erected and constructed in and upon any land to be sub-granted as aforesaid, shall be submitted for the approval of the said University comprised as aforesaid, before any of the said buildings to be erected and constructed as aforesaid shall have been commenced.

In testimony whereof We have caused this Our Grant to be sealed with the Seal of Our said Territory.

Witness Our trusty and well-beloved Sir Charles Augustus Fitz Roy, Knight, Our Captain General and Governor-in-Chief of Our said Territory and its Dependencies, at Government House, Sydney, in New South Wales, aforesaid, this day of in the eighteenth year of Our reign, and in the year of our Lord One thousand eight hundred and fifty-four.

I have settled and approve of this Draft.

ARTHUR T. HOLROYD.

Sydney, September 30, 1854.

No. 2.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c :

To all to whom these Presents shall come,

GREETING :—

WHEREAS by an Act of the Governor and Legislative Council of New South Wales, passed in the fourteenth year of our Reign, intituled "*An Act to incorporate and endow the University of Sydney*," a Senate, consisting of sixteen Fellows, to be nominated and appointed, and also were thereafter duly nominated and appointed, as by that Act is directed, was constituted a Body Politic and Corporate, with perpetual succession, by the name of the "University of Sydney," and the said Body Politic were by that name rendered capable in law to take, purchase, and hold to them and their successors, not only such lands, buildings, hereditaments, and possessions as might from time to time be exclusively used and occupied for the immediate requirements of the said University, but also any other lands, buildings, hereditaments, and possessions whatsoever; and to grant, demise, alien, or otherwise dispose of all or any of the property, real or personal, belonging to the said University, and also to do all other matters and things incidental to, or appertaining to, a Body Politic: And whereas provision has been made by the said Governor and Legislative Council for defraying the cost of erecting buildings for the purposes of the said University, and application has been made to us for a Grant of Land whereon to erect such buildings, and for the formation of a Park and Gardens in connection therewith: And whereas it is contemplated that Colleges shall be established within the said University, in which Colleges systematic religious instruction and domestic supervision, with efficient assistance in preparing for the University lectures and examinations, shall be provided for Students in the said University; and the said Governor and Legislative Council have made provision for assisting in the erection of the necessary buildings for such Colleges upon land to be granted for that purpose by Us to the said University, in trust for such Colleges, if any should be so granted, and if not, then upon land otherwise conveyed to and accepted by the University upon such Trusts: And whereas it is expected that Colleges connected with the four several Churches or Religious Denominations hereinafter particularly mentioned will shortly be established within the said University, and application has been made to Us for lands to be granted to the said University in trust for such four several Colleges: And whereas it has been determined on Our behalf, by His Excellency Sir Charles Augustus Fitz Roy, Our Governor General of Our Australasian Possessions, and Governor of Our Territory and Colony of New South Wales, with the advice of the Executive Council of Our said Colony, that certain lands situate near the City of Sydney, comprising in all one hundred and twenty-six acres, more or less, and which lands are hereinafter more particularly described, shall be appropriated and granted, upon the terms and conditions hereinafter mentioned, for the uses and purposes of the said University, and of Colleges within the same: And whereas We, being desirous of encouraging the said University, and of assisting the establishment of Colleges within the same, to the end that religion, virtue, and sound learning may be by means of the said University and Colleges better advanced within Our said Territory of New South Wales, have approved of the said determination so made on Our behalf: And whereas by reason of the four Colleges herein more particularly mentioned being so as aforesaid expected to be shortly established, but without the intention of thereby creating any distinction whatsoever of classes or denominations amongst Our subjects resident in Our said Colony, We have approved of the special provision hereinafter contained being made at this time for such four several Colleges: Now know ye, that for the purposes aforesaid, We, of Our special grace, do, for Us, Our Heirs and Successors, hereby grant unto the University of Sydney so constituted and incorporated as aforesaid, all that piece or parcel of land situate, lying, and being in the Parish of Petersham and County of Cumberland, in the Colony aforesaid, containing by admeasurement one hundred and twenty-six acres, more or less; commencing at a point on the south side of the Parramatta Road, distant seventy-three links south-westerly from the north-west corner of the Toll-gate house, and bounded on the east by a curved line of fence, the general bearing being south forty degrees forty-four minutes west four chains and twenty-four links, thence south thirty-one degrees twenty minutes west six chains and seventeen links, thence south seven degrees east five chains eighty-nine links, thence south eighteen degrees forty-five minutes west three chains

and nine links, thence south two degrees west five chains sixty-seven links, and thence south fourteen degrees thirty minutes east six chains and fifty-two links to the present or Newtown Road, and thence by that road bearing south-westerly four chains and sixty-one links to the site granted for an Episcopal Residence; on the south-west by the north-east boundary line of that land, bearing north-westerly seven chains and sixty-five links; on the south-east by the north-west boundary line of that land, bearing south-westerly four chains and sixty links; on the north-east by the south-western boundary line of that land and its prolongation, bearing south-easterly eight chains and forty-eight links, to a reserved street; on the south by that street, dividing it from the Camperdown Estate, bearing west eleven degrees thirty minutes south twenty chains and fifty-one links, to a reserved road; again on the south-west by that road, bearing north twenty-four degrees thirty minutes west, thirteen chains and seventy links; thence west thirty-eight degrees twenty minutes north thirteen chains and seventy-six links to the southernmost corner of the Roman Catholic Church allotment; on the north-west by the south-east boundary lines of the Roman Catholic Church Parsonage and School allotments, bearing north-easterly four chains; again on the south-west by the north-east boundary line of the said school allotment, five chains and fifty-three links, to the Parramatta Road; and again on the north-west by that road and its embankments and cuttings, bearing north-easterly, to the point of commencement aforesaid;—with all the rights, privileges, members, and appurtenances thereunto belonging or anywise appertaining; To hold unto the said University of Sydney and their Successors for ever, yielding and paying therefore yearly unto Us, Our Heirs and Successors, the Quit-Rent of one peppercorn for ever, if demanded, for the purposes and upon the Trusts hereinafter mentioned, that is to say,—as to so much of the said piece or parcel of land hereby granted as shall not be set apart by the Senate of the University for the Sub-Grants hereinafter mentioned; upon trust for the erection thereon of buildings for the said University, and for the formation of a park and gardens in connection therewith: And as to four several portions of the said land so hereby granted to consist each of not less than eighteen acres, to be selected by the said Senate, upon the Trusts following, that is to say;—as to one such portion of the said land hereby granted upon trust, when and so soon as a College in connexion with the United Church of England and Ireland shall have been duly established and incorporated as a College within the said University, and the founders thereof, or subscribers to the same, shall have complied with the conditions of public endowment mentioned in the Act of the said Governor and Legislative Council, passed in the present year of Our reign, intituled, “*An Act to provide for the establishment and endowment of Colleges within the University of Sydney,*” to make and execute a Sub-Grant of such piece or parcel of land to Trustees for such College, for the purposes and upon the conditions hereinafter mentioned; and as to one other such portion of the said land hereby granted to the said University, upon the like Trust, for a College in connexion with the Church of Rome, when the same shall have been in like manner established and incorporated as a College within the said University, and the founders thereof, or the subscribers to the same, shall have complied with the said conditions of public endowment; and as to one other such portion of the said land hereby granted to the said University, upon the like Trust, for a College in connexion with the Church of Scotland, when the same shall have been in like manner established and incorporated as a College within the said University, and the founders thereof, or subscribers to the same, shall have complied with the said conditions of public endowment; and as to one other such portion of the said land hereby granted to the said University, upon the like Trust, for a College in connexion with the Religious Society denominated Wesleyan Methodists, when the same shall have been in like manner established and incorporated as a College within the said University, and the founders thereof, or subscribers to the same, shall have complied with the said conditions of public endowment: Provided always, that the said University shall not be obliged to make any such Sub-Grant upon Trust for any or either of such Colleges which shall not have become so established and incorporated, or whereof the founders or subscribers to the same shall not have complied with the said conditions of public endowment, within five years from the date of the issue of these presents: Provided also, that if any or either of the above declared Trusts shall lapse by reason of such failure, as in the preceding proviso is mentioned, or if any or either of the said four portions of land so set apart for Sub-Grants as aforesaid, shall after the sub-grant thereof in accordance herewith in trust for any or either of the said four Colleges, become re-vested in the said University under or by virtue of the proviso hereinafter lastly contained, then and in either of such cases the said University shall

shall hold the portions or portion of land in respect of which any such lapse shall have occurred, or which shall have become re-vested as aforesaid: Upon Trust to make and execute such Sub-Grant or Sub-Grants thereof, or of any portion or portions thereof, respectively, as shall be in that behalf directed by the Governor of our said Colony for the time being, with the advice of the said Executive Council: Upon Trust for such College or Colleges within the said University, as the said Governor and Executive Council shall think fit, and as shall be in Our behalf named and declared by an instrument or instruments to be executed by the Governor for the time being under the Great Seal of the Colony: And We do hereby direct that the said several Sub-Grants shall be made upon Trusts for the erection upon the lands thereby sub-granted or conveyed, of buildings for the uses and purposes of such Colleges, respectively, and for the formation of gardens and grounds for recreation and exercise in connexion therewith: And that each of such Sub-Grants shall be made to five Trustees, of whom two and their successors (one of them being the Provost or Vice-Provost of the University,) shall be nominated by the Senate of the said University, and other two and their successors shall be nominated by the Councils, or other governing bodies, of the said Colleges, respectively, or by the Heads of the Religious Denominations (if any) in connection with such Colleges may respectively have been established (as may have been determined by the constitutions of such Colleges respectively), and of whom the fifth and his successor shall be chosen and nominated by the other four Trustees, or their successors, or in default thereof shall be nominated by the Senate; and We do hereby further direct that the said several Sub-Grants shall be made upon the conditions that the buildings to be erected upon the land respectively thereby conveyed shall be completed within five years from the issue of such Sub-Grants respectively, or such more extended time as the said Senate may allow in such case, and that the same respectively shall be erected in such positions respectively, and according to such designs, plans, sections, and elevations, and of such construction as shall be approved by the said Senate, and that the gardens and grounds for recreation and exercise in connection with such Colleges respectively shall be laid out and made within a reasonable time in that behalf, and according to such general designs as shall be approved of by the said Senate: And We do hereby further direct that such several Sub-Grants shall be made upon conditions for securing the lands respectively thereby conveyed, and every part thereof, from being applied to or used for any purpose other than such as shall be consistent with, and in furtherance of, the objects hereof, and shall be authorised by the terms of the said Sub-Grants respectively; and also for securing the maintenance of the connection of the said Colleges respectively within the said University in accordance with the provisions and true intent and meaning of the Act of the said Governor and Legislative Council, passed in the present year of Our reign: And, lastly, We direct that in the said Sub-Grants respectively there shall be contained a provision for making void the same respectively, and for re-vesting the lands thereby conveyed, together with all buildings, erections, and other improvements thereon as the said University, in the event of the Trusts and conditions of the said Sub-Grants respectively not being carried out and observed according to the true intent and meaning thereof.

In witness whereof We have caused this Our Grant to be sealed with the seal of Our said Territory.

Witness Our trusty and well-beloved Sir Charles Augustus Fitz Roy, Knight Companion of the Royal Hanoverian Guelphic Order, Our Captain-General and Governor-in-Chief of Our said Territory and its Dependencies, at Government House, Sydney, in New South Wales, the eighteenth day of January, in the year of Our Lord one thousand eight hundred and fifty-five, and in the eighteenth year of Our reign.

[L.S.] CHS. A. FITZ ROY.

No. 3.

THE COLONIAL SECRETARY to THE ACTING DEPUTY SURVEYOR GENERAL.

*Colonial Secretary's Office,
Sydney, 20 June, 1853.*

SIR,

See Papers ordered to be printed on 25 October, 1854, Nos. 1 and 2 in the Schedule.

I have the honor to inform you that a letter has been received from the Vice-Provost of the Sydney University, covering a Report from the Senate in reply to an invitation to propose for approval a selection of the necessary extent of land at Grose Farm whereon to erect the requisite buildings for the University. It appears from this Report that the design of the Senate is to obtain a site for the erection of the University in a locality where a number (say four) of Colleges of Residence may also be erected within such a distance from the University itself as to enable the Students to attend the Lecture Rooms of the University, without being exposed to the distraction and loss of time necessarily occasioned by a long walk or ride—the direction of such Colleges, so far as moral and religious training is concerned, to be committed to the Heads of the four principal Religious Denominations recognised by the State. To afford sites for the University and Colleges, and for Professors' Residences, and also to allow adequate space for the recreation of the Students, the Senate are of opinion that it will be necessary to appropriate from 120 to 150 acres of the land at Grose Farm, being in fact the whole of the unalienated land in that locality.

2. I have further to inform you that His Excellency the Governor General, after maturely weighing the arguments urged by the Senate in support of their application for so large an extent of land, has, with the advice of the Executive Council, approved of the whole of the Crown Land at Grose Farm being reserved from other alienation, and of 100 acres in that locality being set apart for the objects contemplated by the Senate, out of which a site for the University Buildings may be at once selected, and sites for the proposed Colleges can be granted from time to time, as required.

3. I beg to add that this decision has been duly communicated to the Vice-Provost, who has been requested to cause the selection of the site for the University to be made, and to apprise me of the same, in order that the measurement may be proceeded with, if the site be approved of.

I have, &c.,

W. ELYARD, JUNR.

THE ACTING DEPUTY
SURVEYOR GENERAL.

No. 4.

THE COLONIAL SECRETARY to THE CIVIL CROWN SOLICITOR.

*Colonial Secretary's Office,
Sydney, 30 June, 1854.*

SIR,

Laid upon the Legislative Assembly Table, 25 October, 1854. See No. 11 in the Schedule.

I have the honor to transmit to you a copy of the Minute of the Executive Council shewing the terms on which a grant of the Government land at Grose Farm is to be made to the Senate of the University of Sydney, for the erection thereon of University Buildings and certain Affiliated Colleges; and I am directed by His Excellency the Governor General to request that you will place yourself in communication with the Solicitor to the University, for the purpose of preparing the necessary Deed of Grant for the permanent appropriation of the land.

2. The Surveyor General has been instructed to furnish you with a sketch of the land in question

I have, &c.,

W. ELYARD.

THE CIVIL CROWN SOLICITOR.

No. 5.

THE COLONIAL SECRETARY to THE SURVEYOR GENERAL.

*Colonial Secretary's Office,
Sydney, 6 July, 1854.*

SIR,

Adverting to the letter to your Department dated the 20th June, 1853, on the subject of the land proposed to be granted for building purposes to the Sydney University, and Colleges affiliated to it, I now do myself the honor to inform you that the Governor General, with the advice of the Executive Council, has been pleased to direct that the land at Grose Farm indicated on the sketch by the letters *a, b, c, d, e, f*, comprising in all about one hundred and twenty acres, be appropriated for the purposes of the University and the four Affiliated Colleges that may be founded in connexion with it, representing the four Religious Denominations recognized by the State, that is to say,—Church of England, Roman Catholic, Church of Scotland, and Wesleyan Methodists.

2. Pending the issue of a formal Deed of Grant, and in order to enable the Senate to take active steps towards the erection of the University Buildings, they will be authorized to take possession of the land appropriated as a site for the University, and the Colleges to be attached to it, subject of course to the present leases of the Grose Farm Paddocks, which expire on the 31st instant. Instructions in conformity with this decision have been addressed to the Civil Crown Solicitor, whom you will be so good as to furnish with a tracing of the sketch alluded to in the first part of this communication.

3. I am to request that you will cause the measurement of the land in question to be forthwith proceeded with, in order that the permanent and legal appropriation of the land may be effected.

I have, &c.,

THE SURVEYOR GENERAL.

W. ELYARD.

No. 6.

THE REGISTRAR OF THE UNIVERSITY to THE COLONIAL SECRETARY.

*University of Sydney,
23 September, 1854.*

SIR,

I have the honor to transmit to you a Plan,* showing the grant made by the Government to the University of Sydney, and the Affiliated Colleges to be established in connexion with it, for the purpose of being laid before the Governor General and the Executive Council. *Not now traceable.

I have the honor further, on behalf of the Senate, to request that His Excellency will be pleased to sanction the alteration which it is proposed by them to make in the boundary line, as shewn by the accompanying sketch.

The Senate desire most respectfully to offer the following reasons in favour of the proposed change:—

1. According to the present arrangement the boundary line cuts off a great portion of the hill, on the summit of which it is intended that the University shall be built; further on it assumes a very sinuous course, and curves inwards, cutting off a water course. The possession of the land through which this runs is, from its peculiar position, and the fact of the greater part of its surface being broken up by a water-course, of little value for any purpose, having in contemplation the establishment of a park or place of public recreation, most important to the University.
2. The extension of the boundary line in the direction indicated in the plan accompanying will afford direct access to the Newtown Road, from which the University would otherwise be completely cut off; the only direct communication being by the Parramatta Road.

The alteration proposed to be made in the boundary line will involve (in addition to the Grant before made) a further addition of land to the extent of about six acres.

I have, &c.,

THE HONORABLE

H. KENNEDY.

THE COLONIAL SECRETARY.

No. 7.

PROCEEDINGS of the Executive Council on the 16th October, 1854, on the subject of the Boundaries of the Land granted for the University of Sydney.

Minute No. 54-40. Confirmed 23 October, 1854.

His Excellency the Governor General lays before the Council a letter from the Registrar of the University of Sydney, praying, on behalf of the Senate, a modification in the boundaries of the land granted by the Government for the purposes of the University and the Affiliated Colleges to be established in connexion therewith, as indicated on an accompanying sketch. The object of this alteration, which implies an enlargement of the Grant to the extent of about six acres, is to include therein a hill on which it is proposed to erect the University Buildings—to embrace also a certain water-course, not needed for public purposes, and to command a right of access to the Newtown Road.

2. The Council do not see any objection to a compliance with this request, and they advise accordingly.

MICHL. FITZPATRICK,
Clerk of the Council.

*Executive Council Office,
Sydney, 27 October, 1854.
No. 54-275.*

No. 8.

THE COLONIAL SECRETARY to THE REGISTRAR OF THE UNIVERSITY.

*Colonial Secretary's Office,
Sydney, 1 November, 1854.*

SIR,

The Governor General having laid before the Executive Council your letter of the 28th September last, applying, on behalf of the Senate of the University of Sydney, for an enlargement of the boundaries of the land at Grose Farm, authorized for the purposes of the University and the Affiliated Colleges to be connected therewith, to the extent of about six acres, so as to include a hill on which it is proposed to erect the University Buildings, as also a water course, not needed for public purposes, and to command a right of access to the Newtown Road; I do myself the honor to inform you that His Excellency, under the advice of the Council, has been pleased to authorize a compliance with your request, of which the Surveyor General has been apprised, and requested to cause the measurement of the land to embrace the additional portion so applied for.

I have, &c.,

THE REGISTRAR OF THE
SYDNEY UNIVERSITY.

W. ELYARD.

No. 9.

THE COLONIAL SECRETARY to THE SURVEYOR GENERAL.

*Colonial Secretary's Office,
Sydney, 1 November, 1854.*

SIR,

With reference to my letter of the 6th July last, in which you were apprised that His Excellency the Governor General had been pleased to approve of the appropriation of certain land at Grose Farm, comprising about one hundred and twenty-six acres, for the purposes of the University and the affiliated Colleges to be connected therewith,—I now do myself the honor to enclose to you a copy of a communication received from the Registrar of the University, applying, on behalf of the Senate, for an enlargement of the boundaries of the land already authorized to the extent of about six acres, so as to include a hill on which it is proposed to erect the University Buildings, as also a water-course, not needed for public purposes, and to command a right of access to the Newtown Road.

2. A copy of the proceedings of the Executive Council with regard to the matter I also enclose, by which you will perceive that His Excellency, under the advice of the Council, has been pleased to sanction a compliance with this application; and I beg therefore to request that the measurement of the land may be made to embrace the additional portion above particularised.

I have, &c.,

THE SURVEYOR GENERAL.

W. ELYARD.

No. 10.

THE COLONIAL SECRETARY to THE SURVEYOR GENERAL.

(Immediate.)

Colonial Secretary's Office,

Sydney, 15 January, 1855.

SIR,

It being the desire of the Governor General that the Deed for the land granted as a site for the University of Sydney and the Affiliated Colleges to be connected therewith should be issued forthwith—and as it is understood that the measurement of the land, in accordance with instructions contained in the letter from this department of the 1st November, 1854, has now been completed—I have the honor, by His Excellency's direction, to request that you will furnish me to-morrow, within the hours of official attendance, with the description required, to enable the preparation of the Deeds to be proceeded with.

I have, &c.,

THE SURVEYOR GENERAL.

W. ELYARD.

No. 11.

THE SURVEYOR GENERAL to THE COLONIAL SECRETARY.

(Immediate.)

Surveyor General's Office,

Sydney, 16 January, 1855.

SIR,

In compliance with the request contained in your letter of yesterday (No. 55-21), I do myself the honor to forward herewith a description of the land to be granted as a site for the University of Sydney and the Affiliated Colleges to be connected therewith, and which has been measured in accordance with the instructions contained in your letter of the 1st November, 1854 (No. 54-894), for the preparation of the Deed of Grant.

I have, &c.,

T. L. MITCHELL.

[Enclosure in No. 11.]

CUMBERLAND.—126a., One hundred and twenty-six acres, parish of Petersham, Grose Farm; commencing at a point on the south side of the Parramatta Road, distant (73) seventy-three links south-westerly from the north-west corner of the Toll-gate house, and bounded on the east by a curved line of fence, the general bearing being south 40 degrees 40 minutes west (4-24) four chains and twenty-four links, thence south 30 degrees 20 minutes west (6-17) six chains and seventeen links, thence south 7 degrees east (5-89) five chains and eighty-nine links, thence south 18 degrees 45 minutes west (3-09) three chains and nine links, thence south 2 degrees west (5-67) five chains and sixty-seven links, and thence south 14 degrees 30 minutes east (6-52) six chains and fifty-two links to the present or New Newtown Road, and thence by that road bearing south-westerly (4-61) four chains and sixty-one links to the site granted for an Episcopal Residence; on the south-west by the north-east boundary line of that land, bearing north-westerly (7-65) seven chains and sixty-five links; on the south-east by the north-west boundary line of that land, bearing south-westerly (4-60) four chains and sixty links; on the north-east by the south-western boundary line of that land and its prolongation, bearing south-easterly (8-48) eight chains and forty-eight links, to a reserved street; on the south by that street, dividing it from the Camperdown Estate, bearing west 11 degrees 30 minutes south (20-51) twenty chains and fifty-one links, to a reserved road; again on the south-west by that road, bearing north 24 degrees 30 minutes west (13-70) thirteen chains and seventy links, thence west 38 degrees 20 minutes north (13-76) thirteen chains and seventy-six links, to the southernmost corner of the Roman Catholic Church allotment; on the north-west by the south-eastern boundary lines of the Roman Catholic Church, Parsonage, and School allotments, bearing north-easterly (4-00) four chains; again on the south-west by the north-east boundary line of the said school allotment (5-53) five chains and fifty-three links, to the Parramatta Road, and again on the north-west by that road and its embankments and cuttings, bearing north-easterly, to the point of commencement aforesaid.

No. 12.

No. 12.

THE CIVIL CROWN SOLICITOR to THE COLONIAL SECRETARY.

Sydney, 17 January, 1855.

SIR,

Referring to your letter to me of the 30th June last, No. 54-541, transmitting to me a copy of the Minute of the Executive Council shewing the terms on which a Grant of the Government Land at Grosé Farm is to be made to the Senate of the University of Sydney, for the erection thereon of University Buildings and certain Affiliated Colleges, and requesting me to place myself in communication with the Solicitor of the University for the purpose of preparing the necessary Deed of Grant for the permanent appropriation of the land,—I do myself the honor to state, that I placed myself in communication with Mr. George Wigram Allen, the Solicitor to the University, accordingly, and that gentleman sent me the Draft of the Deed of Grant in question, drawn by Mr. A. T. Holroyd, the Barrister.

See No. 2 in
Schedule.

2. I submitted this Draft some time ago to the Solicitor General, who has perused and approved of the Deed of Grant sent herewith, and who returned the same to me on the 15th instant, with the following observations:—

“I have entirely re-drawn this Grant, having, in the course of doing so, conferred with the Colonial Treasurer, the Provost of the University, the Civil Crown Solicitor, Mr. Johnson, Secretary to St. Paul's College, but not in his official capacity, and Mr. Wigram Allen.”

To save time, which now presses, I have given my Draft to Mr. Geo. Wigram Allen for engrossment on behalf of the University.

I have, &c.,

W. W. BILLYARD,

Civil Crown Solicitor.

THE HONORABLE

THE COLONIAL SECRETARY.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

ST. PAUL'S COLLEGE.
(BY-LAWS OF.)

Ordered by the Legislative Assembly to be Printed, 15 February, 1859.

SAINT PAUL'S COLLEGE WITHIN THE UNIVERSITY OF SYDNEY.

In pursuance of the power vested in us, by the Act passed in the 18th year of Her Majesty's reign, for the Incorporation of Saint Paul's College, as the same Act stands amended by another Act past in the 21st year of the reign of Her Majesty, WE, THE WARDEN AND FELLOWS OF SAINT PAUL'S COLLEGE, for the purpose of carrying into effect the provisions and objects of those Acts, do hereby make and establish the several BY-LAWS AND RULES which are contained in the printed Schedule hereto, signed at the end thereof by the Warden and Bursar of the College.

In witness whereof We hereunto affix our Corporate Seal,
this 29th day of January, in the year of Our Lord 1859.

By Order of the Council,

HENRY J. HOSE,
Warden.

(L. S.)

BY-LAWS OF THE COLLEGE.

CHAPTER I.

MEMBERSHIP.

1. The Members of Saint Paul's College, exclusive of the Warden, Vice-Warden, Fellows, and Students, or those who have been Students of the College, shall be such persons as the Council shall from time to time admit to Membership.

2 Every such person shall, before admission as a Member, sign a declaration in the presence of the Warden and two of the Fellows, in the form prescribed for Students on their admission.

3. The Students, pursuant to the Affiliated Colleges Partial Endowment Act, shall be Members of the University of Sydney; being either Undergraduates, or Graduates under the Degree of M.A., therein.

4. Residence in College shall not be a necessary condition of Membership;—and Members of the College shall accordingly be divided into resident and non-resident Members.

5. Non-resident Students shall share the same privileges, and be subject to the same discipline, as resident Students; except in so far as questions of residence are concerned.

6. Non-resident Members, under such regulations as the Council may from time to time determine, shall on notification to the Warden have the privilege of temporarily residing in the College.

CHAPTER II.

TERM AND VACATION.

1. The terms and vacations of the Collegiate year shall be those of the University;—the Lent Term being divided by a recess at Easter.
2. During Term, all resident Students shall continuously reside in, and non-resident Students shall attend daily at the College.
3. But the Warden or Vice-Warden may grant to any Student, under special circumstances, temporary exemption from the preceding rule.
4. Any resident Student may reside in, and any non-resident Student attend at the College, during the vacations, by consent of the Warden, under such regulations as the Council may from time to time determine.
5. During the Easter recess, neither the residence nor the attendance of Students shall be required.

CHAPTER III.

ADMISSION OF STUDENTS.

1. Every person desiring to be admitted a Student of the College shall make application in writing to the Warden, (or his parent or guardian shall apply for him,) fourteen days at the least before admission.
2. The application to the Warden shall be accompanied by a statement of the candidate's age, and a testimonial as to conduct from a Clergyman, or from his last Master or Tutor, or, if the candidate be a Member of the University, from one of the Professors.
3. It shall be competent for the Council, where they shall see fit, to dispense with either of the documents specified in the preceding Rule.
4. Before any candidate shall be admitted a Student, his application shall be approved of by the Warden, and two of the Fellows, by writing under their hands; and, after such approval, he shall be received into residence or attendance, as the case may be.
5. If the candidate have not already matriculated in the University, he shall not be actually admitted on the books of the College, until the Monday following his matriculation.
6. Before admission, every candidate shall sign a declaration in the presence of the Warden and two of the Fellows, in a book kept for that purpose, that he will conform to all the By-Laws and Rules of the College.
7. The Warden shall then, in the name of the Council, declare him to be admitted a Member of Saint Paul's College, and shall enter his name in a book kept for that purpose.
8. If any candidate, received into residence or attendance as aforesaid, shall fail to matriculate within a month afterwards, he shall no longer continue residence in or attendance at the College; and all payments (except the admission fee) which he may have made shall be returned to him, deducting only the amount due for his past residence or attendance.
9. If such candidate shall matriculate at any future period, he shall not be required to pay any additional fee on admission.

CHAPTER IV.

INSTRUCTION.

1. The course of instruction provided for all Students shall be as follows:—
Firstly.—A course of professorial instruction in Divinity, according to the teaching of the United Church of England and Ireland.
Secondly.—A course of tutorial instruction in different subjects, non-theological, such as shall be best calculated to assist the Students in preparing for the lectures and examinations of the University.
Thirdly.—A course of instruction in modern history, moral and metaphysical philosophy, modern languages and literature, and in comparative philology.
2. Additional instruction in Divinity will be imparted to such Members as may be desirous of receiving it, according to such regulations as may be made by the Council; in order to afford facilities to those, especially of the standing of B.A., who may desire to enter into Holy Orders.
3. Instruction will, from time to time, be given in music and drawing, and in natural history; and in such other subjects as the Council shall determine.

CHAPTER V.

DIVINITY.

1. Instruction in Divinity shall be conveyed by courses of lectures delivered by the Warden or Vice-Warden, on assigned Divinity subjects; and by occasional elucidations of standard theological works.
2. The lectures and text-books shall in general be different for Students of different years; and shall comprise one or more of the following subjects:—Exegesis of the Old Testament, and of the New Testament in Greek, the canon and inspiration of Holy Scripture, the articles and liturgy of our Church, the evidences of religion natural and revealed, and church history.
3. Examinations on the subject-matter of the lectures, and of the text-books, shall be held at stated periods in the lecture-rooms:—and a record shall be kept by the Warden or Vice-Warden, of the proficiency then displayed by the Students.
4. Punctual attendance shall be required from the Students at all lectures and lecture-room examinations; and a record of such attendance shall be preserved in a book kept for that purpose.
5. The selection of the text-books, and of the subjects of the lectures, as well as the frequency of the lectures and lecture-room examinations, shall be subject to the control of the Council.

6. The lectures shall be so arranged as that in each term a course of not less than nine shall be given on one of the following subjects;—the evidences, the canon and inspiration of Holy Scripture, and the Greek Testament.

7. All Members of the University, although not Students of the College, shall have the privilege of attending the course mentioned in the preceding rule; on notifying to the Warden, at the commencement of each term, their wish to attend, and paying such fee as the Council shall from time to time determine.

8. There shall be held annually two Divinity examinations in the College Hall, for the Students of each year; the first about the middle of Lent Term, and the second about the middle of Michaelmas Term.

9. In the Lent examination, the Students shall be examined in the work done since the commencement of Term; and, in the Michaelmas examination, in all the work of the year.

10. The subjects of the lectures, and the text-books, in each year, shall be published some time during Michaelmas Term in the year preceding.

11. The proficiency shown by the Students of each year, in these examinations, shall be recorded; and on the combined results of the two examinations, and of the record kept throughout the year, the Warden shall divide the Students of each year into classes, according to their merits.

12. To each Student placed in the first class of each year, shall be awarded a prize of books, stamped with the arms of the College, and bearing an appropriate inscription.

CHAPTER VI.

ADDITIONAL DIVINITY INSTRUCTION.

1. The additional instruction in Divinity shall be conveyed after the same method as the ordinary instruction therein; and any Student may receive this additional instruction, if he have obtained previously the Warden's consent.

2. After each of the two annual Divinity examinations, there shall be a voluntary examination on such additional instruction.

3. The subjects of the additional Lectures, and additional text-books, for each year, shall be published at the same time as the ordinary subjects.

4. The proficiency shown at the voluntary examinations, by the Students who present themselves, shall be recorded; and on the combined results of the two examinations, and of the ordinary classification, the Warden shall arrange the Students of each year who have attended, into classes—according to their merits.

5. These classes will be distinct from the ordinary annual classes in Divinity, and be deemed classes of Divinity honors, one for each year:—and upon such Students as shall have appeared in the latter classes two years in succession, or in three years during their academic career, the Council will confer an honorable certificate of proficiency.

CHAPTER VII.

SUBJECTS NON-THEOLOGICAL.

1. The tutorial instruction, in subjects non-theological, shall be conveyed by the following means.

Firstly, Lectures delivered by the Warden and Vice-Warden.—*Secondly*, individual tuition to any Student, or class of Students, if the Warden deems it requisite.—*Thirdly*, written and oral examinations in the Lecture Rooms.

2. The Lectures, and Lecture Room examinations, shall in general be different for the Students of different years; and the subjects of them shall be so arranged and selected, as best to prepare the Students for the current Lectures at the University, and for the annual University examinations.

3. The subjects of the different tutorial Lectures for each Term shall be announced as soon as possible after notification of the subjects of the University Lectures for the same period.

4. The Warden or Vice-Warden shall keep a record of the proficiency displayed by the Students at the Lecture Room examinations.

5. In addition to these examinations, two shall annually take place in the College Hall, for the Students of each year; one at the end of Lent, and the other at the end of Trinity Term—in each of which the Students of each year will be examined in all the tutorial instruction received during the Term, in classics, mathematics, and in physics.

6. The proficiency displayed by the Students in these examinations shall be recorded; and on the combined results of the two examinations, and of the record kept throughout the year, the Warden shall divide the Students of each year into classes, according to their merits.

7. Punctual attendance shall be required from the Students at all Lectures and Lecture Room examinations; and a record of such attendance shall be preserved in a book kept for that purpose.

8. Two annual examinations shall also take place in the College Hall, for the Students of each year, after the above mentioned examinations respectively, in the subjects of instruction mentioned in rule 1, in the third section thereof, and in rule 3 of chapter 4.

9. The proficiency displayed by the Students in these examinations shall be recorded, and the Students of each year divided into classes of merit, in like manner as is hereinbefore provided with respect to the examinations in subjects of tutorial instruction.

CHAPTER VIII.

SCHOLARSHIPS.

1. In respect of all Scholarships in the College, or for young men desiring to enter the College, there shall be special examinations in the College Hall for election thereto, at such times as the Council shall appoint, conducted by three Examiners; of whom the Warden shall be Chairman, and the other Members shall be annually nominated by the Council.

2. The Examiners shall report in writing to the Council the result of such examinations; and the Council shall thereupon elect the candidate who appears to have exhibited the greatest proficiency in the required subject or subjects of examination.

3. Where the subject or subjects shall not have been prescribed by the Founder, the same shall be selected by the Council, and publicly notified by the Warden; who shall, in all cases, annually announce the times of examination, and the conditions under which the examination will be conducted.

4. Nothing in the preceding three rules shall prevent any Founder from establishing a Scholarship on any conditions which he may think fit to impose, and of which the Council shall approve.

CHAPTER IX.

CHAPEL.

1. Morning and evening prayers shall be said daily in the College Chapel.

2. All Students, unless specially exempted by the Warden, shall daily attend Chapel and a record of their attendance shall be preserved, in a book kept for that purpose.

3. The Holy Communion shall be administered on two Sundays in each Term; and on the Chief Festivals of the Christian Year.

CHAPTER X.

MEALS.

1. All Resident Students shall breakfast and dine together in the College Hall, at such hours as the Warden, with the approval of the Council, shall from time to time appoint; at which meals punctual attendance shall be required.

2. Any other meal shall be taken in the Member's Room, or at a common table not in Hall, as the Council shall determine.

3. Other Members, and Visitors, shall be admitted into Hall upon such terms as the Council shall from time to time arrange.

4. For the Breakfast and Dinner in Hall, and any other meal furnished from the College Buttery, such charges shall be made as the Council may determine.

CHAPTER XI.

ROOMS.

1. As soon as any one, intending to become a Resident Student, shall have paid his admission fee, he shall be shewn the rooms which are vacant, and thereupon may select the room or rooms in which he will reside.

2. No Student shall have more than one room, except by permission of the Warden, and paying such extra sum as the Council shall determine.

3. The furniture of each room shall be provided by the occupant.

4. In the event of there being a vacancy in the College Rooms, any Member may change his room or rooms, according to seniority of standing on the Books; but he shall, in such case, defray all expenses incurred by the removal.

5. The College Rooms shall from time to time be visited by the Warden, or Vice-Warden; who may order the removal of any thing therein which he shall deem objectionable.

CHAPTER XII.

LIBRARY.

1. The Council shall form a Library, and shall set apart annually a sum of money for the purchase of books.

2. The Library shall be under the charge of a Librarian, selected by the Council from the Members of the College; and shall be open for the use of all the Members, according to such regulations as may from time to time be made by the Council.

CHAPTER XIII.

DISCIPLINE.

1. The wilful infraction of any By-law shall be regarded as a breach of discipline.

2. The College Gates shall be locked at a stated hour every evening; which shall be fixed by the Warden, subject to the control of the Council.

3. No Resident Student shall quit the precincts of the College after that hour, unless by written permission from the Warden or Vice-Warden.

4. Every Resident Student shall return into College before the gates are closed, unless he have obtained written permission from the Warden, or Vice-Warden, to remain out of College till a later hour.

5. Every Student who returns into College after the gates are closed shall have his name registered in a book, together with the time of his return; and shall pay to the Library Fund a fine, the amount of which shall be fixed by the Council.

6. No Visitor to any Student shall enter the College after the gates are closed; and all such Visitors shall be desired to leave the College before a stated hour every night.

7. Every Student shall be responsible for the orderly conduct of his Visitors, while within the College precincts.

8. The Warden may grant to any Resident Student permission to go out of residence, and to any Non-resident Student permission to discontinue his attendance, upon the representation of circumstances warranting the application.

9. Every Student, before he goes out of Residence, or discontinues his attendance, shall obtain a written *Exeat* from the Warden or Vice-Warden, and leave the same with the Porter.

10. Every Student—if Resident, on going out of Residence, and if Non-resident, on discontinuing his attendance—shall write his name, with the date of his departure, in a book kept for that purpose, called the Exit Book.

11. Every Student—if Resident, on returning into Residence, and if Non-resident, on recommencing attendance—shall write his name, with the date of his arrival, in a book kept for that purpose, called the Redit Book.

12. An appropriate Academic dress shall be worn by all Students, at Chapel, Hall, and Lectures; and within the precincts of the College, or the University.

13. Every Student shall be obedient to all Officers of the College; and shall manifest due respect to them, and to all Fellows and Professors of the University, and Fellows of the College, whenever he may meet them.

14. Every Student shall do his best to secure from injury the buildings, grounds, and all other property of the College.

15. Every Student shall repress, to the utmost of his power, both in himself and his companions, every deed and word of immoral, dishonorable, or ungentlemanly character.

16. Every breach of discipline shall subject the Student to be summoned before the Warden, and reprimanded or admonished privately.

17. Habitual breach of discipline, or any serious moral offence, shall subject the Student to a reprimand in the presence of the Council; and, in extreme cases, the Council shall have power to suspend a Student for any period they may think fit, or to expel him from the College.

CHAPTER XIV.

FEEES.

1. All fees shall be paid to the Bursar, who shall give receipts for the same:—and their amount shall be fixed, in every case, from time to time, by the Council.

2. The ordinary fees from Members shall consist of an admission fee, and of annual fees.

3. The admission fee shall be the same for all Students, whether Resident or Non-resident; and every other Member shall pay equally an admission fee, the amount of which shall be determined as aforesaid.

4. For Resident Students, the annual fees shall cover all charges for tutorial and professorial instruction, as well as those for residence, board, and College service.

5. For Non-resident Students, the annual fees shall cover all charges for tutorial and professorial instruction, and all other College privileges to which they are entitled.

6. The annual fees shall be paid in advance, before the beginning of Lent Term:—except that, where a Student is admitted at another period, a portion only of the annual fees shall be charged him for that year.

7. Instead of requiring the annual fees, or such portion of the annual fees, to be paid in one sum, the Council may permit the same to be paid by portions, in advance, at stated periods.

8. An annual fee shall entitle all other Members to keep their names on the books of the College, and thereby enjoy all the privileges of Membership.

9. This annual fee shall be paid yearly in advance; but at any period the Member may compound, by a fixed sum of money, for all future fees.

10. The Council shall, from time to time, frame a Schedule of Fees; which shall be exhibited in the College Hall, and periodically published in the College Calendar.

CHAPTER XV.

GENERAL MANAGEMENT.

1. The Council shall meet at the College, on the first Tuesday of each Term, and on the day of the University Encenia, at five o'clock in the afternoon;—and at the College, or some place in Sydney, on such other days as shall be appointed by themselves, or in their default by the Warden, at four o'clock in the afternoon.

2. No meeting of the Council shall take place, on the requisition of the Warden, unless every Fellow resident in Sydney, or within fifty miles of it, shall have had four days written notice from him, of the intended time and place of such meeting.

3. Of every other meeting, two days similar notice to every such Fellow, under the hand of the Warden, Vice-Warden, or Bursar, shall be sufficient.

4. At all meetings of the Council, the Warden if present shall preside. In his absence, the Fellows present shall elect a Chairman.

5. Except for purposes of College discipline, the Warden shall not be deemed absent, within the meaning of section 5 of the Act of Incorporation, unless he be beyond the distance of fifty miles from Sydney.

6. The Warden shall not absent himself from the College, in Term time, for any period exceeding one day, or in vacation exceeding fourteen days, unless he shall before his departure have left a written deputation of his authority with the Vice-Warden, or the Bursar, if there be no Vice-Warden.

7. The Vice-Warden shall not absent himself from the College, in Term time, for any period exceeding one day, or in vacation exceeding fourteen days, without the permission of the Warden.

8. At their first meeting in the Lent Term, the Council shall elect a Bursar; who shall enter on his duties on the first day of the Term following, and hold Office for the year next ensuing.

9. The same person may be re-elected, in any year, as Bursar; and any Fellow may be elected to that office.

10. The Bursar shall be entitled to admission, as a Member of the College, without the payment of any admission or annual fee.

11. The Bursar, and two Fellows, to be appointed annually by the Council immediately after his election, shall form a Finance Committee; to whom shall be entrusted, under the control of the Council, the administration of the receipts and expenditure, and the general management of the pecuniary affairs of the College.

12. It shall be the duty of the Bursar, to keep accounts of all the receipts and expenditure in detail; which shall be laid before the Council, together with a report from Committee, on the first Tuesday of each Term.

13. Before each Council meeting, a business paper shall be prepared by the Warden, containing all matters then to be brought forward; and no new subject shall be introduced, without leave of the Meeting, until those matters have been disposed of.

14. The Bursar shall act as Secretary, at all meetings of the Council; and shall keep a Minute Book, in which shall be noted every resolution and proceeding of the Council, to be afterwards recorded, in detail, in the College Journal.

15. The Journal shall, on being made up, be delivered to the Warden at the College; where it shall be open to inspection, by any of the Fellows, on application to him.

16. If any Fellow shall be absent from the Meetings of the Council during two consecutive Terms, without leave of the Council, or some cause to be allowed by them, his seat shall at the next following Meeting be declared vacant; and a Meeting be called for the election of a Successor.

17. At every Meeting of the Fellows, or remaining Fellows, for supplying any Vacancy, one of them shall be elected as Chairman: who shall retain his Deliberative, and also have a Casting Vote.

18. The Seal of the College shall be in the custody of the Warden; and shall not be affixed to any document, without the Order of the Council.

19. The Annual Certificate required by the Colleges Endowment Act, 18 Victoria, No 37, Section 5, shall be under the hands of two Clerical and two Lay Fellows, present at any Meeting of the Council in Michaelmas Term.

Passed The Council, the 24th day of January, 1859.

HENRY J. HOSE, M. A.,
Warden.
ALFRED H. STEPHEN, B. A.,
Bursar.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

SYDNEY GRAMMAR SCHOOL.

(CORRESPONDENCE RESPECTING LIABILITIES OF ON ACCOUNT OF THE BUILDING FUND.)

Ordered by the Legislative Assembly to be Printed, 22 March, 1859.

SCHEDULE.

No.	Page
1. The Honorary Secretary to the Trustees of the Sydney Grammar School to the Colonial Secretary, transmitting a Report of a Committee appointed to examine the state of the Accounts, and applying for aid from the Public Funds. 15 October, 1858	2
2. Under Secretary to the Rev. Dr. Woolley, in reply. 2 November, 1858	3

SYDNEY GRAMMAR SCHOOL

No. 1.

THE REV. DR. WOOLLEY to THE COLONIAL SECRETARY.

Sydney Grammar School,
15 October, 1858.

SIR,

By the direction of the Trustees of the Sydney Grammar School, I have the honor to transmit the enclosed Report of a Committee appointed to examine the state of our Accounts, and to request the favorable attention of the Government to its statements.

It will appear that in consequence of necessary, but unforeseen, expenses, the Building Account is overdrawn before the completion of the existing Contract, and that the Trustees are actually liable for the amount of £3,278 14s. 5d., whilst an additional £500 is required to complete the Head Master's House.

This sum (£3,778 14s. 5d.) would enable the Trustees to meet their obligations, but not to increase the accommodations of the School.

These are already insufficient, both in space and furniture. For 210 boys we have only 130 desks. We are already pressed for room, and as the School enjoys, we believe, a deserved reputation, there is every reason to expect an accession at Christmas.

The Trustees are of opinion that it would be inconvenient to limit the number of Scholars before it has reached 300. Up to 200 the surplus of receipts over expenditure is so small as to embarrass our operations; by the increased profits after that point the Trustees hope to be enabled to give full effect to the intended system of education.

An estimate of the cost of erecting buildings sufficient for the reception of 300 pupils has been laid before the Government in the Annual Report for 1857.*

The Trustees have the fullest confidence in the wise liberality of the Government to receive favorably their request that a sum sufficient for the purposes specified above may be placed upon the Estimates for the year 1859.

I have, &c.,

THE HONORABLE
THE COLONIAL SECRETARY.

JOHN WOOLLEY,
Hon. Sec.

REPORT of the Finance Committee to the Trustees of the Sydney Grammar School.

Your Committee have found upon examining the Accounts that your liabilities on account of the Building Fund are as follows:—

Overdrawn account	333 3 9
Due to Contractor when the Contract is completed	995 0 0
Estimated Extras	150 0 0
Sundries	192 0 0
Offices, &c., for Head Master's House	500 0 0
Architect	247 0 0
To be transferred from the Current Expenses Acct.	1,361 10 8
	£3,778 14 5

When the sum of £1,361 10s. 8d. is transferred to the Building Account, the Current Expenses Account, which is at present overdrawn, will be in a satisfactory state, but your Committee are of opinion that in the present state of your income your expenditure should be somewhat reduced.

Your Committee are of opinion that in future a Ledger should be kept.

M. B. PELL.
G. WIGRAM ALLEN.

No. 2.

THE UNDER SECRETARY to THE REV. DR. WOOLLEY.

Colonial Secretary's Office,

Sydney, 2 November, 1858.

REVEREND SIR,

I am directed to acknowledge the receipt of your letter of the 15th ultimo, in which, by desire of the Trustees of the Sydney Grammar School, you submitted the report of a Committee appointed to examine the state of the Accounts of the Institution, and requested that a sum of £3,778 14s. 5d. might be granted to enable the Trustees to meet their obligations.

2. In reply, I am instructed to apprise you that the Executive Council have approved of the Legislature being invited to appropriate any sum not exceeding £4,000 to enable the Trustees to liquidate the obligations set forth in detail in the Report; but that they are not prepared to propose, at present, that any amount shall be appropriated towards increasing the accommodation of the School.

I have, &c.,

THE REV. J. WOOLLEY,
Honorary Secretary of the
Sydney Grammar School:

W. ELYARD.

1858-9.

Legislative Assembly.

NEW SOUTH WALES.

ROMAN CATHOLIC ORPHAN SCHOOL, PARRAMATTA.(CORRESPONDENCE RELATIVE TO APPOINTMENT OF COMMITTEE OF
MANAGEMENT.)*Ordered by the Legislative Assembly to be Printed, 29 March, 1859.*

RETURN to an *Address* of the Honorable the Legislative Assembly of New South Wales, dated 8 March, 1859, praying that His Excellency the Governor General would be pleased to cause to be laid upon the Table of this House,—

“Copies of all Correspondence between the Government and
“the Most Reverend Archbishop Polding, the Right Reverend
“Abbot Gregory, or the Roman Catholic Church Authorities
“usually acting in matters connected with the Roman Catholic
“Orphan School, in the matter of the appointment to a seat or
“seats at the Board for the management of that Institution,
“in the room of Mr. Plunkett, or of any other member or
“members of such Board recently resigned.”

*(Mr. Deniehy.)***SCHEDULE.**

No.	PAGE.
1. Vicar General to the Colonial Secretary, proposing the appointment of Dr. Wm. Bassett as a member of the Committee of Management of the Roman Catholic Orphan School. 12 February, 1859	2
2. Vicar General to the Colonial Secretary, proposing the appointment of Francis M'Nab, Esq., to be a member of the Committee;—that the number of the Committee be increased from three to four—and that Andrew Lenehan, Esq., be the additional member. 24 February, 1859	2
3. Vicar General to the Colonial Secretary, requesting the withdrawal of Dr. Bassett's name as one of the Committee. 26 February, 1859	2
4. Vicar General to the Colonial Secretary, requesting that no steps may be taken in the matter, pending a further communication on the subject. 2 March, 1859	3
5. Vicar General to the Colonial Secretary, proposing the appointment of Peter Fancett, Esq., Francis M'Nab, Esq., Richard O'Connor, Esq., and J. Hart, Esq., as Members of the Committee of the Roman Catholic Orphan School, Parramatta. 25 March, 1859	3

ROMAN CATHOLIC ORPHAN SCHOOL, PARRAMATTA.

No. 1.

THE VICAR GENERAL to THE COLONIAL SECRETARY.

Vicar General's Office,

12 February, 1859.

SIR,

I have the honor to request, by direction of His Grace the Archbishop, that His Excellency the Governor General may be pleased to sanction the appointment of Dr. Wm. Bassett to be a member of the Committee of Management of the Roman Catholic Orphan School, Parramatta, in lieu of J. H. Plunkett, Esq., resigned.

I have, &c,

H. G. ABBOT GREGORY.

THE HONORABLE

THE COLONIAL SECRETARY.

No. 2.

THE VICAR GENERAL to THE COLONIAL SECRETARY.

Vicar General's Office,

St. Mary's, 24 February, 1859.

SIR,

I have the honor, by direction of His Grace the Archbishop, to request that His Excellency the Governor General may be pleased to sanction the appointment of Francis M'Nab, Esq., as member of the Committee of Management of the Roman Catholic Orphan School, Parramatta, in lieu of the Honorable Mr. Justice Therry, resigned.

Also, I am to request His Excellency's sanction to an increase in the number of the Committee from three to four, and to the appointment of Andrew Lenehan, Esq., for the additional member.

In this case there will be three gentlemen on whom the whole responsibility of the management will rest; and the surgeon (Mr. Basset), whose appointment to the Committee was solicited last week, will attend the meetings, as is the practice in the case of the surgeon of the Sydney Infirmary, to give the benefit of his intimate knowledge of the state of the children's health.

I have, &c.,

H. G. ABBOT GREGORY.

THE HONORABLE

THE COLONIAL SECRETARY.

No. 3.

THE VICAR GENERAL to THE COLONIAL SECRETARY.

Vicar General's Office,

26 February, 1859.

SIR,

I have the honor to enclose a letter from Mr. Surgeon Bassett, by which he declines to act on the Committee of Management of the Roman Catholic Orphan School; and, by direction of His Grace the Archbishop, I am to request, in consequence, that you will allow Mr. Bassett's name to be withdrawn.

I have, &c.,

H. G. ABBOT GREGORY.

THE HONORABLE

THE COLONIAL SECRETARY.

[Enclosure

[Enclosure in No. 3.]

*Roman Catholic Orphan School,
Parramatta, 26 February, 1859.*

Sir,

With reference to your request that I should act as a member of the Committee of Management of the Roman Catholic Orphan School, with the view of carrying out more efficiently the general sanitary regulations of this institution, I do myself the honor to remark, that I readily agreed to do so, not supposing that any prejudice could arise to this arrangement; that I have been induced to reconsider your proposition, by the irritation the prospect of my appointment seems to have caused.

That I must, therefore, beg to decline being recommended to the Government as a member of the Committee of Management.

The Right Rev. Abbot Gregory,
Chairman of the Committee of Management
of the Roman Catholic Orphan School, &c., &c.

I have, &c.,
W. J. BASSETT,
Surgeon.

No. 4.

THE VICAR GENERAL to THE COLONIAL SECRETARY.

*Vicar General's Office,
2 March, 1859.*

SIR,

With reference to a meeting held in the Victoria Theatre on Saturday last, the report of which appears in the enclosed *Herald* of Monday last, and in the enclosed *Freeman's Journal* of yesterday, in which there appear also certain letters entitled "Subsequent Proceedings,"—I am directed by His Grace the Archbishop respectfully to request that no steps may be taken in this matter by the Government, pending certain proceedings already initiated before the authorities of the Catholic Church, the result of which shall, as early as possible, be communicated to the Government. Meantime the Archbishop, as head and representative of the Catholic community, takes this occasion to declare that the meeting in question did in no respect represent the feelings and wishes of that community.

THE HONORABLE
THE COLONIAL SECRETARY.

I have, &c.,
H. G. ABBOT GREGORY.

No. 5.

THE VICAR GENERAL to THE COLONIAL SECRETARY.

*Vicar General's Office,
25 March, 1859.*

SIR,

I have the honor, by direction of His Grace the Archbishop, to request that His Excellency the Governor General may be pleased to sanction the appointment of Peter Faucett, Esq., Francis M'Nab, Esq., Richard O'Connor, Esq., and J. Hart, Esq., as members of the Committee of Management of the Roman Catholic Orphan School at Parramatta.

THE HONORABLE
THE COLONIAL SECRETARY.

I have, &c.,
H. G. ABBOT GREGORY.

1858.

Legislative Assembly.
NEW SOUTH WALES.

MR. ROBERT VINING GALE.
(CORRESPONDENCE RELATIVE TO.)

Ordered by the Legislative Assembly to be Printed, 21 December, 1858.

RETURN to an *Address* of the Honorable the Legislative Assembly of New South Wales, dated 29 June, 1858, praying that His Excellency the Governor General would be pleased to cause to be laid upon the Table of this House,—

“ Copies of all Correspondence between Mr. R. V. Gale (late
“ Teacher of the Presbyterian School, Pitt-street South,) and
“ the Local Board of Management, and the Central Denomina-
“ tional School Board, relating to Mr. Gale's dismissal, together
“ with a Minute of the Proceedings of the Local Board when
“ the dismissal was determined upon.”

(*Mr. Parkes.*)

SCHEDULE.

NO.	PAGE.
1. Secretary to Denominational School Board to Colonial Secretary, 28th August, 1858, forwarding Copies of Correspondence relative to Mr. Gale's dismissal from the situation of Teacher of the Presbyterian School, Pitt-street South	2

MR. ROBERT VINING GALE.

THE SECRETARY TO DENOMINATIONAL SCHOOL BOARD to THE COLONIAL SECRETARY.

*Denominational School Board Office,
28 August, 1858.*

SIR,

I have the honor, by direction of the Denominational School Board, and in compliance with the request conveyed to the Board in your letter dated 1st July, 1858, to forward the accompanying copies of the Correspondence which has taken place between Mr. R. V. Gale (late Teacher of the Presbyterian School, Pitt-street South), and the Local Board of Management and the Central Denominational School Board, relating to Mr. Gale's dismissal.

The Board regret that they are unable, as will appear in the above-named correspondence, to procure a copy of the last named document asked for in your letter, namely, a copy of the Minutes of the Proceedings of the Local Board when the dismissal was determined upon.

I have, &c.,

THE HONORABLE
THE COLONIAL SECRETARY.

C. E. ROBINSON,
Secretary.

COPIES of the Correspondence between the Moderator of the Presbyterian Synod and the
Denominational School Board, relating to the Dismissal of Mr. R. V. Gale.*

August 28, 1858.

*Sydney, 222, Elizabeth-street,
30 July, 1857.*

Sir,

At the request of the Chairman of the Local Board, Pitt-street South, I do myself the honor to state, for the information of the Denominational School Board, that the Local Board, Scot's Church, Pitt-street, have given due intimation to Mr. Robert V. Gale, Teacher of the Presbyterian School there, that his services will not be required after the end of August next.

I have, &c.,

The Secretary of the
Denominational School Board.

J. MILLNE,
Moderator, Synod of Australia.

Sydney, August 1, 1857.

Reverend and Dear Sir,

I take the liberty of inviting your attention to an official letter addressed by you as Moderator of the Presbyterian Synod to the Denominational School Board, informing them that the Local Board at the Pitt-street School have dismissed the Teacher, Mr. Gale. I hope you will excuse me for reminding you that this intimation should be laid before the Board in the shape of a recommendation for their approval, supported by an official statement of the grounds on which you consider that such dismissal should receive their sanction.

The Board will meet on Tuesday, the 11th instant.

I am, &c.,

The Revd. J. Milne,
Paddington.

C. E. ROBINSON.

Sydney, 6 August, 1857.

Sir,

I yesterday received yours, and having made the inquiry as recommended in your letter, I now do myself the honor to report, for the information of the Members of the Denominational Board, that the grounds upon which the Local Board felt called upon to dispense

* MEMO. :—The Local Board of Denominational Schools address the Central Board through the head of the Denomination to which the School may belong.—C. E. R.

dispense with the services of Mr. Gale, Teacher of the Denominational Presbyterian School, Pitt-street South, were chiefly these:—

1. The very unsatisfactory state of the school—the continued falling off for months past in the attendance at the school—and the comparatively small number at present on the roll. In the official returns made up by Mr. Gale for last month, the number on the roll is 53—a number far short of what ought to be returned as the attendance at a school so favorably situated as that of Pitt-street South; at this school, if properly conducted, the attendance at no time should be under one hundred, and frequently considerably above that number. In Mr. Gale's last return, the number reported (53) is less (by 11) than that in the returns of the present month.

2. The great and general dissatisfaction expressed in regard to the negligent and inefficient manner in which the school has for some time past been conducted, and the necessity to which, in consequence of the state of the school, the heads of families belonging to the congregation have been subjected of sending their children to schools at an inconvenient distance, and where the fees are also higher than at our Denominational Schools. All the heads of families, with the exception of two, belonging to the congregation, have in consequence of their children making no progress at their lessons, been induced to withdraw them from Mr. Gale's school; and at present, with the exception of the children of the two members of the congregation (widows) not one of the boys at Pitt-street School belongs to the congregation.

3. The formal complaint to the Chairman of the Local Board of the Church Committee of Management, and their urgent request that steps might be taken for Mr. Gale's removal from the situation of Teacher, and that a successor may be appointed without delay, in order that they, the heads of families in the congregation and the neighbourhood, may no longer be deprived of the benefit to which they consider themselves justly entitled; of having, in connection with their own church an efficient, attentive, and successful teacher. I have the honor to state, that for the above reasons, and in compliance with the request of the Committee of Management—which I may observe consists of the members of the Local Board, the Elders, Deacons, and other members of the congregation—the Local Board reluctantly gave due notice to Mr. Robert V. Gale that his services as Teacher of the Denominational Presbyterian School, Pitt-street, would not be required beyond the end of August, and as in their doing so they were actuated solely by a desire to promote the prosperity of their school, and the general interest of education, they confidently rely on their conduct in this matter meeting the approval of the Members of the Denominational Board.

I have, &c.,

J. MILNE,
Moderator, Synod of Australia.

The Secretary of the
Denominational School Board,
Sydney.

Sydney, 18 August, 1857.

Sir,

I do myself the honor to state, for the information of the Denominational Board, that Mr. William McClelland has resigned his seat at the Local Board, Scot's Church, Pitt-street South, and that Henry Clarke, Esquire, has been duly appointed to succeed him, as a Member of the Board.

I have, &c.,

J. MILNE.

The Secretary to the
Denominational School Board.

Sydney, 29 August, 1857.

Sir,

I do myself the honor to acquaint you, for the information of the Denominational Board, that Mr. William McClelland has been appointed Teacher of the Presbyterian School, Pitt-street South, by the Local Board.

I have, &c.,

J. MILNE,

Moderator, Synod of Australia.

The Secretary of the
Denominational School Board.

Pitt-street South, Sydney,
2 September, 1857.

Sir,

I think it right to inform you that I declined to sign the voucher for Mr. Robert V. Gale's last month's salary, because he refused to deliver up possession of the school-room, desks, books, &c. He says he has acquired, through you, a right to the school-room. He must hold it, therefore, but is willing to give up the books and desks. To remove our furniture from our own school-house might be regarded as an admission that the school-room is his. He has removed from the premises and shut up the school-room.

I have written to him that I will sign the voucher for his salary when he gives up the school-room, &c.

I have, &c.,

JAMES FULLERTON,
Chairman of the Local Board.

The Chairman of the
Denominational Board of Education.

Sydney,

Sydney, 3 September, 1857.

Sir,

I do myself the honor to request that you will be pleased to acquaint me with the names of the gentlemen who are at *present* members of the Local Board of the Presbyterian Church, Pitt-street South, Sydney.

To the Secretary of the
Denominational Board,
Sydney.

I have, &c.,
J. MILNE,
Moderator Synod of Australia.

*Denominational School Board Office,
Sydney, 9 September, 1857.*

Reverend Sir,

I have the honor to acknowledge the receipt of your letter dated 29th August, informing me that a Mr. William McClelland has been appointed to the Presbyterian School at Pitt-street, and to say, in reply, that I cannot, as requested, lay this information before the Denominational School Board, as they have not as yet taken into consideration the proposed dismissal of Mr. Gale, the present Teacher.

2. I have further the honor to refer you to my note dated 1st August, in which I endeavoured to explain that I am precluded from submitting to the Board letters informing them of changes which have been made in the mastership of schools, unless such changes have received their sanction.

3. Your second letter, dated 6th August, relative to the dismissal of Mr. Gale by the Local Board before they had communicated with the Central Board, will be submitted to the next meeting, when it will be for the Board to decide whether to sanction what the Local Board have done.

4. An appeal has been made to the Board by Mr. Gale, which will have to be taken into consideration in arriving at this decision.

To the Reverend the Moderator
of the Presbyterian Synod.

I have, &c.,
C. E. ROBINSON.

*Denominational School Board Office,
9 September, 1857.*

Reverend Sir,

In reply to your letter dated 3rd instant, inquiring the names of the members of the Local Board attached to the Presbyterian School at Pitt-street South, I beg to inform you, that a letter was addressed to the Moderator of the Presbyterian Synod, on the 12th February last, requesting that a list of members of the Local Boards of Presbyterian Schools for the year 1857 might be submitted to the Board, to which communication no reply has been received.

The Board are, therefore, only in possession of the list furnished for the year 1856, which was, for the Pitt-street School, as follows:—

Rev. Dr. Fullerton.
— Anderson, Esq.
W. McClelland, Esq.
Stewart Hawthorne, Esq.

The Reverend the Moderator
of the Presbyterian Synod.

I have, &c.,
C. E. ROBINSON.

*Denominational School Board Office,
Sydney, 10 September, 1857.*

Reverend Sir,

I am directed by the Denominational School Board to acknowledge the receipt of your letter dated 6th August, relative to the dismissal of Mr. Gale from the Presbyterian School at Pitt-street.

In considering this subject the Board had before them your former letter dated 30th July, and my reply dated 1st August, also a communication from Mr. Gale, appealing to them in the case.

Your letter, dated 6th August, informs the Board that owing to complaints made, and to urgent requests which had been forwarded to the Local Board they had given Mr. Gale notice of dismissal. The Board direct me to say that this course was not in accordance with the rules of the Board, as all dismissals require their sanction.

I am now directed to ask for a copy of the Minutes of the Proceedings of the Local Board at the meeting at which they decided to dismiss Mr. Gale, and to say that the further consideration of this case has been postponed.

The Reverend the Moderator
of the Presbyterian Synod.

I have, &c.,
C. E. ROBINSON.

Sydney,

MR. ROBERT VINING GALE.

5

Sydney, 12 September, 1857.

Sir,

Immediately on the receipt of yours of the 9th instant, I communicated on the subject of your letter with the Chairman of the Local Board, Scot's Church, Pitt-street, and have now the honor to transmit his reply.

I have, &c.,
J. MILNE,
Moderator, Synod of Australia.

The Secretary of the
Denominational School Board.

Sydney, 12 September, 1857.

Reverend and Dear Sir,

In reply to your communication of this date, I have the honor to state that I decline to give any copy of the Minutes of the Local Board of the Presbyterian School, Pitt-street, Sydney.

I know no law which authorizes the Denominational Board to ask such copy, nor do I know of any case in which the Minutes of the Local Board were submitted to them.

They were informed through you that the late Teacher, Mr. Robert V. Gale, was noticed to quit, because all the members of the congregation had sent their children to other schools, and that the number of children attending the school was so small that we would not be justified in continuing to receive a Teacher's salary. As the Board have neither inspected the school, nor provided the school-house, I think they cannot, in justice, demand more. Mr. Gale has asserted that Mr. Wm. McClelland was not formerly a Member of the Local Board, and that Henry Clarke, Esq., is not now a Member of that Board. I will not therefore convene the Local Board till I receive, through you, an official list of the present Members of that Board.

I am, &c.,
JAMES FULLERTON.

The Reverend
The Moderator of the Synod.

Pitt-street South, Sydney,
15 September, 1857.

Sir,

I lately met your Secretary, Mr. Robinson, in the street, when the language he used produced the impression on my mind that he encouraged Mr. Gale, the late Teacher of the Pitt-street School, to lock up that school, and insult the Members of the Local Board. If Mr. Robinson choose to listen to all the complaints of teachers, he ought not to pronounce any judgment respecting them; his sayings are published as the decisions of the Denominational Board, and by them teachers are encouraged to act foolishly. It would be more prudent in him to receive all complaints in writing, and to communicate only the decisions of the Board after the complaints had been considered. I believe that Mr. Gale's only object in appealing to you was to give vexatious annoyance to me and my congregation; if he conceived he had any right to be still regarded as the Teacher of the Pitt-street School, why did he at end of last month leave the premises lock up the school, and publish that he and his wife had opened a private school in Albion-street? When he first became teacher of the school he was told that his engagement was only temporary, and he was obliged to sign a weekly lease before he was permitted to enter the premises; this precaution was taken that he might fully understand that he was liable to be removed at any time by the Local Board. In December last he gave vacation earlier than usual, and visited Windsor, with the intention of opening a school in that town; and he asked me for a testimonial when lately a candidate for the situation of writing master in the Sydney Grammar School. He and Mr. Robinson seem to say that he could leave us whenever he pleased, but that we had no authority to interfere with him. The congregation urged me to remove him four years ago I am not, however, given to change, and I opposed their wishes much longer than I ought to have done.

Hoping you will excuse the liberty I have taken.

I have, &c.,
JAMES FULLERTON, L.L.D.,
Minister.

To the Chairman of the
Denominational School Board.

P. S.—Mr. McClelland, the present teacher, is engaged as a weekly tenant, liable to be removed after a notice of six weeks; these are the only terms on which the trustees will permit the premises to be occupied.

J. F.

Denominational School Board Office,
Sydney, 18 September, 1857.

Reverend Sir,

I am directed by the Denominational School Board to acknowledge the receipt of your note dated 15th instant, relative to the proposed dismissal of Mr. Gale from the Presbyterian School at Pitt-street South.

The Chairman directs me to say that he has applied to the Secretary of the Board for an explanation of the circumstances referred to in the former portion of your communication, which explanation is herewith enclosed.

Your letter to the Chairman, and a copy of the Secretary's statement above referred to, will be submitted to the Board at their next meeting.

The Reverend James Fullerton, L.L.D.

I have, &c.,
C. E. ROBINSON.

Explanation of the Secretary to the Denominational School Board in reference to a complaint forwarded to the Chairman by the Reverend Dr. Fullerton, in a note dated 15th September, 1857.

The Reverend Dr. Fullerton met the Secretary to the Denominational School Board on the steps of Mr. Dunsmure's office, and opened the subject of Mr. Gale's case by saying that Gale had locked up the school and refused to hand over the keys, and asking the Secretary if he knew by what right he had done this. The Secretary replied that Gale had appealed to the Board in the matter of his dismissal, and that he supposed that he believed that his dismissal was not final until it had received the sanction of the Board. Dr. Fullerton said that the dismissal by the Committee was enough. The Secretary referred to the 3rd rule of the Board, by which they claim a right of deciding in such cases. Dr. Fullerton said he did not recognise such a right; "that he did not care a pin for the Board;" that no Board had a right to interfere in the appointment or dismissal of a teacher; and that he never would take a shilling from any Board claiming such a right. The Secretary then left Dr. Fullerton.

Dr. Fullerton's "impression" upon this conversation is completely erroneous. The Secretary has never given Gale the slightest encouragement to insult the Local Board. The Secretary does not listen to all the complaints of teachers, and certainly never pronounced a judgment; so far from this, when Gale first called at the office the Secretary said that he could not listen to complaints, and told Gale that if he had anything to say it must be properly and officially submitted in writing. The Secretary has several times refused to give Gale an opinion as to how the matter would be settled. So far from assisting the teachers to insult their Local Boards, the Secretary has always refused to submit cases unless they are written temperately and respectfully. The Secretary acknowledges that when Mr. Gale asked him whether the Board had any voice in the dismissal of a teacher, or would consider an appeal, he answered, "Yes, certainly;" and the Secretary considers that he gave a proper answer, and trusts that this will not be construed as assisting teachers to insult the Local Boards.

C. E. ROBINSON.

Sydney, 18 September, 1857.

*Pitt-street South, Sydney,
30 September, 1857.*

Sir,

I have the honor to acknowledge the receipt of a letter from Mr. Robinson, by your direction, and a copy of his explanation addressed to you; on that explanation I submit the following remarks:—

1. In the month of August I was hailed in George-street by Mr. Robinson, who said he wished to see me respecting Mr. Gale—that the Local Board had no power to dismiss him without permission—and that he had appealed. I mentioned several things which convinced me that the Local Board was fully justified in removing Mr. Gale; and added that I did not wish to interfere with any teacher, and as soon as our church officers complained of the past management of the school, regulations had been prepared for its management in future, which will practically, but not formally, give the superintendence of the school to the Church Committee, consisting of the members of the Local Board, and of the Elders and Deacons of the Church. Mr. Robinson replied, "I have seen your Regulations, but we will not sanction them." On this occasion I considered both the language and manner of Mr. Robinson insolent and offensive.

2. I met Mr. Robinson afterwards at the door of Mr. Dunsmure's office. I asked him what was the decision of the Board. He said the case had not yet been considered. But his statement that "Dr. Fullerton said he did not care a pin for the Board," is an unfounded fabrication. I did not speak of the Board. When he boasted "We will not allow a teacher to be removed without our permission," I was disgusted with his arrogance, and turned away abruptly. I have often said, however, that our school would, in my opinion, be more useful if the teacher received no salary from Government, and that I would strongly dissuade my congregation from accepting Government aid, should the Government attempt to interfere in the appointment and removal of the teacher.

3. I am still under the impression that Mr. Robinson encouraged Mr. Gale to insult our Local Board by locking-up the school-room when he removed from the premises. I have been credibly informed that Mr. Gale has for some time been in daily consultation with Mr. Robinson; and the Moderator of the Synod of Australia told me that on two or three occasions lately he found Mr. Gale writing in the office of the Denominational Board.

4. I have heard many complain that Mr. Robinson can hardly ever be found in the office; and I am induced to mention this as I believe those connected with Denominational Schools have suffered much inconvenience from his neglect of duty. In 1854 I was obliged to visit frequently the office of the Denominational Board; but I generally found it shut. On one occasion the Revd. John Dougall and the Revd. John McGibbon and I wished to see your Secretary, but it was not till the third or fourth visit that we found the office open.

5. I do not say that your office should be open every day during the ordinary office hours; that would not I suppose be at all necessary. All Mr. Robinson's work may not be sufficient to occupy him more than one hour each day; but I respectfully submit that public intimation should be given when the office is to be shut, that those who are interested in particular schools may not be obliged to waste their time by going to the office when it is not open.

6. If Mr. Robinson be not the partisan of Mr. Gale, why did he stop me in George-street—say he wished to see me respecting Gale's case—and then treat me more rudely and impertinently than I have ever been treated by any other gentleman? I had communicated with the Board only through the Moderator of the Synod of Australia, and if he had anything to communicate from the Board he should have written to the Moderator.

I have, &c.,
JAMES FULLERTON, L.L.D.,
Minister.

To the Chairman of the
Denominational School Board.

*Denominational School Board Office,
Sydney, 23 October, 1857.*

Reverend Sir,

I am directed by the Denominational School Board to acknowledge the receipt of your letter dated September 12th, in reply to my communication of the 9th September, asking, by direction of the Board, to be furnished with certain information relative to the proposed dismissal of Mr. Gale from the Presbyterian School at Pitt-street.

The Board direct me to say that they cannot proceed with the consideration of Gale's dismissal until their request has been complied with, and the information sought for has been received.

I have, &c.,
C. E. ROBINSON.

The Reverend the Moderator
of the Presbyterian Synod.

Windsor, 18 February, 1858.

Gentlemen,

I have the honor most respectfully to request that you will have the goodness to sanction, and confirm the appointment of Mr. William McClelland to the office of Teacher to the Presbyterian School, Pitt-street South, Sydney; and that you will direct the payment of his salary to be made from the 1st September, 1857, on which day he entered on the performance of his duties, which he has since discharged with great efficiency. The number of pupils, I am happy to state, amounts to upwards of 130, and the parents are generally satisfied with their progress.

I have, &c.,
MATHEW ADAM,
Moderator of the Synod of Australia.

To the Members of the
Central Board of Denominational Education,
Sydney.

*Denominational School Board Office,
27 February, 1858.*

Reverend Sir,

I am directed by the Denominational School Board to acknowledge the receipt of your letter, dated 18th instant, requesting them to sanction the appointment of Mr. W. McClelland to the Presbyterian School at Pitt-street South.

In reply to this communication I am directed to refer you to my letter dated 23rd October, 1857, and to say that, as the Board have not been furnished with the information therein referred to, they have been unable to arrive at any conclusion as to the proposed dismissal of Mr. Gale from the school alluded to.

I have, &c.,
C. E. ROBINSON.

The Reverend the Moderator
of the Presbyterian Synod.

Paddington, 13 May, 1858.

Sir,

At the request of Mr. Adam, Moderator of the Synod of Australia, I have the honor to transmit, for the information of the Denominational School Board, the enclosed Copy of Minutes of the Committee of Management of the Presbyterian Church, Pitt-street, in reference to the removal of Mr. Gale, late Teacher of the Presbyterian School, Pitt-street.

I have, &c.,
J. MILNE,
Vice-Convener of Com. on Education.

To the Secretary of the
Denominational School Board,
Sydney.

*Pitt-street South, Sydney,
6 March, 1857.*

Which day the Committee of Management of the Presbyterian Church met in the Church.

Present:—

Messrs. D. McLaughlan, S. Anderson, H. Davis, Stuart Hawthorne, Wm. Forsythe, Jas. Smith,	|	Messrs. R. P. Armstrong, Jno. McKaughan, D. Cunningham, — Mackey, — McNeil, A. Bennie,
--	--	---

and Dr. Grey.

After considerable conversation respecting the present state of the Day School in connection with the Church—in which it was stated that the attendance had greatly fallen off, and that Mr. Gale had complained that all the members of the congregation had removed their children from the school—it was moved and seconded, “That it is the opinion of this Committee that Mr. Gale should be removed, and a successor appointed to take charge of the school.”

Mr. Bennie moved, seconded by Mr. McKaughan, as an amendment, “That Dr. Grey, Mr. S. Anderson, and the Mover, be appointed a Committee to make inquiry, and report on the state of the school.”

The amendment was carried.

*Church, Pitt-street South,
9 April, 1857.*

Which day the Committee met, when, amongst other matters, Mr. Bennie submitted the Report of the School Committee, which stated that the attendance or number of scholars had greatly decreased; that the members of the congregation had been obliged to send their children to other schools because they did not improve under Mr. Gale; that the wife of Mr. Gale taught a female school on her own account on the same premises, and this appeared to the Committee highly prejudicial to the Congregational School, as it drew off the attention of Mr. Gale from the duties of his own school. The Committee also submitted a list of rules for the future management of the school, which, in their opinion, every teacher should be required to sign. The Committee recommended that the Trustees of the school should not in future permit any private school to be taught on the premises during the ordinary hours of school; and that the Local Board be requested to remove Mr. Gale, and to advertise for another teacher.

After a lengthened discussion the recommendations of the School Committee were adopted.

[Extracted from the Minutes of the Committee of Management by Archibald Bennie, Hon. Secretary.]

Paddington, 13 May, 1858.

Sir,

I have the honor to request, in the name of the Moderator of the Synod of Australia, that you will be pleased to intimate, at your earliest convenience, for the satisfaction of the Committee on Education, whether the appointment by the Local Board of Mr. William McClelland to the situation of Teacher of the Presbyterian School, Pitt-street, has been sanctioned by the Denominational School Board, and whether Mr. McClelland be now entitled to salary.

I have, &c.,

J. MILNE,

Vice-Convener of Committee on Education.

To the Secretary of the
Denominational School Board,
Sydney.

*Denominational School Board Office,
Sydney, 20 June, 1858.*

Reverend Sir,

I am directed by the Denominational School Board to acknowledge the receipt of your two letters, dated 13th May, relative to the dismissal of Mr. Gale from the Presbyterian School at Pitt-street, and the appointment of Mr. McClelland as his successor.

The Board direct me to point out that they have never been furnished with a copy of the Proceedings of the Local Board in this case, which document has been already asked for, and refused by the Reverend Dr. Fullerton.

The Minutes of the Scot's Church Committee—copy of which was enclosed with your correspondence—is not sufficient information to enable the Board to perceive the views of the Local Board in this matter, and I am directed to say that they are unable to proceed with the case until the Minutes of the Local Board at the meeting at which Mr. Gale's dismissal was decided upon by them are before the Central Board.

I am, therefore, directed to say that the Board have been unable to take into consideration the proposed appointment of Mr. McClelland as Teacher of the Pitt-street School.

I have, &c.,

C. E. ROBINSON.

The Revd. J. Milne,
Paddington.

Paddington,

Paddington, 28 June, 1858.

Sir,

At the request of the Moderator of the Synod of Australia, I have the honor to acknowledge the receipt of your letter of the 20th instant, in reference to the dismissal of Mr. Gale, and the appointment of Mr. McClelland as his successor, and to state that I have forwarded to Dr. Fullerton, as Chairman of the Local Board, a copy of your letter requiring the desired information by the Denominational School Board, and that any communication I may receive on the subject from the Local Board shall be transmitted to you without delay.

The Secretary of the
Denominational School Board,
Sydney.

I have, &c.,
J. MILNE,
Vice-Convener of Committee on Education.

*Denominational School Board Office,
Sydney, 13 August, 1858.*

Reverend Sir,

A letter having been addressed to the Denominational School Board by the Government, requesting to be furnished with a copy of the Minutes of the Proceedings of the Local Board at the Pitt-street Presbyterian School, at the meeting at which they resolved to dismiss Mr. R. V. Gale from that school, I am directed by the Denominational School Board again to ask for a copy of the Minutes referred to, to enable the Board to comply with the request of the Government.

The Reverend J. Milne,
Paddington.

I have, &c.,
C. E. ROBINSON.

Paddington, 13 August, 1858.

Sir,

I have the honor to acknowledge the receipt of your letter of this date, and, in reply beg to state that I immediately forwarded it to the Reverend Dr. Fullerton, Chairman of the Pitt-street Presbyterian School; and as I leave for Windsor to-morrow, and may not return for several days, I have requested Dr. Fullerton to transmit directly to you, for the information of the Board, an immediate answer to your communication.

To the Secretary of the
Denominational School Board.

I have, &c.,
J. MILNE,
Vice-Convener of Committee on Education.

Paddington, 19 August, 1858.

Sir,

As it would appear the Board have received no communication from Dr. Fullerton in reference to your letter of the 13th instant, addressed to me, but which I forwarded to him, I do myself the honor, at request of Moderator of Synod, to send you the enclosed, which I found waiting me from Dr. F. on my return from the country last night. I would, at the same time, take the liberty to direct the attention of the Board to my letter of date 10th May, 1858, and of 6th August, 1857, as explanatory of the grounds of Mr. Gale's dismissal.

To the Secretary of the
Denominational School Board.

I have, &c.,
J. MILNE,
Vice-Convener of Committee on Education.

*Manse, Pitt-street South,
18 August, 1858.*

Reverend and Dear Sir,

I have the honor to acknowledge the receipt of your letter, requesting "to be furnished with a copy of the Minutes of the Proceedings of the Local Board at the meeting at which they resolved to dismiss Mr. Gale"; and I can only repeat what I stated to you formerly, that at the meeting of the Local Board at which it was finally resolved to dismiss Mr. Gale from the Presbyterian School, Pitt-street South, there was nothing written but the notice sent to Mr. Gale, a copy of which the Board received long ago.

The Rev. James Milne.

I am, &c.,
JAMES FULLERTON.

*Presbyterian School,
Pitt-street South, Sydney,
25 July, 1857.*

To the Honorable the Chairman and Members of the Denominational School Board.
Gentlemen,

Considering that I have been treated with extreme injustice, I do myself the honor of placing myself under the protection of your Honorable Board, and of laying before you the following statement:—

Prior to my acceptance of the appointment of teacher to the Presbyterian Schools, in January, 1851, they were conducted by two teachers, one for the male and the other for the female school, at a salary of £50 a year each. I was requested by the then Local Board to conduct the two schools—male and female—on one-half of the premises for one-half of the above salaries, namely, £50, and to pay a yearly rent of £26 for my residence.

This was done on the understanding that so soon as the debt on the school property was cleared, and it should be found that a "Grammar School," which it was contemplated to establish, would not succeed, I should have the use of the girls' in addition to the boys' school-room, and be free of rent. Such were the conditions entered into at the time. To liquidate the debt, however, one-half of the school property—that is, the female school-room with the residence attached—was let by the Trustees to one of the Elders of the Church, who used the former as a bed-room, and, in consideration of his paying the whole debt off at once—about £200—it was arranged that he should have the premises for the term of three years. I asked the Elder if he would be willing to let the school-room, when he very kindly offered it to me at one pound per week. For various reasons the offer was not accepted, and matters were allowed to go on without further alteration for a considerable period; Mrs. Gale being obliged in the meantime, at very great domestic inconvenience, to convert a portion of our private dwelling into a school-room for the female pupils.

After the debt had been liquidated, and repeated trials had failed in establishing a "Grammar School," I found that, although exempted from rent, I was not to have the school-room formerly promised to me; and, suffering from the high prices of provisions existing at that time in consequence of the discovery of gold, I resolved to charge for each female child, whose parents could afford it, the sum of one shilling and sixpence per week, while the children of those who could not afford it were taught with the boys in my room. The increased fee being contrary to the rules for the regulation of public schools, I have all along purposely omitted to include the names of those who paid it in the Government returns. I determined, in fact, with the consent of the Local Board, to consider the girls' school a private one, and as Mrs. Gale neither received a salary nor had the use of the school-room, I did not consider I had taken an improper course. Another reason was, that the room used in our own private dwelling was too small to afford any thing like comfortable accommodation for the girls, and I thought that by increasing the fee I might lessen the number, but I found the number still increased, in consequence of which Mrs. Gale was obliged to employ an assistant, to whom she has paid an annual salary of forty pounds, with board, in order that she might still attend to the needlework of the girls in my school. I was allowed to continue under these circumstances from January, 1854, till now, a period of 3½ years, without any objection being raised by the Local Board, or any rules being submitted for my guidance in the management of the schools. The first intimation of dissatisfaction that I received was the following notice accompanied by the "Rules to be observed by the Teacher of the Presbyterian School."

Rules to be observed by the Teacher of the Presbyterian School, Pitt-street South, Sydney:—

1. The school to be taught by a Teacher and his wife who *shall* not be permitted to take private pupils during school hours.
2. The school to be opened and closed with prayer.
3. The school hours, number of holidays, and rate of fees as fixed by the Denominational Board.
4. All children able to read *shall* each day read a portion of the Old or New Testament.
5. Each of the children of Presbyterian parents *shall* be required to commit to memory at least two questions* of the shorter catechism in each week.
6. The male Teacher shall be required to attend the Sabbath School, and to take charge of the Sabbath School children during the Morning Service in the Church.
7. The Teacher, his wife, and family, *must* regularly attend all the services in the Church.
8. The school is not to be opened on Saturdays, and the school-room and yard *shall* be cleaned on each Saturday, and the whole premises kept clean and orderly by the Teacher.
9. Two of the Trustees shall be appointed to inspect the school and premises, and to give in Reports to the Committee.
10. These Reports of the Trustees shall be inserted in the Minutes of the Committee once in each half-year.

These Rules were received 9th July, 1857.

The correspondence in reference to that notice, with a few particulars connected with the Presbyterian Schools before alluded to, I beg to lay before your Honorable Board.

It was lately contemplated to repair the buildings, and one of the Trustees agreed to advance the money for that purpose, provided he could see how he was to be repaid. It was then resolved that the schoolmaster should be compelled to pay a rent of twenty pounds a-year, and that the other half of the premises should be also let. I made some objection at first, because I had been previously told I should not be charged rent when the premises were once clear of debt; however, I eventually agreed.

Understanding that the Trustees were about to let that half of the premises which I did not occupy, and thinking they had the power to do so, irrespective of any other authority, I offered to rent it from them at £75 a-year. Had I obtained it in this way, I could have used the two school-rooms for the public school, and let the other residence to help pay the rent, but my offer was rejected, and the residence alluded to is now let to a "straw hat and bonnet cleaner" for £80 pounds a-year, shewing that for the sake of £5 the public girls' school-room is allowed to be used for an illegitimate purpose.

The Local Board say they will not permit a private school to be taught on the premises, yet they have allowed part of it to be let for that very purpose themselves, to the detriment

* Should be the answers to two questions.

detriment of my school. The last master occupied it for a few weeks at £26 a-year. They have tolerated private classes in the public school-room, whilst my wife has only kept a private school in my own private dwelling for which I pay rent.

With regard to the fluctuating attendance of the children, I could assign many excuses. In the first place, there is no play ground attached to the school, the piece of land granted by the Government for that purpose having been built upon and enclosed; the public school is therefore deprived of its use.

Secondly, the closeness of the school to Pitt-street, the traffic of which has so increased since the formation of the railway that it has become extremely dangerous for children to frequent it; and I am aware of several cases in which my pupils have narrowly escaped death, while one little boy was actually killed on the spot by being run over. This is another circumstance shewing the necessity for a play-ground. Thirdly, the distance at which most of the members of the Church reside prevents them from sending their children, especially as they can avail themselves of the benefits of other schools nearer at hand; still it is forgotten, that, although they receive in some cases no immediate benefit from their own school, yet the deficiency is fully compensated for by the advantage which their children receive from other schools, whilst a corresponding benefit is conferred on the children of other parents. Under such circumstances I deny that 65 is a small average—it is quite enough for one person to teach. If the girls were added to the boys in the Returns the average would be doubled.

After a mature consideration of foregoing facts, I cannot help expressing myself as feeling much grieved and injured at the summary way in which I have been dealt with, and thus consider it my duty—as an act of justice to my family, self, and to the profession generally—to appeal to your Honorable Board to make such inquiries as seem best, in your opinion, for the impartial administration of justice between both parties. Am I to be suddenly deprived of my living, and my reputation as a teacher of nearly ten years standing in connection with the Presbyterian body, because the Local Board think proper to make certain alterations in the management of the school? If I had been requested to observe certain rules and had refused, there might have been some grounds for wishing to dispense with my services. I consider that a sudden notice such as I have received, not only implies a discharge but a fault either in the teacher's character or profession.

My case will appear the more severe from the circumstance that my wife has been suffering from extreme indisposition for the last twelve weeks, and is still obliged to keep her bed.

I have sent a few testimonials, which will at least shew how my services have been appreciated by those who are qualified to give an opinion.

As early an answer to the above appeal as may be convenient to your honorable Board is respectfully solicited by

Your most obedient servant,
ROBERT V. GALE,
Teacher of the Presbyterian School.

Sydney, June 30, 1857.

Sir,

It having been resolved that the school in connexion with the Presbyterian Church, Pitt-street South, shall in future be taught by a male teacher and his wife, and conducted in accordance with certain resolutions, of which we send you a copy, we hereby give you notice that your services as teacher of that school will not be required after the last day of August, 1857.

JAMES FULLERTON, }
WM. M'CLELLAND, } Members of Local Board.

Mr. Gale has been known to me for about six years, during which time I have had many opportunities of knowing that he has given satisfaction to many of the parents of the children who have attended his school. I can also testify that the late Dr. Cuthill entertained the highest opinion of Mr. Gale, both as a gentleman and a tutor.

H. T. PINHEY.

Sydney, 1 June, 1857.

This is to certify, that I have known Mr. Robert Gale for these last eight years, or more, and am perfectly satisfied that he is a most efficient teacher; his penmanship I could almost say is unrivalled; the other branches of an elementary education, which he professes to teach, are also equal to the commendation mentioned above, and I can fully recommend him as such. He has had my children almost entirely under his care for several years, and I need hardly say that I am perfectly satisfied.

JOHN DUMBLE.

Newtown Road,
No. 19, Robey's Cottages.

20 Lower Fort-street,
2 June, 1857.

I have known Mr. Robert Gale the last two years, and think him a most zealous and industrious teacher. The specimens of his penmanship I have seen are excellent.

W. WILKINS,
Inspector and Supt. of National Schools.

No.

*No. 2, Buckingham-street, Sydney,
1 June, 1857.*

Having had my sons for some years under Mr. Gale's instruction, and a portion of my family having also received private instruction in arithmetic and writing, I can with confidence state, that his method of teaching and his style of writing are very superior.

W. WRIGHT.

27 July, 1857.

I hereby certify that I have known Mr. Gale, as his family medical attendant, during the last eight or nine years, during which period I have had frequent opportunities of judging of his character and disposition; and I am, therefore, in a position to state that I have formed a very high opinion of him as an honest and careful teacher, the more so as two of my children were under his care for some time. I believe him to be well qualified to discharge the duties he is at present entrusted with, in an upright and conscientious manner.

JOHN FOULIS, M.D.

*University of Sydney,
30 July, 1857.*

I have been acquainted with Mr. and Mrs. Robert Gale for about two years, and from frequent interviews chiefly relating to questions of education, have been led to form a high estimate of their qualifications, intellectual and moral, for the office of instruction and the management of a school.

I have heard warm and kind expressions of satisfaction from the parents of Mr. and Mrs. Gale's pupils, and am fully persuaded that they will always be found to discharge the duty of tuition, and moral training, with ability and a generous zeal.

JOHN WOOLLEY, D.C.L.,
(late Fellow of Union College, Oxford.)
Principal Professor of Sydney University.

(Copy from Commissioner's Report, page 74.)

*" Pitt-street South, Sydney,
" 16 January, 1855.*

" Dear Sir,

" In reply to your circular of last month, I beg leave to say that our teacher, Mr. Robert V. Gale, is laborious, energetic, and successful.

" The average attendance has been much larger since his appointment than it was previously, and he is, I believe, generally well respected by the parents of his pupils; his dispositions are naturally mild and amiable, but he has sufficient firmness, and maintains good order and discipline in his school.

" I have, &c.,

" To Charles E. Robinson, Esq.

" JAMES FULLERTON."

Sydney, 1 June, 1857.

It is with much pleasure that I bear testimony to the qualifications of Mr. Robert Gale as a commercial teacher. Having been in the habit of visiting his school I was induced to place one of my family under his tuition, and I can sincerely state that my expectations have been more than realized. From his capabilities as a teacher, his amiable temper, his firm and decided manner, but above all, from the high tone of his moral and religious character, I would consider him a very fit person to fill the respectable and very important office to which he aspires.

ROBERT BOAG, B. A.,
and of the
Church of Scotland.

*Presbyterian School, Pitt-street South,
Sydney, July 9, 1857.*

Reverend Sir,

Having received this day a notice from the Local Board stating that my services, as Teacher of the Presbyterian School, in connection with the Scot's Church, Pitt-street South, will not be required after the end of August next, you will not, I think, consider it unreasonable on my part to request an explanation of the charges preferred against me (if any) to warrant such a notice.

I am, &c.,

The Revd. James Fullerton, L.L.D.,
Chairman of the Local Board.

ROBERT GALE.

Sydney, 10 July, 1857.

Dear Sir,

I was not present at any meeting of the Committee of Management when the new regulations respecting the school were discussed; and I am not aware of any charges having been preferred against you. Should you wish to conduct the school under these regulations you can make application.

The Committee of Management was chosen at a public meeting of the congregation.

Its

Its members include the members of the Local Board, the Deacons, Elders, and other members of the Church.

I, as Chairman of the Local Board, will merely carry out the decisions of the Committee.

The buildings were erected by the congregation, and it is reasonable that their Committee should have some control over the school. They will not permit a private school to be taught on the premises, and they require the teacher's wife to assist in the public school. They allege that the members of the congregation send their children to other schools because there is not a female teacher in yours. Should the school not increase under the new regulations it will likely be closed. As it is now conducted the Committee consider that it is not in any way beneficial to the Church, and that they are not justified in receiving from Government a salary for a teacher in Sydney, when the average attendance does not exceed sixty-five pupils.

Mr. Robert Gale.

Yours faithfully,
JAMES FULLERTON.

*Presbyterian School, Pitt-street South,
July 31, 1857.*

Gentlemen,

I beg to refer you to the third rule of the Denominational School Regulations, and to inform you that I have laid your notice before the Central Board.

To the Chairman and
Members of the Local Board.

I am, &c.,
ROBERT GALE.

*Manse, Pitt-street South,
Sydney, 1 September, 1857.*

Sir,

I hereby direct you to deliver to Mr. Henry Clarke all the desks, forms, books, maps, and other property which were received by you as teacher of the Presbyterian School Pitt-street South. Mr. Clarke is a Trustee, and also a Member of the Local Board. I will sign the voucher for your last month's salary when Mr. Clarke informs me that you have delivered to him the premises, and all the school property committed to your care.

To Mr. Robert V. Gale,
Sydney.

JAMES FULLERTON, L.L.D.,
Chairman of the Local Board.

*Presbyterian School, Pitt-street South,
Sydney, 3 September, 1857.*

Gentlemen,

I beg most respectfully to call your attention to the fact that the Member of the Local Board, Mr. McClelland, who signed the notice for my dismissal, has been appointed as my successor, and I have every reason to believe that he intended to make application for the situation previous to the signing of that notice; also, that Mr. Henry Clarke (a Member of the Church Committee and principal Trustee) has been appointed Member of the Local Board, thereby concentrating the powers of the Committee, Trustees, and Local Board in one person; I beg also to state that the Rev. Dr. Fullerton (Chairman of the Local Board) has refused to sign my abstract unless I give up possession of the school property, and the key of the school-room; he also said that I might write and tell the Central Board that if I liked. On the 2nd of the present month I received the accompanying notice.

I have determined not to give up either the school property or possession of the school-room until I receive instructions from your Honorable Board to do so.

To the Honorable the Chairman and
Members of the Denominational School Board.

I am, &c.,
ROB. V. GALE.

P. S.—Under these circumstances I cannot but feel that undue partial feeling has been exercised against me.

R. V. G.

*Albion-street,
24 September, 1857.*

Sir,

I regret that I am under the necessity of complaining of the delay that has occurred since my application to your Honorable Board for an inquiry into the justness of the Local Board's decision regarding my removal, as teacher, from the Presbyterian School, Pitt-street South.

In consequence of this delay, the case has assumed a more difficult and complicated aspect, inasmuch as the Trustees have taken forcible possession of the school-room; I have, therefore, been compelled to conduct the school at considerable expense and inconvenience on other premises.

Trusting that the inquiry may be no longer deferred, and that a communication will be made to me at an early period.

To the Chairman of the
Denominational School Board.

I have, &c.,
ROB. V. GALE.

*National Education Office,
Sydney, 9 November, 1857.*

Gentlemen,

I have the honor to inform you that it is now about three months since I appealed to your Honorable Board to inquire into the reasons for the Local Board's decision in reference to me as teacher of the Presbyterian School Pitt-street South.

I therefore respectfully request that you will be good enough to furnish me with the result of your inquiries.

To the Board of
Denominational Education.

I have, &c.,
ROBERT V. GALE.

*Denominational School Board Office,
Sydney, 25 November, 1857.*

Sir,

I am directed by the Denominational School Board to acknowledge the receipt of your letter dated 9th instant, requesting to be informed of the result of the Board's inquiries "in reference to you as Teacher of the Presbyterian School at Pitt-street South."

The Board have applied for a copy of the Minutes of the Proceedings of the Local Board at the meeting at which the subject referred to was decided upon by them, but have not yet succeeded in procuring this information; they are, therefore, unable to proceed with this subject.

Mr. R. Gale,
National Schools Office.

I have, &c.,
C. E. ROBINSON,
Secretary.

*Post Office, Redfern,
12 July, 1858.*

Sir,

As certain statements which have been laid before the public by the Reverend Dr. Fullerton have a tendency to injure my character as a teacher, I have the honor to request you will be good enough to lay before the Board of Denominational Education, the accompanying copies of correspondence respecting a partition wall, also a correspondence with the Committee on school business, as well as some additional testimonials.

C. E. Robinson, Esq.,
Secretary to Denominational School Board.

I have, &c.,
R. V. GALE.

*Presbyterian School, Pitt-street South,
Sydney, 9 February, 1857.*

Reverend Sir,

Mr. H. Clarke called on me to-day, and distinctly told me—perhaps as advised by the Trustees—if I did not sign a lease to pay (£20) twenty pounds a year as rent for the residence I now occupy, that I might consider myself liable to be dismissed at the end of March next.

I therefore would feel obliged if you would inform me if my dismissal as schoolmaster rests with the Trustees of the school-houses or not; and further, whether the continuance of my appointment depends upon my paying rent?

Reverend Dr. Fullerton,
Chairman of Local Board.

I am, &c.,
R. GALE.

*Pitt-street South,
Monday Evening.*

Dear Sir,

I will submit your letter of this date to the Local Board as soon as possible. I cannot answer it officially without having consulted the other Members. Mr. Clarke has told me that the Trustees found the premises much injured. An inside wall had been pulled down without permission, and a large sum was required for repairs. They resolved, therefore, to have the premises thoroughly repaired, and to make the teachers who occupy the residences pay a small sum weekly for repairs. You cannot, in my opinion, continue to occupy the premises held by the Trustees, unless you agree to the terms prescribed by them. Your removal from your present situation might not affect you as a Denominational Schoolmaster.

You might continue to receive Government salary, and teach in a house for which you paid rent. The power of the Trustees extends only to the premises; this, however, is only my opinion.

Mr. Gale.

I am, &c.,
JAMES FULLERTON.

Pitt-street, 10 February, 1857.

Reverend Sir,

I beg to say, although I had no written authority from the trustees to remove the partition alluded to in your letter of this morning, yet I had a verbal permission from yourself to do so, subject, however, to the builder's Mr. Kinloch, decision, as to whether it could be done without injuring the other portion of the building or not. Mr. Kinloch
having

This letter, without date, was received 10 Feb. 1857.

R. V. GALE.

having decided in the affirmative, and having obtained the opinion of another qualified workman, I immediately took it down, with the intention of replacing it when required, or before leaving. Trusting the above explanation will be a sufficient excuse for the liberty I have taken, I beg to remain,

Rev. Dr. Fullerton,
Chairman of Local Board.

Revd. Sir,
Yours respectfully,
R. GALE.

Pitt-street South,
10 February, 1857.

Sir,

Your letter of this date is an unfounded misrepresentation. I never gave you or any other authority to pull down the wall to which you refer. I never was a Trustee of the first School Grant; and whenever you spoke to me of making any alterations, I charged you to do nothing till you had obtained permission from the Trustees.

Mr. Gale.

I am, &c.,
JAMES FULLERTON.

Pitt-street South,
11 February, 1857.

Reverend Sir,

I am sorry you misunderstood my letter of yesterday. When I said you gave me verbal permission, I meant that when I made allusion to the alteration spoken of, you did not object to it; of course I was not aware that you had no power to act in the matter, and not wishing to lie under the imputation that I had done it, to the injury of the premises, without consulting any one, induced me to offer some explanation.

If I have charged you with giving me full authority, * it is more than I intended.

Reverend Dr. Fullerton.

I am, &c.,
ROBERT GALE.

*What is meant here by full authority is a written authority.
R. V. GALE.

From my knowledge of the school-house belonging to the Scot's Church, Pitt-street South, I hereby certify that taking down the partition separating the closet from the front room could not and did not injure the building.

JOHN KINLOCH.

4, Belgrave Terrace,
2 May, 1857.

Sir,

Dr. Grey, Mr. Anderson, and myself, having been nominated by the Committee to inquire into the state of the Congregational School, I have the honor to request your attention to the following queries:—

- 1st. How many seat-holders in the Church have children at your school, and what is the number of the children?
- 2nd. State the number of each sex?
- 3rd. How many scholars are in attendance at your school, and what is the average attendance?

Should you wish to say anything to the Committee, I shall feel pleasure in being the medium of conveying your statements to them.

Perhaps you will be kind enough to answer the questions by Monday evening, and address your answer to me at Dr. Fullerton's before seven o'clock in the evening.

To Mr. R. Gale.

Believe me, &c.,
A. T. BENNIE.

Presbyterian School, Pitt-street South,
Sydney, 6 June, 1857.

My Dear Sir,

Lest the Committee should think I have acted discourteously towards them in not answering your queries, I beg to give some explanation.

In the first place, I did not receive your note until the evening on which the answers were required; but the principal cause of the delay was occasioned through Mrs. Gale's illness being so severe, and expecting every moment to be her last. However, if the several answers to your queries are still required, I am quite willing to supply them, and to give such other information as may be thought necessary.

Mr. Bennie.

I am, &c.,
R. GALE.

Sydney, Saturday, 18 July, 1857.

Sir,

I am instructed to inform you that the Committee of Management decline giving any further reasons for the steps they have taken in the matter to which you refer. An adjourned meeting of the Committee will take place on Tuesday next, when I shall be happy to make any communication on your behalf to the Committee.

Mr. Gale.

I am, &c.,
A. BENNIE,
Secretary.

Presbyterian

*Presbyterian School, Pitt-street South,
Sydney, 19 July, 1857.*

My Dear Sir,

If you will be kind enough to inform me to what matter I have referred, and what reasons you have already given for the steps you have taken, I shall be able, perhaps, to understand the meaning of your letter of yesterday.

I feel obliged at your kind offer to make any communication to the Committee on my behalf, but I am also at a loss to understand why such an offer is made.

Mr. A. Bennie,
Secretary.

I am, &c.,
R. GALE.

*Presbyterian School, Pitt-street South,
Sydney, 26 August, 1857.*

Sir,

I am three pounds twelve shillings behind with the rent, and, although I have repeatedly expressed my willingness to pay it off in full so soon as I was able, yet Mr. H. Clarke sent his collector to-day to tell me that if I did not pay the whole amount before two o'clock to-morrow he should put the bailiffs in the house. I therefore wish to know if it is with the full concurrence of the Committee that such an extreme measure is to be enforced.

To the Chairman of
Church Committee.

I am, &c.,
R. GALE.

(Copies of Testimonials.)

*26 Lower Fort-street,
2 June, 1857.*

I have known Mr. Robert Gale for the last two years, and think him a most zealous and industrious teacher. The specimens of his penmanship I have seen are excellent.

W. WILKINS,
Inspector and Supt. of National Schools.

Sydney, 1 June, 1857.

Mr. Robert V. Gale has been teacher of the Presbyterian School, Pitt-street South, during the past seven years. He is a man of amiable disposition and exemplary conduct, and I consider him well qualified to teach penmanship, and also arithmetical to junior classes.

JAMES FULLERTON, L.L.D.,
Minister.

*Glebe Road,
6 July, 1858.*

I hereby certify that I have known Mrs. Gale for the last ten or twelve years, and have attended her professionally on many occasions during that period, and I am enabled to state that I was in attendance on her in June and July last year, after her confinement, at which time she was suffering from great debility consequent on her protracted illness. I then expressed my opinion that it would be very imprudent to move her in her weak state; but, circumstances having rendered her removal necessary, I am of opinion that her recovery was much retarded thereby.

JOHN FOULIS.

I received a verbal answer exonerating the Committee from all blame.—R. G.

1858.

Legislative Assembly.

NEW SOUTH WALES.

OBSERVATORY AT SYDNEY

(CORRESPONDENCE RELATIVE TO BOARD OF VISITORS.)

Ordered by the Legislative Assembly to be Printed, 9 December, 1858.

THE ASTRONOMER to THE COLONIAL SECRETARY.

Observatory, Sydney,

August 10, 1858.

SIR,

I have the honor to submit to you for consideration the enclosed paper, being suggestions for the appointment of a Board of Visitors for the Observatory. The proposed plan is similar in its main features to those adopted with respect to the Observatories at Greenwich and Cambridge.

I have, &c.,

W. SCOTT.

THE HONORABLE
THE COLONIAL SECRETARY.

[Enclosure.]

SUGGESTIONS for the formation of an Observatory Board.

IN order to secure the effectual supervision and satisfactory working of the Sydney Observatory, it is proposed:—

1. That a permanent Board be established, under the title of the Observatory Board.
2. That this Board shall consist of the following members, *ex officio*, and two or more other members, selected by _____, with especial reference to their knowledge of astronomy, or some of the kindred sciences,—
 - His Excellency the Governor General, President.
 - The Honorable the Colonial Secretary.
 - The Honorable the Secretary for Lands and Public Works.
 - The Surveyor General.
 - The Professor of Mathematics in the University of Sydney.
 - The Commanders of such of Her Majesty's Ships of War as may be in the Harbour.

3. That the Board meet annually at the Observatory, for the purpose of inspecting the Observatory, &c., and receiving the Astronomer's Report, which Report, if approved, shall be printed for distribution to the principal Observatories and Astronomical Societies.

At the same time the Astronomer shall submit to the Board the regulations adopted by him in conducting the business of the Observatory.

4. In case of any important question arising which the Astronomer is unwilling to decide on his own responsibility, he shall give notice to the President, who shall, if he shall think it necessary, call a meeting of the Board to consider the question.

5. That if at any time the Governor General for the time being shall decline to perform the duties of President of the Board, the functions above assigned to him shall devolve on the Colonial Secretary for the time being.

THE PRINCIPAL UNDER SECRETARY to THE ASTRONOMER.

*Colonial Secretary's Office,
Sydney, 2 September, 1858.*

REVEREND SIR,

I am directed to inform you that your letter of the 10th ultimo, submitting for consideration certain suggestions for the appointment of a Board of Visitors for the Observatory, in order to secure the effectual supervision and satisfactory working of that establishment, has been laid before the Executive Council, and that having duly considered the plan proposed by you, the Council has sanctioned the following arrangement, viz :—

1st. That a permanent Board, under the title of the Observatory Board, be appointed to supervise and inspect the Sydney Observatory, with such duties and powers, in addition to those of supervision and inspection, as may from time to time be found expedient, and be approved by the Governor General and Executive Council.

2nd. That, for the present, such Board shall consist of the following members, viz. :—

His Excellency the Governor General, as President
The Honorable the Colonial Secretary.
The Surveyor General.
The Professor of Mathematics in the University of Sydney, and
The Commanders of such of Her Majesty's Ships of War as may be in the Harbour.

I have, &c.,

THE REV. W. SCOTT,
Astronomer, Sydney.

W. ELYARD.

THE ASTRONOMER to THE COLONIAL SECRETARY.

*Observatory, Sydney,
3 December, 1858.*

SIR,

I have the honor to enclose herewith the Report read yesterday to the Observatory Board, with Minutes of the Proceedings and Proposals approved by the Board.

I propose to send this day to the *Morning Herald* newspaper an advertisement respecting the appointment of a Computer, as recommended by the Board.

I have, &c.,

THE HONORABLE
THE COLONIAL SECRETARY.

W. SCOTT.

[Enclosure.]

MINUTES of the First Meeting of the Observatory Board, December 2, 1858.

The Board met at the Observatory, at 11 A. M.

Present :—

HIS EXCELLENCY THE GOVERNOR GENERAL, President.
THE HONORABLE THE COLONIAL SECRETARY.
THE SURVEYOR GENERAL

10 August,
1858.
2 September,
1858.

Letter read from the Astronomer to the Honorable the Colonial Secretary, suggesting the formation of an Observatory Board; also read letter from the Department of the Colonial Secretary to the Astronomer, intimating the appointment of a permanent Board, under the title of the Observatory Board, to supervise and inspect the Sydney Observatory, with such duties and powers, in addition to those of supervision and inspection, as may from time to time be found expedient and be approved of by the Governor General and Executive Council, and that, for the present, such Board is to consist of—

His Excellency the Governor General as President.
The Honorable the Colonial Secretary.
The Surveyor General,
The Professor of Mathematics in the University of Sydney, and
The Commanders of such of Her Majesty's Ships of War as may be in the Harbour.

Astronomer's First Annual Report read, on the state and working of the Observatory. The Board expressed their regret at the unsatisfactory state of the Meridian Instruments, but deferred making any recommendation as to the steps to be adopted until after the arrival of the Meridian Circle from England.

It

It was thought very advisable that an instrument should be provided for extra meridional observations, and the Astronomer was requested to make a special report to the Government on the subject, stating the character, dimensions, and cost of the instrument required.

The Board approved of the arrangements proposed by the Astronomer for conducting the work of the Observatory, comprising the accurate determination of its latitude and longitude, transit observations for determining the time, and such other observations of stars, principally in the Southern Hemisphere, as may be decided on after consultation with the Directors of other Observatories.

Recommended that the Observatory should be lighted with gas.

Approved of certain suggestions of the Astronomer respecting the appointment of a Computer, and regulations for the admission of visitors to the Observatory.

Inspected the Observatory and instruments.

Ordered that the Astronomer's Report, together with the Minutes of the Proceedings, should be laid before the Government.

PROPOSALS submitted by the Astronomer to the Observatory Board at its first Meeting, December 2nd, 1858.

That the Astronomer proceed at once to select a Computer, and instruct him in the duties of his office.

The office to be open to public competition, and the selection to depend solely on the qualification of the candidate.

The salary to depend partly, in the first instance, on the age, attainments, and experience of the person appointed, and in no case to exceed £300.

The Computer's hours of attendance to be from 9 a.m. to 1 p.m., daily, and from 2 p.m. to 5 p.m., but in case of his attendance being required at night, the afternoon attendance to be dispensed with.

REGULATIONS respecting Visitors, &c.

Persons wishing to see the Astronomer on business to call between the hours of 9 a.m. and 1 p.m. Persons engaged in rating Chronometers to have access to the Transit Room during the same hours.

Respectable persons, unaccompanied by children, to be admitted to the Observatory on Mondays from 3 to 5 p.m., provided no observation is being made at that time.

Persons engaged in scientific pursuits who may wish to consult the M.S. or printed records of the Observatory or books of reference in the Library, shall be permitted to do so, subject to the Astronomer's permission, and to such restrictions and regulations as he may find necessary, but in no case shall any book or manuscript be removed from the Library.

*THE ASTRONOMER'S first Annual Report to the Observatory Board.
December 2nd, 1858.*

INTRODUCTION.

IN submitting my first Annual Report to the Observatory Board, I take the opportunity of making a brief statement of the principal circumstances connected with the establishment of the Observatory, from my own appointment to the present time. In the year 1855, the sum of £7,000 was set apart by the Government of New South Wales for the purpose of establishing an Astronomical Observatory; further sums were also voted for the salaries of an Astronomer and one Computer, and for the purchase of Meteorological Instruments to be used at various stations in connexion with the proposed Observatory.

As it was thought desirable that the Astronomer should himself superintend the building of the Observatory, the Astronomer Royal of England was requested to select a suitable person for that office.

The Astronomer Royal having decided on offering me the appointment, I at once accepted it, and entered on my duties on April 16th, 1856.

As large a portion of the interval between that date and my departure for Sydney as the necessary preparations for the voyage would allow, was spent in the Greenwich Observatory, for the purpose of completing my knowledge of practical Astronomy and making myself familiar with the routine of an Observatory, and the most recent improvements in the construction and use of Astronomical Instruments.

In attaining this object I was kindly assisted by the Astronomer Royal, to whom I am much indebted for his advice, and for the facilities which he afforded me during my residence

residence at Greenwich. I embarked on the 1st July, and arrived at Sydney on 31st October, 1856.

My first duty was to fix on a site for the proposed Observatory. For purely astronomical purposes I should have preferred a position farther inland, and at a distance from any town; but as it appeared desirable, for various reasons, that the Observatory should be in the immediate neighbourhood of Sydney, I could find no spot more suitable than that recommended by the Governor General, close to the Signal Station at Fort Phillip, on which the Observatory now stands. It possessed the advantages of a good foundation on the sandstone rock of which the hill is composed, an unimpeded view, and a considerable exemption from smoke and dust; moreover, from the extent of the Government reserve on which it stands, there will be no difficulty in protecting it from the encroachments of neighbouring buildings.

The site having been decided on, the planning and erection of the Observatory were conducted by Mr. Dawson, the Colonial Architect, acting on my instructions so far only as the scientific requirements of the Observatory were concerned.

The building was commenced in May, 1857, and is still unfinished, but was so far advanced as to admit of meridian observations being made in June, 1858.

During the interval between my arrival in the Colony and the commencement of astronomical observations, I took the opportunity of visiting those places which had been fixed upon for Meteorological Stations, arranging the instruments, and instructing the Observers in their duties.

In concluding these remarks I may state, that, having had a sufficient sum placed at my disposal for the establishment of an Observatory on a good and substantial scale, I have felt it my duty not to be led by false economy to proportion the building to the present state of the instruments at my disposal, but to erect an Observatory sufficiently comprehensive and commodious to satisfy all the astronomical requirements of the Colony for the next century.

Thence it is very probable that, when all is completed, a very small portion, if any, of the sum voted will remain to be disposed of.

PERSONAL ESTABLISHMENT.

The personal establishment consists of the Astronomer and one Computer.

The Astronomer's duties comprise the entire charge and responsibility of the department; the correspondence with various Observatories and Societies (which, though small at present, may be expected to increase considerably); the charge of the Astronomical Instruments and their adjustments; the greater portion of the astronomical observations; the revision of the computations, and preparation for the press of such results as shall hereafter be published; the superintendence of the Meteorological Observatories, including the inspection of the returns and publication of their results; and his services are at the disposal of the Government in all cases in which his knowledge of mathematical and physical science can be made available.

The Computer's duties comprise the reduction of all observations, astronomical and meteorological, excepting such as the Astronomer may reserve to himself; the meteorological observations; the charge of the clocks and time ball, and such portion of the astronomical observations as the Astronomer may think fit to assign to him.

There is also a workman attached to the Observatory, who combines the offices of messenger, porter, office-keeper, carpenter, and gardener.

BUILDINGS.

The whole of the buildings are completed, with the exception of the Dome and interior of the Equatorial Tower, which will be finished in a few days.

They comprise the Astronomer's Residence, which was completed so far as to be habitable, and occupied on the 11th of April last.

The Astronomer's Office, containing also the Library of the Observatory.

The Computer's Room, at present unoccupied, and a space for unused instruments, &c.

The Time Ball Tower, which was so far completed as to be made use of on 5th June last.

The Transit Room, completed some time in June.

The

The Equatorial Tower, which is still unfinished.

The Transit Room is adapted for the reception of two meridian instruments, by means of two sets of shutters in the walls and roof.

The wall shutters, which are hung on ordinary hinges, and open inwards, have nothing remarkable in their construction.

The roof shutters are peculiar, but very simple; they open inwards by their own weight, and are closed by means of a rope acting on one arm of a lever, the other arm of which is connected by a jointed rod with the shutter; the force required to close them is very trifling, and they are kept closed by belaying the rope to pins fixed to the wall.

In order that they may not interfere with each other, one shutter is hinged to the east and the other to the west side of the opening; the south shutter is capped by an iron ridge-piece, which projects over the north shutter when closed, so as to exclude the rain, which beats for the most part on the south side of the building. A great objection to this style of shutters is that they open inwards, which renders it very difficult to make them quite rain-proof.

The shutters over the transit instrument are found to admit a considerable quantity of rain, if accompanied by high wind. It is absolutely necessary that this defect should be remedied before the meridian circle is mounted, and it is hoped that a simple expedient which is about to be adopted will have the desired effect. The wall shutters admit a great quantity of rain, a defect which is of much less importance than in the case of the roof shutters, and which may be to a great extent, though I fear not wholly, remedied.

The Transit Room is 24 feet long, and 17 broad; the width of the meridian opening is 14 inches. I defer the description of the Equatorial Building until I shall have an opportunity of testing, by experience, the working of the revolving dome and shutters.

In addition to the works above mentioned, a small piece of ground has been enclosed on the north-east and south sides of the Observatory; that on the south side, 45 feet in depth, is set apart for the reception of the meteorological instruments.

LIBRARY.

The Library of the Observatory consists of that which formerly belonged to the Observatory at Parramatta, and of books brought by me from England, either purchased for, or presented to the Observatory. It will be continually increased by donations from various institutions, and by the annual expenditure of £20 voted by Parliament for that purpose.

The Library contains at present (exclusive of numerous duplicates) about 580 volumes, which have been carefully arranged and catalogued.

INSTRUMENTS.

Transit Instrument, by Troughton; focal length 5 feet 4 inches, aperture $3\frac{1}{4}$ inches.

This instrument which was used for many years at Parramatta, can render but little service to astronomy in its present state, owing to the following serious defects:—

1. Irregular form of the pivots.—This defect is so great, as to occasion a difference of as much as 3.5 seconds between determinations of level for different altitudes. This irregularity has been produced probably by long use, and is such as to defy all attempts at correction; consequently the instrument cannot be expected to give trustworthy results until the pivots shall have been fresh turned, a work which, it is feared, cannot be performed in this colony.

2. Weakness of the axis.—This defect was thus described by Mr. Rumker, in a paper read to the Royal Society in 1829:—

“The weakness of the axis of the transit rendered it impossible for its optical axis to move in the same plane in passing from the north to the south of the zenith, so that I could not place implicit confidence in the right ascensions of the southern stars, deduced from the northern by means of this instrument.”

Again, in the introduction to the Parramatta catalogue, published in 1835, I find the following remark:—

“It appears that in the Southern Hemisphere the right ascensions of the Parramatta catalogue are generally two or three seconds of time too little; this must have arisen from

“the defect in the transit instrument alluded to by Mr. Rumker, in the Philosophical Transactions for 1829.”

This defect is very sensible, though I have never known it produce nearly so great an error as two or three seconds of time. It may be diminished somewhat by the use of counterpoises, which appear never to have been employed; but it cannot be remedied by any means short of a reconstruction of the instrument.

3. Flexibility of the Telescope Tube.—This defect combines with, and cannot be easily separated from the one last mentioned. It is very detrimental to accurate observation, causing a vibration of the telescope in windy weather; or when touched by the hand in adjusting the eye-piece, or bringing the object on the horizontal wire.

4. No collimating micrometer, consequently the error of collimation cannot be accurately determined, but can only be approximately corrected from time to time by a series of inversions, a process which is rendered the more unsatisfactory by the weakness of the axis and tube above described. The determination of collimation error by direct and reflexion results, as practised in some European observatories, is less suitable to the Southern Hemisphere, there being no bright star near the South Pole.

In addition to the above defects, the construction of the level is so defective as to render the determination of the level error a very tedious and unsatisfactory process. The clamping screws of the setting circles are worn out; there is no dark glass for observing the sun, nor contrivance for diminishing the aperture.

It is questionable whether or not the object glass of the transit is sufficiently good to warrant any great outlay in its reconstruction: as an instance of its imperfect definition, I may mention that I am unable at night, even with a very diminished aperture, to separate the two stars of Crucis.

Meridian Circle.—This instrument, which has been sent to London to be repaired by Messrs. Troughton and Simms, under the direction of the Astronomer Royal, has not yet arrived, but is expected to do so shortly, and will not only supply the place of the transit instrument, but will also enable me to obtain altitudes, for which I have at present no means at my disposal.

Mural Circle, diameter 2 feet.—This was much used at Parramatta; it has not been set up, but appears complete, with the exception of two Microscopes sent to England with the Meridian Circle.

Small Transit Instrument, 30 inches focal length.—This instrument is complete, but of no service in the Observatory; it may, however, be made useful in the determination of longitudes by the aid of the Electric Telegraph.

Achromatic Telescope, portable, with equatorial mounting and wire micrometer, focal length 42 inches, aperture $3\frac{1}{4}$ inches. The declination and hour circle are read by Verniers to a minute of arc, and 4 seconds of time; their diameters are $4\frac{1}{2}$ and 5 inches respectively.

This instrument is at present useless, requiring to be thoroughly repaired; when this is done it can be of very little service, on account of the unstable character of its mounting.

It might be so far repaired in Sydney as to be used in observing eclipses and occultations. As there are no means of illuminating the wires it cannot be used in determining positions by micrometrical measurements.

Achromatic Telescope, 3 feet focal length, $2\frac{1}{2}$ inches aperture.—Somewhat out of repair, and of very little service to the Observatory.

Clocks.—Those at present in use are an eight-day clock by Hardy, keeping sidereal time, and used in transit observations, and a thirty-day clock by Grimaldi, keeping mean time.

There are considerable irregularities of rate in one or both of these clocks, but in consequence of the imperfections in the transit observations, I am unwilling to give any decided opinion at present as to their respective merits. There are two other clocks, of no great value, one by Breguet, formerly used as mean time clock at Parramatta, and one by Barraud, of which the mercurial pendulum has been replaced by a cylinder of lead.

There is also a Box Chronometer by Dent, at present used in dropping the Time Ball, and a Pocket Chronometer by Dallas.

Time Ball Apparatus.—Complete and working satisfactorily, with one exception, that, owing to an inequality in the bore of the air cylinder, the air escapes at one point too rapidly,
and

and allows the ball to strike somewhat heavily at the end of its descent; this defect is not serious, and may be remedied, if thought desirable, without any great difficulty.

Sextant, by Jones.—In good order and apparently a good instrument.

Kater's Zenith Micrometer, by Dolland.—This instrument is in perfect order, and appears never to have been used. A necessary alteration in the eye-piece has been effected by Messrs. Flavelle, and I am now engaged in testing the accuracy of its performance. As far as I can judge at present, it may be made to do good service in case of a survey on an extensive scale being carried out in this Colony. The field of view includes about $1^{\circ} 15'$ on each side of the zenith.

Dipping Needle, by Gumbay.—Apparently a good instrument, but useless at present, as the needle cannot be found.

Magnetic Transit, by Dolland.—Of no great value; the needle of this instrument is also missing.

Kater's Azimuth Compass.—In serviceable condition.

Fortin's Pendulum.—This instrument, which was used by Mr. Rumker in determining the length of the seconds' pendulum at Parramatta, is complete, but unserviceable, in consequence of the divisions on the Vernier having been nearly obliterated, apparently in some ill-judged attempt at cleaning.

Reichenbach's Repeating Circle.—This instrument has recently been repaired at the Sydney Mint. It is in good working order, and suited to surveying purposes, though of little use to the Observatory.

Meteorological Instruments.—These consist of—Standard Barometer, Wet and Dry Bulb Hygrometer, Maximum and Minimum Shade Thermometer, Maximum Sun Thermometer, Terrestrial Radiation Thermometer, Gold-leaf Electroscope, Rain Gauge, with graduated glass measure, 12 Daniell's Hygrometers, intended for the 12 stations, but not distributed.

These are all by Negretti and Zambra they have been tested at the Greenwich Observatory, as well as those of the same description used at the different Meteorological Stations in the country. The Thermometers and Rain Gauge are placed in the enclosure on the south side of the Observatory. The Barometer is suspended temporarily in the Astronomer's Room, but will shortly be removed to the Transit Room. The Electroscope and Daniell's Hygrometers are not employed.

WORK OF THE OBSERVATORY.

In consequence of the defects of the Transit Instrument, already described, and the absence of the Meridian Circle, no observations can as yet be made of sufficient accuracy to be worthy of publication. I therefore confine myself to the observation of a few nautical almanac stars every night for the purpose of obtaining the correct time, also, when opportunity offers, of the moon and moon-culminating stars, for determining the longitude of the Observatory.

The amount of work to be done being thus limited, I have not thought it desirable to appoint a Computer until shortly before the arrival of the Meridian Circle, after which there will be abundant occupation for a much larger staff than I can expect to have at my disposal.

Previously to the acquisition of an efficient Equatorial Instrument, which cannot be expected to take place within the next twelve months, my attention must necessarily be confined to meridian observations. These may be divided into two sets, namely,—1st, observations of clock stars, that is, stars given in the *Nautical Almanac*, or others, whose positions have been accurately determined, for ascertaining the clock errors and rates; observations of the right ascensions and declinations of stars whose positions are not yet determined with sufficient accuracy, consisting for the most part of stars south of the zenith. I propose at first to pay particular attention to stars which are nearly vertical to Sydney, and other parts of the Colony, with a view to their future employment in the accurate determination of latitude with the Zenith Micrometer.

My plans, however, for the work of the Observatory are not definitely fixed, and may be somewhat modified by the replies to letters which I have addressed to the Astronomers at the Cape of Good Hope and at Santiago, with whom it is desirable that I should act in concert. I have had no means as yet of determining accurately the latitude of the Observatory.

The

The longitude, as deduced from twenty-one observations of the moon and moon-culminating stars, is 10h. 4m. 49.0s. This determination is, of course, unsatisfactory, owing to the defects of the Transit Instrument; the amount of probable error is 3.5 seconds, and the discrepancies between the different determinations are not above one-third as great as those which occur in Mr. Rumker's determinations of the longitude of Parramatta; this superior accuracy must be attributed to the increased accuracy of the lunar tables.

The Time Ball, which was dropped daily at mean noon, is now dropped at 1 p. m., as being a more convenient hour; the contemplated arrangements for dropping it by the action of the mean time clock have not been carried out; at present, a corrected Chronometer is carried to the room in which the machinery is placed, and the ball dropped by a touch of the finger.

The time thus indicated may be considered correct within half a second, except in case of a succession of cloudy nights, rendering observations impossible, in which case an accumulation of errors of clock rates may lead to an error of more than a second in the time signal.

The recent appearance of a large comet, in high south declination, and therefore of peculiar interest to Astronomers in the Southern Hemisphere, has given a striking instance of the importance of providing the Observatory with a good instrument for extrameridional observations. The observations which I made with a common sextant are such as I could not publish without doing discredit to the Observatory.

I hope to be allowed to submit to the Board a special report on this subject at no distant period.

W. SCOTT,
Astronomer.

1858.

Legislative Assembly.

NEW SOUTH WALES.

EQUATORIAL INSTRUMENT FOR OBSERVATORY.

(ASTRONOMER'S REPORT UPON THE NECESSITY OF.)

*Ordered by the Legislative Assembly to be Printed, 21 December, 1858.**ASTRONOMER'S REPORT on the subject of an Equatorial Instrument for the Observatory.*

In compliance with the wish of the Observatory Board, expressed at their meeting on the 4th instant, I beg to submit the following Report on the subject of an instrument for extrameridional observations. I presume that, in matters connected with the Observatory, the Government of New South Wales have the following objects in view :—

1. The determination of the geographical position of Sydney, and thence of other points in the Colony.
2. The accurate determination of mean time, for the use of the numerous ships which visit our ports.
3. The taking part, as a nation, in the advancement of astronomical science.

The two former objects may be attained by means of meridian observations, for which ample provision is made in the Meridian Circle which has lately arrived from England, and which, I have reason to believe, will be found a very excellent instrument.

For the latter purpose it is essential that the Observatory should be provided with an instrument for making observations out of the meridian ; such an instrument is necessary for observing such objects as require to be followed and watched for any length of time, or such as cannot be seen when crossing the meridian ; as was the case with the comet which has lately excited so much interest. The best instrument for such purposes is that commonly known as an Equatorial Instrument. Accordingly, in planning the Observatory I took care to make provision for the reception of a large instrument of that description.

The Equatorial Dome, having an interior diameter of 18 feet 3 inches, will conveniently accommodate an instrument of 11 feet, focal length.

On referring to a list of prices published by Messrs. Merz, of Munich, I find that an Equatorial Instrument, with 7½-inch object glass, and 10 feet 6 inches focal length, with clock work, eye-pieces, and micrometers, complete, can be obtained for 8,000 florins, or about £666. Allowing, then, a sufficient sum for carriage, mounting, and any little additions that may be required, I conclude that the Observatory may be rendered complete in this respect by the outlay of £800. With the limited personal force at my disposal the use of an Equatorial Instrument must, of course, diminish the number of meridian observations ; it must be remembered, however, that Equatorial observations are particularly interesting to amateurs, and there seems reason to hope that Sydney will before long supply one or more amateur astronomers whose observations and reductions may be relied on with as much confidence as those made by myself or my assistant. Under the above mentioned circumstances, I beg to recommend that a sum of £800 be placed on the Estimates for the purchase of an Equatorial Instrument.

W. SCOTT,
Astronomer.

Observatory, Sydney,
18 December, 1858.