

NEW SOUTH WALES.

VOTES

AND

PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL,

DURING

THE SESSION

1839.

WITH THE VARIOUS DOCUMENTS CONNECTED THEREWITH.

SYDNEY :

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No. 1.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

THURSDAY, 14 FEBRUARY, 1839.

1. Council met pursuant to summons, His Excellency the Governor in the Chair. New Members sworn, His Excellency Major General Sir Maurice Charles O'Connell, K. C. H., Commanding Her Majesty's Forces in New South Wales and its Dependencies, and Philip Parker King, Esq., Captain, R. N.
2. His Excellency the Governor then read the following Address:—

GENTLEMEN OF THE LEGISLATIVE COUNCIL;

I have called you together at this unusual Season of the year, in order to propose to you a measure for the establishment of a Police Force, beyond the settled districts of the Colony.

The vast interests which have grown up in those distant parts of the Territory, and the number of persons of all classes now engaged in depasturing Sheep and Cattle beyond what are called the Boundaries of Location, might be sufficient of themselves to call for the protection of a Police Force; but the necessity for it is rendered far more urgent, by the frequent aggressions made of late by the Aboriginal Natives upon the Flocks and Herds of the Colonists, as well as on the lives of their Stockmen—by the outrages which have been committed on the Aborigines, as well as by them—and particularly by one atrocious deed of blood, for which seven unhappy men have suffered on the scaffold.

The Bill which I shall lay before you proposes to accomplish its objects, by giving to the Crown Commissioners, who already perform certain functions in
those

those districts, far more ample powers than they now possess ; and by providing that *each Commissioner shall be accompanied by a moving Police Force, sufficient to repress the predatory attacks of the Natives, and to keep order amongst all classes.*

As it appears to me perfectly just, that the persons who are to be protected by this Force, should bear the expense of maintaining it, the Bill provides for this object, by means of an assessment on Cattle and other Stock.

In proposing however a New Tax upon any portion of the people of this Colony, it is not sufficient, I think, to shew that it falls upon persons who may properly bear it ; it is further necessary to prove that the Tax itself cannot be dispensed with. Without therefore entering into any elaborate statement of finance, which at the present season of the year would be premature, I will request the attention of the Council to a few facts, tending to shew that it would be highly unwise, in the present state of our Finances, to incur any new expenses without providing, at the same time, the means of defraying them.

The total Revenue of the year 1838, exclusive of Crown Lands, was £202,960 7s 5d, being £26,739 12s 7d less than it was estimated at by Sir Richard Bourke : The total expense for the same year, 1838, (exclusive of Immigration), cannot yet be exactly ascertained ; but it may be taken at about £295,000, being an excess over the Revenue of the year, of upwards of £92,000.

The excess of Expenditure over Income, for the present year, must be taken, I am sorry to say, at a still higher sum.

In the Financial Minute, which I laid before the Council on the 7th August last, it was estimated at £100,798 6s. 4d. ; since that time, however, new charges have arisen, which are to be provided for ; and the increased price of provisions of every description, has caused all our Contracts to be made at a higher rate than that which is set down in the Estimates. The excess of Expenditure over Income, for the year 1839, will therefore, I now apprehend, be much greater than what I considered probable in August last.

This

This excess of ordinary Expenditure, over ordinary Income, though greatly increased within the last two years, is not one altogether of sudden growth; for, from the most accurate accounts I have been able to procure of the three preceding years, viz., 1835, 1836, and 1837, I find there was an aggregate excess of Expenditure over Income, in those three years, of about £100,000; so that in no year since 1834, would it have been possible to keep the Expenditure of the year within its Income, without either stopping the Public Works, or adding to the Taxation of the People.

Gentlemen, I have thought it right that these circumstances should fairly be placed before you, though there is nothing in them that ought, in my opinion, to occasion the slightest degree of alarm; and I am fully persuaded that, by cautious and prudent measures, the appearance even of embarrassment may be avoided. Economy, however, is necessary—not descending to parsimony, which would be unwise in a new and rising State—but an economy which will tend rather to call forth the energies of the People than to repress them.

I have never ceased, since I entered on the Government, to express my determination to enforce such an economy; and, however arduous and unpleasant the task, I trust, Gentlemen, with your assistance, to be able to accomplish it.

“GEORGE GIPPS.”

3. His Excellency the Governor laid upon the table, a Despatch from the Right Honorable Lord Glenelg, dated 24 August, 1838, No. 184, transmitting a copy of an Act which has been passed, to continue for another year, the Act for the Administration of Justice in New South Wales and Van Diemen's Land; to be printed.
4. His Excellency the Governor laid upon the table, “*A Bill to amend an Act intituled, ‘An Act to continue and amend an Act, intituled, ‘An Act to ‘to restrain the unauthorised occupation of Crown Lands.’*” Bill read a first time; to be printed.

Motion

Motion made and question put, that this Bill be referred to a Sub-Committee, to consider and report their opinion upon the provisions thereof, with leave to examine Evidence, if necessary. Passed ; and Committee appointed :

THE COLLECTOR OF CUSTOMS ;

THE AUDITOR-GENERAL ;

MR. JONES ;

MR. BLAXLAND ;

MR. MACARTHUR ;

SIR JOHN JAMISON.

5. His Excellency the Governor laid upon the table, a Letter dated the 11th instant, from the Commanding Royal Engineer, stating that to accomplish the erection of the new Circular Quay, and other improvements near the same, it will be necessary to purchase properties valued at £52,000, embracing 1007 feet of valuable frontage, with extensive buildings ; which outlay he suggests may be met by the sale of the same Land, laid off in Allotments adapted to the new lines of street and the line of the Quay, along with some adjacent Government Land ; the whole comprising frontage to the extent of about 8000 feet : The Letter is accompanied by a Plan.

Motion made and question put, that the above-mentioned Letter and Plan, and the subject connected therewith, be referred to a Sub-Committee, to consider and report their opinion thereon, with leave to examine evidence, if necessary. Passed ; and Committee appointed :

THE COLONIAL SECRETARY ;

THE AUDITOR-GENERAL ;

MR CAMPBELL ;

SIR JOHN JAMISON ;

CAPTAIN KING, R. N.

6. His Excellency the Governor laid upon the Table, a Despatch from the Right Honorable Lord Glenelg, dated 4th September, 1838, No. 208, enclosing a copy of

of a letter from the Secretary of the Treasury, dated 30 September, 1837, stating it to be the opinion of the Lords Commissioners, that there are no grounds to call for, or in any respect to justify, a re-transfer of any portion of the Police Expenditure to the Military Chest, or the revocation of any of the directions which have been given with respect to the expenses of the Police and Marine Departments, or the extra expenses of the Mounted Police. To be printed.

7. His Excellency the Governor laid upon the table, a Despatch from the Right Honorable Lord Glenelg, dated 28th August, 1838, No. 195, enclosing a copy of a Letter from the Board of Treasury, dated 13th of the same month, stating that the Lords Commissioners do not disapprove of the regulations relating to the classification and periodical increase of the Salaries of Clerks in the Colonial Service; nor, with some exceptions, of the provisions generally, of the Estimate and Appropriation Act, for the year 1838; but they trust that the whole of the proceeds of the Land Revenue will not have been appropriated to Immigration expenses, until it shall have been ascertained that the produce of the other branches of the Revenue will be such as to render it unnecessary to apply any portion of the Land Fund to the Ordinary Expenditure of the Colonial Government. To be printed.

Council adjourned at half-past Two o'clock, until Tuesday, February 26, at Twelve o'clock.

Wm. MACPHERSON,

Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, 26 FEBRUARY, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. The Honorable the Colonial Secretary, as Chairman of the Committee appointed to consider, and report upon, the Letter from the Commanding Royal Engineer, relative to the erection of the New Circular Quay, and other improvements near the same, reported progress, and laid upon the Table the Evidence taken before the same.
2. The Collector of Customs, as Chairman of the Committee appointed to consider, and report upon "the Crown Lands Occupation Act Amendment Bill," reported progress, and laid upon the Table the Evidence taken before the same. To be printed.

Council adjourned at one o'clock, until Tuesday next, March 5, at twelve o'clock.

WM. MACPHERSON,
Clerk of Councils.

No. 3.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

TUESDAY, 5 MARCH, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Committee on the intended New Circular Quay; The Honorable the Colonial Secretary, as Chairman, reported further progress. Committee obtained leave to sit again.

2. Committee on the "Crown Lands Occupation Act Amendment Bill;" The Collector of Customs, as Chairman brought up the Report, and laid upon the Table, the Bill as amended by the Committee. To be printed.

Council adjourned at one o'clock, until Wednesday, March 13, at twelve o'clock.

W^m. MACPHERSON,

Clerk of Councils.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

THURSDAY, 14 MARCH, 1839.

1. *The Meeting of the Council appointed for yesterday, having in consequence of the non-attendance of a Quorum of the Members, been adjourned to this day, at twelve o'clock, the Council met pursuant to that adjournment; His Excellency the Governor in the Chair. Committee on the intended New Circular Quay; The Honorable the Colonial Secretary, as Chairman, brought up the Report. To be printed.*
2. *Crown Lands Occupation Act Amendment Bill; read a second time; committed, and amended; to be further considered to-morrow.*

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

ORDERS OF THE DAY.

FRIDAY, MARCH 15.

1. *Crown Lands Occupation Act Amendment Bill; further consideration.*

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

FRIDAY, 15 MARCH, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair.
Crown Lands Occupation Act Amendment Bill; further considered, and amended; to be further considered on Monday next.

Council adjourned at four o'clock, until Monday next, 18 March, at twelve o'clock.

ORDERS OF THE DAY.

MONDAY, MARCH 18.

1. Crown Lands Occupation Act Amendment Bill; further consideration.

WM. MACPHERSON,
Clerk of Councils.

No. 6.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

MONDAY, 18 MARCH, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair.
Crown Lands Occupation Act Amendment Bill; further considered, and amended, and the title altered to the following, viz:—"An Act further to restrain the unauthorised occupation of Crown Lands, and to provide the means of defraying the expense of a Border Police;" to be fairly transcribed and presented to the Governor, by the Collector of Customs, and Captain King.
Council adjourned at four o'clock, until Friday next, 22 March, at twelve o'clock.

WM. MACPHERSON,
Clerk of Councils.

No. 6:

NEW SOUTH WALES.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

MONDAY, 18 MARCH, 1839.

Ordered by THE COUNCIL to be Printed.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

FRIDAY, 22 MARCH, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and laid on the table, "*A list of vessels which visited the Bay of Islands, New Zealand, during the six months, ended on the 31st December, 1838,*" accompanied by "*A Table, shewing the number and description of vessels which visited the Bay of Islands, New Zealand, during each of the six years, from 1833 to 1838, inclusive.*" To be printed.
2. Crown Lands Occupation Act Amendment Bill; read a third time and *Passed.*

Council adjourned at three o'Clock, *sine die.*

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

TUESDAY, 11 JUNE, 1839.

1. Council met pursuant to Summons. His Excellency the Governor took the Chair, and read the following Address :—

Gentlemen of the Legislative Council,

In meeting you for the dispatch of the ordinary business of the year, I am happy to be able to congratulate you on the improved prospects which are opened to us by the termination of the calamitous drought, under which the Colony was labouring, during the whole of our late extraordinary sitting: By the abundant rains which have fallen in most parts of the Territory, the hopes of the Colonists have been revived; and though grain of every description will probably yet for some months retain a high price, I trust all fears of an afflictive Scarcity have passed away.

Acting on the advice of my Executive Council, I adopted measures in the month of April last, to insure an importation of Corn from the Markets of India, or South America, before the supplies which are now fast flowing in from our Sister Colony, shall be exhausted.

My arrangements on this occasion were so made, as not in all probability, to lead to any charge upon the Public purse of the Colony; should however, the contrary prove to be the case, I shall trust confidently to the wisdom and liberality of this Council, to enable the Government to make good its engagements.

I am

I am happy, Gentlemen, to have it in my power to inform you; that the measure which was adopted by this Council, at the commencement of our last year's Session, for admitting the Public to our Debates, has met the approval of Her Majesty's Government; the Despatch which I have received from the Secretary of State on this subject, I shall lay before you.

I shall also lay before you a Despatch which I have received from the Secretary of State, announcing the early intention of Her Majesty's Government to appoint an Officer, who will be vested with the powers, and will assume the character of British Consul at New Zealand. Upon this appointment being made, the office of British Resident will be discontinued.

Papers and Returns, showing the progress of Immigration during the course of the last year, are in preparation, and will be speedily presented to you. I shall then propose to refer these Papers to a Committee of the Council—as has been the practice in respect to Papers on this most interesting subject, in each of the last few years.

I also propose to revive the Committee which sat during the last year, on two Bills, which I then presented to you for effecting an alteration in the Insolvent Laws of the Colony, and for the Abolition of Imprisonment for Debt on *mesne process*. I sincerely hope some satisfactory measure may be adopted on each of these important subjects.

Among the Public Establishments of the Colony, there is not, it seems to me, one of more vital importance than that of the Police, or one to which the attention of this Council can be more profitably directed. Notwithstanding the extent of these Establishments, and the enormous expense of them, I continue to receive complaints of their insufficiency; and demands are so frequently made upon me for extensions in them, that I feel it desirable, before I proceed to any further executive measures, to seek the advice and assistance of such Members of this Council, as are most conversant with the actual state of the Police, and with the wants of the Colony. I therefore propose to refer the whole subject of our Police Establishments to a Committee, similar to that which sat upon them in the year 1835.

Among

Among the Bills which will be laid before you, there is one for the Regulation of the Customs, by which, however, it is not so much proposed to make an alteration in the Law, as to collect into one Act, all existing Regulations, and to adopt certain improvements which have already been introduced into the Laws of the Customs in Great Britain.

Upon the important subject of the Education of the People, it is my intention to submit to you a proposal when I bring forward my Financial Statement for the year: the basis of the arrangement I shall then propose will be, that the Schools under the immediate controul, either of Government, or of a Board of Education, shall be established on the principle of the British and Foreign School Society, leaving to every religious Community the option of continuing their own Schools, or of founding new ones, on the understanding that they will still receive from the Government pecuniary assistance towards the support of them, equal in amount to what they derive from private contributions.

The rise in the price of almost every prime necessary of life, consequent upon the late Drought, and augmented perhaps, by the increase in our Population, has, I regret to say, caused all our existing Contracts, and particularly those for Forage and Provisions, to be made at a rate, vastly exceeding that of the last year. Had it not been for this circumstance, which was in a great measure unforeseen, I have reason to believe that the Expenditure of the current year, would have been within the Estimates already sanctioned by the Council.

The accounts of the Receipt and Expenditure of the last year, will be laid before you with as little delay as possible, as well as the Estimates for 1840. I shall, also, according to directions received from the Secretary of State, lay before you a Copy of the Official Documents for 1837, contained in what is generally denominated the "Blue Book."

I am happy to be able to state, that the Revenue of the Colony continues to improve; and though our Expenditure for the present year, must greatly exceed the gross amount of it, I see no reason to doubt, that by wise and economical measures,

we

we may yet avoid any pecuniary embarrassment, and even devote to the important object of Immigration, the amount of *Nett Revenue* which we derive from the Sale of the unimproved Lands of the Crown.

“GEORGE GIPPS.”

2. His Excellency the Governor laid upon the Table Copies of the undermentioned Despatches from the Right Honorable the Secretary of State:—

(1.) Copy of Despatch, No. 229, dated 5th November, 1838, intimating the approval of Her Majesty's Government of the Resolution of the Council to admit Strangers to their Debates.

(2.) Extract from Despatch, No. 251, dated 1st December, 1838, intimating the intention of Her Majesty's Government to appoint an Officer who will be vested with the powers, and assume the character of British Consul at New Zealand.

(3.) Copy of Despatch, No. 252, dated 3d December, 1838, intimating that the usual measures will be taken for laying the Resolutions of the Legislative Council of this Colony before both Houses of Parliament, early in the ensuing Session.

(4.) Copy of Despatch, No. 223, dated 26th October, 1838, intimating the intention of Her Majesty's Government to leave the Local Legislature entirely unfettered as to the course which they ought to pursue in regard to the Prisoners' Counsel Bill, laid before the Legislative Council by Sir Richard Bourke, on the 4th July, 1837, but subsequently withdrawn, for reasons stated in the Minutes of the Council's Proceedings on the 11th July, 1837.

(5.) Copy of Despatch, No. 123, dated 14th June, 1838, intimating Her Majesty's Commands that a Declaratory Act be passed by the Legislative Council, confirmatory of the Titles to such Grants of Land as were issued in the name of His late Majesty, King William the Fourth, between the
day

day of the demise of his said late Majesty, and the day of the receipt in New South Wales of the intelligence of that event.

To be printed.

3. His Excellency the Governor laid upon the Table, "*A Bill to remove doubts concerning the validity of certain Grants of Land in New South Wales;*" to be printed, and read a second time on Tuesday next.
4. His Excellency the Governor laid upon the Table, "*A Bill for giving relief to Insolvent Persons, and providing for the due collection, administration, and distribution of Insolvent Estates within the Colony of New South Wales, and for the prevention of Frauds affecting the same;*" to be printed, and referred back to the Committee of last Session, consisting of—

THE CHIEF JUSTICE;

THE ATTORNEY-GENERAL; MR. JONES;

THE AUDITOR-GENERAL; MR. MACARTHUR.

MR. BERRY;

5. His Excellency the Governor laid upon the Table, "*A Bill for limiting and modifying the Law respecting Imprisonment for Debt in certain cases, and for preventing persons Indebted, from leaving the Colony clandestinely.*" To be printed, and referred back to the Committee on the Insolvent Debtors' Bill.
6. His Excellency the Governor laid upon the Table, "*A Bill to enable the Society denominated Wesleyan Methodists, to appoint Trustees for Chapels built before the year, 1836.*" To be printed and read a second time, on Wednesday, June 19.
7. Motion made, and question put, That a Sub-Committee be appointed to inquire into and report upon, the establishment and strength of the Police Force in all its branches, to what extent it may be expedient to maintain or increase it, and the expense it will occasion. *Passed.*

Committee appointed;

THE HONORABLE THE COLONIAL SECRETARY;

THE ATTORNEY-GENERAL; MR. MACARTHUR;

MR.

MR. JONES; SIR JOHN JAMISON;
MR. BLAXLAND; CAPTAIN P. P. KING.

8. Motion made and question put, that the Committee of last Session on the
"Medical Practice Bill," be revived. *Passed.*

Committee re-appointed, viz. :—

THE ATTORNEY-GENERAL;
THE COLLECTOR OF CUSTOMS; MR. BLAXLAND;
MR. BERRY; SIR JOHN JAMISON.

9. Motion made and question put, that the Committee of last Session on the
"Aborigines Question," be revived. *Passed.*

Committee reappointed :—

THE RIGHT REVEREND THE LORD BISHOP OF AUSTRALIA;
THE COLLECTOR OF CUSTOMS; MR. BLAXLAND;
THE AUDITOR-GENERAL; MR. MACARTHUR.

ORDERS OF THE DAY.

TUESDAY, JUNE 18.

1. Validity of Grants Bill; second reading.

WEDNESDAY, JUNE 19.

1. "Wesleyan Methodist's Society Bill;" second reading.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

TUESDAY, 25 JUNE, 1839.

1. The Meetings of the Council appointed for Tuesday last, the 18th Instant, and the day following, having been successively adjourned until This Day, at Twelve o'Clock, The Council met pursuant to the last of those adjournments; His Excellency the Governör in the Chair. Validity of Grants Bill; read a second time; to be read a third time on Tuesday next, July 2.
2. Wesleyan Methodist's Society Bill; read a second time; to be read a third time on Tuesday next, July 2.
3. His Excellency the Governor laid upon the Table, the undermentioned Papers on the subject of Immigration; which His Excellency informed the Council had been already printed, and he purposed referring them to a Committee to be appointed with the same powers as last year :—

First—A Report from J. Denham Pinnock, Esq., Colonial Agent for Immigration, on the Progress of Immigration generally, for the year 1838; comprehending in the Appendix thereto, the undermentioned Returns, viz :—

- (1.) A Return of the number of *Married* Immigrants, with their Families, who have been brought out on Bounty, with a statement of the amount paid for the introduction of each Trade or Class.
- (2.) A similar Return of *Unmarried Male* Immigrants.
- (3.) A similar Return of *Unmarried Female* Immigrants.

(4.)

- (4.) A Return of the number of Immigrants brought out in Vessels chartered by the Government, shewing the number of each Trade or Class, and the average rates of Wages they have obtained.
- (5.) A Return of the number of Immigrants who arrived in Port Jackson, without receiving any assistance from the Government.
- (6.) A General Return of the number of Immigrants who have arrived in this Colony during the year 1838, distinguishing those who have received no aid, from those imported either on Bounty or in Government Ships.

Second—A Letter from the Honorable the Colonial Secretary to the Resident Agent for Immigration, appointing a Board to inquire into, and report on, the probable causes which have produced, during the year 1838, a greater degree of Sickness on board Immigration Ships chartered by the Government, than in those fitted out under the Bounty System; with the Report made in pursuance thereof; accompanied by a Return shewing the Amount of Expence incurred on account of each of those Government Vessels, the principal Diseases which prevailed on board, and other particulars relative thereto. COMMITTEE APPOINTED to consider the question of Immigration generally, with the view of ascertaining the present, and prospective demands of the Colonists for Labour; and how the same may be most effectually and economically met; with instructions to examine Evidence and Report—

THE RIGHT REVEREND THE LORD BISHOP OF AUSTRALIA;
 THE COLONIAL SECRETARY; SIR JOHN JAMISON;
 THE AUDITOR GENERAL; CAPTAIN KING.
 MR. MACARTHUR;

4. His Excellency the Governor laid upon the Table, "*A Bill to repeal an Act relating to the Revenue of Customs in New South Wales, and to provide for the General Regulation thereof.*" Bill read a first time; to be printed, and read a second time on Tuesday next, July 2.

Council adjourned at Two o'Clock, until Tuesday next, July 2, at Twelve o'Clock.

ORDERS

3

ORDERS OF THE DAY.

TUESDAY, JULY 2.

1. Validity of Grants Bill; third reading.
2. Wesleyan Methodists' Society Bill; third reading.
3. Customs' General Regulation Bill; second reading.

W^M. MACPHERSON,*Clerk of Councils.*

No. 9.

NEW SOUTH WALES.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, 25 JUNE, 1839.

Ordered, by The COUNCIL, to be Printed.

No. 10.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

WEDNESDAY, 3 JULY, 1839.

1. The Meeting of the Council appointed for yesterday having been adjourned, until this day, at Twelve o'Clock, The Council met pursuant to that adjournment. His Excellency the Governor took the Chair, and laid upon the Table, "*A Bill for facilitating Proceedings by, and against, a certain Banking Company, called the Union Bank of Australia, and for other Purposes therein mentioned.*" The Clerks of the Churches of St. Philip, and St. James, in Sydney, called in, and notification of the intention to apply for the Bill, having been affixed on the doors of the said Churches, on three successive Sundays, proved. Bill read a first time. To be printed, and referred to a Sub-Committee, to consist of the following Gentlemen, viz:—

THE COLLECTOR OF CUSTOMS;

THE AUDITOR GENERAL;

MR. BERRY;

MR. JONES;

SIR JOHN JAMISON.

2. His Excellency the Governor laid upon the Table, "*A Bill to enable the Proprietors of a certain Banking Establishment, or Company, carried on in the Town of Bathurst, in the Colony of New South Wales, under the Name, Style, and Firm, of 'The Bathurst Bank,' to sue, and be sued, in the Name of the President of the said Bank, or Company, for the time being, and for other purposes therein mentioned.*" The Clerks of the Churches of St. Philip, and St. James, in Sydney, called in, and the notification of the intention

intention to apply for the Bill having been affixed on the doors of the said Churches, on three successive Sundays, proved. Bill read a first time. To be printed, and referred to the Sub-Committee on the Union Banking Company Bill.

3. His Excellency the Governor laid upon the Table, "*A Bill to consolidate and amend the Laws for the Distillation of Spirits in New South Wales, and for the issue of Licenses for Distilling, Rectifying, and Compounding of Spirits therein, and for repealing certain Laws relating thereto.*" Bill read a first time; to be printed, and read a second time on Tuesday, July 16.
4. Validity of Grants Bill; read a third time and *Passed*.
5. Wesleyan Methodist Society Bill; read a third time, and *Passed*.
6. Customs' General Regulation Bill; read a second time; committed, and amended; to be further considered to-morrow.

Motion made, and Question put, that His Excellency the Governor be requested to lay before the Council, a Return of the Quantity of Spirits exported to New Zealand within the last two years. *Passed*.

Council adjourned at Four o'Clock, until to-morrow, at Twelve o'Clock.

ORDERS OF THE DAY.

THURSDAY, JULY 4.

1. Customs' General Regulation Bill; further consideration.

TUESDAY, JULY 16.

1. Distillation Laws' Consolidation Bill; second reading.

WM. MACPHERSON,
Clerk of Councils.

No. 11.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

THURSDAY, 4 JULY, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Customs' General Regulation Bill; re-committed, and farther considered and amended.

Motion made, and Question put, That a Committee be appointed, to take into consideration the Fiftieth clause; to inquire into the State of the Law as regards the advantages secured to Vessels engaged in the Coasting, or Colonial Trade, and as to the propriety of entitling to those advantages, Vessels trading between this Colony and the other Australian Colonies, and Van Diemen's Land, and likewise New Zealand, and any other Islands in the Pacific Ocean, on which there are no Public Settlements, European, or American; and Vessels employed in the Whale, Seal, or Sea-Elephant Fisheries; and to examine Evidence, and report. Passed.

Committee appointed:—

THE ATTORNEY GENERAL;	
THE COLLECTOR OF CUSTOMS;	MR. JONES;
MR. BERRY;	MR. MACARTHUR.

The Bill to be further considered on Wednesday next, July 10.

Council adjourned at Three o'Clock, until Wednesday next, July 10, at Twelve o'Clock.

ORDERS

ORDERS OF THE DAY.

WEDNESDAY, JULY 10.

1. Customs' General Regulation Bill; further consideration.

TUESDAY, JULY 16.

1. Distillation Laws' Consolidation Bill; second reading.

W^M. MACPHERSON,

Clerk of Councils.

No. 12.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

TUESDAY, 16 JULY, 1899.

1. The Meeting of the Council appointed for Wednesday last, having been adjourned until this day, at Twelve o'Clock, The Council met pursuant to that adjournment; His Excellency the Governor in the Chair.
Union Bank of Australia Bill; Lieutenant-Colonel Gibbes, as Chairman, brought up the Report of the Committee; Report to be printed.
2. His Excellency the Governor laid upon the Table, "*A Bill to render references to Arbitration more effectual.*" Bill read a first time; to be printed, and read a second time on Tuesday, July 23.
3. His Excellency the Governor laid upon the Table, "*A Bill for adopting a certain Act of Parliament, intituled, 'An Act for the amendment of the Laws with respect to Wills, in the Administration of Justice in New South Wales, in like manner as other Laws of England are applied therein.'*" Bill read a first time; to be printed, and read a second time on Tuesday, July 30.
4. His Excellency the Governor laid upon the Table, "*A Bill to establish Courts of Requests at the Towns of Melbourne, and Port Macquarie, in the Colony of New South Wales.*" Bill read a first time; to be printed, and read a second time on Tuesday, July 30.
5. Customs' General Regulation Bill; The Attorney General, as Chairman, brought
up

up the Minutes of Evidence, and the Report of the Committee appointed to consider the *Fiftieth* clause thereof. Report read, and to be printed; the Bill re-committed, and further amended; to be fairly transcribed, and presented to the Governor by the Attorney General and the Collector of Customs.

6. Distillation Laws Consolidation Bill; second reading deferred until to-morrow.

Council adjourned at Three o'Clock, until to-morrow, at Twelve o'Clock.

ORDERS OF THE DAY.

WEDNESDAY, JULY 17.

1. Distillation Laws' Consolidation Bill; second reading.

TUESDAY, JULY 23.

1. References to Arbitration Bill; second reading.

TUESDAY, JULY 30.

1. Laws with respect to Wills Adoption Bill; second reading.
2. Melbourne and Port Macquarie Courts of Requests Bill; second reading.

WM. MACPHERSON,

Clerk of Councils.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

WEDNESDAY, 17 JULY, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair.

Order of the Day, Distillation Laws.Regulation Bill; second reading.

Mr Jones presented a Petition addressed to His Excellency the Governor and this Council, by Robert Cooper, of Sydney, Licensed Distiller, representing that his arrangements for carrying on his Business under the provisions of the existing Act for regulating Distillation, are such, that his interests would be greatly injured if the Alterations proposed by the new Bill should pass into a Law, and praying that he may be permitted to appear in person, before the Council, and be heard in support of his objections to the Bill.

Mr Jones presented, also, a Petition from William Abercrombie and Company, of Sydney, Licensed Distillers, making a similar representation, and praying that they may be permitted to appear by Counsel, and be heard in support of their objections to the Bill.

Mr Jones presented, likewise, a Petition from certain Free Inhabitants of the Colony of New South Wales, respectably and numerously signed, representing, That while, in the opinion of the Petitioners, Colonial Distillation is productive of no advantage either to the Agriculture or Revenue of the Colony, it is a banefully efficient auxiliary to the maintenance and spread of Intemperance, thereby multiplying the fountains of Crime and Misery; and praying for its Entire Prohibition, while the vested interests connected therewith are yet comparatively small, and within a reasonable limit of compensation.

Motion

Motion made, and Question put, that these Petitions be read, and be received.
Passed.

Motion made, and Question put, that the second reading of the "Distillation Laws Consolidation Bill" be deferred until Friday next. *Passed.*

Motion made, and Question put, that Messrs. Robert Cooper, and William Abercrombie and Company, be heard in person, and by Counsel, as respectively petitioned for by them, on Friday next. *Passed.*

Motion made, and Question put, that the Petition for the entire prohibition of Colonial Distillation be taken into consideration on Friday next. *Passed.*

Council adjourned at Three o'Clock, until Friday next, July 19, at Twelve o'Clock.

ORDERS OF THE DAY.

FRIDAY, JULY 19.

1. Mr Robert Cooper to be heard, in person, in support of the allegations in his Petition.
2. Messrs. William Abercrombie and Company to be heard, by Counsel, in support of the allegations in their Petition.
3. Petition for the *Entire Prohibition* of Distillation; to be considered.
4. Distillation Laws' Consolidation Bill; second reading.

TUESDAY, JULY 23.

1. References to Arbitration Bill; second reading.

TUESDAY, JULY 30.

1. Laws with respect to Wills, Adoption Bill; second reading.
2. Melbourne and Port Macquarie Courts of Requests Bill; second reading.

WM. MACPHERSON,
Clerk of Councils.

No. 14.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

FRIDAY, 19 JULY, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair.
Mr Macarthur presented a Petition from certain Inhabitants of the Town and Neighbourhood of Parramatta, for the *Entire Prohibition* of Colonial Distillation, respectfully, and very numerously signed; being in similar terms to that for the same object, presented by Mr Jones, on Wednesday last.
2. Mr. Jones presented a Petition from Henry Fisher, of Sydney, Licensed Rectifier and Compounder of Spirits, representing that he had been brought up from his youth, to the Business of Rectifying and Compounding Spirits, and had no knowledge of any other; that he had emigrated for the express purpose of pursuing that Business in this Colony, bringing with him the necessary Capital and Stock in Trade; and never doubting the permanence of this Business as sanctioned and regulated by the Law passed during the last Session, he had expended large sums of Money in the erection of Buildings and Apparatus, and had ordered extensive and periodical Supplies from Britain; which, in the event of Colonial Distillation being now prohibited, would become utterly useless, and the loss he would sustain would be very heavy; and praying that in such case, he may be allowed fair and equitable compensation; and in support of his Claim thereto, that he may be heard by Counsel.

Motion made, and Question put, that these Petitions be read, and be received.

Passed.

Motion

Motion made, and Question put, that Mr. Fisher be heard by Counsel, as petitioned for by him, on Tuesday next. *Passed.*

3. The Colonial Secretary moved the Order of the Day, that Mr. Robert Cooper, and Messrs. William Abercrombie and Co., be respectively heard in person, and by Counsel, in support of the allegations contained in their Petitions. *Passed.*

Mr. Cooper being called in, addressed the Council at considerable length; the general purport of his address may be shortly stated as follows.—

That a number of years ago, during Governor Macquarie's Administration, the Government, with the view of promoting the more extensive cultivation of Grain, and of securing a ready, and certain Market for the superabundant produce in favourable seasons, offered very flattering inducements to encourage Persons of Capital to embark in the Business of Distillation; that tempted by the inducements held out, and confiding in the permanence of the Regulations established, he relinquished an extensive and profitable Mercantile Business in which he was then engaged, and invested Capital to the extent of about £100,000 in the erection of a Distillery and other necessary Buildings, and the purchase of Apparatus and Materials: Having, under such circumstances commenced, and for so many years carried on his Business, would it be just or equitable, would it not be a breach of good faith on the part of the Government, so to alter the existing Law, or to pass such a new Law, as would either compel him to abandon his Business, or would prohibit the exercise of it, would crush all his hopes and expectations, and would render valueless the large property engaged in it?

It had been alleged that Colonial-made Spirits were of so deleterious a quality, so destructive of health and life, that the interests of Society demanded the prohibition of the Trade; he could prove to the satisfaction of competent judges, that the ingredients from which his Spirits were made, were infinitely superior to those from which West India Rum was manufactured; and that newly-made Colonial Spirit was certainly less injurious to health, than West India Rum under similar circumstances.

The

The discouragement of Intemperance had been also used as an argument for the abolition of Colonial Distillation. He did not deny the great benefits which would result to the Community if it were possible to abolish Drunkenness in the Colony; they were so great, that to gain that object, he would set fire to his Distillery, would submit to all his Losses without complaint, and forego his Claims for compensation; but unless the Government would prohibit also the importation of Foreign Spirits, the abolition of Colonial Distillation would prove only a vain attempt to repress Intemperance; for so ardent was the desire for Spirits among a large portion of the Population of this Colony, that Spirits they would have, if to be obtained, whatever might be the cost.

He earnestly implored the Council to bestow their most anxious consideration on the consequences of a measure which would so ruinously affect the interests of the Individuals principally concerned in it, and would, he was convinced, prove utterly ineffective in the contemplated benefits to the Community.

Mr. Cooper having retired;

4. Mr. Beckett, as Counsel for Messrs. W. Abercrombie and Company, was introduced; the purport of his address to the Council may be shortly stated as follows:—

Adverting to the arguments used by the preceding Speaker, he methodised, and applied them, in so far as suitable to the case of his Clients; supporting them by quotations, from a Pamphlet published in Van Diemen's Land in 1834, containing a re-print of Papers relative to that Island, and this Colony, printed by order of the House of Commons, in 1814, and also from Mr. M'Culloch's Dictionary of Commerce, which work exhibits, in a strong point of view, the encouragement afforded to Agriculture by the maintenance of Distilleries, for the consumption of the redundant produce of plentiful Seasons; but in years of scarcity, the high price of grain would compel Distillers to have recourse to sugar; which the Government must impliedly, if not avowedly, have permitted, otherwise Distillation at those times, would have been altogether at a stand; the consequence of which would have been, the abandonment of the Trade; and the great benefits afforded by it to Agriculture, in times of
Plenty

Plenty, would have been lost: which would likewise be the consequence either of the abolition of Colonial Distillation, or of the increase of the present Duties, which would virtually have the effect of a prohibition.

He was instructed by his Clients to shew to the Council, that at the present rate of Duties, their average profit on the Spirits made by them from sugar, did not exceed Eleven Pence per gallon.

The present selling price of Colonial-made Spirits, and which it has never exceeded, is Ten Shillings per gallon.

	<i>s. d.</i>
Estimating the cost of a quantity of the raw material } sufficient to produce a gallon of Spirits, at	3 0
The charges for manufacturing the same, at	1 3
The Duty is	4 6
Interest for four months on the outlay before realised	0 4
If to this amount	<u>9 1</u>
Be added to the proposed increase of Duty	3 0
Making the cost of the manufacture of Colonial Spirits....	<u>12 1</u>

Almost equal to the selling price of Imported Spirits, being at present 13s. 7d.

The consequence would be, to drive Colonial Spirits out of the Market.

His Clients would not object to an increase of the Duty, if the Government would impose a proportionate increase on imported Spirits.

It had been alleged that the consumption of Sugar, by the Distilleries, is greater than that of Grain; but, as the extension of the Colony to the Northward proceeded, Sugar (which, as he had before observed, was necessary, occasionally, for the support of Distilleries) would become a production of the Colony, and its culture might be promoted by the imposition of a small Duty on imported Sugar.

The disadvantages of high duties were shown by M^cCulloch: when the annual consumption of Spirits in Britain was estimated at ten millions of gallons, the duty then five shillings, was not paid upon more than two or three millions. When the Duty was reduced to two shillings, it was paid upon four to five millions.

In reference to the moral effects of the prohibition of Colonial Distillation, unless, not only the importation of Foreign Spirits into the Colony, but also Illicit Distillation and Smuggling can be entirely prevented, he is apprehensive that intemperance would be very little, if any, diminished; the nature both of the Interior, and of the Coasts of this Colony afforded ample facilities for Illicit Distillation and Smuggling, and he feared they would be carried on to an alarming extent, and be more destructive of morals than even the Intemperance which now prevails.

Allusion had been made to Sir John Franklin's observations on the result of a similar measure in Van Diemen's Land; but, it does not appear, that in a moral point of view any beneficial effects have been the consequence of that measure.

Sir John's gratification arises from the circumstance of its having been a successful measure in a Financial point of view—he makes no mention of improvement in the morals of the people nor of the diminution of Intemperance.

He concluded by stating that his Clients had taken a Lease of the Premises occupied by them, of which ten years were yet to run, at an Annual rent of £500, to which must be added, wear and tear, and repairs, making the Annual charge not less than £600; they had ordered, and expected soon to receive, Molasses to the value of £5000, which, if Distillation should be stopped, would be next to useless.

If, either by a prohibitory Act, or by the increase of the Duties, unless accompanied by a proportionate increase on imported Spirits, his Clients should be compelled to relinquish their business, and to come to the Council for compensation for their heavy losses, they hoped they would be dealt with in a fair, equitable, and liberal Spirit.

Mr à Beckett then retired.

5. Petition for the Entire prohibition of Distillation; Mr Jones moved for leave to postpone the Motion on this subject, of which he had given notice, until Tuesday next. *Passed.*

6.

6. Distillation Laws Consolidation Bill; second reading deferred until Tuesday next.

Council adjourned at Three o'Clock, until Tuesday next, July 23, at Twelve o'Clock.

ORDERS OF THE DAY.

TUESDAY, JULY 23.

1. Mr. Henry Fisher to be heard, by Counsel, in support of the allegations in his Petition.
2. Petitions for the *Entire Prohibition* of Distillation; to be considered.
3. Distillation Laws' Consolidation Bill; second reading.
4. References to Arbitration Bill; second reading.

TUESDAY, JULY 30.

1. Laws with respect to Wills, Adoption Bill; second reading.
2. Melbourne and Port Macquarie Courts of Requests Bill; second reading.

NOTICE OF MOTION.

TUESDAY, JULY 23.

1. Mr. Jones: That in the opinion of this Council, it is expedient that the Distillation of Spirits in the Colony of New South Wales, should be prohibited altogether; and that those who are at present embarked in the trade of Distillation, should receive an equitable compensation for any loss they may be found to have sustained by such prohibition.

WM. MACPHERSON,

Clerk of Councils.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

TUESDAY, 23 JULY, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair.
Customs' General Regulation Bill; presented by the Governor as amended; to be read a third time to-morrow, Wednesday, July 24.
2. His Excellency the Governor laid upon the Table "A Return of the Duties on
"Spirits, collected in Sydney, and paid into the Colonial Treasury of New South
"Wales, from the 1st of January, 1837, to the 30th of June, 1839." To be printed.
3. His Excellency the Governor laid upon the Table a Book containing the Statistical
Returns for the Colony of New South Wales, for the year 1837.
4. His Excellency the Governor laid upon the Table the undermentioned Financial
Statements:—
 - "1." Abstract of the Revenue, and of its Appropriation, for the year 1838,
with the undermentioned Statements therein referred to:—
 - (1.) Statement of Disbursements in aid of private Contributions for the Building
and support of Churches, Schools, and other Institutions.
 - (2.) Statement of the Expence of the erection and repairs of Colonial Public
Buildings, and on account of Streets, Roads, Bridges, and other Public
Works.
 - (3.) Statement of Arrears for the year 1837, and previous years.

(4.)

- (4.) Statement of Expences defrayed by the Colonial Agent General in England, (exclusively of those for Immigration).
- (5.) Statement of Expenditure on account of Immigration, paid from the Colonial Treasury.
- (6.) Statement of Expences defrayed by the Colonial Agent General in England, on account of Immigration.
- (7.) Statement of Expences of Quarantine.
- (8.) Statement of Expenditure on account of the Aborigines.
- (9.) Statement of the Expences of the Colonial Government Establishments at Port Phillip.
- " 2." Statement of Sums Appropriated, remaining to be expended, and charged.
- " 3." Statement of the Amount required to supply Deficiencies in the Estimates, and to cover Expences not provided for.
- " 4." Estimates of Expenditure for the year 1840.
- " 5." Supplementary Estimate for the year 1839.
- " 6." Estimate of Expenditure on Account of the Aborigines for the year 1840.
- " 7." Estimate of Expenditure of Establishments at Port Phillip, for the year, 1840.

His Excellency the Governor then read the undermentioned Minutes :—

- (1.) A Minute relative to the Estimates of Expenditure for the year 1840, and explanatory thereof.
- (2.) A Minute on the subject of the appointment of a Second Crown Solicitor; in reference to which His Excellency laid upon the Table ;—

A Letter from the Attorney General, dated 25th March, 1839, reporting on the duties of the Crown Solicitor.

A Letter

A Letter, dated 7th February, 1839, addressed to the Attorney General by the Crown Solicitor, on the subject of the duties of his Office.

(3.) A Minute on the subject of the establishment of Schools on the principle of the British and Foreign Society.

To be printed.

His Excellency the Governor laid upon the Table, "*A Bill to make further regulation with respect to Trial by Jury in Criminal Issues in the Colony of New South Wales, and to amend the form of proceeding in Criminal Prosecutions in the said Colony.*" Bill read a first time; to be printed, and read a second time on Tuesday, August 6.

6. His Excellency the Governor laid upon the Table, a Despatch from the Right Honorable Lord Glenelg, dated 27 August, 1838, No. 180, directing, that unless the Convicts employed under the Town Surveyor are assignable as Servants, the expence of victualling them must be defrayed from the Funds of the Colony. To be printed.

7. His Excellency the Governor laid upon the Table, a Despatch from the Right Honorable Lord Glenelg, dated 15 September, 1838, No. 211, directing that Soldiers employed in the Mounted Police shall not, unless for some special reason, be required to join their respective Regiments, upon their embarkation for India, but shall be borne on their Returns as Supernumeraries receiving no Military Pay. To be printed.

8. Captain King presented a Petition from James King, of Irrawang, on the River William, representing that he has for some years past planted Grape Vines at considerable outlay; but that the Culture of the Vine will be checked, if not altogether destroyed, unless Wine growers are permitted to distil a portion of the produce of their Vineyards duty free, or to receive the necessary quantity of bonded Brandy, without paying duty; which he prays may be allowed.

Motion made and Question put, that this Petition be read, received, and printed. *Passed.*

9. The Colonial Secretary having moved the order of the Day, that Mr. Henry Fisher be heard by Counsel in support of the allegations contained in his Petition Mr. Beckett, as Counsel for Mr. Fisher, was introduced :—the purport of his address may be shortly stated as follows :—Having so recently addressed the Council in a case in many respects similar to that which he is now about to bring under their notice, he hopes he may be pardoned, if, by the occasional repetition of arguments formerly used, he may seem unnecessarily to occupy their time; there was nevertheless some material difference between the cases, and he trusted that he would be able to shew, that his Client has peculiar claims on the favourable consideration of the Council; having come to this Colony for the express purpose of carrying on the business of Rectifying and Compounding, and having, with the knowledge and permission of the Government, been engaged in it since the time of his arrival in 1835, although, until the passing of the existing Act, there was no Colonial enactment for the regulation of the Trade; upon the faith of the permanence of that Act, his Client had taken new and more enlarged Promises—had extended his business even so much as to have exported manufactured Spirits not only to neighbouring Ports, but also to those of India;—he had ordered an expensive Still on a new and improved principle, and periodical supplies of such Articles as would be necessary to enable him to carry on his business on an extensive scale;—if Colonial Distillation should now be abolished, his outlay, which had been very considerable, would be lost—his arrangements for his future operations would bear oppressively upon his credit, and his means, as the goods ordered by him would for some time continue to arrive, and must of course be paid for, although they would then be comparatively useless; and his business must entirely cease, as Raw Spirits only could be used in Rectifying—imported Spirits would not suit for that purpose.

Such would be the position of Mr. Fisher; deprived of employment in the only business of which he had any knowledge; his Capital sunk in Buildings, Apparatus, and Stock in Trade, which would no longer be either available or convertible; his credit burthened to meet unproductive engagements;—would he not have cogent claims on the liberality of the Council?

Mr.

Mr àBeckett then adverted to the acknowledged connexion which must ever subsist between the Agricultural and the Commercial interests of a Country; if the former were depressed, the latter could not prosper; he had on a previous occasion shewn the hurtful effects which the abolition of Colonial Distillation was calculated to be the cause of to the Growers of Grain. He would now add, that the culture of the Grape and the production of Wine, would likewise be most seriously injured, as it was a well-known fact, that the introduction of a portion of Spirit was necessary in the manufacture of Wine; and Colonial Wine could not be produced at such a cheap rate as to be within reach of the ordinary use of the humbler classes, unless the Growers were permitted either to distil for themselves such quantities of Spirits as they might require, or to obtain Imported Spirits duty free. The produce of an acre of Grape-vines had been estimated at £200, while that of an acre of wheat was not worth more than £10—was not the promotion of their culture an object well deserving attention? In a climate so enervating and predisposing to inaction, and of which the fervent heat produces a thirst which must be allayed—to what can the poor man have recourse to refresh his parched lips, to renovate his exertions? Imported Beer and Porter are beyond the reach of his means—Colonial Beer would produce a very bad substitute—Milk, at all times scarce in seasons of drought, when most required, cannot be obtained; must he be deprived also of the only remaining resources—both Spirits and Wine—at any rate, such as are within the reach of his purse?

Mr àBeckett then adverted to the Petitions which had been presented for the abolition of Colonial Distillation—although many respectable names were appended to them, they so abounded with false, illusory, and contradictory statements, that he imagined the Petitioners could not have read the Petitions—or at any rate, so cursorily, as not to comprehend their meaning.

They profess to hope that if Colonial Distillation is abolished, the consumption of Spirits will be diminished—while they introduce the Lieutenant Governor of Van Diemen's Land as congratulating his Council upon the fact, that the Revenue upon Imported Spirits has been increased, and hoping it will soon be still more so, and replace the amount to be awarded as compensation to the Distillers, Rectifiers and Compounders.

The

The Petitioners ascribe the prevalence of Intemperance to Colonial Distillation, and describe it as producing the fountains of crime and misery, while the increased receipt of Duty on imported Spirits in Van Diemen's Land since the prohibition of Distillation there, shews what may be expected here; to have effected the object the Petitioners profess to desire, they should have united a prayer for the prohibition of the Importation of Spirits with that for the prohibition of Colonial Distillation, otherwise no diminution of Drunkenness can be looked for—will the Drunkard who deprives his famishing family of *one* loaf to gratify his own depraved appetite, hesitate to take a *second* from them?

The moral habits of the People cannot be altered by coercion—It is by the better and more liberal education of the young, and by teaching them to govern themselves, that the moral character of a nation may be improved; attempts by Legislative enactments to effect sudden alterations would, he believed, prove ineffectual.

The Petitions were made up of Utopian Sentiment and Philanthropic Rhapsody; but for his part, he could not perceive any benefit that would result from the abolition of Colonial Distillation.

Might he, without presuming too much, take the liberty of putting a question to the Council: had the Government made any calculation of the probable Amount of Compensation for which they would be called upon to provide, if they abolished Distillation; were they prepared to meet claims to the extent of a hundred, to a hundred and fifty thousand pounds?

Mr à Beckett then retired.

10. The Colonial Secretary having moved the order of the Day for taking into consideration the Petitions for the *Entire Prohibition* of Distillation, and—
Motion having been made, and Question put, That in the opinion of this Council, it is expedient that the Distillation of Spirits in the Colony of New South Wales should be prohibited altogether; and that those who are at present embarked in the trade of Distillation should receive an equitable compensation for any loss they may be found to have sustained by such prohibition; It

It was (after a lengthened discussion) moved as an Amendment, That a Committee be appointed to inquire into, and report upon, the subject of the Petitions before the Council on the subject of *Distillation in the Colony*; and to ascertain the amount of Compensation to be awarded to the Distillers and Rectifiers, if any. The amendment Passed. Committee appointed :—

- THE RIGHT REVEREND THE LORD BISHOP OF AUSTRALIA.
- THE ATTORNEY GENERAL; MR. JONES;
- THE COLLECTOR OF CUSTOMS; MR. MACARTHUR.
- MR. BERRY;

- 11. *Distillation Laws' Consolidation Bill*; second reading deferred until Tuesday, August 6.
- 12. *References to Arbitration Bill*; second reading deferred until to-morrow, Wednesday, July 24.

Council adjourned at Five o'Clock, until to-morrow at Twelve o'Clock.

ORDERS OF THE DAY.

WEDNESDAY, JULY 24.

- 1. *Customs' General Regulation Bill*; third reading.
- 2. *References to Arbitration Bill*; second reading.

TUESDAY, JULY 30.

- 1. *Laws with respect to Wills, Adoption Bill*; second reading.
- 2. *Melbourne and Port Macquarie Courts of Requests Bill*; second reading.

TUESDAY, AUGUST 6.

- 1. *Distillation Laws' Consolidation Bill*; second reading.
- 2. *Trial by Jury Laws' Amendment Bill*; second reading.

WM. MACPHERSON,
Clerk of Councils.

No. 15.

NEW SOUTH WALES.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, JULY 23, 1839.

Ordered, by The COUNCIL, to be Printed.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

WEDNESDAY, 24 JULY, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair.
Customs' General Regulation Bill; read a third time, and *Passed*.
2. References to Arbitration Bill; read a second time; to be read a third time on
Tuesday next.

Council adjourned at Half-past Three o'Clock, until Tuesday next, July 30, at
Twelve o'Clock.

ORDERS OF THE DAY.

TUESDAY, JULY 30.

1. References to Arbitration Bill; third reading.
2. Laws with respect to Wills, Adoption Bill; second reading.
3. Melbourne and Port Macquarie Courts of Requests Bill; second reading.

TUESDAY, AUGUST 6.

1. Distillation Laws' Consolidation Bill; second reading.
2. Trial by Jury Laws' Amendment Bill; second reading.

WM. MACPHERSON,
Clerk of Councils.

No. 16.

NEW SOUTH WALES.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.
WEDNESDAY, JULY 24, 1839.

Ordered, by The COUNCIL, to be Printed.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

TUESDAY, 30 JULY, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and laid upon the Table, the undermentioned Printed Papers, of which Copies were laid before the House of Commons, and ordered to be printed, 1 March, 1839:—

(1.) Copies of the correspondence between the Colonial Department and Messrs. Graham and Co., referred to in the Petition of Mr. W. H. Burnand, printed by order of The House of Commons, on the 14th day of February, 1839. This correspondence refers to an application to the Right Honorable Lord Glenelg, for leave to purchase a large tract of Land in Australia Felix; in reply to which, the Applicant is informed, “that Australia Felix is part of the Colony of New South Wales, and that it must rest with the Local Government, in the first instance, to determine the expediency of putting up for Sale, Lands in that District of the Colony.”

(2.) Copies of Despatches from the Governor of New South Wales, and the Lieutenant-Governor of Van Diemen's Land, relative to Transportation and the Assignment of Convicts.

These Papers contain a Copy of His Excellency the Governor's Despatch to Lord Glenelg, dated 18th July, 1838, No. 112, transmitting an Extract from the Votes and Proceedings of this Council, No. 15, dated 17th July, 1838,

relative

relative to the Petition for Inquiry into the Systems of Transportation and Assignment; a Copy of that Extract; and of the Petition referred to, &c. &c.

2. His Excellency the Governor laid upon the Table, a Despatch from the Right Honorable Lord Glenelg, dated 26 January, 1839, No. 18, in reply to the Governor's Despatch abovementioned, and expressing the entire concurrence of Her Majesty's Government in the expediency of discontinuing the Assignment of Male Convicts in Sydney, and other Towns of New South Wales, as a step towards the entire discontinuance of Assignment throughout the Colony, at as early a period as practicable. To be printed.
3. References to Arbitration Bill; read a third time, and *Passed*.
4. Laws with respect to Wills' -Adoption Bill; second reading deferred until To-morrow.
5. Melbourne and Port Macquarie Courts of Requests Bill: The Colonial Secretary having moved the Order of the Day for the second reading of this Bill;

Mr. Jones moved as an amendment, That the second reading of this Bill be deferred until To-morrow; and that the Commissioner of the Court of Requests be summoned to attend the Council To-morrow, to be examined, relative to the establishment of Courts of Requests in the distant parts of the Colony. *The amendment Passed.*

The Council adjourned at half-past Two o'clock, until To-morrow at Twelve o'clock.

ORDERS OF THE DAY.

WEDNESDAY, JULY 31.

1. Commissioner of the Court of Requests to be examined, relative to the establishment of Courts of Requests in the distant parts of the Colony.
2. Melbourne and Port Macquarie Courts of Requests Bill; second reading.

3. Laws with respect to Wills' Adoption Bill; second reading.

TUESDAY, AUGUST 6.

1. Distillation Laws' Consolidation Bill; second reading.
2. Trial by Jury Laws' Amendment Bill; second reading.

WM. MACPHERSON,

Clerk of Councils.

No. 17.

NEW SOUTH WALES.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.
TUESDAY, JULY 30, 1839.

Ordered, by The COUNCIL, to be Printed.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

WEDNESDAY, 31 JULY, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair.
The Colonial Secretary having moved the Order of the Day, That the Commissioner of the Court of Requests be examined, relative to the establishment of Courts of Requests in the distant parts of the Colony :

Mr. Therry was introduced, and being requested to inform the Council of his opinion, in respect to the necessity for extending the Jurisdiction of the Court of Requests to the distant parts of the Colony, or for establishing separate Courts in the remote Districts; he replied, That in complying with the desire of the Council, he would, with their permission, avail himself of extracts from a letter which, in July, 1838, he had addressed to the Colonial Secretary, representing his opinion of the utter inadequacy to the wants and circumstances of the Colony, of the existing Act for regulating Courts of Requests, and suggesting various and important changes, which, in his belief, were necessary, and most pressingly required; seeing, that not less than two thirds of such dealings and business of the middle classes of Society, as required the intervention and aid of Legal process, were transacted in the Courts over which he had the honor to preside; but of which, the duties had now become so extended, and so onerous, that no single individual could possibly perform them, with justice to the Public, or satisfaction to himself—That; in 1829; when he was appointed to the Office of Commissioner, no Courts of Requests were held beyond the limits of the County of Cumberland: the places at which they were then held, exclusive of Sydney, being, Parramatta, distant fifteen miles from Sydney, Campbell
Town.

Town, thirty-three miles, and Windsor, thirty-six miles: That, by the Act of the Governor and Council, 3 William IV., No. 2, passed 15 August, 1832 (the now existing Act for the regulation of Courts of Requests), Courts were appointed to be held also, at Liverpool, distant twenty miles from Sydney, Penrith, thirty-five miles, Bong Bong, eighty miles, Bathurst, one hundred and twenty one miles, Maitland, one hundred and twenty-seven miles, and Wollongong, ninety miles: That with the addition of these places, although widely separated, and so situated, that they cannot be brought within one continued convenient circuit, the exigencies of the Colony are not nearly, in a sufficient degree met: for not only, are the inhabitants of the populous Districts of Goulburn, Yass, Brisbane Water, Wellington Valley, the Upper Hunter, the Rivers William and Paterson, Port Phillip, and Port Macquarie, without any legal means of recovering Debts under Ten Pounds, but even many of the residents of the first named Districts where Courts are held, live beyond the jurisdiction of those Courts, which under the provisions of the tenth section of the existing Act, is limited to a distance not exceeding thirty miles from the respective places where the Courts are held: at the sitting of the Court at Maitland, in May, 1838, he was obliged to dismiss upwards of fifty Cases, on proof that the Summonses had been served upon Defendant's residing at a greater distance than thirty miles from the Township of Maitland: that he is satisfied that a large proportion of the inhabitants of the Districts of Maitland, Bathurst, and Bong Bong, reside at a distance greater than thirty miles, from their respective Townships where the Courts are held.

That this great public inconvenience, is very inadequately remedied by the 11th section of the Act, which provides that a party giving "an undertaking in writing to pay a Debt at a particular place, may be summoned to the Court which shall be holden at, or nearest to the place so specified in such promise;" not only because the majority of the Suitors in the Court of Requests cannot write, but besides, they are not persons of that provident character, who, in giving credit, would have recourse to this mode of insuring payment; and moreover, the very circumstance of a Creditor requiring his Debtor to give an undertaking in writing to pay a small Debt, intimates a suspicion, and distrust towards him, which amounts to an offence that it is not the interest of the Creditor to give, nor the disposition of the Debtor to submit to.

To

To this may be added, the impossibility of one person efficiently superintending all the business transacted even in the Courts of Requests already instituted : a Debtor may be incarcerated without any knowledge of it reaching the Commissioner for a week, and perhaps another week may elapse, before his case can be sufficiently investigated to determine, whether he be entitled to be discharged or not. Hardships of this kind, for the most part, fall on persons in the humble walks of life : and although their complaints are not heard aloud, they are not the less just, and deep, and frequent.

If imprisonment for small Debts, were abolished, yet many abuses in the cases of Levies and Sales of Property under Executions of the Court, take place in remote districts, which the presence, or immediate controul of the Head of the Court might restrain.

That under the various circumstances adverted to, he would suggest that the duties of the Commissioner be restricted to the County of Cumberland ; and that Courts of Request be established in every District without the County of Cumberland in which a Police Magistrate is stationed ; the jurisdiction of the Court being vested in each Police Magistrate as Commissioner ; the Clerk of the Bench to act as Registrar, and Chief Constable of the District, as Bailiff, of these Courts, respectively.

That the compensation for this very moderate increase of duties might be defrayed, if not entirely, at least nearly so, out of the Fees arising from the processes of the Court.

That by this arrangement, there would be a saving of One Hundred and Twenty Pounds a year, allowed for the Commissioners' Travelling Expences.

That some idea of the necessity for restricting his duties as recommended, may be formed from the increased number of Cases adjudicated in Sydney alone : The number of Cases for Trial in the Sydney Court of Requests for the *whole of the year 1825*, was 872.

The number of Cases for Trial in the same Court, for the *month of May, 1838*, was 730.

The

The increase of business, in the several Courts of Requests, throughout the Colony, may be shewn by a comparison of the amount of Fees, received in the years 1829, and 1838:—

	Amount of Fees collected in the year 1829.	Amount of Fees collected in the year 1838.	Decrease.	Increase.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Sydney	1077 4 0	1249 16 6	.. .. .	172 12 6
Parramatta	159 9 6	197 2 0	.. .. .	37 12 6
Campbell Town	155 5 0	79 14 0	75 11 0	.. .. .
Windsor	254 14 0	214 11 0	40 3 0	.. .. .
Liverpool .....	.. .. .	29 5 0	.. .. .	29 5 0
Penrith .....	.. .. .	60 7 0	.. .. .	60 7 0
Berrima .....	.. .. .	30 12 0	.. .. .	30 12 0
Maitland .....	.. .. .	252 10 0	.. .. .	252 10 0
Bathurst .....	.. .. .	186 15 6	.. .. .	186 15 6
Wollongong .....	.. .. .	64 9 0	.. .. .	64 9 0
	1046 12 6	2374 2 0	115 14 0	843 3 6
		Deduct	Decrease....	115 14 0
				727 9 6

Mr. Therry having been asked for his opinion upon the second clause of the Bill before the Council, for establishing Courts of Requests at the Towns of Melbourne and Port Macquarie, and some discussion having occurred as to whether Mr. Therry's opinion on this clause, should, or should not be received, he withdrew; and the question being put, it was decided affirmatively, that his opinion should be heard; and he being again introduced, addressed the Council as follows:—

In reference to the Legal constitution of the Courts over which it is proposed that the Governor should appoint Commissioners, I do not offer it so much as an opinion in a matter in which different opinions appear to exist in quarters for which I entertain great deference, but as a suggestion that may perhaps be not unworthy

unworthy of the consideration of the Council; my Commission appoints me Commissioner of the Courts of Requests in the Colony, and I am the only person so appointed by Her Majesty: Being thus the only person so appointed, I apprehend, that wherever Courts of Requests are holden, according to the Act of Parliament, which directs that such Courts "shall be holden by a Commissioner to be appointed by Her Majesty," (9. Geo. IV., c. 83, s. 18,) these Courts should be presided over by me, unless the Royal instructions empower the Governor to appoint a Commissioner to perform the duty. It may be that the Royal Instructions contain such a power, but such a power does not appear to me to come under the general authority to fill up vacancies occasioned by death, resignation, or absence. It should be a power to vary and alter the terms of the Queen's Commission, or appointment, as circumstances might render expedient, or necessary; for instance, as in the present case; my Commission being for the *whole Colony*, the question arises, "do the Royal instructions convey an authority to the Governor to change and alter the Commission so as to cancel and annul it as to a *part* of the Colony, from considerations of public convenience, and further empower the Governor to appoint for such part, one or more Commissioners?" This is very different from filling an appointment occasioned by death, resignation, or absence. In these events, the Governor only supplies a temporary substitute for an appointment duly made by Her Majesty, (in cases where appointment by the Crown, is a requisite condition of the appointment); but the present question refers not to the substitution of a vacancy occasioned by death, resignation, or absence, but to the *creation of new appointments*.

In reply to subsequent questions, Mr. Therry stated, that in addition to the Towns already named, he would suggest, that Courts of Requests should be established at Goulburn; Yass; Wellington; Muswell Brook; Dungog; and Braidwood.

That nine years experience as Commissioner of the Court of Requests convinces him, that the Executions of the Court, should be limited to the *property*

of

of the Defendants; the power of imprisonment for Debt which the Law gives, having in very many instances, been exercised more in the spirit of vindictiveness, and petty tyranny, than in the reasonable hope, of thereby obtaining payment from the incarcerated person.

That if imprisonment for Debt under the Executions of this Court should be abolished, it would be desirable to secure the property of the Debtor in satisfaction of the Judgment given, by provisions for preventing fraudulent Bills of Sale, and fictitious Mortgages, which are of frequent occurrence, both in respect to Real, and to Chattel property; all Chattel property should be regarded (with a very few specified exceptions), as the *bona fide* property of the party in whose possession it is found, and liable to the satisfaction of Judgments of the Courts of Requests.

He has no doubt that perjury prevails to a great extent, in the Courts of Requests of the Colony.

He considers a personal knowledge of the characters of the Suitors, Defendants, and Witnesses, to be very useful in conducting the business of these Courts; and he acknowledges having received great assistance on many occasions from the Local Magistrates. It sometimes may be, that Local prejudices might counterbalance the advantages of Local knowledge. He considers Legal knowledge to be of great importance, as difficult points of Law frequently occur, requiring legal consideration and attention to discriminate between cases, to which the jurisdiction of the Court extends, and those to which it does not. At the same time that he considers it preferable that a person conversant with the Law should preside over these Courts, as proposed by the Bills of Lord Brougham and Lord John Russell, in England. He would not say, however, that a professional, was an essential qualification in the person presiding in these Courts. In some districts, under the circumstances of the Colony, a very eligible person to preside over such Courts, might be found in the Police Magistrates, and the difficulty to obtain a qualified professional person to preside in all these Courts, both from Expence and other causes, would be very considerable. He would consider it an advisable improvement in the constitution of these Courts, that
the

the Commissioners should be assisted by two Assessors of the middle ranks of life; say Farmers in the Country, and Shopkeepers in the Towns.

Mr. Therry then retired.

2. Melbourne and Port Macquarie Courts of Requests Bill; read a second time; committed, and amended; to be fairly transcribed, and presented to the Governor by the Attorney General, and Mr. Jones.
3. Laws with respect to Wills, Adoption Bill; read a second time; to be read a third time on Tuesday next.

Council adjourned at Three o'Clock, until Tuesday next, August 6, at Twelve o'Clock.

ORDERS OF THE DAY.

TUESDAY, AUGUST 6.

1. Laws with respect to Wills' Adoption Bill; third reading.
2. Distillation Laws' Consolidation Bill; second reading.
3. Trial by Jury Laws' Amendment Bill; second reading.

WM. MACPHERSON,

Clerk of Councils.

No. 18.

NEW SOUTH WALES.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.
WEDNESDAY, JULY 31, 1839.

Ordered, by The Council, to be Printed.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

TUESDAY, 6 AUGUST, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Melbourne and Port Macquarie Courts of Requests Bill; presented by the Governor as amended; to be read a third time on Tuesday, August 13.
2. Laws with respect to Wills, Adoption Bill; read a third time, and *Passcd.*
3. Distillation Laws' Consolidation Bill; second reading further deferred until Tuesday, August 13.
4. Trial by Jury Laws' Amendment Bill; second reading deferred until Tuesday, August 13.

Council adjourned at Half-past One o'Clock, until Tuesday next, August 13, at Twelve o'Clock.

ORDERS OF THE DAY.

TUESDAY, AUGUST 13.

1. Melbourne and Port Macquarie Courts of Requests Bill; third reading.
2. Distillation Laws' Consolidation Bill; second reading.
3. Trial by Jury Laws' Amendment Bill; second reading.

NOTICE

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

TUESDAY, 13 AUGUST, 1839.

- 1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and laid upon the Table, " *A Bill for facilitating Proceedings by and against the Sydney Alliance Marine Fire and Life Assurance Company.*" The Clerks of the Churches of St. Philip, and St. James, called in, and notification of the intention to apply for the Bill, having been affixed on the doors of the said Churches, on three successive Sundays, proved. Bill read a first time. To be printed, and referred to a Sub-Committee, to consist of the following Gentlemen, viz :—

THE COLLECTOR OF CUSTOMS ;
 THE AUDITOR GENERAL ; MR. BERRY ;
 MR. CAMPBELL ; MR. JONES.

- 2. Captain King presented a respectably subscribed Petition, signed by a considerable number of the Free Inhabitants of the Colony, resident chiefly in the Towns of Liverpool, and Penrith, and their respective vicinities, for the entire prohibition of Colonial Distillation ; being in similar terms to those for the same object, presented by Mr Jones, and Mr Macarthur, on the 17th and 19th ultimo.

Motion made and question put, that this Petition be read, and be received ; Passed.

- 3. His Excellency the Governor laid upon the Table, " *A Bill to repeal in part, and to amend and extend an Act, intituled, " An Act to repeal in part, and*
 " to

“to amend, and extend, the provisions of an Act, intituled, “*An Act to establish a Savings Bank in New South Wales, and to provide for the management thereof, and for the security of Deposits therein.*” Bill read a first time; to be printed, and read a second time on Tuesday, August 27.

4. Union Bank of Australia Bill; Motion made and Question put, That this Bill be read a second time To-morrow; *Passed.*

5. Melbourne and Port Macquarie Courts of Requests Bill; read a third time, and *Passed.*

6. Distillation Laws Consolidation Bill; second reading further deferred until Tuesday, August 20.

7. Trial by Jury Laws Amendment Bill; read a second time; to be further considered Tuesday, August 20.

8. His Excellency the Governor laid upon the Table, a Minute relative to certain claims, of Mr Thomas Moore, of Liverpool, and Mr John Busby, and the undermentioned papers connected therewith, viz:—

(1.) A Memorial of Thomas Moore, of Liverpool, Esq. to Sir Richard Bourke, praying for compensation for losses sustained by having acted as Guardian of the Children of the deceased Captain Rowley, under the appointment of Governor Macquarie.

(2.) A Despatch from the Right Honorable Lord Glenelg, dated 18 May, 1838, No. 110, enclosing a copy of a letter dated 9 May, from the Lords Commissioners of Her Majesty's Treasury, in reference to Mr. Moore's claim.

(3.) Memorial from John Busby, Esq., praying for further compensation for his services in forming the Tunnel for conducting water into the Town of Sydney.

(4.) A Despatch from the Right Honorable Lord Glenelg, dated 23d August, 1838, No. 182, in reference to Mr. Busby's claim.

(5.) List of all Grants of Land made to Mr. Busby, or to any of his Family.

9. The Estimates of Expenditure for 1840; Motion made and Question put, That the consideration of the same be deferred until to-morrow; *Passed.*

Council adjourned at Four o'Clock, until To-morrow, at Twelve o'Clock.

ORDERS OF THE DAY.

WEDNESDAY, AUGUST 14.

- 1. Union Bank of Australia Bill; second reading.
- 2. Estimates of Expenditure for 1840, to be considered.

TUESDAY, AUGUST 20.

- 1. Distillation Laws' Consolidation Bill; second reading.
- 2. Trial by Jury Laws' Amendment Bill; further consideration.

TUESDAY, AUGUST 27.

- 1. Savings' Bank Extension Bill; second reading.

WM. MACPHERSON,
Clerk of Council.

No. 20.

NEW SOUTH WALES.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, AUGUST 13, 1839.

Ordered, by The COUNCIL, to be Printed.

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VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

WEDNESDAY, 14 AUGUST, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Union Bank of Australia Bill; read a second time, committed, and amended; to be fairly transcribed, and presented to the Governor by Mr Berry and Mr. Jones.

2. The Estimates of Expenditure for 1840; Motion made and Question put, that they be now considered in Committee; Passed.

(1.) Resolved, that a sum not exceeding £580 15s. 6d. be appropriated to defray the expence of the Establishment of His Excellency the Governor, for the year 1840.

(2.) Resolved, that a sum not exceeding £1,141 0s. 6d. be appropriated to defray the expence of the Executive and Legislative Councils, for the year 1840.

(3.) Resolved, that a sum not exceeding £7003 7s. 6d. be appropriated to defray the expence of the Colonial Secretary's Department, for the year 1840.

(4.) Resolved, that a sum not exceeding £3,726 10s. be appropriated to defray the expence of the Colonial Treasury, for the year 1840.

(5.) Resolved, that a sum not exceeding £2,486 4s. 6d. be appropriated to defray the expence of the Auditor General's Department, for the year 1840.

(6.) Resolved, that a sum not exceeding £7,800 7s. 6d. be appropriated to defray the expence of the Custom's Department at Sydney, for the year 1840.

(7.)

(7.) Resolved, that a sum not exceeding £449 3s. 6d. be appropriated to defray the expence of the Customs' Department at Newcastle, for the year 1840.

His Excellency the Governor laid upon the Table, a Return shewing the progressive increase of the Post Office Department, in its Revenue, Expenditure, and General business, from the 1st March, 1828, when first established, to the 31st of December 1838, inclusive; and in reference to what had been mentioned yesterday, informed the Council, that the Estimate for that Department had been amended, an addition of £150 per annum having been made to the Salary of the Postmaster General. Return to be printed.

(8.) Resolved, that a sum not exceeding £13,378 3s. 6d., be appropriated to defray the expence of the Postmaster General's Department, for the year 1840.

(9.) Resolved, that a sum not exceeding £407 0s. 6d., be appropriated to defray the Salaries of Inspectors of Colonial Distilleries, (including allowances for a messenger, and keep of a Horse,) for the year 1840.

(10.) Resolved, that a sum not exceeding £200, be appropriated to defray the Salary and Allowance to the Inspector of Slaughter Houses, for the District of Sydney, for the year 1840.

(11.) Resolved, that a sum not exceeding £345. 15s., be appropriated to defray the expence of the Department of the Commissioner for the Assignment of Convict Servants, for the year 1840.

(12.) Resolved, that a sum not exceeding £1,004. 18s., be appropriated to defray the expence of the Department of the Colonial Botanist, for the year 1840.

(13.) Resolved, that a sum not exceeding £888. 6s., be appropriated to defray the expence of the Government Domain, Parramatta, for the year 1840.

(14.) Resolved, that a sum not exceeding £200, be appropriated to defray the expence of the Australian Museum, for the year 1840.

(15.)

- (15.) Resolved, that a sum not exceeding £1,559 10s. 6d., be appropriated to defray the expence of the Colonial Storekeeper's Department, for the year 1840.
- (16.) Resolved, that a sum not exceeding £1,706 3s. 6d., be appropriated to defray the expence of the Department of the Harbour Master, at Sydney, for the year 1840; (exclusive of the expence of the Schooner *Ariel*.)
- (17.) Resolved, that a sum not exceeding £144, be appropriated to defray the expence of the Master and Seamen, of the Quarantine Schooner *Ariel*, for the year 1840.
- (18.) Resolved, that a sum not exceeding £405 19s., be appropriated to defray the expence of the Light House, South Head, for the year 1840.
- (19.) Resolved, that a sum not exceeding £468 13s., be appropriated to defray the expence of the Floating Light Vessel, near the entrance of Port Jackson for the year 1840.
- (20.) Resolved, that a sum not exceeding £303 8s., be appropriated to defray the expence of the Department of the Harbour Master, at Newcastle, for the year 1840.
- (21.) Resolved, that a sum not exceeding £250 8s., be appropriated to defray the expence of the Department of the Harbour Master, at Port Macquarie, for the year 1840.
- (22.) Resolved, that a sum not exceeding £376 15s., be appropriated to defray the expence of the Telegraph Stations, for the year 1840.
- (23.) Resolved, that a sum not exceeding £300, be appropriated to defray the Salary of the Health Officer, Port Jackson, for the year 1840.
- (24.) Resolved, that a sum not exceeding £250, be appropriated to defray the Salary of the Colonial Agent-General, for the year 1840.
- (25.) Resolved, that a sum not exceeding £19,343 3s. 6d., be appropriated to defray

defray the expence of the Surveyor-General's Department, for the year 1840.

Further consideration of the Estimates deferred until Tuesday next.

3. Motion made and Question put, that His Excellency the Governor, be respectfully requested to direct the Surveyor-General, to furnish a Statement, shewing the number of Lots, or Allotments of Land, in each of the several Counties of the Colony, with the number of Acres in each County, which have been surveyed between the 1st of July, 1837, and the 30th of June, 1839—and likewise the number of Town Allotments; specifying the names of the Townships, with the number and extent of the Allotments in each Township, which have been surveyed, or set out, during the same period.

Passed.

Council adjourned at Three o'clock, until Tuesday next, August 30, at Twelve o'clock.

ORDERS OF THE DAY.

TUESDAY, AUGUST 20.

1. Distillation Laws' Consolidation Bill; second reading.
2. Trial by Jury Laws' Amendment Bill; farther consideration.
3. Estimates of Expenditure for 1840; further consideration.

TUESDAY, AUGUST 27.

1. Savings' Bank Extension Bill; second reading.

NOTICE OF MOTION.

TUESDAY, AUGUST 20.

1. The Colonial Secretary—That the Colonial Royal Engineer be examined before the Council, in reference to the Estimate of the probable Expences of the Department of Public Works and Buildings, including Repairs of Roads and Bridges, for the year 1840.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, 20 AUGUST, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair.

Committee on the Distillation Petitions; the Right Rev. the Lord Bishop of Australia, as Chairman, brought up the Report; and laid upon the Table, the Evidence taken before the Committee; To be printed.

2. Distillation Laws' Consolidation Bill; second reading further deferred, until Tuesday next, August 27.

3. The Lord Bishop of Australia presented Petitions addressed to His Excellency the Governor and this Council,

(1.) From Twenty-four Members of the Standing Committee, of the Diocesan Committee of the Societies, for promoting Christian Knowledge, and for Propagating the Gospel in Foreign Parts, praying that no diminution may take place in the sum granted annually, towards the support of Schools in connexion with the Church of England; but rather, as the necessity for such Institutions is increasing, that sufficient provision may be made, for the due education of all the Children of that Church, as well as for the instruction of persons in the Art of Teaching, who may thus be qualified to fill the Offices of Masters and Mistresses in the Schools.

(2.) From the Reverend Henry Fulton, B. A., Minister of Castlereagh, Penrith, and Emu, and 118 other Residents in those Districts; the purport of the Prayer of which, is nearly similar to the preceding.

(3.) Captain King presented a Petition, of which the object is also similar, from,

21 Free Inhabitants of the District of Port Stephens. Upon Motions severally made, and *Passed*, the above-mentioned Petitions were read, received, and ordered to be printed.

4. His Excellency the Governor laid upon the Table, A Return of the number of Criminal Issues, and Prisoners tried before the *Supreme Court* of New South Wales, from the first day of January, 1837, to the fifteenth day of August, 1839; distinguishing those tried by Civil, and by Military Juries; to be printed. Trial by Jury Law's Amendment Bill; Motion made, and Question put, that the further consideration of this Bill be deferred until Tuesday next, August 27; *Passed*.
5. The Colonial Secretary having moved,—That the Colonial Royal Engineer be examined before the Council, in reference to the Estimate of the probable Expences of the Department of Public Works, and Buildings, including Repairs of Roads, and Bridges, for the Year 1840, Major Barney was introduced, and examined.

The Road Department has been under my Superintendence about three years; I reluctantly undertook this duty, on being pressingly requested to do so by His Excellency the late Governor, more as I considered, as an experiment on the merit of Military Superintendence, than with the view of the Department being placed permanently under my charge; the experiment, has however, in my opinion, proved a failure; the Superintendence of forced, or unwilling labour, is a service in a very high degree irksome and disagreeable, and such as Military Officers, both Commissioned and Non-Commissioned have, but very rarely, been previously accustomed to; they have moreover, not only no interest in the Work placed under their Superintendence, no encouragement, no inducement to engage their attention, but even when under the influence of a sense of duty exertions have been made, they very seldom possess any knowledge either of the proper manner of executing such work, or of the quantity that should be performed; I have not one Officer attached to the Service, who is capable of Surveying a Line of Road, of determining the Levels, or of framing a Report upon which I could act; the only competent person in the Department is a Civilian, Mr. Lennox, the Superintendent of Bridges; the Road duty fully occupies one half of my time, although my performance of it is unsatisfactory in every point of view; to shew the extent to which the office business of that duty engages my attention, I may state, that last year eleven thousand Returns passed through my hands; I had occasion to visit Parramatta one day last week, and on my return there were fifty-seven letters laying upon my table; I am of opinion that the Country is now in a fit state to admit of the Roads being placed in the hands of Commissioners

of

of Trusts as in England; if Government would supply labour and tools, such an arrangement would be highly beneficial; the total number of Men attached to my Department is about 2200, of whom about 900 are in Irons; the Men employed on the Roads are chiefly in Irons, those employed on Bridges are partly Ironed, partly out of Irons; about 500 Men are employed on the Roads; about 120 Men are engaged on the Breakwater at Newcastle, the delay in the progress of which Work has been caused by its original bad formation, in consequence of which, the Sea made breaches through it every gale of wind; it occupied the whole of last year to make good and strengthen the profiles, the work is however now getting on satisfactorily, and will, I think, be completed in about two years; a Basin for Steamers is in progress at Wollongong, which is proceeding satisfactorily; and a Reservoir for Water at Campbell Town will be completed in five or six months; Fountains, supplied with Water from the Tunnel, are now being erected in all parts of the Town of Sydney; there are already nine in operation, and five or six more will be necessary; the Road between Sydney and Parramatta requires, and is undergoing extensive repair, but it would be of little use to partially Metal it, and I am preparing therefore to get the whole done at once; I have as much Metal in readiness as will complete one-half of the Road, but I cannot get a Contract for the Cartage of it under 6s. 10d. per Ton; it has already cost 5s. per Ton, so that it would be like paving the Road with gold; I have a large quantity of Metal at Longbottom, where I am erecting a new Wharf, near Mr. Norton's, to land Metal at; I think it will take a year and a half to get the Road completed in such a manner as to prove a durable Work; it will cost upwards of £1000 a mile, exclusive of bridges, of which, I believe, there are Seven wanted between Sydney and Parramatta.

The Road from Parramatta to Penrith was repaired by Contract; the expence was great, and the work was not scientifically performed, but a large quantity of Metal was used, and it is now the best Road in the Colony; the amount agreed to be paid to the Contractor for making that Road, and keeping it in repair for three years, was £999, for each of those years, amounting to £2997, an expenditure of upwards of £142 per mile; the depth of the Metal laid on was six inches, and the width twenty-five feet; I am aware that the Roads made under the directions of Grand Juries in Ireland are only fifteen feet wide, and if a Road be fenced in to that width it may do; but if the fences are sixty feet apart it is of no use Metalling fifteen feet in the middle, for in wet weather the Metal would be swallowed up by the mud at the sides.

A plan has been in some instances adopted of lending Convicts to Contractors for the purpose of making Roads, the Contractors rationing and clothing them and superintending their work; I think that plan might be extended, if Gentlemen
resident

resident in the Country could be found, who would undertake the execution of the Contracts; which would also obviate some difficulties sustained by the Government in making Roads. On the Parramatta Road for instance, the resident Proprietors will not allow Stone to be removed from their Estates to repair the Roads, nor Stockades to be erected unless they are paid Rent; Gentlemen undertaking Contracts for Roads would have an interest in making them through their Properties; as Contractors, it would be their interest to make the Convicts work, and they would get more work out of them than the Government do; the execution of the work should be Superintended by a Surveyor paid by the Government, and no alterations should be made in the Line of any Road without being submitted to the Government; I think that system might not answer in the more remote and thinly populated Districts.

The men on the Roads are divided into five separate Gangs which are stationed at fixed points, and on account of the difficulty with which men in Irons move, their work is confined to a space not exceeding a distance from the Stockade of two miles on each side; as Ironed Gang Men cannot be moved but under escorts, which the guarding parties can ill afford, they are only moved in cases of necessity; if not guarded, disorder and robberies would be the certain consequence; they are worked under Military Overseers, the Non-commissioned Officers receiving one shilling per day, and Privates six-pence in addition to their Military pay; altogether, about ninety Military Overseers are employed over the Convicts attached to my Department; I think the duty of the Military should be confined to *guarding* the Gangs; they should have nothing to do with their work; I am of opinion they should be brought in contact with the Convicts as little as possible; experience clearly proves that the employment of the Military upon the Roads as Overseers, leads to results highly unfavorable to the Military character; the continued contact with the Convicts has been injurious to the Soldiers.

I think that 3000 Men should be employed on the three Great Lines of Road, the Northern, Southern, and Western, say 1000 Men on each; they should be divided into Gangs of 200, each under the superintendence of a competent Free Overseer, (with a Salary of not less than five or six shillings a day and rations,) who should be held responsible for the quantity and execution of the work performed; there should be a Surveyor for each line of Road to superintend the work; he should be *always* on the Road, and have no other duty to attend to; and the whole business of the Road Department should be under the superintendence of a competent Engineer, whose attention should be confined solely to that duty; I am aware that this system was in part tried by Sir Richard Bourke and failed, but I attribute that failure to the incompetency of the Persons employed; I think there would not be the same difficulty now, in obtaining competent Overseers, among the numerous Emigrants arriving, a
sufficient

sufficient number might be procured; I have had several applications lately from men who say that they have been used to Road-work, and are competent to the Superintendence of it.

In respect to the quantity of work performed by Free Men, in comparison with Convicts, I think that on the Roads. Men in Irons do about one fifth, or one sixth of what would be done by Free Men, but they do it unwillingly, and in most cases badly; I have seen Convicts work at Home in opposition to Free Men, I recollect one instance in particular, at Portsmouth, where they worked more quickly than Free Men.

I have had some experience of Convict Labour at Home, and considerable experience as to Slave-Labour in the West Indies; I think it possible to excite forced Labourers, but it would be attended with difficulty unless the Men were tasked and paid for any extra work they might perform, or otherwise have hopes of Emancipations or Tickets of Leave held out to them, or if the two propositions were combined, it would be most advantageous; the rations now issued to the Men appear quite sufficient on paper. The Bread is of a very inferior quality, and one pound of raw meat allowed to each man daily, when served out cooked, affords only about half a pound; I am of opinion that any additional ration, or Tea and Sugar would be an inducement to Prisoners to perform more work; a very small allowance would suffice if hopes of a remission of sentence were held out; I do not consider moderate rewards hurtful to Convict discipline; the primary object of Sir Richard Bourke in placing Ironed Gangs in Stockades under Military Superintendence was their punishment and discipline, the quantity of work performed being a secondary consideration.

An experiment has lately been tried at Parramatta by desire of His Excellency Sir George Gipps; a large quantity of cut stone being required, a return was kept of the quantity cut by each Prisoner per week, which averaged about thirty feet; a task was then fixed at forty feet; they were paid weekly for all they did exceeding that quantity, at the rate of one sixth of what a Free Man would have been paid, not in money, but in such articles as Bread, Meat, Tea, Sugar and Tobacco; seventy eight feet, and in some instances ninety feet per week have been cut, since the adoption of this system of rewards, which shews that good has clearly been effected by them, and that without diminishing the severity of Stockade discipline, except as regards food.

Convicts do not much dread being worked in Irons on the Roads; I believe they consider it a greater punishment to be under the system of discipline in force at Hyde Park Barracks, without Irons, than to be in a Stockade in Irons.

I am

I am aware that a number of new Roads are required in various parts of the Colony, but with the constant decreasing supply of Convict labor, it is impossible to keep in proper repair, even a small portion of the Roads which are already in use.

Major Barney then retired.

6. Estimates of Expenditure for the year 1840; motion made and Question put, that the further consideration of the same be deferred until to-morrow: *Passed.*

Council adjourned at Four o'Clock, until To-morrow, at Twelve o'Clock.

ORDERS OF THE DAY.

WEDNESDAY, AUGUST 21.

1. Estimates of Expenditure for 1840; further consideration.

TUESDAY, AUGUST 27.

1. Saving's Bank Extension Bill; second reading.
2. Distillation Laws' Consolidation Bill; second reading.
3. Trial by Jury Laws' Amendment Bill; further consideration.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL...

WEDNESDAY, 21 AUGUST, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair; and laid upon the Table, an "Estimated Statement of the Ways and Means, required to meet the Expenditure of the Year 1840, exclusively of that chargeable on the Revenue, arising from Crown Lands;" to be printed.

2. Mr. Macarthur presented a Petition from certain Manufacturers of Tobacco, and others interested in its growth and manufacture; in this Colony, representing, that the duty on unmanufactured Tobacco imported into Great Britain, is three Shillings per pound, and on manufactured, nine Shillings; making a difference of six Shillings; whereas in this Colony, the duties being respectively one Shilling and Sixpence, and two Shillings, the difference is only Sixpence; and praying that a higher duty may be imposed on imported manufactured Tobacco, exempting therefrom such as may be imported from Great Britain. Motion made, and Question put, that this Petition be read, and received; Passed.

3. Mr. Berry presented a Petition from the Kirk-Session of the Presbyterian Church at Goulburn, signed by the Moderator, the Reverend William Hamilton, praying that provision may be made for granting the hitherto accustomed aid, to Schools in the Rural Districts, in connexion with the several Religious Denominations, although the number of Scholars appertaining thereto, or attending, may be less than forty, or thirty.

Motion made, and Question put, that this Petition be read, received, and printed; Passed.

4. The Lord Bishop of Australia presented the undermentioned Petitions; the purport, or object of each of which, is nearly similar to those presented yesterday, by His Lordship and Captain King :—

(1.) From the Reverend William H. Walsh, Minister of the Parish of St. Lawrence, and 265 Inhabitants of Sydney, resident chiefly in the Parishes of St. Lawrence and St. Andrew.

(2.) From the Reverend T. C. Makinson, B. A. Minister in the Parish or District of St. Mary Magdalene, South Creek, and 28 Inhabitants of that District.

(3.) From the same Clergyman, Minister also, of the Church of St. Thomas, at Mulgoa, and 18 Inhabitants of its vicinity.

(4.) From the Reverend John Duffus, M. A. Minister of St. Luke's Church, Liverpool, and 364 Inhabitants of that Town, and its vicinity.

(5.) From the Reverend Matthew Devenish Meares, M.A. Minister of the District of Illayarra, and 125 Inhabitants of that District.

(6.) From the Rev. G. K. Rusden, M. A. Minister of the Parish, or District, of East Maitland, and 91 Inhabitants of that District and its vicinity.

Upon Motions severally made, and *Passed*, the above mentioned Petitions were read, received, and ordered to be printed.

5. His Excellency the Governor laid upon the Table, a Letter from their Honors the Judges, representing the repugnancy of the Act passed by His Excellency and this Council, on the thirteenth day of August, instant, intituled, "*An Act to establish Courts of Requests at the Towns of Melbourne and Port Macquarie in the Colony of New South Wales,*" to the Statute 9 George IV., cap. 83, sec. 22; To be brought under the review of the Council on Tuesday next.

6. His Excellency the Governor laid before the Council, "*A Bill to remove doubts as to the validity of certain Marriages, had, and solemnized, within the*"
Colony

“ Colony of New South Wales, by Ministers of the Wesleyan Methodist Society, and to regulate the Registration of certain Marriages, Baptisms, and Burials.” Bill read a first time; to be printed, and read a second time on Wednesday next.

7. *Union Bank of Australia Bill*; presented by the Governor as amended; Motion made and Question put, that this Bill be re-committed, and referred back to the Committee, for the purpose of a clause being inserted therein, requiring, that an attested copy of the Deed of Co-partnership and Settlement, be registered in the Office of the Registrar of the Supreme Court of this Colony: *Passed.*

8. *Sydney Alliance, Marine, and Fire and Life Assurance Company Bill*; the Collector of Customs, as Chairman brought up the Report of the Committee; Report read, and ordered to be printed; Bill read a second time; to be read a third time on Wednesday next.

9. *Estimates for the year 1840, further considered in Committee.*

(26.) Resolved, that a sum not exceeding £22,541 3s. 6d., be appropriated to defray the expence of the Department of Public Works and Buildings, for the year 1840.

(27.) Resolved, that a sum not exceeding £28,100, be appropriated to defray the expence, for the year 1840, of repairing Roads and Bridges, and for the construction of New Bridges, and other Public Works.

(28.) Resolved, that a sum not exceeding £1,710. 19s. 6d., be appropriated to defray the expence of the Department of the Colonial Architect and Surveyor of Buildings, for the year 1840.

(29.) Resolved, that sum not exceeding £30,575 15s., be appropriated to defray the expence for the year 1840, of repairing, and erecting, Public Buildings.

(30.) Resolved, that a sum not exceeding £4000, be appropriated to meet the Expences of the Town Surveyor's Department, for the year 1840, until otherwise provided for.

Further

Further consideration of the Estimates deferred until To-morrow.

Council adjourned at half-past Four o'Clock, until To-morrow, at Twelve o'Clock.

ORDERS OF THE DAY.

THURSDAY, AUGUST 22.

1. Estimates of Expenditure for 1840; further consideration.

TUESDAY, AUGUST 27.

1. Savings' Bank Extension Bill; second reading.
2. Distillation Laws' Consolidation Bill; second reading.
3. Trial by Jury Laws' Amendment Bill; further consideration.
4. Melbourne and Port Macquarie Court of Requests Act; to be brought under review.

WEDNESDAY, AUGUST 28.

1. Sydney Alliance Marine and Fire and Life Assurance Company Bill; third reading.
2. Wesleyan Marriages' Validity Bill; second reading.

NOTICE OF MOTION.

TUESDAY, AUGUST 27.

1. Mr Jones—That in the opinion of this Council, it is expedient that the Distillation of Spirits in the Colony of New South Wales, should be immediately prohibited altogether: and that those who are at present embarked in the Trade of Distillation, should receive an equitable compensation for any loss they may be found to have sustained by such prohibition.

WM. MACPIERSON,

Clerk of Councils.

No. 24.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

THURSDAY, 22 AUGUST, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair.

Mr. Macarthur presented a Petition from the Reverend H. H. Bobart, M. A., Minister of St. John's Church, Parramatta, and 380 persons residing in that Town and its Vicinity; the object of which is similar to those which have been already presented by the Lord Bishop of Australia and Captain King; Motion made, and Question put, that this Petition be read, received, and printed; *Passed.*

2. The Lord Bishop of Australia presented the undermentioned Petitions; the object of each of which, is nearly similar to that presented by Mr. Macarthur above-mentioned:—

(1.) From the Reverend Henry T. Stiles, Minister of the Town of Richmond, and 139 persons residing in that Town, and its Vicinity.

(2.) From the Reverend Henry T. Stiles, as Minister also, of the Town of Windsor, and 62 persons (nearly all, Heads of Families) Inhabitants of that Town, and its Vicinity.

(3.) From the Reverend William Cowper, Minister of St. Philip's Sydney, and 241 Inhabitants of Sydney, resident chiefly in the Parish of St. Philip.

(4.) From the Reverend C. Pleydell N. Wilton, M. A., Minister of Christ Church, Newcastle, and 82 Inhabitants of that Town, and its Vicinity.

(5.)

(5.) From 94 Inhabitants of the District of Kurryjong.

Upon Motions severally made, and *Passed*, the above mentioned Petitions were read, received, and ordered to be printed.

3. Estimates for the year 1840; further considered in Committee.

(31.) Resolved, that a sum not exceeding £7,336 10s., be appropriated to defray the expence of the Supreme Court, for the year 1840.

(32.) Resolved, that a sum not exceeding £4,239 16s., be appropriated to defray the expence of the Law Officers of the Crown, for the year 1840; including £500, to defray the Salary of a Second Crown Solicitor, temporarily appointed, to enable the arrear of business in the Civil Branch of that Department to be brought up.

Further consideration of the Estimates deferred until To-morrow.

Council adjourned at Five o'Clock, until To-morrow, at Twelve o'Clock.

ORDERS OF THE DAY.

FRIDAY, AUGUST 23.

1. Estimates of Expenditure for 1840; further consideration.

TUESDAY, AUGUST 27.

1. Distillation Laws' Consolidation Bill; second reading.
2. Trial by Jury Laws' Amendment Bill; further consideration.
3. Melbourne and Port Macquarie Courts of Requests Act; to be brought under review.
4. Savings' Bank Extension Bill; second reading.

WEDNESDAY,

WEDNESDAY, AUGUST 28.

1. Sydney Alliance Marine and Fire and Life Assurance Company Bill ; third reading.
2. Wesleyan Marriages' Validity Bill ; second reading.

NOTICE OF MOTION.

TUESDAY, AUGUST 27.

1. *Mr Jones*—That in the opinion of this Council, it is expedient that the Distillation of Spirits in the Colony of New South Wales, should be immediately prohibited altogether : and that those who are at present embarked in the Trade of Distillation, should receive an equitable compensation for any loss they may be found to have sustained by such prohibition.

WM. MACPHERSON,

Clerk of Councils.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

FRIDAY, 23 AUGUST, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and laid upon the Table, A Return shewing—
 - (1.) The Number of portions of Land which have been surveyed in each County of the Colony, and the area thereof, during the two years from 1 July 1837, to 30 June 1839.
 - (2.) The Number of Allotments of Land which have been surveyed in each of the Towns of the Colony, and the area thereof, during the same period.
2. Union Bank of Australia Bill; the Collector of Customs as Chairman, reported that the Committee had framed a Clause, "requiring that an attested Copy of the Deed of Co-partnership and Settlement, be registered in the Office of the Registrar of the Supreme Court," which they proposed introducing as the sixth Clause, and which he now presents; Bill re-committed; Motion made, and Question put, that this clause be inserted; *Passed.* Bill to be fairly transcribed, and presented to the Governor by the Attorney General and the Collector of Customs.
3. His Excellency the Governor laid upon the Table, "A Bill to amend an Act, "intituled. 'An Act for registering Deeds and Conveyances in New South "Wales, and for other purposes,' and to prevent unqualified persons from "practising as Conveyancers." Bill read a first time; to be printed, and read a second time, on Tuesday, September 3.

4.

4. Estimates of Expenditure for the year 1840; further considered in Committee.

(33.) Resolved, that a sum not exceeding £2,736 5s. 2d. be appropriated to defray the expences of Courts of Requests, for the year 1840.

(34.) Resolved, that a sum not exceeding £4,776, be appointed to defray the expence of Courts of Quarter Sessions, for the year 1840.

(35.) Resolved, that a sum not exceeding £3,195 16s. 6d., be appropriated to defray the expence of the Sheriff's Department, for the year 1840.

(36.) Resolved, that a sum not exceeding £1,814 1s., be appropriated to defray the Salaries of Coroners, and the Expences of Inquests, for the year 1840.

Estimate of the probable Expences of the Police and Gaol Establishments, for the year 1840, amounting to the sum of £92,310 3s. 7d. : Motion made and Question put, that this Estimate be referred to the Sub-Committee appointed (on the first day of the Session) to inquire into, and report upon, these Establishments; and that the consideration of the Estimate be deferred :
Passed.

(37.) Resolved, that a sum not exceeding £18,266 15s., be appropriated to defray the expence of the Establishment of the United Church of England and Ireland, for the year 1840.

(38.) Resolved, that a sum not exceeding £5,150, be appropriated to defray the expence of the Establishment of the Presbyterian Church, in connexion with the Established Church of Scotland, for the year 1840.

(39.) Resolved, that a sum not exceeding £3,350, be appropriated to defray the expence of the Wesleyan Methodist Mission, for the year 1840.

(40.) Resolved, that a sum not exceeding £6,100, be appropriated to defray the expence of the Establishment of the Roman Catholic Church, for the year 1840.

Estimate

Estimate of the probable Expences of the School Establishments: the consideration of this Estimate deferred until Tuesday next.

(41.) Estimate of the probable Charge on the Colonial Treasury for Pensions for the year 1840.

Motion made and Question put, that a sum of £4,650, be granted to Sir Francis Forbes, as the present value of a Pension at the rate of £700 per annum; Council divided: Ayes five, Noes seven.

Resolved, that a sum not exceeding £1,400, be appropriated to defray the charge of Pensions, for the year 1840.

Further consideration of the Estimates deferred until Tuesday next.

5. His Excellency the Governor laid upon the Table, a Draft of the following Resolutions on the subject of Education: upon which His Excellency proposes to take the sense of the Council, on Tuesday next.

(1.) That in the opinion of this Council, all Classes of the Community are entitled to equal assistance from the Public Revenue, in the establishment of Schools, or places of Public Education.

(2.) That owing to the extreme dispersion of the population of this Colony, a system of Education to be effectual, should be as comprehensive as possible.

(3.) That in the opinion of this Council, a system of Education may be established, that shall, at least, comprehend all Classes of Protestants.

(4.) That if the Public Schools of the Colony be established upon principles essentially Protestant, some corresponding advantages ought to be secured for the Schools of Roman Catholics.

Council adjourned at Half-past Four o'Clock, until Tuesday next, August 27, at Twelve o'Clock.

ORDERS

ORDERS OF THE DAY.

TUESDAY, AUGUST 27.

1. Estimates of Expenditure for 1840 (commencing with Estimate for School Establishment); further consideration.
2. Distillation Laws' Consolidation Bill; second reading.
3. Trial by Jury Laws' Amendment Bill; further consideration.
4. Melbourne and Port Macquarie Courts of Requests Act; to be brought under review.
5. Savings' Bank Extension Bill; second reading.

WEDNESDAY, AUGUST 28.

1. Sydney Alliance Marine and Fire and Life Assurance Company Bill; third reading.
2. Wesleyan Marriages' Validity Bill; second reading.

TUESDAY, SEPTEMBER 3.

1. Registration of Deeds Act, Amendment Bill; second reading.

NOTICE OF MOTION.

TUESDAY, AUGUST 27.

1. Mr Jones—That in the opinion of this Council, it is expedient that the Distillation of Spirits in the Colony of New South Wales, should be immediately prohibited altogether: and that those who are at present embarked in the Trade of Distillation, should receive an equitable compensation for any loss they may be found to have sustained by such prohibition.

WM. MACPHERSON,

Clerk of Councils.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

TUESDAY, 27 AUGUST, 1830.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair.

Mr Berry presented a Petition from 141 persons, Parents and Guardians of Children, and other Inhabitants of Goulburn and its vicinity, praying, His Excellency and this Council, to authorise the issuing of money from the Colonial Treasury, for the support of Schools connected with any Christian denomination, whensoever and wheresoever, the average attendance at these Schools shall amount to not less than Twenty; or if this cannot be done, to provide for the establishment of a General School at Goulburn, and other places similarly situated in respect to Population, such as may be attended, without detriment to their Religious liberty, by the Children of all denominations of Christians.

Upon Motion made—Petition read, received, and ordered to be printed.

2. The Lord Bishop of Australia presented the undermentioned Petitions, the object of each of which, is nearly similar to those presented by his Lordship, Mr. Macarthur, and Captain King, on the 20, 21, and 22 instant, from Members of the Church of England, and others.

(1.) From the Reverend Robert Forrester, Minister of St. Peter, Campbell Town, and from 74 Inhabitants of that Town and its vicinity.

(2.) From the Reverend George N. Woodd, B. A. and 335 Inhabitants of Sydney, resident chiefly in the Parish of St. James.

(3.) From 54 Settlers and Residents on the River Macdonald.

(4.) From the Reverend Thomas Hassall, Minister of Heber and Narellan
Chapels,

Chapels, in the Counties of Cumberland and Camden and 84 Inhabitants of the adjacent Districts.

Upon Motions severally made, and *Passed*, the above mentioned Petitions were read, received, and ordered to be printed.

3. Mr. Macarthur presented an additional sheet of Signatures, to the Petition from Parramatta presented by him on Thursday last, containing 56 names, making the total number of Signatures to that Petition 487.—He moved that the additional sheet now presented by him be appended to that Petition. *Passed*.
4. His Excellency the Governor laid upon the Table, a Despatch from the Right Honorable Lord Glenelg, dated 14 July, 1838, No. 154, stating, that two well qualified Persons with their Wives, had been selected upon the recommendation of the British and Foreign School Society, to act as School Masters, and School Mistresses, in New South Wales, and that they would shortly proceed to this Colony; read, and to be printed.
5. The Colonial Secretary moved the Order of the Day for the further consideration of the Estimates of Expenditure, for the year 1840, commencing with the Estimate for School Establishments.

His Excellency the Governor said, that before proceeding to the consideration of that Estimate, he would previously request the opinion of the Council, upon the Resolutions of which he had laid a Draft upon the Table at their last Meeting, and read the first proposed Resolution.

After a very long debate His Excellency withdrew all the proposed Resolutions.

The further consideration of the Estimates of Expenditure for the year 1840 deferred until to-morrow.

6. Distillation Laws' Consolidation Bill; second reading further deferred until to-morrow.

7. Trial by Jury Laws' Amendment Bill; further consideration deferred until to-morrow.
8. Melbourne and Port Macquarie Courts of Requests Act; review of the same, deferred until to-morrow.
9. Savings' Bank Extension Bill; second reading deferred until to-morrow.
10. Immediate, and entire, prohibition of Colonial Distillation; Mr. Jones moved for leave to postpone the Motion on this subject, of which he had given notice, until to-morrow. *Passed.*

Council adjourned at Half-past Six o'Clock, until To-morrow, at Twelve o'Clock.

ORDERS OF THE DAY.

WEDNESDAY, AUGUST 28.

1. Estimates of Expenditure for the year 1840 (commencing with Estimate for School Establishments); further consideration.
2. Distillation Laws' Consolidation Bill; second reading.
3. Trial by Jury Laws' Amendment Bill; further consideration.
4. Melbourne and Port Macquarie Courts of Requests Act; to be brought under review.
5. Savings' Bank Extension Bill; second-reading.
6. Sydney Alliance Marine and Fire and Life Assurance Company Bill; third reading.
7. Wesleyan Marriages' Validity Bill; second reading.

TUESDAY, SEPTEMBER 3.

1. Registration of Deeds Act, Amendment Bill; second reading.

NOTICE

NOTICE OF MOTION.

WEDNESDAY, AUGUST 28.

1. Mr Jones—That in the opinion of this Council, it is expedient that the Distillation of Spirits in the Colony of New South Wales, should be immediately prohibited altogether: and that those who are at present embarked in the Trade of Distillation, should receive an equitable compensation for any loss they may be found to have sustained by such prohibition.

WM. MACPHERSON,

Clerk of Councils.

No. 27.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

WEDNESDAY, 28 AUGUST, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and laid upon the Table, "*A Bill to amend an Act of His Excellency the Governor of New South Wales, with the advice of the Legislative Council thereof, made and passed in the eighth year of the Reign of His late Majesty King William the Fourth, intituled, "An Act for Lighting with Gas the "Town of Sydney, in the Colony of New South Wales; and to enable certain Persons associated under the name, style, and firm of 'The Australian "Gas Light Company,' to sue, and be sued, in the name of the Secretary for "the time-being of the said Company, and for other purposes therein mentioned."*" The Clerks of the Churches of St. Philip, and St. James, called in, and notification of the intention to apply for the Bill, having been affixed on the Doors of the said Churches, on three successive Sundays, proved. Bill read a first time; to be printed, and referred to a Sub-Committee, to consist of the following Gentlemen:—

THE COLLECTOR OF CUSTOMS;

THE AUDITOR GENERAL;

MR. JONES;

MR BERRY;

SIR JOHN JAMISON.

2. His Excellency the Governor laid upon the Table, a Petition from James and William Macarthur, Esquires, praying that the Vine-growers of this Colony may not be debarred from the right to distil, which they exercise under the Law now in force, representing, that if deprived of this privilege, they will be compelled

pelled to abandon their extensive Vineyards, and to seek from the justice of His Excellency and this Council, compensation for the loss, and disappointment they will thereby sustain. Read, and to be printed.

3. Immediate, and entire, prohibition of Colonial Distillation; Mr. Jones withdrew the Motion on this subject, of which he had given notice.
4. Distillation Laws' Consolidation Bill read a second time; committed, and amended, to be further considered on Friday next.
5. Estimates of Expenditure for the year 1840 (commencing with the Estimate for School Establishments); further consideration deferred until Friday next.
6. Trial by Jury Laws' Amendment Bill; further consideration deferred until Friday next.
7. Melbourne and Port Macquarie Courts of Requests Act; review of the same, deferred until to-morrow.
8. Savings' Bank Extension Bill; second reading deferred until Wednesday, September 11.
9. Sydney Alliance Marine and Fire and Life Assurance Company Bill; read a third time and *Passed*.
10. Wesleyan Marriages Validity Bill; second reading deferred until to-morrow.

Council adjourned at Half-past Four o'Clock, until To-morrow, at Twelve o'Clock.

ORDERS OF THE DAY.

THURSDAY, AUGUST 29.

1. Melbourne and Port Macquarie Courts of Requests Act; to be brought under review.
4. Wesleyan Marriages' Validity Bill; second reading.

FRIDAY,

FRIDAY, AUGUST 30.

- 1. Distillation Laws' Consolidation Bill; further consideration.
- 2. Estimates of Expenditure for the year 1840 (commencing with Estimate for School Establishments); further consideration.
- 3. Trial by Jury Laws' Amendment Bill; further consideration.

TUESDAY, SEPTEMBER 3.

- 1. Registration of Deeds Act, Amendment Bill; second reading.

WEDNESDAY, SEPTEMBER 11.

- 1. Savings' Bank Extension Bill; second reading.

NOTICE OF MOTION.

FRIDAY, AUGUST 30.

- 1. The Attorney-General—That in the opinion of this Council, it is expedient, that from and after the first day of November, in the year 1840, Distillation from every article not being the growth, or produce, of New South Wales, or its Dependencies, excepting *Grain*, whether grown within, or imported into the said Colony of New South Wales, or its Dependencies, shall be *entirely prohibited*.

WM. MACPHERSON,

Clerk of Councils.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

THURSDAY, 29 AUGUST, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair.

The Colonial Secretary moved the Order of the Day, for the consideration of the Letter addressed to the Governor, by the Judges, representing it to be the unanimous opinion of their Honors, that the Act passed by His Excellency and this Council, on the thirteenth day of August Instant, intituled, "*An Act to establish Courts of Requests at the Towns of Melbourne, and Port Macquarie, in the Colony of New South Wales,*" appears to be repugnant to the Statute 9 George IV, Cap. 83, intituled, "*An Act to provide for the Administration of Justice in New South Wales and Van Diemen's Land, and for the more effectual Government thereof, and for other purposes relating thereto,*" in as much as, that however expedient and necessary it may be, to establish Courts of Requests to be holden in the Towns of Melbourne, and Port Macquarie respectively, for the reasons recited in the first Section of the said Local Act, yet that the enactment in the second Section thereof, "That the said Courts of Requests shall be holden by a Commissioner to be appointed by the Governor of said Colony, for and on behalf of Her Majesty" is contrary to the express terms of the 9 Geo. IV. Cap. 83, Sec. 18, which after giving power to the Governors of New South Wales, with the advice of the Legislative Council thereof, to institute Courts of Requests, proceeds to enact, that each of such Courts, shall be holden by a Commissioner to be appointed by His Majesty.

His

His Excellency the Governor adverting to the pressing necessity that existed for the establishment of Courts of Requests in the Towns named in the Local Act, brought under the notice of the Council, the 22 section of the statute above referred to, by which it is enacted, that if before the expiration of fourteen days after the date of any Law or Ordinance, the Judges of the Supreme Court or any of them, shall transmit to the Governor a representation that any such Law or Ordinance is repugnant to the said statute, or to any Charter, or Letters Patent, or Orders in Council, issued in pursuance thereof, or to the *Laws of England*, then, and upon the receipt of any such representation, such Governor shall suspend the operation of such Law or Ordinance, until the same hath been brought by him together with such representation as aforesaid, under the review of the Legislative Council; and if upon a review by the said Governor in Council, of the said Ordinance, the said Governor in Council shall adhere to such Ordinance, a written Notice of such Resolution shall forthwith be transmitted by the said Governor to the Judges of the said Supreme Court; and such Ordinance shall thenceforward take effect, and be binding upon all His Majesty's subjects within the said Colony, until His Majesty's pleasure shall be known, any Repugnancy, or supposed Repugnancy, of such Law or Ordinance to the said statute, or to any such Charter, Letters Patent, or Orders in Council as aforesaid, or to the *Laws of England* notwithstanding.

Resolved unanimously, upon a review of the above mentioned representation, and of the said Local Law or Ordinance, that the Council do adhere to the same.

2. Union Bank of Australia Bill; presented by the Governor as amended; to be read a third time on Wednesday next.
3. Wesleyan Marriages' Validity Bill; read a second time; committed, and some verbal alterations made; to be read a third time on Wednesday next, September 14.

Council adjourned at Two o'Clock, until To-morrow, at Twelve o'Clock.

ORDERS

ORDERS OF THE DAY.

FRIDAY, AUGUST 30.

- 1. Distillation Laws' Consolidation Bill; further consideration.
- 2. Estimates of Expenditure for the year 1840 (commencing with Estimate for School Establishments); further consideration.
- 3. Trial by Jury Laws' Amendment Bill; further consideration.

TUESDAY, SEPTEMBER 3.

- 1. Registration of Deeds' Act, Amendment Bill; second reading.

WEDNESDAY, SEPTEMBER 4.

- 1. Union Bank of Australia Bill; third reading.
- 2. Wesleyan Marriages' Validity Bill; third reading.

WEDNESDAY, SEPTEMBER 11.

- 1. Savings' Bank Extension Bill; second reading.

NOTICE OF MOTION.

FRIDAY, AUGUST 30.

- 1. The Attorney-General—That in the opinion of this Council, it is expedient, that from and after the first day of November, in the year 1840, Distillation from every article not being the growth, or produce, of New South Wales, or its Dependancies, excepting *Grain*, whether grown within, or imported into the said Colony of New South Wales, or its Dependancies, shall be *entirely prohibited*.

Wm. MACPHERSON,
 Clerk of Councils.

No. 28.

NEW SOUTH WALES.

VOTES AND PROCEEDINGS
OF THE
LEGISLATIVE COUNCIL.

THURSDAY, AUGUST 29, 1839.

Ordered, by THE COUNCIL, to be Printed.

No. 29.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

FRIDAY, 30 AUGUST, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair.

The Collector of Customs presented a Memorial from Messrs. William Abercrombie and Company, of Sydney, Distillers, remonstrating against the Bill now before the Council, chiefly on account of the augmentation of the Duties; and also (although an object of minor importance) against one of its provisions, by which it is required, that Dealers in Colonial, and Foreign, Spirits, shall keep the same in separate, and distinct, Cellars; the chief object of which clause they presume to be, to prevent the *admixture* of Colonial and Foreign Spirits; being, they state, in opposition to the course at present sanctioned by the British Government, by which the admixture of Home distilled raw Corn Spirits, with Foreign Spirits, for the purpose of exportation is permitted; and praying, that a similar indulgence may be allowed here, with a view towards the Exportation of the compounded Spirit; which if accorded, will materially lessen the injury, which will be inflicted on them by the New Law now in progress before the Council. Motion made, and Question put, that this Petition be read, and be received. *Passed.*

2. Distillation Laws' Consolidation Bill; The Attorney General presented a clause embracing the objects of the Motion, of which he had given Notice, with the exception, that instead of the first of *November* 1840, he proposed that the first of *April* 1840, be the date, from which Distillation from any Foreign Article, excepting *Grain*, shall be prohibited.

Motion

Motion made and Question put, that this clause be introduced into the Bill : *Passed.*

The Bill further considered, and amended ; to be further considered on Wednesday next.

3. Estimates of Expenditure, for the year 1840, further considered in Committee.

(42.) Resolved, that a sum not exceeding £3,218, be appropriated to defray the expence of the Male Orphan School, for the year 1840.

(43.) Resolved, that a sum not exceeding £2,995, be appropriated to defray the expence of the Female Orphan School, for the year 1840.

(44.) Resolved, that a sum not exceeding £1,500, be appropriated towards the support of Orphan-Schools for destitute Roman Catholic Children, for the year 1840.

(45.) Resolved, that a sum not exceeding £600, be appropriated to defray the Salaries and Allowances of Schoolmasters who have arrived, or are expected to arrive during the year 1840.

(46.) Resolved, that a sum not exceeding £3,950, be appropriated to defray the expence of Schools of the Church of England, for the year 1840.

(47.) Resolved, that a sum not exceeding £1,500, be appropriated to defray the expence of Presbyterian Schools, for the year 1840.

(48.) Resolved, that a sum not exceeding £250, be appropriated to defray the expence of Wesleyan Methodist Schools, for the year 1840.

(49.) Resolved, that a sum not exceeding £1,500, be appropriated to defray the expence of Roman Catholic Schools, for the year 1840.

Further consideration of the Estimates deferred until Tuesday next.

4. Trial by Jury Laws' Amendment. Bill ; further consideration deferred until Wednesday next.

Council adjourned at Five o'Clock, until Tuesday next, at Twelve o'Clock.

ORDERS OF THE DAY.

TUESDAY, SEPTEMBER 3.

1. Registration of Deeds' Act Amendment Bill; second reading.
2. Estimates of Expenditure for the year 1840; further consideration.

WEDNESDAY, SEPTEMBER 4.

1. Union Bank of Australia Bill; third reading.
2. Wesleyan Marriages' Validity Bill; third reading.
3. Distillation Laws' Consolidation Bill; further consideration.
4. Trial by Jury Laws' Amendment Bill; further consideration.

WEDNESDAY, SEPTEMBER 11.

1. Savings' Bank Extension Bill; second reading.

Wm. MACPHERSON,

Clerk of Councils.

No. 30.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

TUESDAY, 3 SEPTEMBER, 1839.

1. Council met pursuant to adjournment, His Excellency the Governor in the chair. Australian Gas Light Company Act, Amendment Bill; the Collector of Customs as Chairman brought up the Report of the Committee; to be printed; Bill to be read a second time on Friday next.
2. His Excellency the Governor laid upon the table, "*A Bill to alter, and improve, the mode of electing a Chairman for the Courts of General and Quarter Sessions in New South Wales.*" Bill read a first time; to be printed, and read a second time, on Tuesday, September 10.
3. Registration of Deeds Act, Amendment Bill; read a second time; committed and amended; to be fairly transcribed, and presented to the Governor, by His Honor the Chief Justice, and the Attorney-General.
4. Estimates of Expenditure for the year 1840, further considered in Committee.
 - (50.) Resolved, that a sum not exceeding £200, be appropriated to defray the rent for six months, of the year 1840, of the House in Macquarie Place, occupied as Public Offices.
 - (51.) Resolved, that a sum not exceeding £950, be appropriated to defray the expence for the year 1840, of the Commission for hearing, and determining on Claims to Grants of Land.
 - (52.) Resolved, that a sum not exceeding £370, be appropriated to defray the expence

expence of the Management of the Church and School Estates, for the year 1840.

(53.) Resolved, that a sum not exceeding £200, be appropriated towards the support of the Sydney School of Arts, for the year 1840.

His Excellency the Governor laid upon the Table, a Memorial from the Members of the "Newcastle Mechanics' Institute," representing that when that Institution was founded at Newcastle, in June 1835, the number of its Members was only ten; but that they had progressively increased, and now exceeded one hundred, and had raised among themselves upon sixty Shares, the sum of £300, for the purpose of being applied towards the expence of erecting a permanent Library, and Museum; and praying that such aid may be afforded to them from the Colonial Treasury, as will enable them to accomplish their design. Memorial read.

(54.) Resolved, that a sum not exceeding £300, be appropriated in aid of the Mechanics' Institution at Newcastle.

(55.) Resolved, that a sum not exceeding £4000, be appropriated to defray the expence of Stationery, Printing, Bookbinding, Gazettes, and Almanacks, for the several Colonial Departments, for the year 1840.

(56.) Resolved, that a sum not exceeding £600, be appropriated to defray the expence for the year 1840, of Furniture for Government House, and for Public Offices.

(56.) Resolved, that a sum not exceeding £450, be appropriated to defray the expence for the year 1840; of Fuel and Light for the several Colonial Department.

(57.) Resolved, That a sum not exceeding £400, be appropriated to defray the expence for the year 1840, of Lighting the Public Lamps in Sydney:

(58.) Resolved, That a sum not exceeding £105, be appropriated to defray the expence for the year 1840, of Training Firemen to work the Engines in Sydney, when required.

(59.)

(59.) Resolved. That a sum not exceeding £3000, be appropriated to defray the expence for the year 1840, of supporting Free Paupers in the Colonial Hospitals.

(60.) Resolved, That a sum not exceeding £500, be appropriated to defray the expence for the year 1840, of supporting Free Paupers in the Lunatic Asylum.

(61.) Resolved, That a sum not exceeding £4000, be appropriated to meet unforeseen expences on occasions of emergency, for the year 1840, to be hereafter accounted for.

Council adjourned at Half-past Two o'Clock, until To-morrow, Twelve o'Clock.

ORDERS OF THE DAY.

WEDNESDAY, SEPTEMBER 4.

1. Union Bank of Australia Bill; third reading.
2. Wesleyan Marriages' Validity Bill; third reading.
3. Distillation Laws' Consolidation Bill; further consideration.
4. Trial by Jury Laws' Amendment Bill; further consideration.

FRIDAY, SEPTEMBER 6.

1. Australian Gas Light Company Act, Amendment Bill; second reading.

TUESDAY, SEPTEMBER 10.

1. Chairman of Quarter Sessions Election Bill, second reading.

WEDNESDAY, SEPTEMBER 11.

1. Savings' Bank Extension Bill; second reading.

NOTICES OF MOTION.

WEDNESDAY, SEPTEMBER 4.

1. The Colonial Secretary—The consideration of the Supplementary Estimates of Expenditure for the year 1839.
2. The consideration of the Estimates of the Expenditure of the Establishments at Port Phillip, for the year 1840.

WM. MACPHERSON,

Clerk of Councils.

No. 30

NEW SOUTH WALES.

VOTES AND PROCEEDINGS
OF THE
LEGISLATIVE COUNCIL.

TUESDAY, 3 SEPTEMBER, 1839.

Ordered, by THE COUNCIL, to be Printed.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

THURSDAY, 5 SEPTEMBER, 1839.

1. The Meeting of the Council appointed for yesterday, having been adjourned until This Day, at Twelve o'Clock, the Council met pursuant to that adjournment; His Excellency the Governor in the Chair.
Union Bank of Australia Bill; read a third time, and *Passed*.
2. Wesleyan Marriages' Validity Bill; read a third time, and *Passed*.
3. Distillation Laws' Consolidation Bill; further considered and amended; to be further considered To-morrow.
4. Trial by Jury Laws' Amendment Bill; further consideration deferred until Tuesday next.
5. The Supplementary Estimates of Expenditure for the year 1839: Motion made and Question put, that they be now considered in Committee. *Passed*.
 - (1.) Resolved, that a sum not exceeding £698 2s. 4d., be appropriated to defray the Supplementary expence for the year 1839, of the Department of the Councils.
 - (2.) Resolved, that a sum not exceeding £2,439 1s. 7d. be appropriated to defray the Supplementary expence for the year 1839, of the Department of the Post Office.
 - (3.)

- (3.) Resolved, that a sum not exceeding £18 4s. 8d. be appropriated to compensate the Registrar of the Court of Requests at Sydney, for loss sustained by him, from the falling in of the roof of the Court House, on 31 October, 1838.
- (4.) Resolved, that a sum not exceeding £1,000, be appropriated to defray the Supplementary Charge on the Colonial Treasury for the year 1839, for aid towards the expence of additional Schools connected with the Church of England, on condition of sums to an equal amount being raised by Private Contributions.
- (5.) Resolved, that a sum not exceeding £107 15s., be appropriated to defray the Supplementary Charge on the Colonial Treasury, for the year 1839, for aid towards the erection of a School House at Bathurst, in connexion with the Presbyterian Church; an equal sum having been raised by Private Contributions.
- (6.) Resolved, that a sum not exceeding £200, be appropriated to defray the Supplementary Charge on the Colonial Treasury, for the year 1839, for aid towards the expence of additional Schools connected with the Roman Catholic Church, on condition of sums to an equal amount being raised by Private Contributions.
- (7.) Resolved, that a sum not exceeding £379 4s. 5d, be appropriated towards defraying the Supplementary Charge on the Colonial Treasury, for the year 1839, for Grants to the undermentioned Public Institutions, in aid of Private Contributions to an equal amount, received respectively for those Institutions, as follows; viz.

The Wesleyan Methodist Sunday Schools, Sydney	£26 15s 7d.
The Australian School Society	124 11 10
The Sydney Dispensary	197 17 0
The Sydney Stranger's Friend Society.....	30 0 0
	£379 4 5

Upon

Upon Motion made, and Question put, the Petition from John Busby Esquire, (late Mineral Surveyor,) which was laid upon the Table by His Excellency the Governor, on the 13th ultimo, was read; and also, His Excellency's Minute relative thereto:

(8.) Resolved, that the sum of £1000, be granted to Mr. Busby, as the amount of the Gratuity, for his services in constructing the Tunnel for conducting Water into the Town of Sydney, recommended by the Report of the Committee of this Council, appointed 23 August 1837, to inquire into the state of the said Tunnel.

(9.) Resolved, that the sum of £450 be granted to Mr. William Busby, as the amount recommended by the said Committee, to be allowed to Mr Busby, by way of salary, at the rate of £100 per annum, while he was discharging, without Salary, the duties of Assistant Superintendent on the Tunnel, during three years of the period from 1st May, 1831, to 30th June, 1837, and for the keep of a horse during the said period of three years, at the rate of £50 per Annum.

His Excellency the Governor informed the Council, that an application had been made to the Executive Council, by upwards of 500 Roman Catholic Inhabitants of the Parish of St. Phillip, for the allowance of a stipend under the provisions of the Act of the Local Legislature 7 William IV. No. 3, to the Reverend Henry G. Gregory, the Officiating Minister in a Roman Catholic Place of Worship in that Parish; but it having been ascertained that Trustees had not (through some omission) been appointed for that Place of Worship, the Executive Council had no power, under the Act referred to, to recommend the allowance of a stipend; and His Excellency had been requested to bring the matter under the consideration of this Council; and he now recommended that the Application should be complied with.

(10.) Resolved, that the sum of £164 11s. 8d. be granted to the Reverend Henry G. Gregory, which, together with the sums already paid to him, as appearing by a statement laid upon the table, is to be deemed as in full compensation

pensation of his Ministerial Services as a Roman Catholic Clergyman, for the period from 1st June, 1837, to 1st October, 1838.

6. His Excellency the Governor laid upon the table, a Petition from certain Roman Catholic Inhabitants, of Sydney, praying for further aid from the Colonial Treasury, towards the expence of completing the Roman Catholic Church of St. Mary, in that Town; accompanied by a Return from the Audit Office, of the sums advanced from the Colonial Treasury, towards the building of that Church, since the year 1823; from which it appears that the total amount of those sums, is £2,331 17s. 2½d; being, as certified by the Colonial Architect, equal to half the Estimated value of the Building; it further appears, that the last two Grants (of £550, on 9th September, 1837, and £350 on 25th July, 1838,) had been given upon the principle of Private Contributions, having been raised to an equal amount.

It appearing to be the unanimous opinion of the Council, that no aid should be granted by the Government, towards the building of Churches, but upon the principle just mentioned, and that, (except under very special circumstances) the amount of that aid, should in no case exceed £1000, His Excellency withdrew the Petition.

7. His Excellency the Governor laid upon the table, a Despatch from the Right Honorable the Secretary of State for the Colonies, Lord Normanby, dated 6th April, 1830, No. 35, disapproving of the allowance to Mr. Lewis, (commander of the Colonial Government Schooner *Isabella*,) of a Grant of 1,200 Acres of Land, or a donation of £300, from the Revenue of Crown Lands, as recommended by Sir Richard Bourke, "in consideration of Mr Lewis's meritorious exertions in attempting to rescue the Survivors of the Crew of the *Charles Eaton*;" and instructing His Excellency to propose to this Council, a Grant to Mr. Lewis, of a sum not exceeding £300.

Motion made, and Question put, that a Grant of £300 be made to Mr. Lewis, in pursuance of the abovementioned recommendation. Council divided; Ayes, One; Noes, Ten.

(8.)

8. His Excellency the Governor laid upon the Table, A Commission under the Royal Sign Manual, dated 15 March, 1839, appointing James Croke, Esquire, to be *Clerk of the Crown*, at the Settlement of Port Phillip; accompanied by a Letter from the Colonial Office, dated Downing-street, 26 December, 1838, directed by Lord Glenelg, to be addressed to Mr. Croke, informing him of his appointment, and that he will receive a Salary of £400 a-year; of which, one moiety to commence from the date of his Embarkation, and the full Salary, upon his entering on the duties of his Office.
9. Registration of Deeds' Act, Amendment Bill; presented by the Governor as amended; to be read a third time on Tuesday next.
10. The consideration of the Estimates of the Expenditure of the Establishments at Port Phillip, for the year 1840; the Colonial Secretary requested leave to postpone the Motion on this subject, of which he had given Notice, until to-morrow. Council adjourned at Four o'Clock, until To-morrow, at Twelve o'Clock.

ORDERS OF THE DAY.

FRIDAY, SEPTEMBER 6.

1. Distillation Laws' Consolidation Bill; further consideration.
2. Estimates of the Expenditure of the Establishments at Port Phillip, for the year 1840; to be considered.
3. Australian Gas Light Company Act, Amendment Bill; second reading.

TUESDAY, SEPTEMBER 10.

1. Trial by Jury Laws' Amendment Bill; further consideration.
2. Registration of Deeds' Act, Amendment Bill; third reading.
3. Chairman of Quarter Sessions Election Bill, second reading.

WEDNESDAY, SEPTEMBER 11.

1. Savings' Bank Extension Bill; second reading.

WM. MACPHERSON,

Clerk of Councils.

No. 31.

NEW SOUTH WALES.

VOTES AND PROCEEDINGS
OF THE
LEGISLATIVE COUNCIL.

THURSDAY, 5 SEPTEMBER, 1839.

Ordered, by THE COUNCIL, to be Printed.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

FRIDAY, 6 SEPTEMBER, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair.
Distillation Laws' Consolidation Bill; further considered and amended; to be fairly transcribed, and presented to the Governor by the Attorney General, and Mr. Jones.
2. Australian Gas Light Company Act, Amendment Bill; read a second time, committed and amended; to be fairly transcribed; and presented to the Governor by the Collector of Customs, and Mr. Jones.
3. The Estimates of the Expenditure of the Establishments at Port Phillip, for the year 1840: Motion made, and Question put, that they be now considered in Committee: *Passed.*
 - (1.) Resolved, that a sum not exceeding £1,025, be appropriated to defray the expence of the Establishment of His Honor the Superintendent of the District of Port Phillip, for the year 1840.
 - (2.) Resolved, that a sum not exceeding £50, be appropriated to defray the Salary of the Sub-Treasurer, for the year 1840.
 - (3.) Resolved, that a sum not exceeding £91 10s., be appropriated to defray the Salary of the Agent for Superintending the supplies of rations of Provisions, Forage, Fuel, and Light, for the year 1840.
 - (4.) Resolved, that a sum not exceeding £3,106 14s. 6d., be appropriated to defray the expence of the Customs' Department, for the year 1840.

(5.)

(5.) Resolved, that a sum not exceeding £3,458 12s, be appropriated to defray the expence of the Surveyor Generals' Department, for the year 1840.

(6.) Resolved, that a sum not exceeding £950, be appropriated to defray the expence of Courts of Requests, and Quarter Sessions, for the year 1840.

(7.) Resolved, that a sum not exceeding £1,309 2s 6d, be appropriated to defray the expence of the Sheriff's Department, at Melbourne, for the year 1840.

Estimates of the probable Expences of the Police Establishments at Melbourne, Geelong, and Portland Bay, and of the Mounted Police, Border Police, and Native Police, for the year 1840, amounting to the sum of £10,043 7s 1d ; Motion made, and Question put, that they be referred to the Sub-Committee on Police and Gaols, and that the consideration of the Estimates be deferred :
Passed.

(8.) Resolved, that a sum not exceeding £2,150, be appropriated to defray the expence of the Ecclesiastical Establishment, for the year 1840 ; including £1,500, towards erecting Churches, and Ministers dwellings, on condition of sums to an equal amount being raised by Private Contributions.

(9.) Resolved, that a sum not exceeding £500, be appropriated to defray the expence for the year 1840, of aid, towards the establishment, and in support of Schools, on condition of sums to an equal amount being raised by Private Contributions.

(10.) Resolved, that a sum not exceeding £347 5s, be appropriated to defray the expence of the Medical Establishment, for the year 1840.

(11.) Resolved, that a sum not exceeding £3,292 16s, be appropriated to defray the expence of the Department of Public Works, for the year 1840.

(12.) Resolved, that a sum not exceeding £3,000 for the year 1840, be appropriated towards defraying the expence of erecting a Gaol at Melbourne.

(13.) Resolved, that a further sum not exceeding £1,000, for the year 1840, be appropriated towards defraying the expence of erecting a Custom House at Melbourne.

(14.)

(14.) Resolved, that a sum not exceeding £2,000, for the year 1840, be appropriated towards defraying the expence of erecting a new and permanent Court House at Melbourne.

(15.) Resolved, that a sum not exceeding £2,250, for the year 1840, be appropriated towards defraying the expence of building three Watch-houses; One at Melbourne, One at North, and One at South Geelong, at the rate of £750 each.

(16.) Resolved, that a sum not exceeding £5,000, for the year 1840, be appropriated towards defraying the expence of erecting other Police, or Public Buildings in the District of Port Phillip.

Council adjourned at Three o'Clock, until Tuesday next, at Twelve o'Clock.

ORDERS OF THE DAY.

TUESDAY, SEPTEMBER 10.

1. Trial by Jury Laws' Amendment Bill; further consideration.
2. Registration of Deeds' Act, Amendment Bill; third reading.
3. Chairman of Quarter Sessions Election Bill; second reading.

WEDNESDAY, SEPTEMBER 11.

1. Savings' Bank Extension Bill; second reading.

WM. MACPHERSON,

Clerk of Councils.

No. 32

NEW SOUTH WALES.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

FRIDAY, 6 SEPTEMBER, 1839.

Ordered, by The COUNCIL, to be Printed.

No. 83.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

TUESDAY, 10 SEPTEMBER, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and laid upon the Table, A List of Vessels which visited the Bay of Islands, New Zealand, during the six months ended on the 30th of June 1839. To be printed.

2. His Excellency the Governor laid upon the Table, a Petition from certain Licensed Victuallers, representing that they had formed themselves into a Society for promoting the respectability and general interests of their Body; that certain clauses of the Act of the Governor and Council, 2 Victoria, No. 18, bear hard on their interests, without countervailing advantage to the Public.

The 35th clause requires them to keep a Lamp burning from Sunset, to Sunrise, and subjects them in a penalty of One Pound, as often as such Lamp shall be extinguished, without entrusting the Magistrates with the power of modifying such penalty, upon proof that a Lamp has not been extinguished by neglect, but by tempestuous weather, or some accidental or unavoidable cause; they pray, that such power of modification, may be conferred on the Magistrates; and further, that Publicans shall only become liable to the penalty, in the event of its being proved, that after notice given to the owner, of any such Lamp, of its being extinguished, he failed within a reasonable time, to re-light the same.

The 51st clause requires, that no Publican shall keep his house open for the Sale of any Liquor after nine o'Clock in the Evening, under a penalty of Two Pounds; they pray that *Ten* o'Clock, be substituted for *Nine*; being a much more convenient hour to the Public, for serving Liquors wanted for Supper, &c.

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The want of a clause limiting the period within which, Informations for breaches of the Act must be lodged, is another source of great grievance to them; as Informations are frequently not laid until long after the commission of the offence complained of; and are supported by Perjury, which Publicans have then no means of disproving, or defending themselves against; which they might have had, if Informers were compelled to lodge their complaints immediately upon the commission of an Offence.

They suggest that they would be less frequently annoyed with vexatious complaints, if the Act were so altered, that the whole of the Penalties exacted, should be appropriated to the Use of the Government, instead of one-half being appropriated to the Informers; which excites the cupidity of the Constables, and often causes them to neglect many important duties, in order to have better opportunities of Watching for such breaches of the Act, as may entitle them to a large Share of Penalties

The Petition signed by 78 persons.

3. His Excellency the Governor laid upon the Table, "A Bill further to amend an Act passed in the eighth year of the Reign of His late Majesty King William the Fourth, intituled, 'An Act for regulating Buildings and Party-walls, and for preventing mischiefs by Fire in the Town of Sydney.'" Bill read a first time; to be printed, and read a second time on Thursday, September 19.
4. His Excellency the Governor laid upon the Table, "A Bill to amend an Act intituled, 'An Act for consolidating and amending the Laws relating to the Licensing of Public Houses, and for further regulating the sale and consumption of Fermented and Spirituous Liquors in New South Wales.'" Bill read a first time; to be printed, and read a second time on Thursday, September 19.
5. Distillation Laws' Consolidation Bill; presented by the Governor as amended; to be read a third time on Wednesday, September 18.
6. Australian Gas Light Company Act, Amendment Bill; presented by the Governor as amended; to be read a third time on Wednesday, September 18.
7. Trial by Jury Laws' Amendment Bill; further consideration deferred until to-morrow.

8. Registration of Deeds' Act, Amendment Bill; read a third time, and *Passed*.
9. Chairman of Quarter Sessions Election Bill; read a second time; upon the Question being put, whether the second clause (as printed), which required the Chairman to be a Barrister of at least three years' standing, stand a part of the Bill? the Council divided; Ayes, six; Noes, eight; that clause was therefore expunged; the Bill to be fairly transcribed, and presented to the Governor, by the Chief Justice and the Collector of Customs.
- Council adjourned at Half-past Three o'Clock, until To-morrow, at Twelve o'Clock.

ORDERS OF THE DAY.

WEDNESDAY, SEPTEMBER 11.

1. Trial by Jury Laws' Amendment Bill; further consideration.
2. Savings' Bank Extension Bill; second reading.

WEDNESDAY, SEPTEMBER 18.

1. Distillation Laws' Consolidation Bill; third reading.
2. Australian Gas Light Company Act, Amendment Bill; third reading.

THURSDAY, SEPTEMBER 19.

1. Building Act, further Amendment Bill; second reading.
2. Publicans' Licensing Act, Amendment Bill; second reading.

NOTICE OF MOTION.

WEDNESDAY, SEPTEMBER 11.

1. The Colonial Secretary: That in addition to the amount of £19,521 13s. 11d., voted, but not required, for the service of the year 1838, there shall, and may be issued, and applied, out of the Revenue accruing during that year, the sum of £3,333 11s. 2d., to supply deficiencies in the Estimates of sums appropriated for certain Departments and Services, for the same year.

WM. MACPHERSON,
Clerk of Councils.

No. 34.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

WEDNESDAY, 11 SEPTEMBER, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and laid upon the Table, the undermentioned Returns:—
 - (1.) A Return of the Number of Criminal Issues and Prisoners tried before the Courts of Quarter Sessions for the County of Cumberland, during the year 1838, distinguishing those tried by Civil, and by Military Juries.
 - (2.) A Return of the Cases tried by Civil, and by Military Juries, at the Courts of Quarter Sessions held at Maitland, during the period from 1 January 1837, to 15th August 1839.
 - (3.) A Return of the Cases tried by Civil, and by Military Juries, at the Courts of Quarter Sessions held at Bathurst, during the period from 1 January 1837, to 15 August 1839.
2. Mr. Jones presented a Petition, addressed to His Excellency the Governor, and this Council, by certain Free Inhabitants of Jerry's Plains; (signed by Forty persons), and moved, that the same be read; being read, it was found to be an Application for the establishment of a Church, and School; of a Court of Requests, and Court House; for the appointment of a Magistrate, and Constable; for the Grant of a piece of Land as a Common; and for permission to Ticket of Leave-holders to muster at the Township of Jerry's Plains, instead of going a distance of about Twenty miles for that purpose; in reference to all which matters, the Petitioners should not have addressed this Council, but should have applied to His Excellency the Governor; or, to His Excellency and the Executive Council; with which intention, Mr. Jones withdrew the Petition.

3.

3. Upon Motion made, and Question put, Resolved, That in addition to the amount of £10,521 13s. 11d. voted, but not required for the Service of the year 1838, there shall, and may be issued, and applied, out of the Revenue accruing during that year, the sum of £3,333 11s. 2d. to supply deficiencies in the Estimates of sums appropriated for certain Departments and Services, for the same year.
4. Trial by Jury Laws' Amendment Bill; The Colonial Secretary having moved the Order of the Day, for the consideration of this Bill.
Mr. Macarthur moved as an Amendment, that the further consideration of this Bill be deferred until this day six months; Council divided upon the Amendment; Ayes, five; Noes, seven; Bill further considered and amended; to be fairly transcribed, and presented to the Governor by the Attorney-General and Sir John Jamison.
5. Chairman of Quarter Sessions Election Bill; presented by the Governor as amended; upon Motion made, and Question put, Bill re-committed, and some words replaced in the Title, which had been struck out; to be read a third time on Wednesday, September 18.
6. Savings' Bank Extension Bill; read a second time, committed and amended; Title altered to as follows; viz. "*A Bill to Consolidate, and Amend, the Laws relating to the Savings Bank of New South Wales;*" to be fairly transcribed, and presented to the Governor by the Chief Justice and Mr Jones.
7. His Excellency the Governor laid upon the Table, "*A Bill to allow the Aboriginal Natives of New South Wales, to be received as Competent Witnesses in Criminal Cases.*" Bill read a first time; to be printed, and read a second time on Wednesday, September 18.

Council adjourned at Five o'Clock, until Wednesday next, at Twelve o'Clock.

ORDERS OF THE DAY.

WEDNESDAY, SEPTEMBER 18.

1. Chairman of Quarter Sessions Election Bill; third reading.

2.

2. Distillation Laws' Consolidation Bill ; third reading.
3. Australian Gas Light Company Act, Amendment Bill ; third reading.
4. Aboriginal Native Witnesses' Bill ; second reading.

THURSDAY, SEPTEMBER 19.

1. Building Act Amendment Bill ; second reading.
2. Publicans Licensing Act Amendment Bill ; second reading.

WM. MACPHERSON,

Clerk of Councils.

No. 34.

NEW SOUTH WALES.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

WEDNESDAY, 11 SEPTEMBER, 1839.

Ordered, by The COUNCIL, to be Printed.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

WEDNESDAY, 18 SEPTEMBER, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair; Insolvent Debtor's Bill; the Chief Justice as Chairman, brought up the Report of the Committee, recommending that this Bill be withdrawn, and that another in lieu of it, not materially differing in the main principles, be introduced early in the next Session, and laid upon the Table additional Evidence taken before the Committee; Report read, and with the Evidence, to be printed.
2. Imprisonment for Debt Bill; the Report above-mentioned recommends that this Bill also, be withdrawn, and that another be substituted in lieu of it.
3. The Collector of Customs presented a Petition from William Abercrombie of Sydney, Distiller, stating his conviction, that Distillation from Grain can not be profitably carried on, subject to a duty of five shillings per gallon, as imposed by the Bill now before the Council, if it passes into a Law; and that such augmented duty will prove no less injurious to the Agriculturists, than to the Distillers; and submitting the inexpediency of, thus contracting the Home Market for grain, under the present promising prospects of an abundant Harvest. Petition read; and to lie on the Table.
4. Mr Berry presented a Petition from certain Inhabitants of the Colony of New South Wales, representing, that if the Bill now before the Council, to make further regulation with respect to Trial by Jury in Criminal cases, pass into a Law, the effect will be, that all Criminal Issues coming before the Courts of Judicature in this Colony must be tried by a Jury of Civilians; which duty if wholly cast upon those Civilian Members of the Community now liable to serve, must become an intolerable burthen, and instead of being willingly and cheer-fully

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fully performed, will be shunned as an object of aversion; and praying that some means may be adopted, by which the infliction of so great a burthen may be averted; most respectfully signed, by 24 persons, including several Magistrates; Petition read; and to lie on the Table.

5. Trial by Jury Laws' Amendment Bill; presented by the Governor as amended: to be read a third time, on Friday next, September 20.
6. Saving's Bank Extension Bill; presented by the Governor as amended: to be read a third time, on Friday next, September 20.
7. His Excellency the Governor laid upon the Table, the undermentioned Bills:—
 - (1.) "*A Bill to authorise the establishment of Markets in certain Towns in the Colony of New South Wales; and for the appointment of Commissioners to manage the same;*" Bill read a first time: to be printed, and read a second time, on Tuesday, October 1.
 - (2.) "*A Bill for abolishing Arrest on Mesne Process in Civil Actions, except in certain cases, in New South Wales and the Dependencies thereof;*" Bill read a first time: to be printed, and read a second time, on Wednesday, September 25.
 - (3.) "*A Bill for extending the remedies of Creditors against the property of Debtors, in New South Wales and the Dependencies thereof;*" Bill read a first time; to be printed, and read a second time, on Thursday, September 26.
 - (4.) "*A Bill to provide for Trial by Jury at the Court of Quarter Sessions to be held at Berrima;*" Bill read a first time: to be printed, and read a second time, on Tuesday, September 24.
8. Chairman of Quarter Sessions Election Bill: Motion made, and Question put, that this Bill be re-committed and further considered to-morrow: Passed.
9. Distillation Laws' Consolidation Bill: read a third time, and *Passed*.
10. Australian Gas Light Company Act, Amendment Bill: re-committed, and some clerical errors corrected: read a third time, and *Passed*.

11. Aboriginal Native Witnesses' Bill : second reading deferred until to-morrow.

Council adjourned at Three o'Clock, until To-morrow, at Twelve o'Clock.

ORDERS OF THE DAY.

THURSDAY, SEPTEMBER 19.

1. Chairman of Quarter Sessions Election Bill; recommitment, and further consideration.
2. Aboriginal Native Witnesses' Bill; second reading.
3. Building Act Amendment Bill; second reading.
4. Publicans Licensing Act Amendment Bill; second reading.

FRIDAY, SEPTEMBER 20.

1. Trial by Jury Laws' Amendment Bill; third reading.
2. Savings' Bank Extension Bill; third reading.

TUESDAY, SEPTEMBER 24.

1. Berrima Jury Bill; second reading.

WEDNESDAY, SEPTEMBER 25.

1. Arrest on Mesne Process Abolishment Bill; second reading.

THURSDAY, SEPTEMBER 26.

1. Remedies against Debtors' Property, Extension Bill; second reading.

TUESDAY, OCTOBER 1.

1. Markets' in Country Towns' Establishment Bill; second reading.

NOTICE OF MOTION.

WEDNESDAY, SEPTEMBER 25.

1. Mr. Jones, that he will move the adoption of the following Resolutions, viz:—

(1.) That in the opinion of this Council, the establishment of Circuit Courts to

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be holden periodically in different parts of the Colony, is essential to the peace and welfare of New South Wales, and the Dependencies thereof.

2. That by the establishment of such Courts, much greater facilities will be afforded, in the prosecution of Offenders to conviction, than now exist, by reason of the Supreme Court being holden only in the Town of Sydney.
3. That in the now wide extent of the located parts of the Colony, and the scattered population thereof, crimes of the deepest magnitude frequently go unpunished, from the unwillingness of Parties and their Witnesses to incur the heavy expence, and the loss of their valuable time, consequent on a tedious journey to the Capital, and the long and injurious absence from their usual occupations occasioned thereby.
 - (4.) That the certainty of conviction is the great preventive of crimes, and it may be safely affirmed, that they will be committed or repressed in the exact ratio, in which the Criminals calculate the chances of escape.
 - (5.) That it is notorious, that in almost all the cases brought to Sydney for prosecution, at a serious Public and Private expence, the act of tampering with witnesses in order to defeat the ends of Public Justice, has taken place in the said town; which could not generally happen, if the Offenders were brought to Trial as near as possible to the scene of their offences; and on this ground the institution of Circuit Courts has been obviously necessary.
 - (6.) That punishment awarded in the neighbourhood where offences have been committed, must necessarily produce a more salutary effect, than when inflicted at a distance; and it is desirable that Offenders should be practically convinced, that the execution of the Laws can be firmly and rigorously enforced in the remotest Districts, by which means it is obvious that a more just estimate will be formed of the consequences attending a breach of them.
 - (7.) That believing the lives and properties of Her Majesty's Subjects are not sufficiently protected in the remote parts of this Colony, for want of Circuit Courts, this Council respectfully request, that His Excellency the Governor will cause the opinion thus expressed, to be forthwith communicated to Her Majesty's Government, in order that adequate provision may be made in the premises.

WM. MACPHERSON,
Clerk of Councils.

No. 36.

VOTES AND PROCEEDINGS
 OF
THE LEGISLATIVE COUNCIL.

THURSDAY, 19, SEPTEMBER, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair; Chairman of Quarter Sessions Election Bill: re-committed, and further amended; and after being fairly transcribed, presented to the Governor, by the Attorney-General and Mr Jones; presented by His Excellency, to the Council, as amended; to be read a third time, to-morrow.
2. Aboriginal Native Witnesses' Bill; second reading further deferred until to-morrow.
3. Building Act Amendment Bill; read a second time; committed and amended; to be fairly transcribed, and presented to the Governor by the Attorney-General and Mr Jones.
4. Publicans' Licensing Act Amendment Bill; read a second time; committed, and amended; to be fairly transcribed, and presented to the Governor by the Colonial Secretary and the Attorney-General.

Council adjourned at Two o'clock, until to-morrow, at Twelve o'clock.

ORDERS OF THE DAY.

FRIDAY, SEPTEMBER 20.

1. Chairman of Quarter Sessions' Election Bill; third reading.
2. Trial by Jury Laws' Amendment Bill; third reading.

3.

3. Savings' Bank Extension Bill; third reading.
4. Aboriginal Native Witnesses' Bill; second reading.

TUESDAY, SEPTEMBER 24.

1. Berrima Jury Bill; second reading.

WEDNESDAY, SEPTEMBER 25.

1. Arrest on Mesne Process Abolishment Bill; second reading.

THURSDAY, SEPTEMBER 26.

1. Remedies against Debtors' Property, Extension Bill; second reading.

TUESDAY, OCTOBER 1.

1. Markets in Country Towns' Establishment Bill; second reading.

NOTICE OF MOTION.

WEDNESDAY, SEPTEMBER 25.

1. Mr Jones, that he will move the adoption of the following Resolutions, viz:—
 - (1.) That in the opinion of this Council, the establishment of Circuit Courts to be holden periodically in different parts of the Colony, is essential to the peace and welfare of New South Wales, and the Dependencies thereof.
 - (2.) That by the establishment of such Courts, much greater facilities will be afforded, in the prosecution of Offenders to conviction, than now exist, by reason of the Supreme Court being holden only in the Town of Sydney.
 - (3.) That in the now wide extent of the located parts of the Colony, and the scattered population thereof, crimes of the deepest magnitude frequently go unpunished, from the unwillingness of Parties and their Witnesses to incur the heavy expence, and the loss of their valuable time, consequent on a tedious journey to the Capital, and the long and injurious absence from their usual occupations occasioned thereby.

(4.)

- (4.) That the certainty of conviction is the great preventive of crimes, and it may be safely affirmed, that they will be committed or repressed in the exact ratio, in which the Criminals calculate the chances of escape.
- (5.) That it is notorious, that in almost all the cases brought to Sydney for prosecution, at a serious Public and Private expence, the act of tampering with witnesses in order to defeat the ends of Public Justice, has taken place in the said town; which could not generally happen, if the Offenders were brought to Trial as near as possible to the scens of their offences; and on this ground the institution of Circuit Courts has been obviously necessary.
- (6.) That punishment awarded in the neighbourhood where offences have been committed, must necessarily produce a more salutary effect, than when inflicted at a distance; and it is desirable that Offenders should be practically convinced, that the execution of the Laws can be firmly and rigorously enforced in the remotest Districts, by which means it is obvious that a more just estimate will be formed of the consequences attending a breach of them.
- (7.) That believing the lives and properties of Her Majesty's Subjects are not sufficiently protected in the remote parts of this Colony, for want of Circuit Courts, this Council respectfully request, that His Excellency the Governor will cause the opinion thus expressed, to be forthwith communicated to Her Majesty's Government, in order that adequate provision may be made in the premises.

WM. MACPHERSON,

Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

FRIDAY, 20 SEPTEMBER, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair; Building Act Amendment Bill; presented by the Governor as amended; to be read a third time on Wednesday next, September 25.
2. Publicans' Licencing Amendment Bill; presented by the Governor as amended; to be read a third time on Wednesday next.
3. Chairman of Quarter Sessions' Election Bill; read a third time, and *Passed*.
4. Trial by Jury Laws' Amendment Bill; read a third time, and *Passed*.
5. Savings' Bank Extension Bill; read a third time, and *Passed*.
6. Aboriginal Native Witnesses' Bill; read a second time; committed, and amended; to be fairly transcribed, and presented to the Governor by the Chief Justice and the Attorney General.
7. Derrima Jury Bill; on Motion made, and Question put, second reading postponed from Tuesday 24, to Wednesday 25 September.

Council adjourned at Half-past Two o'Clock, until Wednesday next, September 25, at Twelve o'Clock.

ORDERS OF THE DAY.

WEDNESDAY, SEPTEMBER 25.

1. Building Act Amendment Bill; third reading.
2. Publicans' Licencing Act Amendment Bill; third reading.

3. Berrima Jury Bill; second reading.
4. Arrest on Mesne Process Abolishment Bill; second reading.

THURSDAY, SEPTEMBER 26.

1. Remedies against Debtors' Property, Extension Bill; second reading.

TUESDAY, OCTOBER 1.

1. Markets in Country Towns' Establishment Bill; second reading.

NOTICE OF MOTION.

WEDNESDAY, SEPTEMBER 25.

1. Mr Jones; That he will move the adoption of the following Resolutions, viz:—
 - (1.) That in the opinion of this Council, the establishment of Circuit Courts to be holden periodically in different parts of the Colony, is essential to the peace and welfare of New South Wales, and the Dependencies thereof.
 - (2.) That by the establishment of such Courts, much greater facilities will be afforded, in the prosecution of Offenders to conviction, than now exist, by reason of the Supreme Court being holden only in the Town of Sydney.
 - (3.) That in the now wide extent of the located parts of the Colony, and the scattered population thereof, crimes of the deepest magnitude frequently go unpunished, from the unwillingness of Parties and their Witnesses to incur the heavy expence, and the loss of their valuable time, consequent on a tedious journey to the Capital, and the long and injurious absence from their usual occupations occasioned thereby.
 - (4.) That the certainty of conviction is the great preventive of crimes, and it may be safely affirmed, that they will be committed or repressed in the exact ratio, in which the Criminals calculate the chances of escape.
 - (5.) That it is notorious, that in almost all the cases brought to Sydney for prosecution, at a serious Public and Privats expence, the act of tampering
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with witnesses in order to defeat the ends of Public Justice, has taken place in the said town; which could not generally happen, if the Offenders were brought to Trial as near as possible to the scene of their offences; and on this ground the institution of Circuit Courts has been obviously necessary.

(6.) That punishment awarded in the neighbourhood where offences have been committed, must necessarily produce a more salutary effect, than when inflicted at a distance; and it is desirable that Offenders should be practically convinced, that the execution of the Laws can be firmly and rigorously enforced in the remotest Districts, by which means it is obvious that a more just estimate will be formed of the consequences attending a breach of them.

(7.) That believing the lives and properties of Her Majesty's Subjects are not sufficiently protected in the remote parts of this Colony, for want of Circuit Courts, this Council respectfully request, that His Excellency the Governor will cause the opinion thus expressed, to be forthwith communicated to Her Majesty's Government, in order that adequate provision may be made in the premises.

WM. MACPHERSON,

Clerk of Councils.

No. 38.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

WEDNESDAY, 25 SEPTEMBER, 1839.

1. Council met pursuant to adjournment: His Excellency, the Governor took the Chair, and laid upon the Table, "*A Bill to enable the Members of a certain Society in the Colony of New South Wales, denominated 'The Hawkesbury Benevolent Society,' to sue and be sued in the name of their Treasurer for the time-being, and for other purposes therein contained.*" His Excellency also laid upon the Table, certain Clauses, regulating the constitution of the Society, and the appointment of Office-Bearers, originally forming a part of the Bill, but subsequently expunged at a General Meeting, of the Society; The Clerks of the Churches of St. Philip, and St. James, in Sydney, called in, and notification of the intention to apply for the Bill, having been affixed on the doors of the said Churches, on three successive Sundays, proved. The publication, in like manner, of a similar notification on the doors of St. Matthew's Church at Windsor, and on the doors of the several Places of Worship there, in connexion with the Presbyterian Church of Scotland, the Church of Rome, and the Wesleyan Methodist Society; and also on the doors of the several places of Worship in the Towns or Villages of Richmond, Pitt Town and Wilberforce, proved by Samuel Callaway, of Windsor. Bill read a first time; to be printed, and referred to a Sub-Committee, to consist of the following Gentlemen, viz. :—

THE RIGHT REVEREND THE LORD BISHOP OF AUSTRALIA;

THE ATTORNEY-GENERAL; MR. MACARTHUR;

MR. BERRY; CAPTAIN KING;

with

with instructions to obtain proof of the allegations contained in the preamble of the Bill, and if necessary to hear evidence, and amend the same; and to report the expediency, or necessity, of adopting the clauses above referred to, and of granting to the Society the power to hold Land to an unlimited extent.

2. *Building Act Amendment Bill*; third reading deferred until Thursday, October 3.
3. *Publican's Licensing Act Amendment Bill*; re-committed, and further amended; and after being fairly transcribed, presented to the Governor, by the Colonial Secretary and the Attorney General; presented by His Excellency to the Council, as amended; read a third time, and *Passed*.
4. Mr. Jones's proposed Resolutions on the subject of the establishment of Circuit Courts, considered in Committee; and *the following Resolutions severally moved, and adopted*:
 - (1.) Resolved, That in the opinion of this Council, the establishment of Circuit Courts to be holden periodically in different parts of the Colony, is essential to the peace and welfare of New South Wales, and the Dependencies thereof.
 - (2.) Resolved, That by the establishment of such Courts, much greater facilities will be afforded, in the prosecution of Offenders to conviction, than now exist, by reason of the Supreme Court being holden only in the Town of Sydney.
 - (3.) Resolved, That in the now wide extent of the Colony, it is to be feared that crimes of the deepest magnitude sometimes go unpunished, from the unwillingness of Parties and their Witnesses to incur the heavy expence, and the loss of their valuable time, consequent on a tedious journey to the Capital, and the long and injurious absence from thier usual occupations occasioned thereby.
 - (4.) Resolved, That the certainty of conviction is the great preventive of crimes, and it may be safely affirmed, that they will be committed or repressed in the exact ratio, in which the Criminals calculate the chances of escape.
 - (5.) Resolved, That it is notorious, that in almost all the cases brought to Sydney for prosecution,

prosecution, at a serious Public and Private expence, the act of tampering with witnesses in order to defeat the ends of Public Justice, has taken place in the said Town; which could not generally happen, if the Offenders were brought to Trial as near as possible to the scene of their offences; and on this ground the institution of Circuit Courts has been obviously necessary.

(6.) Resolved, That punishment awarded in the neighbourhood where offences have been committed, must necessarily produce a more salutary effect, than when inflicted at a distance; and it is desirable that Offenders should be practically convinced, that the execution of the Laws can be firmly and rigorously enforced in the remotest Districts, by which means it is obvious that a more just estimate will be formed of the consequences attending a breach of them.

(7.) Resolved, That believing the lives and properties of Her Majesty's Subjects are not sufficiently protected in the remote parts of this Colony, for want of Circuit Courts, this Council respectfully request, that His Excellency the Governor will cause the opinion thus expressed, to be forthwith communicated to Her Majesty's Government, in order that adequate provision may be made in the premises.

5. Berrima Jury Bill; read a second time; committed and amended; to be fairly transcribed, and presented to the Governor by the Attorney General and Mr. Macarthur.
6. Arrest on Mesne Process Abolishment Bill; read a second time; to be read a third time on Thursday, October 3.
7. Aboriginal Native Witnesses' Bill; presented by the Governor as amended; Bill re-committed, and a clause inserted, suspending the operation of the Act, until the Queen's pleasure be known; to be fairly transcribed, and presented to the Governor by the Chief Justice and the Attorney General.
8. Remedies against Debtors' Property, Extension Bill; second reading postponed from Thursday, September 26, to Thursday, October 3.
- 9 Markets in Country Towns' Establishment Bill; second reading postponed from
Tuesday

Tuesday, October 1, to Thursday, October 3.

Council adjourned at Half-past Three o'Clock, until Thursday, October 3, at Twelve o'Clock.

ORDERS OF THE DAY.

THURSDAY, OCTOBER 3.

1. Building Act Amendment Bill; third reading.
2. Arrest on Mesne Process Abolishment Bill; third reading.
3. Remedies against Debtors' Property, Extension Bill; second reading.
4. Markets in Country Towns' Establishment Bill; second reading.

W. M. MACPHERSON,

Clerk of Councils.

No. 39.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

THURSDAY, 3 OCTOBER, 1839.

1. Council met pursuant to adjournment: His Excellency the Governor took the Chair, and laid upon the Table, the undermentioned Despatches from the Right Honorable the Marquis of Normanby :

(1.) A Despatch dated 28 May 1839, No. 50, intimating it to be the intention of Her Majesty's Government, that Emigration to New South Wales shall be carried on for the present year, to the same extent as the preceding year; and enclosing copies of letters from the Secretary to the Board of Treasury, and Agent General for Emigration, relative to that subject.

(2.) A Despatch dated 17 May 1839, No. 49, expressing Her Majesty's approval of the Act passed last Session to restrain the unauthorised occupation of Crown Lands; and asserting in the most decided and unqualified terms, Her Majesty's Right to alienate the Waste Lands of New South Wales, and to direct the appropriation of the proceeds of the Sale of such Lands to the Public Service.
To be printed.

2. Aboriginal Native Witnesses' Bill; presented by the Governor as amended; to be read a third time on Tuesday next, October 8.
3. Berrima Jury Bill; presented by the Governor as amended; to be read a third time on Tuesday next.
4. Hawkesbury Benevolent Society Bill; the Lord Bishop of Australia as Chairman, brought up the Report of the Committee, and laid upon the Table the Evidence taken before the same: To lie on the Table.

5. Building Act Amendment Bill; read a third time, and *Passed*.
6. Arrest on Mesne Process Abolishment Bill; read a third time, and *Passed*.
7. Remedies against Debtors' Property Extension Bill; read a second time; committed, and amended; to be fairly transcribed, and presented to the Governor by the Chief Justice, and Mr. Jones.
8. Markets in Country Towns' Establishment Bill; read a second time; committed, and amended; to be fairly transcribed, and presented to the Governor by the Attorney General, and Sir John Jamison.

Council adjourned at Four o'Clock, until Tuesday, next, October 8, at Twelve o'Clock.

ORDERS OF THE DAY.

TUESDAY, OCTOBER 8.

1. Aboriginal Native Witnesses' Bill; third reading.
2. Berrima Jury Bill; third reading.

WM. MACPHERSON,
Clerk of Councils.

No. 40.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

TUESDAY, 8 OCTOBER, 1839.**1. Council met pursuant to adjournment; His Excellency the Governor in the Chair.**

Mr Jones presented a Petition from 78 Proprietors of Land and Householders, comprising a great portion of the most respectable Merchants in Sydney, representing, that that part of the New Circular Wharf, on the Eastern side of Sydney Cove, on which a large Gang of Convicts has been for some time past, and is at present employed, will be less accessible, and less useful to the Mercantile Interests and Public at large, and be more expensive to form, than the Western side; and particularly, that between the Dock Yard and Mr Campbell's Wall, a convenient Quay capable of affording extensive accommodation, might with a comparatively small expenditure of labour, be in a short time constructed: and Praying that an early application of a portion of the funds towards this purpose may be made; or if the facts stated, are not considered sufficiently established, that a Committee to inquire into the same, may be appointed.

Motion made, and Question put, that this Petition be read, received, and printed; *Passed.*

2. His Excellency the Governor informed the Council, that along with the two Despatches laid before them on the last day of their meeting, he had received a third, communicating the determination of Her Majesty's Government, that the transportation of Convicts to this Colony for the purpose of Assignment here, shall forthwith cease; that the Despatch contained various points relating chiefly to the future Management of Norfolk Island, to which place such Convicts as may arrive, are to be forwarded, which prevented His Excellency's making the
- Despatch

Despatch public, and caused him to deem it necessary to take the advice of the Executive Council, which had occasioned some delay in communicating such parts of its contents as relate to this Colony; to prevent any mistake as to which, he had caused the following Notice to be prepared for insertion in the Government Gazette :

✦ With reference to the Government Notices of the 18th of November, 1837, and the 12th of December, 1838, intimating the intention of Her Majesty's Government to discontinue at the earliest possible period, the Assignment of Convicts in the Australian Colonies, the Governor directs a further notification to be made to the Colonists, informing them, that by a Despatch from the Most Noble the Marquis of Normanby, dated the 11th of May, 1830, His Excellency is instructed, that all Convicts arriving in future from the United Kingdom, are to be transferred to Norfolk Island, as soon as preparations can be made for their reception in that Settlement; and that they are not to be assigned to Private Individuals, during any part of their servitude.

The Assignment Regulations applying therefore henceforth only to the Convicts who are already in the Colony, the Settlers must be prepared for the immediate diminution of Assignment, and the speedy discontinuance of it altogether.

3. Remedies against Debtors Property extension Bill; presented by the Governor as amended; to be read a third time on Tuesday next.
4. Markets in Country Towns Establishment Bill; presented by the Governor as amended; re-committed, and some further amendments made; to be fairly transcribed and presented to the Governor by the Colonial Secretary, and Sir John Jamison.
5. Aboriginal Native Witnesses' Bill; read a third time and *Passed*.
6. Berrima Jury Bill; read a third time, and *Passed*.
7. His Excellency the Governor laid upon the Table, "*A Bill to enable the Church Wardens of the Parish Cuureh of Saint James, in the Town of Sydney, to build a new side wall therecto, at a less distance from the Southern boundary*"
"line

"*line of King Street, than is allowed by Law.*" Bill read a first time; to be printed, and read a second time on Tuesday next.

Council adjourned at half-past Two o'Clock, until Tuesday next, at Twelve o'Clock.

ORDERS OF THE DAY,

TUESDAY, OCTOBER 15.

1. Remedies against Debtors' Property Extension Bill; third reading.
2. St. James' Church enlargement Bill; second reading.

Wm. MACPHERSON,

Clerk of Councils.

No. 40.

NEW SOUTH WALES.

VOTES AND PROCEEDINGS
OF THE
LEGISLATIVE COUNCIL

TUESDAY, 8 OCTOBER, 1839.

Ordered, by THE COUNCIL, to be Printed.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

TUESDAY, 15 OCTOBER, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair.
Markets in Country Towns Establishment Bill; presented by the Governor as amended; to be read a third time, on Tuesday next, October 22.
2. Remedies against Debtor's Property Extension Bill; read a third time, and *Passed.*
3. Saint James' Church Enlargement Bill; read a second time; to be read a third time on Tuesday next.
4. His Excellency the Governor remarking, that the unhappy schisms which have for some time existed in the Presbyterian Church of this Colony were well known, and that the Council were not ignorant of the endeavours which he had made to heal those schisms, and of his continued desire to accomplish that object; his anxiety for which (notwithstanding the late period of the Session, and his knowledge that the Bill which he was about to present, did not meet with the unanimous approbation of the Presbyterian Body, which would cause some delay, by rendering it necessary to refer it to a Committee) induced him now to lay before the Council "*A Bill to amend an Act of the Governor and Council of New South Wales,*" intituled "*An Act to regulate the Temporal affairs of Presbyterian Churches and Chapels connected with the Church of Scotland in the Colony of New South Wales.*"

His Excellency added, that the Party favourable to this Bill, alleged its objects to be, the promotion of union among all the Members of the Presbyterian Church

Church in the Colony, and the substitution of a Synod, for the Presbytery, as the Governing Body of that Presbyterian Church.

The Party opposed to the Bill, alleged the object of the formation of a Synod to be, to enable the Members of it to throw off the jurisdiction of the Church of Scotland, and to form themselves into an Independent Church; if such an object was indeed contemplated, it might be prevented by the introduction of a clause suspending the operation of the Bill as respects the formation of a Synod, until approved by the General Assembly of the Church of Scotland: Bill read a first time.

Mr. Berry presented a Petition from the Reverend John M'Garvie, Senior Minister of the Presbytery of New South Wales, and Minister of St. Andrew's Church in Sydney, alleging that a fundamental and dangerous alteration of the constitution of the Presbyterian Church in this Colony, is involved in the draft of a Bill submitted to His Excellency the Governor by certain Members of that Church, by which the Supreme Jurisdiction of the General Assembly of the Church of Scotland will be disowned: And Praying, that in such Bill, if brought before the Council, the Supreme Jurisdiction of the said General Assembly of the Church of Scotland, and the Acts of the Local Legislature legalising and confirming the establishment of the Scottish Church in this Colony, may be preserved inviolate.

Petition read, and received; and with the Bill to which the same relates, abovementioned, referred to a Committee, with instructions to inquire into the allegations contained in the said Bill, and Petition respectively, and to hear Evidence on the same, and to amend the said Bill, if necessary, and to report.
Committee appointed:—

THE ATTORNEY GENERAL;

THE COLLECTOR OF CUSTOMS; MR. BERRY;
MR. CAMPBELL; MR. JONES.

Council adjourned at Three o'Clock, until Tuesday next October 22, at Twelve o'Clock.

ORDERS OF THE DAY,
TUESDAY, 22 OCTOBER, 1839.

1. Markets in Country Towns Establishment Bill; third reading.
2. Saint James' Church Enlargement Bill; third reading.

WM. MACPHERSON,
Clerk of Councils.

No. 42.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

TUESDAY, 22 OCTOBER, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair.
 . Markets in Country Towns Establishment Bill; read a third time, and *Passed*.
2. Saint James' Church Enlargement Bill; read a third time, and *Passed*.
3. Hawkesbury Benevolent Society Bill; read a second time; committed and amended; a question having arisen, whether the quantity of Land which the Society should be allowed to acquire, should be limited; the Bill to be further considered on Tuesday next.
4. His Excellency the Governor informed the Council, that a representation had some days ago been made to him by certain Bank Directors, that by information recently obtained, they had learned that it had been held in England, that it was contrary to Law for Spiritual Persons to hold Shares or be otherwise interested in Banking or other Associations or Co-Partnerships for gain or profit; and that the holding of such shares or interests by Spiritual Persons in any such Associations or Co-Partnerships, rendered illegal, and void, all Contracts entered into by such Associations or Co-Partnerships; to remedy which grievance, an Act of Parliament had been passed in the early part of the year 1838; and those Gentlemen solicited that a similar Act might be passed in this Colony; in compliance with which request, His Excellency now laid upon the Table, "*A Bill to make good certain Contracts which have been, or may be entered into, by certain Banking and other Co-Partnerships, in the Colony of New South Wales.*" Bill read a first time: Motion made, and Question put, that the
 Standing

Standing Orders of the Council be suspended, and that this Bill be now read a second and third time; *Passed*; and Bill read a second and third time accordingly, and *Passed*.

Council adjourned at Three o'Clock, until Friday next. October 25, at Twelve o'Clock.

ORDERS OF THE DAY,

FRIDAY, OCTOBER 25.

1. Report of Committee on Police and Gaols to be brought up, and considered.
2. Report of the Committee on the Bill to substitute a Synod for the Presbytery of New South Wales, to be brought up, and considered.

TUESDAY, 29 OCTOBER, 1839.

1. Hawkesbury Benevolent Society Bill; further consideration.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

TUESDAY, 29 OCTOBER, 1890.

1. The Meeting of the Council appointed for Friday last, having been adjourned until this day, at Twelve o'Clock, the Council met pursuant to that adjournment. His Excellency the Governor took the Chair, and laid upon the Table, " *A Bill to Abolish the Transportation of Female Convicts, and to provide for the more effectual Punishment of Female Offenders within the Colony of New South Wales.*" Bill read a first time; to be printed, and read a second time on Tuesday next, November 5.
2. Sir John Jamison presented a Petition from certain Presbyterians resident in Sydney and its Vicinity, Praying that His Excellency the Governor and this Council will pass such a Bill as will transfer the powers and privileges possessed by " *the Presbytery of New South Wales*" to " *the (projected) Synod of Australia.*" Signed by 119 persons, exclusive of 47 names written, apparently, by One hand; Petition read, and received; to be printed, and further considered on Tuesday next.
3. Synod of Australia Establishment Bill; the Attorney General as Chairman, brought up the Report of the Committee, and laid upon the Table the Evidence taken before the same; Report read, and with the Evidence to be printed, and further considered on Tuesday next.
4. Committee on Police and Gaols; the Colonial Secretary as Chairman, brought up the Report, and laid upon the Table the Evidence taken before the Committee; to be printed, and considered on Tuesday next.
5. Estimate of the probable Expenses of the Police and Gaol Establishments of the Colony, for the year 1890, amounting to the sum of £92,310, 3s. 7d., to be considered on Tuesday next.

6.

6. Estimates of the probable Expenses of the Police Establishments at Melbourne, Geelong, and Portland Bay, and of the Mounted Police, Border Police, and Native Police, for the year 1840, amounting to the sum of £10,043, 7s. 1d., to be considered on Tuesday next.
7. Hawkesbury Benevolent Society Bill; His Excellency the Governor informed the Council, that deeming further alterations in this Bill to be necessary, than could be conveniently accomplished during the present Session, he purposed now withdrawing the same, and proposed, in lieu thereof, to bring forward at the next Session, a *Public Bill* to accomplish similar objects.

Council adjourned at half-past Two o'Clock, until Tuesday next, November 5, at Twelve o'Clock.

ORDERS OF THE DAY.

TUESDAY, NOVEMBER 5.

1. Female Convict Transportation Abolishment Bill; second reading.
2. Synod of Australia Establishment Petition; further consideration.
3. Synod of Australia Establishment Bill, Committee's Report on; further consideration.
4. Police and Gaols, Committee's Report on; to be considered.
5. Police and Gaols Estimates of Expenditure for 1840; to be considered.
6. Estimated Expenditure for 1840, for Police at Melbourne, Geelong, and Portland Bay, and for Mounted, Border, and Native, Police; to be considered.

NOTICE OF MOTION.

TUESDAY NOVEMBER 5.

1. The Attorney-General; That His Excellency the Governor be respectfully requested, to act on the Report of the Committee appointed to consider and report on the Synod of Australia Establishment Bill, by placing on the Estimates a sum sufficient to pay the salaries, for the year 1840, of the Ministers of the (so called) Synod of New South Wales.

WM. MACPHERSON,

Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, 12 NOVEMBER, 1839.

1. The Meeting of the Council appointed for Tuesday last, having been adjourned until this day, at Twelve o'Clock, the Council met pursuant to that adjournment; His Excellency the Governor in the Chair.
Female Convict Transportation Abolishment Bill; read a second time; committed and amended; to be fairly transcribed, and presented to the Governor by the Attorney General and Mr. Jones.
2. The Attorney General's motion on the subject of the allowance of Salaries to the Ministers of the (so called) Synod of New South Wales, considered in Committee; and the following Resolution moved, and adopted;
Resolved, That His Excellency the Governor be respectfully requested, to act on the Report of the Committee appointed to consider and report on the Synod of Australia Establishment Bill, by placing on the Estimates a sum sufficient to pay the Salaries of the Ministers of the (so called) Synod of New South Wales, according to the principles of other Churches.
3. Synod of Australia Establishment Bill; His Excellency the Governor informed the Council, that concurring in opinion with the Committee, that the question at issue between the supporters of this Bill, and its opponents, is cognizable only in a Court of Ecclesiastical Jurisdiction, and that it is expedient that the further consideration of the subject be deferred, until the sentiments of the Parent Church be ascertained, he purposed now withdrawing this Bill.
4. Synod of Australia Establishment Petition; the withdrawal of the Bill just above mentioned, virtually negatives the Prayer of this Petition.

5. Bathurst Bank Bill ; the Collector of Customs as Chairman, brought up the Report of the Committee; Report to be printed; Bill to be read a second time to-morrow.
 6. Immigration Question; in the absence of the Chairman, the Colonial Secretary brought up the Report of the Committee, and laid upon the Table the Evidence taken before the same; to be printed, and taken into consideration to-morrow.
 7. Police and Gaols, Report on; considered in Committee; to be further considered to-morrow.
 8. Police and Gaols Estimates of Expenditure for 1840; consideration of, deferred until to-morrow.
 9. Estimated Expenditure for 1840, for Police at Melbourne, Geelong, and Portland Bay, and for Mounted, Border, and Native Police; consideration of, deferred until to-morrow.
 10. His Excellency the Governor laid upon the Table "*A Bill for the better ensuring the Registration of Marriages, Baptisms and Burials;*" Bill read a first time; to be printed, and read a second time to-morrow.
- Council adjourned at Half-past Four o'Clock, until To-morrow at Twelve o'Clock.

ORDERS OF THE DAY.

WEDNESDAY, 13 NOVEMBER, 1839.

1. Bathurst Bank Bill; second reading.
2. Marriages, Baptisms, and Burials better Registration Bill; second reading.
3. Immigration Question, Report on, to be considered.
4. Police and Gaols, Report on, further consideration.
5. Police and Gaols Estimates of Expenditure for 1840; to be considered.
6. Estimated Expenditure for 1840, for Police at Melbourne, Geelong, and Portland Bay, and for Mounted, Border, and Native Police; to be considered.

WM. MACPHERSON,
Clerk of Councils.

No. 45.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

WEDNESDAY, 13 NOVEMBER, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Captain King presented a Petition from the Members of the Hawkesbury Benevolent Society, praying that the Bill applied for by them may be considered a Private Bill, and may yet be passed during the present Session of the Council, and likewise that the Funds of the Society may not be appropriated to other objects than those for which they were originally bestowed; viz. the relief of the Poor in the Districts of the Hawkesbury; Petition read, and received; to be printed.
 2. Bathurst Bank Bill; read a second time; to be read a third time on Tuesday next.
 3. Marriages, Baptisms, and Burials better Registration Bill; read a second time; to be read a third time on Tuesday next.
 4. Immigration Question; consideration of deferred until Tuesday next.
 5. Police and Gaols; Report on, and Estimated Expenditure for, for the year 1840; Motion made, and Question put, that they be now considered in Committee; "*Passed.*"
- * (62). Resolved, that a sum not exceeding £13,302 19s. 7d. be appropriated to defray the expence of the Police for the Town and District of Sydney, for the year 1840.

* See Votes and Proceedings, No. 30.

- (63.) Resolved, that a sum not exceeding £36,828, be appropriated to defray the expence of Police for the Rural Districts, for the year 1840.
- (64.) Resolved, that a sum not exceeding £18,248 9s. 7d. be appropriated to defray the expence of the Mounted Police, for the year 1840.
- (65.) Resolved, that a sum not exceeding £13,000, be appropriated to defray the expence of the Border Police, for the year 1840.
- (66.) Resolved, that a sum not exceeding £1,331 18s. 9d. be appropriated to defray the expence of the Department of the General Superintendent of Police, for the year 1840.
- (67.) Resolved, that a sum not exceeding £5,310 14s. be appropriated to defray the expence of the Sydney Gaol, for the year 1840.
- (68.) Resolved, that a sum not exceeding £750 9s. 10d. be appropriated to defray the expence of the Debtor's Prison, Sydney, for the year 1840.
- (69.) Resolved, that a sum not exceeding £5,991 4s. be appropriated to defray the expence of Gaols in the Rural Districts, for the year 1840.
- * (60.) An Error having been discovered in the 49th Resolution, upon the Estimates of Expenditure, for the year 1840, £1,500 having been stated as the sum to be appropriated to defray the expence of Roman Catholic Schools for that year, instead of £1,100; Resolved, that that error be corrected, and that a sum not exceeding £1,100, be appropriated to defray the expence of Roman Catholic Schools, for the year 1840, instead of £1,500 as stated in the Resolution referred to.

6. Estimates of the probable Expences, for the year 1840, of the Police Establishments at Port Phillip, comprehending those at Melbourne, Geelong, and Portland Bay, and of the Native Police, and detachments of Mounted Police, and Border Police, stationed in the District of Port Phillip; Motion made, and question put, that they be now considered in Committee; *Passed*.

† (17.) Resolved, That a sum not exceeding £1,694 3s., be appropriated to defray

* See Votes and Proceedings, No. 29.

† See Votes and Proceedings, No. 32.

defray the expence of the Police for the Town and District of Melbourne, for the year 1840.

(18.) Resolved, That a sum not exceeding £738 7s. 6d., be appropriated to defray the expence of the Police for the Town and District of Geelong, for the year 1840.

(19.) Resolved, That a sum not exceeding £738 7s. 6d., be appropriated to defray the expence of the Police for the Town and District of Portland Bay, for the year 1840.

(20.) Resolved, That a sum not exceeding £3,878 13s. 4d., be appropriated to defray the expence of the detachment of Mounted Police stationed in the District of Port Phillip, for the year 1840.

(21.) Resolved, That a sum not exceeding £2,000, be appropriated to defray the expence of the detachment of Border Police stationed in the District of Port Phillip, for the year 1840.

(22.) Resolved, That a sum not exceeding £993 15s., be appropriated to defray the expence of the Native Police, for the year 1840.

7. His Excellency the Governor informed the Council, that a Petition from the Trustees and other Members of the Congregation of the Church of Saint Peter, at Cook's River, had been presented to him, praying for an additional aid of any sum not exceeding £700, towards the expence of building that Church, towards which £1,000 had been already granted in accordance with the provisions of the Act 7 Wm. IV., No. 3. His Excellency stated that the number of applications for aid towards the building of Churches was now so great and so rapidly increasing, and the aggregate of the sums applied for within the limits of the provisions of the Act, had increased to so large an amount, that he was unwilling, under the present depressed condition of the Revenue of the Colony, to hold out encouragement to applications for aid beyond the limited amount of £1,000; but as the present Applicants had, he believed, been led to expect that some further allowance would be made (in consequence of such having been granted in another case), and had been thereby induced to expend a larger amount than probably they would otherwise have done, His Excellency

was

was disposed to recommend that some additional assistance should be granted to these Applicants. But His Excellency was particularly desirous that it should be understood that this case should not be considered as a precedent, or as holding out encouragement to applications for aid in excess of the amount limited by the Church Act—viz., £1,000.

Motion made, and Question put, that the following Resolution* be adopted;
Passed;

That a sum not exceeding £350, be appropriated to defray the Supplementary Charge on the Colonial Treasury for the year 1839, for a further aid (in addition to £1000 already granted) towards the expence of erecting the Church of Saint Peter at Cook's River, on condition of sums to an equal amount being raised by Private Contributions.

8. His Excellency the Governor laid upon the Table, "*A Bill for applying certain sums arising from the Revenue receivable in New South Wales, to the service thereof, for the year One thousand eight hundred and forty, and for further appropriating the said Revenue;*" Bill read a first time; to be printed, and read a second time, to-morrow.
9. Female Convict Transportation Abolishment Bill; presented by the Governor as amended; to be read a third time on Tuesday next.

Council adjourned at Half-past Four o'Clock, until to-morrow. at Twelve o'Clock.

* Resolution II of Supplementary Estimates of Expenditure for the year 1839. See last Resolution (10) in Votes and Proceedings, No. 31.

ORDERS OF THE DAY.

THURSDAY, 14 NOVEMBER, 1839.

1. Appropriation Bill; second reading.

TUESDAY, NOVEMBER 19.

1. Bathurst Bank Bill; third reading.
2. Female Convict Transportation Abolition Bill; third reading.
3. Marriages, Baptisms, and Burials better Registration Bill; third reading.
4. Immigration Question, Report on, to be considered.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

THURSDAY, 14 NOVEMBER, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair.
Appropriation Bill; read a second time; to be read a third time on Tuesday next.

Council adjourned at Two o'Clock, until Tuesday next, November 19, at Twelve o'Clock.

ORDERS OF THE DAY.

TUESDAY, NOVEMBER 19.

1. Bathurst Bank Bill; third reading.
 2. Female Convict Transportation Abolition Bill; third reading.
 3. Marriages, Baptisms, and Burials better Registration Bill; third reading.
 4. Appropriation Bill; third reading.
 5. Immigration Question, Report on, to be considered.
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NOTICES OF MOTION.

TUESDAY, NOVEMBER 19.

1. Mr. Blaxland; That in the opinion of this Council the Colonial Revenue is unequal to the payment of the whole expence of maintaining the large Police and Gaol Establishment, necessary chiefly, for the due restraint of British Convicts,

victs, without encroaching too heavily on a Fund, the whole amount of which, it is essential to the prosperity of the Colony, should be expended in the encouragement of Immigration; and moreover, that in Equity, and Justice, One-half of the expence of the Police and Gaol Establishment ought to be borne by the British Treasury, so long as the Penal character of a large proportion of the Population subsists.

2. (1). Mr Jones; That this Council having had under consideration the Report presented to them on the 12th Instant by the Committee appointed to inquire into, and report on the subject of Immigration, concur in, and adopt the opinions expressed by their Committee, as to the necessity of continuing Immigration on an extensive scale; and the Council further concur in the recommendation of the Committee, that in the event of the funds now applicable to Immigration being found insufficient, measures should be taken for raising money in England by way of Loan on the security of the Land Revenue of the Colony (with the additional security if necessary of the Ordinary Revenue of the Colony) to any extent not exceeding £125,000 in each of the next eight succeeding years; and that the Assent of Her Most Gracious Majesty be solicited for the secure and unalterable appropriation of such a portion of the Land Revenue as may be required for the payment of the Interest on such Loan; and also for providing a Sinking Fund, at the rate of Five per Cent. per annum upon all sums so borrowed, to accumulate for the extinguishment of the Entire Debt within fifteen years from the date of the first Loan.
- (2). That this Council fully concur in the recommendation of the Committee to discontinue forthwith the importation of Immigrants under the present Government System, unless, upon a careful review of the sources of Expenditure, it can be shown that such a reduction can be effected as shall place it on a level with that of the Bounty System; and to continue the Bounty System of Immigration, under the Superintendence of the Local Government, as the best means of regulating the number of Immigrants required—ensuring a much cheaper mode of importation, and at the same time securing a supply of labouring people in all respects suitable to the wants of the Colonists.

WM. MACPHERSON,

Clerk of Councils.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

TUESDAY, 19 NOVEMBER, 1839.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and laid upon the Table, a Despatch from the Most Noble the Marquis of Normanby, dated 29th June, 1839, No. 83, stating it to be the opinion of Her Majesty's Law Officers, upon a question raised by the Judges in reference to the Waste Lands of the Colony, that the Crown has clearly the power to Grant, or Lease them, or to Grant Licenses to depasture them: To be printed.
2. Bathurst Bank Bill read a third time, and *Passed*.
3. Female Convict Transportation Abolishment Bill; read a third time, and *Passed*.
4. Marriages, Baptisms, and Burials, better Registration Bill; read a third time, and *Passed*.
5. Appropriation Bill; read a third time, and *Passed*.
6. Mr Blaxland's motion on the subject of the Police Estimates, considered in Committee; and the following Resolution adopted.

Resolved, That in the opinion of this Council the Colonial Revenue is unequal to the payment of the whole expence of maintaining the large Police and Gaol Establishment, necessary chiefly, for the due restraint of British Convicts, without encroaching too heavily on a Fund, the whole amount of which, it is essential to the prosperity of the Colony, should be expended in the encouragement of Immigration; and moreover, that, in Equity and Justice, One-half of the
 expence

expence of the Police and Gaol Establishment ought to be borne by the British Treasury, so long as the Penal character of a large proportion of the Population subsists.

7. Immigration Question, Report on, considered in Committee, and the following Resolutions in reference thereto, severally moved, and adopted.

(1). Resolved, That this Council, having had under consideration the Report presented to them on the 12th Instant by the Committee appointed to inquire into, and report on, the subject of Immigration, concur in, and adopt the opinions expressed by their Committee, as to the necessity of continuing Immigration on an extensive scale; and the Council further concur in the recommendation of the Committee, that in the event of the funds now applicable to Immigration being found insufficient, measures should be taken for raising money in England by way of Loan on the security of the Land Revenue of the Colony (with the additional security if necessary of the Ordinary Revenue of the Colony), to any extent not exceeding £125,000 in each of the next eight succeeding years; and that the Assent of Her Most Gracious Majesty be solicited for the secure and unalterable appropriation of such a portion of the Land Revenue as may be required for the payment of the Interest on such Loan; and also for providing a Sinking Fund, at the rate of Five per Cent. per annum upon all sums so borrowed, to accumulate for the extinguishment of the Entire Debt within fifteen years from the date of the first Loan.

(2). Resolved, That this Council fully concur in the recommendation of the Committee to discontinue forthwith the importation of Immigrants under the present Government System, unless, upon a careful review of the sources of Expenditure, it can be shewn that such a reduction can be effected as shall place it on a level with that of the Bounty System; and to continue the Bounty System of Immigration, under the Superintendence of the Local Government, as the best means of regulating the number of Immigrants required—ensuring a much cheaper mode of importation, and at the same time securing a supply of labouring people in all respects suitable to the wants of the Colonists.

(3).

(3). Resolved, That in the opinion of this Council, it is desirable that all Ships in which Emigrants may be brought out to this Colony, whether by the Government, or under the Bounty System, should be conducted on Temperance principles; there being reason to believe that a contrary practice has been attended with great irregularities during the voyage, terminating in the acquisition of habits fatal to the Moral principles of the Emigrants after their arrival, and in certain instances even in Death.

(4). Resolved, That His Excellency the Governor be respectfully requested to forward a copy of these Resolutions to the Most Noble the Marquis of Normanby, Secretary of State for the Colonies, and to recommend them, as strongly as he may deem proper, to the favorable consideration of Her Majesty's Government.

8. His Excellency the Governor laid upon the Table, the following Protests against the Estimates of Expenditure for Police and Gaols; viz.

From Mr. Blaxland:—I protest against the proposed disbursement from the Colonial Treasury of the sum of £104,867 1s 1d for defraying the expenses of the Police and Gaol Departments, including those at Port Phillip.

(1.) On the general ground that the entire proposed disbursements are excessive, in regard to the Revenue, while the Revenue itself is larger than what ought to be extracted from the Colonists, in respect both to their numbers and their means; which latter, so far from being likely to improve, it is to be expected will, under the intended discontinuance of the private assignment of Convicts, considerably diminish.

(2.) Because as, under the proposed discontinuance of the assignment of Convicts to private service, the principal advantage derived to the Colonists from Transportation will be utterly withdrawn from them, and which withdrawal can be counterbalanced by no kind of equivalent; while, as admitted by Sir George Grey, Bart. Under Secretary of State, in his letter, dated, Treasury Chambers, 23d September, 1834, the very heavy expence of the Police of this Colony, as well as the charges connected with the Gaols, are principally rendered necessary by the presence of the Convicts; and moreover, it is equally true, that the system of Transportation has ever
been,

been, and is still attended with an immense annual saving to Great Britain, as shewn in my Protest of 25th August, 1835; and I am, therefore, of opinion, that a due proportion of the amount of the above item of proposed expenditure ought to be defrayed by the Parent Country.

I have to request that the above, my dissent from the Estimates may be recorded on the Minutes of the Council, and that an extract copy of such Minutes, accompanying a copy of the Estimates, may be transmitted to the Right Honorable the Secretary of State for the Colonies, for the consideration of Her Majesty's Government.

J. BLAXLAND, M. L. C.

Council Chamber, Sydney, }
November 19, 1830. }

From Sir John Jamison :—Whereas, on the 13th instant, the imposition of the entire expences of Police and Gaols on the resources of the Colony, was sanctioned by the vote of this Council; I feel it my duty to record my dissent from such a proceeding, and to protest against it for the following reasons :—

(1.) Because no sufficient reason has been assigned in justification of the measure.

(2.) Because I conceive, that this Colony has reasonable grounds for declining to bear the entire burden of its Police and Gaols.

(3.) Because I feel it to be my imperative duty, as a Member of this Council, to act up to my convictions on this question, and in accordance with the general opinion and wishes of the public.

In the first place :—I protest against the imposition of the entire amount of the Police and Gaol Estimates on the resources of the Colony; because in my opinion, no sufficient reason has been assigned in justification of such a measure. The only tangible reason that has been urged, is the fact of the greater part of these expences being rendered necessary by the system of Assignment; whence, it is alleged, a benefit accrues to the Colony, which has conduced so greatly to her prosperity, and has been

so highly esteemed by the settlers, as to lead the Home Government to suppose that it would prove an ample set-off against the Police and Gaol expences, which they now impose upon us. "There are," says His Excellency, "twenty-five thousand Convicts in the service of Settlers, and each Convict is calculated to be worth £10 a year, so that the value of Convict labour is £250,000 a year; and as the Police only costs £92,000 (or as now voted, nearly £95,000, exclusive of Port Phillip, nearly £11,000 more) there is consequently a balance of £160,000 in favour of the Colonists." This is the argument of the Lords of the Treasury, and the only one, in fact, which has been stated in justification of the measure. The fallacy of this reasoning, however, is obvious: the fact, that the Colony is already paying dearly enough for any advantages which the Assignment System may afford it, is not taken into account; and in this respect the balance between the Mother Country and the Colony has not been equitably struck. The Lords of the Treasury seem to bargain with the Colonists for the labour of their Convicts, as if the Mother Country did not derive important advantages from the system of Transportation and Assignment; as if, in short, it were all *loss* to her, and all *gain* to us. But as the contrary of this is notoriously the case, it follows that the reasoning by which their Lordships attempt to justify the imposition of the Police Expences on the Colony, is fallacious, and insufficient to warrant the measure they have proposed.

Secondly—I protest against this measure; because I conceive that this Colony has reasonable and very sufficient grounds for declining to sustain the entire burden of its Police and Gaols. It already supports civil and judicial establishments nearly twice as expensive as they need otherwise be, if the Colony were not a Penal Settlement. It has also submitted to be burdened with the cost of erecting numerous Gaols and Public Buildings, rendered necessary by the Penal circumstances of the Colony. It bears the expense of superintending, feeding, clothing, and lodging about 25,000 Convicts; all these expenses, then, I maintain, being defrayed by the Colony, are a saving to a vast amount to the Mother Country, and prove that the Assignment System is, in point of *economy*, beneficial to her, as a means of disposing of her Convicts.

Transportation is of paramount advantage and importance to the Mother Country; inasmuch as it rids her of that crime which abounds to so pestilential an extent

extent within her pale; and as it tends to enlarge her dominions, and extend her Commerce, by the formation of new Colonies. If, instead of accomplishing these grand objects, Britain were to keep her Convicts at home, the expence she would require to be at, would evidently be enormous, and could scarcely be viewed in any other light than as a *dead loss* to the Nation. But in transporting her Criminals to this Colony, and in getting them off her hands by means of Assignment, she not only effects an actual saving of expence, but she herself is most materially interested in the benefits that result from the labour of her Convicts. It was that labour alone that established this Colony, gave a value to its Waste Lands, and created that demand for their sale, which gave birth to that fund, in the appropriation of which to the purpose of Immigration, the Mother Country is not less interested, and that too in the most obvious and important respects, than the Colony itself. Participating, therefore, as she does, in all the advantages, both social and commercial, which accrue from Transportation, it is clear to my mind, that the Mother Country ought in justice to bear at least an equal portion of the expences of a system of Penal Control so indispensable to the enforcement of her own judicial sentences upon her Criminals. I hold it to be neither reasonable nor just, that she should insist upon throwing the whole burden off her own shoulders, and saddling us with so enormous a portion of the expences. On these grounds, therefore, I consider that the Colony has sufficient reason for declining to sustain the entire burden of its Police and Gaols.

Thirdly—I protest against the Vote by which this burden has been imposed upon the Colony; because I feel it to be my imperative duty, as a Member of this Council, to act up to my convictions on this question, and in accordance with the general opinion and wishes of the Public. I cannot reconcile it with my sense of duty, to think one thing, and vote another; and especially when, by that vote, I should be sanctioning an imposition, which I consider *unreasonable* and *unjust*.

I cannot hope to console myself with the prospect, for many years to come, of a diminution of crime, from which a consequent diminution of Judicial and Police expences might be expected to take place, in proportion as the present Convicts become free. If crime, even under the restraints of bondage, be so prevalent as it is said to be, there is too much reason to anticipate that, when the pressure of penal coercion is removed, the same crime will sprout forth in still ranker vegetation than before, and that it will occasion far greater trouble and expence than it now does. It

It has been assigned by Honorable Members of this Council, as a reason for the unresisting compliance with which they have yielded to this measure, that they were afraid it was of no use to oppose it, as neither their views nor their remonstrances were likely to have any weight with the Lords of the Treasury. Recent events, however, lead me to cherish a very different view of this matter: the Government of the Colonies is now a subject of paramount importance in Parliament, and an appeal to that tribunal will no longer be in vain.

Although a Member of this Council by Royal nomination, still I wish to consider myself as a Representative of the People of this Colony, and as such, bound to promote their interests and defend their rights, to the utmost of my power. I know that the opinion of the Colonial public is decidedly and universally against this measure; that they deem it, in short, to be neither more nor less than an arbitrary and unjust imposition; and I feel, therefore, that I could not comply with the demands of Government on this occasion, without compromising not only my own conscientious convictions, but the duty which I owe to those who ought to be, and whom I am bound to regard as, my constituents.

Before concluding this Protest, I beg to record my opinion as to the source from which the Police and Gaol Estimates which have been voted, ought to be realized; and I do so without prejudice to my foregoing position. There are only *three ways*, it is evident, by which the deficiency of the Ways and Means, in this case, can be supplied:—
1. By having recourse to the Land Fund; 2. By general Taxation; 3. By a special Tax or Hire to be exacted from the Assignees of Convicts.

1. Against the *first* of these Ways, I most decidedly and solemnly protest, because the Land Fund has been pledged by the British Government, and consecrated by the universal consent of the British public, to its own *natural* and *most legitimate* purpose—the purpose of Immigration; and unless the promises of Royalty are not to be considered as pledges that can be depended upon, that destination of the Land Fund cannot be departed from, but with consent of the nation, or its representatives. The purpose to which the Fund has been devoted, is its *natural* purpose, and that is its strongest guarantee; for what more legitimate purpose can the proceeds of the Sale of Public Waste Lands be applied to, than to people those wastes by Emigration from the Mother Country? Those Lands are *national property*; and the
Fund

Fund accruing from their Sale should be appropriated to that purpose which will most conduce to the *mutual* benefit of the Colony in which the Fund is created, and the Mother Country or nation to which the Colony belongs. That purpose, from obvious reasons, and by universal consent, is allowed to be IMMIGRATION; and unless, therefore, there be a *redundancy* in the Fund which cannot judiciously or safely be expended in Immigration, *no part* of it should ever be applied to any other purpose. The Council (it is confessed even by Government) has full and uncontrolled power over the appropriation of that Fund; and if we sanction its mis-appropriation to the defraying of an expence which ought, in justice, to be borne exclusively by the Mother Country, we shall have ourselves to blame.

Against the *second* mode of meeting this demand, I also protest; because, *general Taxation* is only admissible in cases where the benefit on account of which the tax is to be imposed, is a *general Benefit*. The Police and Gaol Expences are thrown upon this Colony by the Home Government, because these expences are chiefly occasioned by the distribution of Convicts in private service under the Assignment System. But the *Benefits* of that system are not *general*; and it would, therefore, be unjust to pay for them by a *general Tax*; or, in other words, to Tax the *whole community* for benefits which are enjoyed only by a *certain class*.

In the *third* and *last* place: it seems to follow, as a necessary and natural consequence, that these demands should be met by a *special Tax* or *Hire* on Convict labour, to be levied on the Assignees of Convicts. Those who enjoy the now special monopoly and exclusive advantage of assigned labour, should alone pay the demands that are at present made upon the Colony on account of the Assignment System.

Having thus fully set forth my reasons of Protest, I have only to request that the same may be recorded on the Minutes of the Council, and that an Extract Copy of such Minute may be transmitted, together with a Copy of the Estimate, to the Secretary of State for the Colonies, for the consideration of Her Majesty's Government.

JOHN JAMISON, M. L. C.

Council Chamber, }
Sydney, 19th November, 1839. }

The Council adjourned at Four o'Clock, *sine die*.

WM. MACPHERSON,

Clerk of Council's.

NEW SOUTH WALES ACT.

Despatch from the Right Honorable Lord Glenelg, Secretary of State for the Colonies, to His Excellency Governor Sir George Gipps, Knight, transmitting Copy of an Act of Parliament to continue, for another year, the Act for the Administration of Justice in New South Wales and Van Diemen's Land.

No184.

Downing-street, 24th August, 1838.

SIR,

I HAVE the honor to transmit to you a Copy of an Act which has been passed this Session, to continue for another year the Act for the Administration of Justice in New South Wales and Van Diemen's Land.

The enquiries of the Select Committee of the House of Commons, on the subject of Transportation, to which I referred in my Despatch, No. 368, of the 25th August, 1837, were renewed in the present Session; but circumstances, over which Her Majesty's Government had no control, delayed the completion of those enquiries, and the adoption of a Report, until a very late period of the present Session. The Evidence and the Report, although recently presented to the House of Commons, have, in fact, not yet been printed and circulated. In consequence, in great measure, of this delay, Her Majesty's Government have thought it necessary to postpone, until the next Session, submitting to Parliament any alteration in the existing Act.

I have the honor to be,

Sir,

Your most obedient servant,

GLENELG.

DESPATCH

From the Right Honorable Lord Glenelg, Secretary of State for the Colonies, to His Excellency Governor Sir George Gipps, Knight, transmitting Copy of an Act of Parliament to continue, for another year, the Act for the Administration of Justice in New South Wales and Van Diemen's Land.

Ordered, by THE COUNCIL, to be Printed.

POLICE AND MARINE DEPARTMENTS.

Despatch from the Right Honorable Lord Glenelg, Secretary of State for the Colonies, to His Excellency Governor Sir George Gipps, Knight, enclosing copy of a Letter from the Secretary of the Treasury, conveying the opinion of the Lords Commissioners relative to the Expenditure of the Police and Marine Departments, and the Extra Expenses of the Mounted Police.

No. 208.

Downing Street, 4th September, 1838.

Sir,

With reference to the Despatches from Sir Richard Bourke, referred to in the margin, I have now to transmit to you, for your information and guidance, the enclosed copy of a Letter from the Secretary of the Treasury. The subject to which it refers has undergone very full consideration, and the decision which I now transmit to you must be considered as the deliberate result of that consideration. I should have been happy could I have felt myself justified in adopting a view of this subject more in accordance with the sentiments entertained by the Members of the Council of New South Wales in 1835, but I must avow my inability to dispute the soundness of the arguments by which the Lords Commissioners of the Treasury have been influenced, or to discover any sufficient reason for withholding my sanction from the application in this instance of the general principle, that Expenditure incurred in and for the benefit of the Colony, ought, whenever practicable, to be defrayed out of the Colonial Revenue.

No 79, 12 August, 1835.
No 92, 15 September, 1835.
No 60, 10 June, 1836.
No 82, 25 July, 1836.
No 85, 7 August, 1836.
30 Sept., 1837.

The present state of the Revenue of New South Wales is such as to leave no doubt of its sufficiency to meet the charges, and I have every reason to anticipate, from the measures recently adopted to promote the Immigration into the Colony of a numerous

numerous body of free mechanics and agricultural laborers, that its resources will rapidly increase.

Under these circumstances, I trust you will have no difficulty in inducing the Council, without encroaching on those funds which are primarily applicable to Immigration, to provide the requisite means for defraying that portion of the expense of the Police and Gaol Establishment, which is not already borne by this Country.

I have the honor to be,

Sir,

Your obedient servant,

GLENELG.

LETTER REFERRED TO IN THE FOREGOING.

(COPY).

Treasury Chambers, 30th September, 1837.

SIR,

WITH further reference to your letter of the 1st of May last, and to the reply to that part of your communication which related to the Ecclesiastical Establishments in New South Wales, addressed to you on the 7th of June last, I am commanded by the Lords Commissioners of Her Majesty's Treasury to request you will state to Lord Glenelg, that my Lords have had under consideration the Estimates of Revenue and Expenditure of the Government of that Colony for the current year, which accompanied the Despatch of Sir Richard Bourke on the 7th of August, 1836, with the several remaining points to which you had been directed to call their attention; and have also considered the Despatch and Report on the subject of the Police and Gaol Establishments in New South Wales, forwarded to this Board in your letter of the 11th of November, 1836.

I am

I am further commanded to request that you will acquaint Lord Glenelg that my Lords concur in his Lordship's suggestion that the arrangements relating to the Police Establishments which have been suggested by local experience, and after careful investigation, should be sanctioned; and looking to the state of the Colonial resources, my Lords see no reason to dissent from the view his Lordship has taken in regard to the items of increased expenditure which appear in the Estimate. It consequently only remains for my Lords to advert to the objections which have been urged to the payment of the whole amount of the charges for maintaining the Police out of the Colonial Funds, on which subject my Lords entirely concur with Lord Glenelg, that it is essentially necessary that some final decision should be adopted.

Referring to the communications which have, by my Lords' direction, been made to Lord Glenelg, relating to the charges in question, and more particularly to the Letters of the 8th and 21st of September, 1836, and 3rd of May last, I am directed to request that you will observe to his Lordship, that the documents now before this Board confirm the impression previously entertained by my Lords, that the necessity of the very large amount of Police Force the respective Governments of New South Wales and Van Diemen's Land have proposed to keep up, has arisen from the Assignment of the Convict Servants, and the natural desire of the settlers "to turn to the best account, and obtain in the largest proportion, the Labour of the Convicts thus Assigned;" and as the entire charge for maintaining and superintending all those Convicts who are in any respect under penal coercion, whether from re-conviction or disorderly conduct in the Colony, or under their original sentences, and notwithstanding they are principally employed in Colonial Works, is borne by this Country, my Lords can entertain no doubt of the propriety, in every point of view, of looking to the Colonial resources for the means of defraying the whole of the Police Expenses.

Adverting in the case of New South Wales, now more immediately in question, to the representation to which my Lords' attention has been particularly directed by Lord Glenelg, respecting "the insufficiency of the Colonial Revenues to bear the charge which (it is assumed) had so much exceeded the estimate of His late Majesty's Government, without encroaching on measures urgently required for
" other

“other objects, and crippling the means of improving the social character of the “Colony;” you will suggest to Lord Glenelg that if the transfer of the Police Expenses has imposed on the Colonial Funds an additional charge exceeding the amount of £25,000 per annum, at which it was estimated in the proposition submitted by direction of this Board to Mr. Secretary Spring Rice, on the 23rd of September, 1834, which, adverting to the countervailing effect of the arrangement already noticed in regard to the entire expense of the Convicts employed on Colonial works, would seem to be very questionable, the excess will have entirely arisen from augmentation of the numbers of Magistrates, and of subordinate functionaries, which have been made by the Local Government with a view to the objects already referred to.

You will also state to his Lordship that it has appeared to my Lords, on inspecting the estimate accompanying Sir Richard Bourke's despatch of the 7th of August, 1836, and upon which the Appropriation Ordinance for 1837 was founded, that by charging the expense of the Surveyor-General's department to the Crown Land Fund, to which branch those expenses, as entirely contingent upon the demand for lands, most properly attach, and considering the surplus which had accumulated in the Treasury as affording ample provision for the execution of the contemplated public works; the current Revenue as stated in those Estimates, and without calculating upon further increase, which the experience of previous years, and the progressive improvement of the Colony might have warranted, would have been more than sufficient to defray the Expenditure of the year, including the whole augmented charge for the Police.

If, however, any doubt on this head could have been entertained, it must have been removed by the documents forwarded to my Lords in your letter of the 15th of July; and it consequently only appears to my Lords to be further necessary to observe that, on fully reconsidering the proceedings that have taken place on the subject, they see no grounds to call for, or in any respect to justify, a re-transfer of any portion of the Police Expenditure to the Military Chest, or the revocation of any of the directions with respect to the expenses of the Police and Marine Departments, or the extra expenses of the Mounted Police, suggested in the communications to Lord Glenelg to which reference has already been made.

My

My Lords conceive, therefore, that final directions may now very properly be given, confirming the arrangements the Governor has already been instructed to adopt, with respect to the whole of the before mentioned charges; and that the Governor should be distinctly apprised that in the Parliamentary Grants for defraying Convict and other Expenditure in the Australian Settlements, no provision is now made for the Police expenses, and that the Officers of the Commissariat will be prohibited from making any payment from funds under their charge for those expenses, except as recognised advances on account of the Colonial Government, and to be refunded by the Colonial Treasury.

I am further directed to request that you will move Lord Glenelg to cause my Lords to be apprised when these final directions shall have been communicated to the Governor of New South Wales, in order that the corresponding instructions may be conveyed to the Officers of the Commissariat.

I am, &c.,

(Signed)

F. BARING.

James Stephen, Esq., &c. &c. &c.

New South Wales.

POLICE AND MARINE DEPARTMENTS.

DESPATCH

From the Right Honorable Lord Glenelg, Secretary of State for the Colonies, to His Excellency Governor Sir George Gipps, Knight, enclosing a Copy of a Letter from the Secretary of the Treasury, conveying the opinion of the Lords Commissioners relative to the Expenditure of the Police and Marine Departments, and the Extra Expenses of the Mounted Police.

Ordered, by THE COUNCIL, to be Printed.

POLICE AND GAOLS.

DESPATCH

From the Right Honorable Lord Glenelg, Secretary of State for the Colonies, to His Excellency Governor Sir George Gipps, Knight, enclosing Copy of a Letter from Mr. Under Secretary James Stephen, to the Secretary to the Treasury, respecting the Charge on the Colonial Revenue of New South Wales, for Police and Gaols.

SIR,

Downing-street, 15th October, 1838.

WITH reference to former correspondence on the subject of the charges for the Police and Gaols in New South Wales, and particularly to Sir Richard Bourke's Despatch No. 85, of the 8th September, 1837, I have the honor to transmit to you a copy of a letter from my Under Secretary to the Secretary to the Treasury, for- 5th March, 1838. warding, for the consideration of the Lords Commissioners, the Despatch above referred to. I also enclose, for your information and guidance, * a copy of the reply which 9th Oct. 1838. has been returned to that communication, intimating that their Lordships (having adverted to the state of the Revenue of New South Wales, and to the estimated amount of the Colonial Expenditure for the present and preceding years) have not seen reason to apprehend that it will be necessary to make any appropriation from the Land Fund for defraying the general expenditure of the Government, or that there will be any deficiency of means for carrying on public works properly chargeable on the general Revenues of the Colony, after the existing accumulation in the Treasury shall have been disposed of; and that they therefore have not considered it advisable that any alteration should be made in the arrangements which have already been directed by Her Majesty's Government in regard to the charges for Police and Gaols,

I have the honor to be,

SIR,

Your obedient humble Servant,

(Signed) GLENELG.
ENCLOSURE

* His Excellency the Governor stated in Council that this letter had not been received by him.

ENCLOSURE REFERRED TO IN THE FOREGOING.

(Copy.)

Downing-street, 5th March, 1838.

SIR,

85—8th Sept.

WITH reference to your letter of 30th of September last, stating the opinion of the Lords Commissioners of the Treasury that it would be proper to press upon the Local Government of New South Wales and Van Diemen's Land the whole charge of the Police and Gaols in those respective Colonies, and with reference also to my letter of 31st of January last, enclosing the Annual Statement of the Ways and Means of the Colony of New South Wales for the present year, I am directed by Lord Glenelg to transmit to you the enclosed Copy of a Despatch from Governor Sir Richard Bourke, containing a full report with regard to the amount of the Revenues applicable to defray the charges of emigration on the plan adopted by Her Majesty's Government; and I am to request that you will bring this Despatch under their Lordships' consideration, and that you will request them to acquaint Lord Glenelg whether the statements contained in this Despatch would lead them to consider any alteration necessary in the decision which they have already adopted in regard to the charge of the Police and Gaols in that Colony: as it appears from this Report that the effect of such decision must be very greatly to abridge the extent of the funds which have been hitherto destined to the introduction of emigrants into the Colony from Great Britain.

Lord Glenelg regards emigration to New South Wales and Van Diemen's Land of so much importance, both to the interests of this Country and of the Colonies—especially of the latter—that he earnestly hopes that no part of the Revenue arising from the sale of land will be diverted from the object of emigration. Lord Glenelg is therefore anxious to invite their Lordships' serious attention to the statements contained in the enclosed Despatch.

In order to enable their Lordships more fully to consider this question, I enclose, by Lord Glenelg's direction, a Copy of a Report from the Agent-General for Emigration, shewing the extent to which emigration has been carried on since

1st Decem. 1837.

the

the period of his appointment ; and I am to add, that there is every reason to expect, from statements received both from various quarters in this Country and from New South Wales, that emigration to that Colony may be carried on for the future on a still more extended scale, provided adequate funds exist for defraying the expenses.

I have, &c.

(Signed) JAMES STEPHEN.

A. Y. Spearman, Esq., &c. &c.

New South Wales.

POLICE AND GAOLS.

DESPATCH

From the Right Honorable Lord Glenelg, Secretary of State for the Colonies, to his Excellency Governor Sir George Gipps, Knight, enclosing Copy of a Letter from Mr. Under Secretary, James Stephen, to the Secretary to the Treasury, respecting the Charge on the Colonial Revenue of New South Wales, for Police and Gaols.

1881

Ordered, by THE COUNCIL, to be Printed.

ESTIMATES OF EXPENDITURE FOR THE YEAR 1838.

Despatch from the Right Honorable Lord Glenelg, Secretary of State for the Colonies, to His Excellency Governor Sir George Gipps, Knight, enclosing a Letter from the Board of Treasury, approving generally of the Estimates for the year 1838, but expressing a hope that the whole of the Land Revenue will not have been appropriated exclusively to the purposes of Immigration, unless it shall have been ascertained that the produce of the other Branches of the Revenue will be such as to render it unnecessary to apply any portion of the Land Fund to the Ordinary Expenditure of the Colonial Government.

No. 195.

Downing-street, 28th August, 1838.

Sir,

I have received Sir Richard Bourke's Despatch, No. 70, of the 28th July, 1837, transmitting the Estimates of the Expenditure of the Government of New South Wales for the present year, with the Annual Appropriation Act; and I have to signify to you, the approval of Her Majesty's Government of the provisions which they contain; referring you, however, to my Despatch, No. 71, of the 30th January last, on the subject of the newly created Office of Crown Prosecutor.

I enclose, for your information and guidance, the copy of a Letter from the Board of Treasury, respecting the Expenditure of your Government, 13 August, 1838.

It must be distinctly understood, that it is only in the event of a deficiency in

other

other branches of the Revenue, in providing for the Ordinary Expenditure of your Government, that Her Majesty's Government can sanction any portion of the Land Fund being diverted from the purposes of Emigration.

You will be so good as to send Home, for the information of the Lords of the Treasury, a Special Report on the subject of the Ordnance Store Department.

I have the honor to be,

Sir,

Your most obedient servant,

GLENELG.

LETTER REFERRED TO IN THE FOREGOING.

(COPY.)

Treasury Chambers, 13th August, 1838.

Sir,

The Lords Commissioners of Her Majesty's Treasury having duly considered the Estimates of the Expenditure of the Government of New South Wales, for the year 1838, with the Annual Appropriation Act, forwarded to them in your Letter of the 31st of last January, and assuming that Lord Glenelg does not disapprove of the regulations relating to the classification and periodical increase of the salaries of Clerks in the Colonial Service, which is adverted to in the Governor's Minute, I have received their commands to state that it does not occur to them to be necessary to add anything to His Lordship's remarks on the newly reported appointment of Crown Prosecutor for the Quarter Sessions, or to object in any other respect to the provisions of the Estimate and Appropriation Act. They therefore propose to forward copies of these documents to the Commissioners of Audit for their guidance, apprising them of the further enquiry that will be addressed to the Governor relative to the Office of the Crown Prosecutor.

Their

Their Lordships, however, deem it necessary to observe to Lord Glenelg, that as a sum of £50,000 is included in the Estimated resources of the year, as a balance that will be available from the Crown Land Revenue, after deducting charges of Immigration, they trust that the whole of the proceeds of that Revenue for the year, will not have been appropriated to Immigration expenses, until it shall have been ascertained that the produce of the other branches of the Revenue will be such as to render it unnecessary to apply any portion of the Land Fund to the Ordinary Expenditure of the Colonial Government; and as it would appear from the Estimate, and from Sir Richard Bourke's Minute, that he had found it necessary to re-establish a Colonial Store Department, the discontinuance of which was one of the objects contemplated in the employment of an Ordnance Storekeeper's Establishment in New South Wales, their Lordships conceive it will be advisable to call upon the present Governor for a Special Report as to the necessity for maintaining the Ordnance Store Department at its present strength, notwithstanding its having been thus relieved from one branch of the duties it was intended to perform.

I am, &c.,

(Signed)

A. Y. SPEARMAN.

James Stephen, Esq., &c. &c.

New South Wales.

ESTIMATES OF EXPENDITURE FOR
THE YEAR 1838.

DESPATCH

From the Right Honorable Lord Glenelg, Secretary of State for the Colonies, to His Excellency Governor Sir George Gipps, Knight, enclosing a Letter from the Board of Treasury, approving generally of the Estimates for the year 1838, but expressing a hope that the whole of the Land Revenue will not have been appropriated exclusively to the purposes of Immigration, unless it shall have been ascertained that the produce of the other Branches of the Revenue will be such as to render it unnecessary to apply any portion of the Land Fund to the Ordinary Expenditure of the Colonial Government.

Ordered, by THE COUNCIL, to be Printed.

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New South Wales.

CROWN LANDS BILL COMMITTEE.

REPORT FROM THE COMMITTEE

ON

THE CROWN LANDS BILL,

WITH THE

MINUTES OF EVIDENCE.

Ordered, by THE COUNCIL, to be Printed.

Sydney :

A. COHEN, PRINTER, "AUSTRALIAN" OFFICE, GEORGE-STREET.

1839.

(Extract from the Votes and Proceedings of the Legislative Council, No 1).

THURSDAY, 14 FEBRUARY, 1839.

4. His Excellency the Governor laid upon the Table, "*A Bill to amend an Act intituled, 'An Act to continue and amend an Act intituled, 'An Act to restrain the unauthorised Occupation of Crown Lands.'*"

Motion made and question put, that this Bill be referred to a Sub-Committee, to consider, and Report their opinion upon, the provisions thereof, with leave to examine Evidence, if necessary.—Passed; and,

COMMITTEE APPOINTED—

THE COLLECTOR OF CUSTOMS

THE AUDITOR-GENERAL

MR JONES

MR BLAXLAND

MR MACARTHUR

SIR JOHN JAMISON.

CROWN LANDS BILL COMMITTEE.

REPORT FROM THE COMMITTEE

Appointed to consider, and Report their Opinion upon, the Provisions of a " Bill to amend an Act, intituled, ' An Act to continue and " amend an Act, intituled ' An Act to restran the unauthorised " Occupation of Crown Lands," with leave to examine Evidence, if necessary.

Your Committee have the honour to report that they have examined a number of persons possessing considerable knowledge of the several parts of the country beyond the limits of Location, the whole of whom have concurred in opinion as to the advantages likely to arise from the introduction of such a Bill, and in that opinion your Committee fully coincide.

Your Committee, however, have found it necessary, both in accordance with their own views of the subject, and the wishes of the persons likely to be affected by the Bill, to make considerable alterations therein; and they have now the honour to present it to your Excellency and the Council, in its amended form.

In reading over the Minutes of Evidence annexed to this Report, it will be perceived that it is only in the Northern, or Liverpool Plains District, and in the Country between the Hume and Port Phillip, that any force is considered necessary for the protection of the Settlers against the aggressions of the Aborigines. Nevertheless, all parties agree that a Border Police will prove of the greatest service in keeping peace and good order, and in protecting property in those distant parts of the Territory, where many Europeans of the most abandoned character have taken up their abode. But there is, notwithstanding, some difference of opinion as to the way in which the funds required for that purpose should be raised; certain persons considering that it ought to be by a Rent on Land, and others by an Assessment on Stock.

Your

Your Committee, however, have reason to believe that the former plan is preferred, only because the parties who propose it object to the principle of taxation; and your Committee have adopted the latter plan, as being by far the most equitable method of levying a rate, whereby every person will contribute according to the value of the property for which he is to receive protection; and a further reason why your Committee recommend the adoption of such a measure is, that they consider it much safer that the Colonists should tax themselves—or rather, raise a Local Assessment, over which they would have entire controul—than that they should pay a Rent on Crown Lands, which, becoming Territorial Revenue, might be diverted by the Home Authorities from the purposes for which it was intended.

By the twenty-fifth section of the New South Wales Act, it is enacted, That the Council may impose a Tax, when necessary, for local purposes; but it is at the same time required that those purposes, together with the way in which the amount so raised is to be appropriated, shall be stated in the body of the Bill.

Now it appears to your Committee, that unless a Crown Land Rent (for which an equivalent is given) can be called a Tax, and the purpose for which it is imposed—viz., the establishment of a Border Police, to whose support the amount is to be appropriated—can be set forth in the body of the Act, the wishes of the persons in favour of that measure cannot be complied with.

In regard to the rates of assessment, as detailed in the amended Bill proposed by your Committee, they beg to observe, that they are founded on the best estimates they have been enabled to make of the resources required to meet the probable expense of carrying the Act into effect.

Judging from the Census of the live stock beyond the Boundary of Location, taken by the present Commissioners (a summary of which is appended to this Report*) your Committee are of opinion, that the Assessment and Licenses will together produce a sum of about £15,000, which it is expected will be amply sufficient to meet the necessary outlay.

* See Appendix.

It is almost superfluous for your Committee to remark that, considering the extensive powers and important duties which will come to be exercised by the Commissioners under this Act, its beneficial operation will mainly depend on the sound judgment, activity, and Colonial experience of the individuals who may be selected to fill that office; and, taking this view of the case, your Committee would suggest that a considerable increase of salary to the Commissioners would be advisable, in order to secure the services of properly qualified men, who would execute their duties in a way to ensure the complete success of the measure.

J. GIBBES, CHAIRMAN.

5th March, 1839.

MINUTES OF EVIDENCE.

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MINUTES OF EVIDENCE.

SATURDAY, 16 FEBRUARY, 1839.

LIEUTENANT-COLONEL J. G. N. GIBBES, IN THE CHAIR.

William Ogilvie, of Merton, Esq., J. P.; called in and examined.

I HAVE read the Bill to amend the Act to restrain the unauthorised occupation of Crown Lands; I think that some amendment of that Act is necessary, but that the Bill proposed for that purpose requires modification; I think that the powers intended to be granted to the Commissioners are too great in certain cases; they are, in fact, more than should be vested in any individual; I object to the principle laid down in the 24th clause, of appropriating the surplus of the tax to be levied under Clause 24. the proposed Act, to purposes unconnected with the protection of the Occupiers of Crown Lands beyond the Boundaries, by whom it is to be paid.

William Ogilvie,
Esquire.
16 February, 1839.

I conceive that the hitherto unprevented grazing on Crown Lands has been one principal cause of the prosperity of the Colony, and that the use of those Lands as at present customarily practised, is essential to the welfare of the Settlers.

It appears to me to be necessary, that *protection* should be afforded to parties occupying unlocated lands beyond the Boundaries; such protection is an object of general interest, and if the amount raised by a reasonable assessment should prove to

be

William Ogilvie, Esquire.
 16 February, 1839.

be insufficient for the purpose of affording that protection, the deficiency should be made up from the General Revenue of the Colony.

The only unlocated district with which I have any acquaintance, is that of Liverpool Plains, which is understood to comprise the courses of the Rivers Peel, Namoi, and Gwydir, and the lands adjacent thereto.

I think that the present force or establishment with the Commissioner in the Liverpool Plains District, is sufficient for the purpose required; I am of opinion, that if such an establishment had been in advance, to mediate between the Blacks and the Whites, all the unfortunate events which have occurred, might have been prevented; so much bad feeling has arisen out of those occurrences, that much more difficulty will now be experienced in establishing a good feeling; but I think by judicious management it may still be effected; with just, kind, and considerate treatment, the Blacks are easily conciliated, which I can say from personal experience.

Clause 13. I think the taking or sending such Reports to the Commissioners as are required by the thirteenth section, would be attended with the greatest inconvenience to Settlers; it would be quite sufficient, if the persons in charge of stations should be obliged to give the lists, and notify any changes, when the Commissioners call or send for them.

Clause 11. I have no objection to the Commissioner and his Party being entitled to a supply of three days' provisions, when the Settler has it to spare.

Clause 16. I think that cattle should be assessed at four times as much per head as sheep; it would not be fair to assess horses; there are none outside the Boundaries of the Colony but stockmen's horses, and you might as well assess the men as the horses; generally speaking, there is no food for horses in the country beyond the Boundaries, but grass; and we therefore find it cheaper to allow each stockman two horses; than to procure corn.

SATURDAY, 16 FEBRUARY, 1839.

Terence Aubrey Murray, of Lake George, Esq, J. P.; called in and examined.

I have read the Bill to amend the Act to restrain the unauthorised occupation of Crown Lands, and I consider that some amendment of that Act is desirable; but I think that the Bill, as it now stands, proposes to vest too much power in the hands of the Commissioners.

Terence Aubrey
Murray, Esquire.
16 February, 1839.

I object to the fifth clause, giving to one Magistrate the power of withdrawing Clause 5. a license.

I am of opinion that a license should be given only to persons of approved character, and should be applied for through the Bench of Magistrates, who, from knowing the parties, would not grant it to improper persons; and, therefore, being once granted, it should not be taken away on light grounds, or on the opinion of a single Magistrate.

Notwithstanding the inconvenience or delay which might arise from the difficulty of procuring the attendance of a second Justice, I think that cases of cancellation of licenses ought invariably to be decided on by a Court of Petty Sessions.

I object to the power proposed to be given to a Commissioner, of calling on Clause 10. persons to attend him mounted and armed; at out-stations there are only a sufficient number of men to attend to the stock, and their removal might be attended with very great inconvenience and loss to the proprietor.

I do not think any such emergency as is referred to in the tenth section is likely to arise; as the fund which will be raised under the provisions of this Act will be fully adequate to support a Police force strong enough for every emergency. I think it is very desirable that a Police force should be established beyond the limits; as I know that the Magistrates cannot, at present, properly attend to the numerous complaints which are brought before them.

I am

Terence Aubrey
Murray, Esquire.
16 February, 1839.

I am of opinion that, so far as the Blacks are concerned, there is nothing to apprehend in the Maneroo country, and Banks of the Murrumbidgee as far as they are occupied; but I look upon the establishment of a Police force as likely to be of the greatest service in the Colony, in keeping order amongst the lower classes of Whites in those distant parts.

Clause 12.

I object to Settlers being obliged to supply the Border Police with tea and sugar, because persons calculate their supplies for a given time, and they might have their plans so disarranged, that no price would compensate them for the inconvenience they might be put to, which might even extend to the loss of their free shepherds. I have no objection to the supply of the produce of the station, but tea and sugar may without difficulty be carried by the party, as is now done by the Mounted Police.

Clause 13.

I object to the thirteenth clause, as it is contrary to the principle of the English Constitution that persons should be obliged to register themselves and families, and send notice of every change they make in their places of residence. I think it should be the duty of the Commissioner to make himself acquainted with the character of every person in his district, and to obtain himself such information as he may require. All the information which is required by this clause may be obtained through the ordinary laws now in force.

Clause 15.

I object to the destruction of cattle proposed by the fifteenth clause. If confiscated, let them go to the general fund.

Clause 16.

I think that the assessment is too high; one halfpenny would be sufficient for sheep, and twopence for cattle. Horses ought to be exempt. I have made a rough estimate of what would be produced by those rates and the licenses, and I think the sum would amount to ten or twelve thousand pounds, which, in my opinion, would suffice to defray the expenses of the Border Police.

Speaking generally, from my knowledge of the district, ten policemen for each Commissioner, would be sufficient for every purpose.

Calculating that eight Commissioners will be employed, and that there will be

ten mounted men with each, their expenses could not amount to the sum above-mentioned, if forage is not supplied.

Terence Aubrey Murray, Esquire.
16 February, 1839.

I object to any fees being charged, except such as are payable by a party against whom a decision is given by Magistrates in cases adjudicated by them. Clause 21.

MONDAY, 18 FEBRUARY, 1839.

R. V. Dalhanty, Esq., J. P.; called in and examined.

I approve of the object of this Bill generally; but I think there are many clauses that will prove vexatious, unless modified; very little alteration will, however, render them efficient. R. V. Dalhanty, Esquire.
18 February, 1839.

I object to the fifth clause; I think one Justice is not sufficient to declare the lease or license null or void, as that Justice may be the Commissioner; and I consider the holding of a license of such importance to the holder, that it should not be cancelled lightly or summarily; at any rate, not by less than two Justices. Clause 5.

I also think that, in the ninth clause, too much power is vested in the Commissioner, when called on to settle any dispute respecting the boundaries of stations; I think it would be advisable for him to have the power of determining the limits of the station in dispute, and the person offending not instantly removing, to summon him to appear before the nearest Court of Petty Sessions, where there is one, or the nearest Justice, who, together with the Commissioner, may fine the offender in from £25 to £50; and on such conviction, the party not removing his stock within one week, the Commissioner to drive off and impound them. Clause 9.

I think, from the limited number of persons employed generally at these distant stations, that it would be highly inconvenient for the settler to want the services of any of his people for any time that the Commissioner might require them; and I should conceive the funds produced under the proposed Act, ought to be sufficient to provide

an

R. V. Dalhanty, Esquire, J.P.
 18 February, 1839.

an effective Police, without calling in other assistance, except on extraordinary occasions.

Clause 11. I do, not not see the necessity of any other rations being issued than meat and flour, which it would be advisable that every one should be obliged to give; the latter in the proportion of the stock he may have on hand at the time, or may immediately require.

Clause 13. I think every person occupying Crown Lands outside the limits, ought, in the commencement of the operation of this Act, to cause to be delivered to the Commissioner a list of the names and descriptions of all persons then in his employment, and that he return the same on the first day of January every year; I think, after this, it should be the duty of the Commissioner to make himself acquainted, if he requires it, with the movements of every person in his district.

Clause 15. I object to the beasts being destroyed; I would propose instead, that they be impounded by the Commissioner, subject to a penalty on being returned to the owner on his substantiating his claim to them.

Clause 16. Instead of one penny per head for sheep, I should say a halfpenny per head for all above the age of six months would be sufficient; and two-pence for all cattle above the age of nine months; and, nothing for horses; and that the said tax or duty should be payable to the Colonial Treasurer in Sydney, and not to the Commissioner.

Clause 21. I object to this clause altogether, as I consider all fees to be vexatious, and the tax or duty paid by each person to be quite sufficient for all purposes.

Clause 24. In this clause, I object to a part of the proceeds of this tax or duty being applied to any purpose but to the protection and security of all persons lawfully occupying Crown Lands beyond the limits of location.

I think a Commissioner, four Policemen, and a Scourger, would be sufficient for every purpose in the Wellington district; I presume that their expense would not exceed a thousand pounds a-year, exclusive of rations for the horses; I should say that the establishment for the South Western district would be nearly the same as that
 for

for the Wellington district. If there was a Chief Commissioner appointed, and situated somewhere centrally, it would be very desirable, to see that the other Commissioners did their duty.

R. V. Dalhanty,
Esquire, J.P.
18 February, 1839.

I should say there must be at least 2,000,000 of sheep without the Boundary, and 500,000 head of cattle.

I do not think that, under the present circumstances, any force is required in the Wellington district to keep the Blacks in order; I have never heard of a single outrage being committed by them.

If the number of stock outside the Boundaries be as abovementioned, I consider that one half-penny per head for sheep, and two-pence per head for cattle, with the original license fee, will produce a revenue of upwards of £18,000, which ought to be sufficient for all the purposes of the Act.

MONDAY, 18 FEBRUARY, 1839.

W. C. Wentworth, Esq.; called in and examined.

I have read the Bill, and approve of the general principles of it, with the exception of the taxation part.

W. C. Wentworth,
Esquire.
18 February, 1839.

I think the penalties in the third clause are much too high; they should be reduced to about one-third of the present amount; and I think the Justices ought to have some discretion in these cases.

Clause 3.

I think that if the taxation clause is kept in, a report of the quantity of stock every six months will be sufficient for the purposes of the seventh clause; and if the taxation clause is left out, once every year will be enough.

Clause 7.

I think that the office of Commissioner should be strictly a local appointment, in which the Home Government should have no power to interfere, in order that

Clause 8.

none

W. C. Wentworth, Esquire.
 13 February, 1839.

none but qualified persons may be appointed; I think the amount of salary should be fixed by this clause; and that £500 a-year would be a fair remuneration, doing away with fees of every description.

Clause 9. I think the duty of the Commissioner, as laid down in the ninth clause, is not sufficiently extensive; he ought, in his perambulation, to visit the different stations, and exercise in, all instances when called upon, the usual jurisdiction of a Magistrate; and for that purpose, he ought to have the means of holding a Court at any place he may visit in his district.

Clause 10. I think the whole of the tenth clause should be struck out; let a sufficient assessment be levied for the necessary assistance of the Commissioner.

Clause 15. I object to the beasts being destroyed; they should be sold for the purposes of the Act, unless the proprietor can establish his right, to the satisfaction of the Commissioner, within one month after the impounding; in which case, the proprietor to pay a fee of ten shillings.

Clause 16. I object to the taxation clause, because the objects of the bill might be obtained by a rent of sections; I think that thirty shillings for the frontage of every section on the banks of a river, creek, or chain of ponds sufficiently watered, would be a sufficient rent; and I am sure it would be enough for the purposes of this Act; I consider that the above frontage should entitle the occupier to run six miles back; and that the Commissioner should have the powers given by the ninth clause to determine the boundaries in cases of dispute.

If this clause is kept in, and sheep are one penny, cattle should be threepence, and horses sixpence.

Clause 21. The fees referred to in this clause ought to be abolished.

MONDAY,

MONDAY, 18 FEBRUARY, 1839.

James Glennie, of the Gwydir, Esq.; called in and examined.

James Glennie,
Esquire.

I consider that some such Bill as the present is much required in my neighbourhood; we want protection; but I think that such might be obtained at less cost than is proposed as a tax on the sheep.

18 February, 1839.

One penny per head is too much for each sheep, but three halfpence is too little for each beast. Clause 16.

I think each sheep should be one halfpenny, and each head of cattle from twopence to twopence halfpenny.

The Liverpool Plains district is the only one I am acquainted with.

The district extends from the Liverpool Plains Ranges, to about 280 miles north-west; and its width may be about 100 miles.

I have heard that from four to five hundred of the native Blacks (unaccompanied by females) have been seen in one body in that district; I have, however, never myself seen more than one hundred Blacks together; but I have not been on the Gwydir, where they are most numerous.

I consider them as hostile to the Whites, and I know of fifteen or sixteen murders having been committed on white men within two years and a-half.

They also commit outrages on stock; I was the first person who had a station on the Gwydir; and have suffered severely from their depredations.

I have missed two hundred head of cattle, of which seventy-three were found speared or killed by the Blacks.

At first, they consumed the flesh; but lately, they have destroyed it taking away the fat only; they also speared fourteen of my sheep; but my neighbour, Mr Cobb, has lost upwards of nine hundred sheep by their acts.

The

James Glanville,
Esquire.
18 February, 1839.

The Commissioner and seven Mounted Men would nevertheless be sufficient to keep these people at a distance, and to preserve the peace of the district.

I can assign no satisfactory reason for the hostility of the Blacks, for they were, to my knowledge, well treated at Mr Bowman's and Mr Cobb's stations; having been supplied with brass plates, tomahawks, and food; notwithstanding which, they watched an opportunity, and murdered the hut-keepers at both stations.

I think that New England should be a separate district from the Liverpool Plains district, and have a distinct Commissioner.

I think the Commissioner should have the power of hearing and determining complaints between masters or mistresses and their servants, and holding a court at any convenient station; and considering the many duties he will have to perform, I think five to six hundred a-year would not be too much.

I should think that at least two-thirds of the whole of the stock of the colony are outside the boundary.

There are some herds of horses outside the boundry; I myself know of three breeding herds, one consisting of seventy, one of one hundred, and one of forty or fifty horses; and I, therefore, think that horses should be assessed at sixpence per head.

My horses live on what they can pick up, and do much work; perhaps they go fifteen and twenty miles a-day.

We have no forage to give them, and therefore allow each stockman two horses, which answers the purpose; although it sometimes happens that both horses are used the same day.

TUESDAY,

TUESDAY, 19 FEBRUARY, 1839.

H. Fysche Gisborne, Esq., J. P.; called in and examined.

I have read the Bill to amend the Act to restrain the unauthorised occupation of Crown Lands, and approve of the objects of it; but although I believe the assistance contemplated, to be much wanted in some districts, in that in which I reside nothing of the sort is requisite; and I believe, too, the immediate want of such a force is almost confined to that part of the Colony for which it has been asked.

*H. F. Gisborne,
Esquire.
19 February, 1839.*

With respect to the principle of the Bill, which is to fix a tax, I object to that *in toto*; and should think it preferable if a fund is required, that it should be raised by renting the land.

I disapprove of the fifth clause; I should object to leaving it in the power of one Magistrate, who, I suppose would, in most cases, be the Commissioner, to declare a license null and void, without any appeal being allowed; and what I think more advisable, would be to require the Commissioner to prosecute any parties for a breach of this clause at the nearest Petty Sessions. Clause 5.

Consistently with my view of the tax being put upon the land, it would only be necessary to report stock and brands once a-year, instead of quarterly, as required by the seventh clause. Clause 7.

I think that the encroachment alluded to in the ninth clause should, as a breach of this Bill, be punishable by a penalty in the event of the party trespassing refusing to remove his stock. Clause 9.

I would not name any particular amount of penalty; but I would make a great difference between the highest and lowest, in order that it might be in the discretion of the Petty Session to award according to the circumstances of the case—that is, that in a mere incidental breach of the law, the lowest fine might be given to vindicate that law; and where there was an outrageous breach, or much injury done to a party, the highest might be awarded, and a portion given to the party aggrieved.

in

H. F. Gisborne,
Esquire.

19 February, 1839.

In any case where a party is fined above £20, I would allow an appeal to the Quarter Sessions.

- Clause 10. The tenth clause I should wish to see struck out.
- Clause 13. The thirteenth clause I think might also be very well dispensed with.
- Clause 14. The word sheep should be struck out of the fourteenth clause; few, if any persons, brand sheep.
- Clause 15. The cattle should be collected and sold, and the proceeds carried to the general purposes of the Act.
- Clause 16. I have given my opinion on the sixteenth clause.
- Clause 17. The payment of the tax should be made in Sydney to the Colonial Treasurer.
- Clause 21. I approve of a certain fee being charged, as a check against persons wantonly calling for the services of the Commissioner.
- Schedule. I think the fees in the schedule are extravagant.
- I think £500 a-year, a fair salary for the Commissioner.
- The men, if free, might be paid the same as Constables; but I would recommend that the whole corps should be selected from Prisoners at Hyde Park Barracks, having regard to good conduct, upon a system of reward by mitigation of sentence, after a service of a certain number of years.
- Men might be kept in training at Hyde Park, to keep up this force.
- Clause 24. I should protest against the surplus of any Revenue under this Act, being applied to other purposes than to the payment of the Border Police.
- If a Border Police is appointed, a Commissioner and six or seven men would be sufficient for the Wellington District.

TUESDAY,

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TUESDAY, 19 FEBRUARY, 1839.

Thomas Icely, Esq., J. P. ; called in and examined.

I have read the Bill to amend the Act to restrain the unauthorised occupation of Crown Lands ; I think such a Bill is necessary.

*Thomas Icely,
Esquire, J.P.
19 February, 1839.*

The third clause I think of very little use, and might, therefore, be struck out. Clause 3.

The power given to one Justice in the fifth clause is much too great ; I think there would be no great difficulty in getting a second Magistrate to assist the Commissioner, but if such should be the case, I would say the case should be carried to the nearest court of Petty Sessions. Clause 5.

I think a report every six months for cattle and horses, and every three months for sheep, would be better than quarterly for all stock. Clause 7.

I think the power of removing stock in cases of trespass, under the ninth clause, is too weak ; they should be impounded, if not withdrawn within a very short time after receiving the order of the Commissioner. Clause 9.

The tenth clause is most objectionable and unnecessary.

Clause 10.

I am of opinion that some limit should be made as to the number of days which the party should be supplied with rations under the eleventh clause, which should not be more frequent than once in three months ; three or four days, I should consider, would be enough. Clause 11.

I think the Commissioner, under the thirteenth clause, should go or send for such returns as he may require ; but that the occupier of Crown Lands should be compelled to give them. Clause 13.

I disapprove of the cattle mentioned in the fifteenth clause being destroyed ; I think they should be sold, and the proceeds applied to the purposes of this Act. Clause 15.

I think

Thomas Icely,
Esquire, J.P.
19 February, 1839.

I think that if sheep are to be assessed at one penny per head, cattle should be charged threepence, and horses ought to be paid for at the rate of sixpence.

Clause 21, and
Schedule.

I disapprove of the fees in the schedule, as being exorbitant; but I think one established fee should be charged for each case of enquiry and decision, to prevent the Commissioner being called upon to attend at distant places on frivolous matters.

I think that the Border Police Force in Bathurst district should be very strong, it being a neglected country as regards Police, and consequently overrun with cattle-stealers.

Clause 24.

I wholly object to any part of the assessment being appropriated to purposes foreign to the support of the Border Police; if a surplus is left, reduce the assessment.

WEDNESDAY, 20 FEBRUARY, 1839.

William Faithfull, Esq.; called in and examined.

William Faithfull,
Esquire.
20 February, 1839.

I think the object of the Bill good, as some protection for the Settlers outside the Boundaries is absolutely necessary.

Clause 5.

I think the power of cancelling a license should not be given to a less number than two Justices.

Clause 10.

I do not see the necessity of the tenth clause, as the common law is sufficient for the purpose.

Clause 11.

I disapprove of being obliged to furnish rations, as required by the eleventh clause, because it might put me to the greatest inconvenience; and I think no one would refuse to supply them voluntarily, if they could do so without much inconvenience to themselves.

I object

I object to the twelfth clause relative to impounding; I do not think the provisions of the Impounding Act could be carried into effect outside the Boundaries, and I would, therefore, prefer penalties from five to ten pounds being levied for any trespass.

William Faithfull,
Esquire.
20 February, 1839.

If the parties did not remove on being ordered away by the Commissioner, the penalty should be increased so much for every day.

When the Commissioner may have occasion to remove stock, he should send them to a pound within the limits of location.

I would approve of unbranded cattle being taken and sold for the purposes of this Bill, but I disapprove of their being killed, as directed by the fifteenth clause.

Clause 15.

I have no objection to lists being given to the Commissioner under the thirteenth clause, when he calls or sends for them; but I object to send them to him (perhaps at a great distance) every time a hired servant leaves me.

Clause 13.

I think one penny for every head of sheep—threepence for each head of cattle—and sixpence for every horse, would be a fair assessment.

Clause 16.

I think a fee of £5 should be paid to the Commissioner when called on to attend, whether the distance be short or long.

Clause 21.

I think the assessment should be paid into the Treasury by the party assessed, and that payments should be made half-yearly.

Clause 17.

I could never learn that any provocation was given to the native Blacks who murdered eight of my men; I think they were distressed for food from the scarcity of kangaroos, and in consequence, tempted to seize the flour.

Since that occurrence, and within the last month, they carried off one of my Brother's shepherds, and kept him for several days, after stripping him of all his clothes. He, however, effected his escape, and got back to his station without injury.

They are in large bodies in that district.

WEDNESDAY,

WEDNESDAY, 20 FEBRUARY, 1839.

The Reverend David Mackenzie, of Sydney; called in and examined.

Reverend David
Mackenzie.
20 February, 1839.

I have seen the Bill before the Council, and have no doubt that such a measure will be useful, but I do not feel myself sufficiently acquainted with the subject to offer any comments thereon.

I have lately returned from the Gwydir, where Mr. Mayne, the Commissioner, formed a party of five Mounted Policemen, and six Gentlemen, besides himself, to go in pursuit of the Blacks, who were reported as being troublesome in that neighbourhood; he returned, however, without coming in contact with any; and in the meantime, a man of the name of Kelly, stockman to Mr. Bell, having gone out in search of cattle, fell in with six or seven Blacks, whom he induced to accompany him to my station, when Kelly and I agreed to go with them, unarmed, as guides to conduct us to their camp, which was situated at the distance of four or five miles from my hut; when we arrived at the camp, those six or seven Blacks having given the signal, called out about eighteen or twenty of their tribe, the greater part of whom we conducted to our hut, where we entertained them with a good dinner; one of those Blacks I carried naked behind myself on horseback to Mr. Mayne, who made him some presents; after which, we had no difficulty in getting them to come to us in large numbers; although previous to that time, many White Men had been residing for two years on the Gwydir, and had never seen a Black Man.

Their vicinity, however, was plainly marked by their spearing of cattle, and their places of encampment. I found them very serviceable to me in cutting bark for my hut, and in peeling the rafters; and have had as many as fifty about me at one time; several of them slept in my hut for several successive nights, and were on the most friendly terms; notwithstanding which, I should be afraid to trust them, from their known treachery; and I have warned my servants to be always on their guard against them.

I accompanied Mr Mayne to the place where four or five hundred of Mr.

Cobb's

Cobb's sheep had been wantonly slaughtered, no part of them having been carried away by the Blacks; affording a clear proof that they were not instigated to that act by hunger. This was on the banks of what they call the Big River.

Reverend David Mackenzie.
20 February, 1839.

I also accompanied Mr. Mayne to see many cattle which had been speared by the Blacks, who had left the carcasses untouched, except that they had eaten off the fat from the kidneys; which is an additional proof that they were not in want of sustenance when they committed such acts.

I had a further proof of seeing that they had abundance of food while they lived at my own station.

They killed as many opossums, kangaroo rats, and snakes, as would have been sufficient for double the number of Blacks.

I am of opinion that if Mr. Mayne's district is to be confined to within fifty miles each way from his station, the force he now has will be amply sufficient; but if it is to extend from Liverpool Range to where he now is (a distance of fully one hundred and seventy miles), it would, of course, be very inadequate.

Mr. Mayne's station is not above ten miles distant from where the massacre of the Blacks took place; about five miles from where Mr. Cobb's sheep were speared; and about twelve from where his men were murdered.

I think that if one or two Black Natives were attached to the Commissioner's Party, they would be very serviceable, as they would be a check upon the aggressions of their own tribes, and be able to trace them where no White Man could see the least appearance of any footsteps.

Notwithstanding what I said at first, I beg leave to offer a few observations on some of the clauses. First, on clause seven, I would observe that a return book, regularly kept by every Proprietor, Superintendent, or Overseer, of the number of stock for the inspection of the Commissioner, would so far be a guarantee against false returns being made, and would also form a valuable Statistical Record by which the supply of Emigrants might be regulated by the Government. The increasing demand

Clause 7.

Reverend David
Mackenzie.

20 February, 1839.

demand for labour would be shewn by the increase of stock, and would in consequence be a guide for procuring Emigrants.

Clause 16.

Assuming that one penny per head for sheep is necessary, I think cattle ought to pay from fourpence to fivepence each per head; I have been regulated in this calculation by the statement published some years ago by the Geneva flock-owners, who allow, during the severity of winter, from two to two and a-half pounds of hay for every full-grown sheep, while the usual quantity of hay for cattle daily is about 12 lbs. The produce of a tax on horses without the Boundaries would be very trifling; but if they are to be taxed, I think stock horses should be included, otherwise breeding mares would be occasionally rode for the purpose of calling them stock horses, to avoid the tax.

If the scale just mentioned should be decided on, I think horses should be paid for at one shilling per head; the relative value and the quantity of food they consume, making such charge a fair proportion.

Schedule.

The sum to be charged for a visit by the Commissioner, as set forth in the schedule, I think, should be paid by the party proved to be in the wrong; this would prevent unjust encroachments, and at the same time, prevent unfounded complaints; for, as the Bill now stands, it appears to be a premium offered to aggressors—as the complainant who finds it necessary to call in the aid of the Commissioner, is alone chargeable with the fine.

WEDNESDAY, 20 FEBRUARY, 1839.

Wm. Rutledge, of Field of Mars, near Parramatta, Esq.; called in and examined.

William Rutledge,
Esquire.

21 February, 1839.

I think the Bill before the Council is a measure highly necessary, but requires some modification.

Clause 5.

On clause fifth, I have to observe, that the license should only be cancelled by two Justices.

A

As to clause seventh, I think that a report made every six months would
 answer. William Rutledge,
Esquire.

20 February, 1839.

I do not think that a Commissioner should singly determine disputes between
 parties; I suggest that it should be done by arbitration, the Commissioner being the
 Umpire; his decision in accordance with either of the arbitrators, to be final. Clause 9.

I disapprove of the whole of clause thirteen; and propose, in lieu, a Report
 of such charges to be made quarterly; a Return of Stock should, in every case, be
 made by persons entering on a new run or station; the Commissioner being required
 to send or call for such Returns.

I object altogether to clause fifteen; cattle should not be destroyed, but
 sold, and the proceeds applied to the purposes of the Act, unless any claimant within
 a given period, prove any of them to be his property. Clause 15.

Sheep should be charged one penny, and cattle about threepence per head;
 but if the license is also to be paid for, I think three farthings enough for sheep, and
 twopence halfpenny for cattle. Clause 16.

On horses, I should say, fourpence or sixpence should be charged.

I think certain fees should be charged, to prevent unnecessary litigation; and
 that it should be one and the same for every part the Commissioner might visit. But
 I object to the fees in the schedule. Clause 21, and
Schedule.

I am acquainted with the Port Phillip district; and I know the Blacks to be
 hostile to the Whites; they speared several of my sheep at different times; altogether
 about fifty, and on one occasion, murdered one of my shepherds.

By a letter which I lately received from my Brother, I learn that the Blacks
 have again made their appearance in large bodies, as many as three hundred having
 been seen together; they refused to move or disperse, but on the appearance of
 one Mounted Policeman, they immediately disappeared.

I think the Commissioner ought to be required to hear and determine com-
 plaints

William Rutledge, Esquire, *plaints between master and servant, and to hold his Court at any station within his district.*
 20 February, 1839.

The Force I should think necessary for the Port Phillip district, from the Hume to the Goulburn, would be fourteen Mounted Men; and from the Hume to the Murrumbidgee, four, to be stationed at the latter River.

I consider the Mounted Police not only the best force that can be employed, but that none but disciplined men will be effective for the purposes contemplated by the Act.

I am of opinion that the following number of Men and Horses will be required in the Port Phillip District, and along the Line of Road to the Hume River:—

At Melbourne	4 Men.
At Geelong	4 Ditto
<i>To be stationed on the South-west Line of Road to</i>	
Portland Bay	4 Ditto
Goulburn River	4 Ditto
Broken River	3 Ditto
Oven's River.....	3 Ditto
Hume River	3 Ditto
Total Number of Men.....	25

And forty Horses, being fifteen beyond the number of Men.

The probable expense of such an Establishment, I estimate as follows:—

One Commissioner

£300 0 0

(If two are appointed, the salary ought not to exceed

£250 each)

Pay of 25 Men, at £25 each

625 0 0

Rations for ditto, at £25 ,,

625 0 0

Carried forward..

£1,550 0 0

Brought

	<i>Brought forward</i> ..	£1,550	0	0
Clothing for ditto at £10 ,,		250	0	0
Equipment ditto at £6 ,,		150	0	0
Cost of 40 Horses at £45 ,,		1,800	0	0
Three huts for Men (house having been already built), at £60		180	0	0
	Total ..	£3,990	0	0

William Rutledge,
Esquire.
20 February, 1839

To meet this expense, I estimate that the following amount may be raised in the District :—

500,000 Sheep, at one penny per head	£2,083	6	8
35,000 Head of Cattle, at twopence halfpenny ditto	364	11	8
500 Horses at fourpence ditto	8	6	8
150 Licenses, at £10 each	1,500	0	0
	£3,956	5	0

The above is as correct an Estimate as my time and information allow me to give of the expenses and receipts, and of the force which I think necessary for the peace and safety of the District.

I have made no allowance for Forage, as I do not think any will be necessary, in consequence of the extra Horses recommended to be purchased.

THURSDAY, 21 FEBRUARY, 1839.

John Lambie, Esq., Commissioner of Crown Lands; called in and examined.

I think a Squatters' Act is very necessary; but I think the Bill proposed requires considerable amendment.

John Lambie,
Esquire.
21 February, 1839.

I think the fifth clause confers too great powers on a single Magistrate; I think no license should be cancelled but before the Petty Sessions.

I think

Clause 5.

John Lambie,
Esquire.
21 February, 1839.

I think the musters required by the seventh clause might be reduced to half-yearly instead of quarterly; because I do not see how quarterly returns could be made with accuracy; if payments were made only twice a-year, I think there would be no risk; a man, however, might drive off his stock before the tax became due, and thus defraud the Revenue, if yearly returns only were required; in the half-yearly returns to be made on the 1st July in each year, all increase and decrease since the last return should be introduced.

Clause 9.

I think the Commissioner ought to have assistance in settling disputes; it is a duty in which scarcely any one individual could give satisfaction; the Commissioner should be rather the Umpire than the Judge of any case in dispute.

I have been at Manero for the last two years as Commissioner, and I must say I don't think I could, in such cases, give perfect satisfaction to all parties; I know there are many cases of dispute constantly arising in the districts.

What is principally required in my district, is to settle differences between masters and men; and to give this power to the Commissioner would be very desirable.

Clause 10.

I do not think the power given in the tenth clause to the Commissioner, to summon people to his assistance, is at all necessary; the Common Law gives every requisite power for the purposes contemplated.

Clause 13.

The strict enforcement of the thirteenth clause would be a great hardship upon the Settlers; if a return were given to the Commissioner once every six months it would be sufficient.

Clause 15.

I think the beasts ought to be sold, and not destroyed as required by the fifteenth clause.

Clause 16.

My district extends from Micaligo, on the North, to the farthest station South; its length is at least two hundred miles; its breadth may be computed at from ninety to one hundred; it contains about fifteen hundred souls, consisting of Free and Bond nearly in equal proportions; according to the latest returns, the number of cattle in the district,

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district, was 69,994; sheep 239,157; horses 1,097; there are some extensive herds of horses in the district; my estimate of the population of the district includes only the Whites; I am unable to state the number of Aborigines; they have, however, hitherto been quiet and inoffensive, and I do not conceive any additional force necessary to keep them in order.

John Lambie,
Esquire.
21 February, 1839.

I consider that to carry into effect the provisions of this Bill, it will be necessary to have six men with me in my district, which would be quite sufficient; I think these men should be well armed, and each of them provided with two horses, as the difficulty of providing forage is very great.

The rates of assessment ought to be, for sheep one penny each, for cattle threepence each, and horses sixpence each; this, I think, would meet the whole expence of the establishment. Clause 16.

I think the tax ought to be paid into the Colonial Treasury in Sydney; I don't see how it would be safe for the Commissioner to receive it, or have it in his custody. Clause 17.

FRIDAY, 22 FEBRUARY, 1839.

Hamilton Collins Sempill, Esq.; called in and examined.

I approve of the principle of the Bill now before the Council, but I object to the manner in which the license is to be procured under the Government Regulations alluded to in the second clause; I should wish that parties requiring licenses should be obliged to receive them through the Bench of Magistrates where they are best known; instead of which, it has frequently occurred that licenses have been procured through Magistrates at a great distance from either the residence, or stock stations of the parties applying.

Hamilton Collins
Sempill, Esquire,
22 February, 1839.

I object to the power given to one Justice in the fifth clause, and should wish it to be by vested in or more Justices. Clause 5.

If

Hamilton Collins
Sempill, Esquire.
22 February, 1839.

If it is, however, left to one Justice to decide, I would say that an appeal to the nearest Bench within the Boundary should be allowed; a Mounted Man could carry the necessary documents to the Magistrates who could at once decide on the merits of the case, and little delay would thereby ensue.

Clause 6.

The cancelling of the license should not be considered final until the decision of the Magistrates on the appeal be known; and then the ten days' notice, as in the sixth clause, should be given to the party to quit.

Clause 7.

I would propose that the reports mentioned in the seventh clause should be sent in half-yearly instead of quarterly, and that the assessment should be levied on the numbers in possession at those times respectively, without any reference to intermediate changes; I, however, think that the assessment should be levied on the female sheep and cattle only, leaving the males, which are liable to be sold, or removed, unassessed.

In the 7th clause, after the word, "any," in the 27th line, I would substitute the following words—"person residing or employed or about to be employed in the district, "any adjoining district without the Boundaries, or to any other person," &c., as in the Bill.

My reason for this is, that I know many improper characters who, not being able to get a license themselves, engage as stockmen with others who do hold licenses, and who connive at these stockmen bringing with them numbers of cattle which have been stolen.

When such characters are situated at some distance apart, they play into each other's hands, by stealing the calves of their immediate neighbours, and leaving them with their friends at the distant runs, where they are branded with their own brands.

Clause 9.

In the ninth clause, last line of page 5, I would suggest that the words "*where it can conveniently be done,*" be left out.

Clause 10.

I entirely disapprove of the tenth clause, and would have it struck out, as
being

being most oppressive and unnecessary; when really required, assistance would, in most cases, be readily given.

Hamilton Collins
Sempill, Esquire,
22 February, 1839.

I do not think the eleventh clause necessary; I am confident that no one having a sufficiency, over and above the wants of his own men, would refuse to supply rations when requested.

I think one penny on each sheep too much; one halfpenny, I should consider as sufficient for the purposes of the Act; but if found otherwise, it could be increased the following year; and, taking sheep at one halfpenny, I would propose twopence per head for cattle, and sixpence for each horse.

As far as regards any surplus, I would say there should be none, if it could be prevented; but if there be one, I would carry it to the account of the Border Police for the following year.

I disapprove of the fees in the schedule, and would do them away. Schedule.

I think that if the Commissioners are to perform all the duties which are laid down in this Bill, a salary of £700 a-year would not be too high.

I assume that they are to discharge the duties of Itinerant Magistrates, by trying and determining all cases between masters and men, and that they will have no other allowances for house-rent, horses, &c.

I am acquainted with the Liverpool Plains and New England District—and I think that a Commissioner, with six active men, would be able to do every thing which is necessary to preserve the peace of that district.

After a certain time, a person is as safe in the vicinity of the Aborigines as any where else; but on coming for the first time in contact with them, they are invariably hostile; that hostile feeling, however, wears off as soon as they become acquainted with White persons settling among them, and the power they possess.

I have been often engaged in selecting and fixing on stations—perhaps as much as any one in the Colony—and have always found what I have just stated, with regard to the relations subsisting between the Whites and Natives, to be the case.

MONDAY,

MONDAY, 25 FEBRUARY, 1839.

Henry O'Brien, of Sydney, Esq.; called in and examined.

Henry O'Brien,
Esquire.
25 February, 1839.

I am of opinion that a Bill is necessary to prevent the wanton intrusion of one stock-owner on the Run of another, and that it is very desirable that a Border Police force should be given to each Commissioner, for the purpose of keeping peace and good order in his district.

Clause 16.

A fund to pay such Police force and the Commissioners should, I think, be raised from rents on the Crown Lands, rather than by a tax of so much per head on stock. The quantity of land occupied by each stock-owner may easily be ascertained; while returns of stock—horned cattle and horses in particular—cannot be made with any degree of accuracy, owing to their wandering habits. And, again, stock-owners possessed of a certain number of sheep, cattle and horses, to day, may, before a month's lapse of time, dispose of many of them, and could not, of course, be called on to pay rent for those disposed of. The land, on the contrary, would bring in an annual and steady Revenue.

The following rates would, I am certain, produce a fund even more than sufficient to pay a Police force and Commissioner for each district:—

Water frontage, per section; one pound.

The adjoining back-section; ten shillings.

Each back-section beyond that; five shillings.

Back-sections generally become worse in the ratio of their distance from water frontage.

In this way funds may be raised for the establishment and maintenance of a Border Police and Commissioners, with ease to the Government, and with satisfaction to the people—doing away, at the same time, with the necessity of periodical returns of stock—fines—and many other unpleasant matters and hardships, which would be the certain result of the rigorous exaction of the contemplated returns.

This

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The first clause is necessary so far as regards the penalty; but matters in dispute between Commissioners of Crown Lands and the people, should be left to the decision of the Magistrates of the various districts, and an appeal from their decisions permitted.

Henry O'Brien,
Esquire.
25 February, 1839.

Two Magistrates, at least, should be present to hear and determine on all disputes between the people and the Commissioners. Commissioners, in all cases of dispute or difference with the people of their respective districts, cannot be looked on in any other light than as interested parties, and should not therefore be allowed to sit as judges in them.

The second clause is necessary, in order to compel immediate applications for Leases or Licenses. Clause 2.

I know not how the third clause may affect persons on the Coast; to persons in the Interior it is of very little consequence whether it pass or not.

The fourth clause is very necessary.

Clause 4.

Two Justices, at least, should, in my opinion, hear and decide on matters of complaint between the people of the various districts. One Justice however conscientious, can seldom or never decide with the same degree of justice that two could. Clause 5.

Cattle cannot be removed from a station under three months, if more than three hundred in number; ten days, in the Inland cattle stations, would be necessary to find out where they had got to. Clause 6.

The seventh clause should be omitted, for the reasons already assigned by me, and a rent on Crown Lands substituted. Clause 7.

Districts should be made of considerable extent, as when once organised, peace and good order will prevail without interruption. However extensive each may be, the Commissioner and his troop or party of Border Police, will have little else to do than to fish, shoot, and hunt, as stock-holders do while living on their stock-stations; as the very circumstance of a force being on the spot, authorised and willing

Henry O'Brien,
Esquire.

25 February, 1838.

willing to keep peace and good order, will be sufficient, without much exertion, to maintain both.

Clause 9.

The latter part of the ninth clause would place a dangerous power in the hands of the Commissioners—a power which even our Queen could not invest our Governor with. The liberties and properties of the Colonists cannot be too well protected, and I would, therefore, offer it as my opinion, that the powers contemplated to be given to the Commissioners by this clause, should be placed in the hands of the nearest Bench of two or more Magistrates, and that an appeal, even from their decision, be permitted.

Clause 10.

Stock-owners and agriculturists, as it is, cannot find men in sufficient numbers to carry on the business of their farms, or to tend their flocks and herds; two flocks are now, in many cases, to be found in one, for want of men; and it would therefore be not only cruel, but unjust, to empower any man to call away the men of stock-owners or agriculturists, wherever caprice or idle report might lead him; the Border Police of each district may with great ease and safety assist each other in cases of emergency, and be ever ready to march at a moment's warning; they could be off and away to the scene of their duty, long before a shepherd taken from his flock, a watchman from his folds, or a ploughman or driver from the field, could have his mess ground, and be otherwise prepared to march on foot with a party of Mounted Police.

Of course, the framer of the proposed Squatting Act could never have had it in contemplation that a call should be made on the master or overseer; the former is seldom in the Interior; but take either away, and riot, drunkenness, and neglect would surely follow; notwithstanding the high respectability of parties who have joined the Temperance Society, the sale of spirits, both allowed and disallowed, may be met with in all parts of the Interior.

Clause 11.

The eleventh clause need neither be objected to nor approved of; it is a perfect nullity in itself.

Clause 12.

Pounds in each district will be necessary, but they should be established so as not to interfere with the flocks or herds of stock-holders; it would greatly inconvenience.

venience stock-owners if herds or flocks were driven through their runs to the pound.

Henry O'Brien,
Esquire.

25 February, 1839.

Lists of men employed on the different establishments throughout each district, Clause 13. should be made to the Commissioner at stated periods, say half-yearly, not as called for; the latter would lead to much inconvenience and loss.

The fourteenth clause is a wholesome and necessary regulation; it admits, Clause 14. however, of an amendment, which is—that persons should be compelled to re-brand their cattle before they take them to a run adjoining cattle with a similar brand, in order to prevent dishonest men mixing their cattle with those of others, for the express purpose of having a plea for going frequently into the latter's herd, in order to drive off a part of them for sale to receivers.

I entirely disagree with the proposition in the fifteenth clause, that all Clause 15. unbranded stock shall be destroyed after the age of twelve months; that all parties should, however, be compelled to get in and brand their young stock, is very necessary and proper, and I would, therefore, offer the following opinion as to the course which I think should be pursued by the Government to attain that very desirable object; which is, that in twelve months after the passing of the Act, all unbranded cattle found on the Crown Lands upwards of twelve or fifteen months old shall be collected and sold in the district to which they belong, and their amount laid out in introducing from the Mother Country, labourers for the exclusive use of that district; thus would the rightful, although unknown owners of such stock, profit in some degree by the loss of their cattle; to destroy the young unbranded stock, would be not only cruel, but wasteful.

I would, as I have before said, recommend a rent on Crown Lands, in pre- Clause 16. ference to a rate per head on stock, as proposed by the sixteenth clause.

In my opinion, it would be better that rents should be paid, as the fees for Clause 17. Squatting Licenses now are, to the Colonial Treasurer; to pay in the Interior rather than in Sydney, where stock-holders arrange all their pecuniary affairs, would lead to inconvenience and loss of money sometimes, in the absence of masters or overseers.

My

Henry O'Brien,
Esquire.
25 February, 1839.

My remarks on the seventeenth section are applicable also to the eighteenth ; payments of rent should not be more frequent than half-yearly.

Clause 19.

I approve of the nineteenth clause.

Clause 20.

The twentieth clause bears me out, I find, in my already expressed opinion as to the uncertainty of stock at all times in the possession of individuals, and consequently of the amount of annual or half-yearly rents.

Clause 21.

Why charge fees, as proposed by the twenty-first clause? The Commissioners are to be paid a fixed salary for certain duties, and those mentioned in this clause form at least nine-tenths of such duty as they are likely to have to perform.

Many parts of this clause would lead to oppression and strife ; money cannot be procured, and indeed ought not to be required, in the Interior parts.

Clause 22.

Matters of dispute between the Commissioners and the people of their respective districts should, in my opinion, be left to the Benches of the districts, who would be more likely to arrive at impartial decisions on them ; two Magistrates at least should hear and decide on them.

Clause 23.

I consider the twenty-third clause to be necessary.

Clause 24.

As the twenty-fourth clause authorises salaries to Commissioners, and pay to a Border Police, fees become quite unnecessary ; the duty for which this clause recommends the payment of heavy fees, is nothing more than a part, and the greater part too, of what the Commissioners will have to perform for their salaries.

Clause 25.

The twenty-fifth clause I consider necessary.

As to any surplus funds which may remain at the end of each year from the rents of Crown Lands, or rates per head on stock (if the latter be adopted in preference to renting), I would recommend that it should be laid out in the introduction of labour for the district in which the surplus may happen to be.

It would, I think, be very desirable to empower the Commissioners to settle disputes beyond the limits of the Colony between masters and servants.

MONDAY,

MONDAY, 25 FEBRUARY, 1839.

John Thompson, Chief Draftsman in the Surveyor-General's Department, Esq. ;

called in and examined.

I have looked over the Crown Lands Bill, now before the Council, and have to make the following remarks on some of the clauses :—

*John Thompson,
Esquire.*

25 February, 1839.

On the first clause I would observe, that squatting by bad characters within the limits of location can never be effectually suppressed, so long as the system of leasing is continued, because the leases are in most cases mere undefined occupancies ; a Surveyor, by a series of measurements, might be able to ascertain the position of a lease, but no other person could do so ; consequently, the squatter can always set the authorities at defiance. I think much inconvenience and annoyance might arise, if the proposed Act were only to be applicable to a part of the Territory, for a person could not then take stock from within, to beyond the limits, without a license, nor from beyond to within, without a lease. It appears to me, therefore, that it would be advisable to allow the Act to apply as well within as without the limits ; in this case the present system of grazing leases might be done away with, and the grazing licenses be made to apply throughout the Territory ; the only difference being, that within the limits, freeholders only should be allowed to graze ; there would then be no plea for unauthorised occupancy, either within or without the limits ; indeed, if the leasing be not set aside, the effect of the partial application of the proposed Act would be, to drive all the squatters within the limits, and leave the Interior in comparative quietude. As the Commissioners without the limits will be Police Magistrates, so ; if the licensing be made general, the Act should provide that the resident Police Magistrates within the limits be Commissioners, and thus one universal system of Police would extend throughout the Colony.

On the fifth clause I would remark, that unless the leases, if they are to be continued, be remodelled so as to meet the provisions of the proposed Act, they could not perhaps be cancelled, and even then there might be difficulties arising out of the legal

John Thompson, Esquire.
25 February, 1839.

legal intricacies that surround the holding of land; and as to the cancelling of licenses, it is to be observed, that a bad character is as objectionable in one district as another, and if he has stock, and is not to be allowed either a lease or a license, all footing in the Territory will be denied to him, unless he has a freehold; he should be punished for his misdoings, but he must rest somewhere, and if compelled to remove, would only trouble some other district, or wander through the country.

Clause 8.

On the eighth clause I have to remark, that the lands beyond the limits might, in my opinion, be divided into about eight districts, the principle observed in their arrangement being, as far as possible, to make each district abut on the location limits, and extend them indefinitely into the Interior, the Rivers flowing to the Interior being taken as boundaries; these districts should not, I think, as at present, embrace any part within the limits of location. The eight districts might bear the following names, viz:—

- | | |
|------------------|----------------------|
| 1. Port Phillip. | 5. Wellington. |
| 2. Maneroo. | 6. Liverpool Plains. |
| 3. Morumbidgee. | 7. New England. |
| 4. Lachlan. | 8. Moreton Bay. |

And their boundaries would be somewhat as follows:—

1. Port Phillip—bounded on the South, by the Sea; on the East by the Alps; North, the River Murray; West, indefinite.
2. Maneroo—on the South and East, the Sea; North, the location limits; and West, the Alps.
3. Morumbidgee—on the South, the River Murray; on the East, the Alps and location limits; North, the Morumbidgee River; West, indefinite.
4. Lachlan—on the South, the Morumbidgee River; East, the location limits; North, the Lachlan River; West, indefinite.
5. Wellington—on the South, the Lachlan River; East, the location limits; North-east, the Macquarie River; West, indefinite.

6.

in deciding these disputes, and where such is not practicable, that two arbitrators should be appointed, the Commissioner to act as Umpire.

Lawrence V. Dal-
hanty, Esquire,
25 February, 1838.

I think that the Commissioner might find very great difficulty in driving off Clause 9. the stock of licensed persons under the ninth clause; cattle he might not be able to find, and it would, therefore, be better, in the event of such persons refusing to obey his order for the removal of their stock, to bring them before two Magistrates to hear and determine the case, who should have power to fine the person encroaching, in a sum of not less than £50, nor more than £100.

I think that before any person should be allowed to occupy lands beyond the Boundary, after having obtained a license, notice should be given to the Commissioner, of the ground such person means to feed his stock on, and of the quantity of such stock, in order that the Commissioner (who ought to be well acquainted with the localities of his district) may, if necessary, prevent his sitting down in such a position as would interfere with and annoy previous occupiers in that neighbourhood.

I consider one halfpenny per head for sheep, and fourpence for cattle, would Clause 16. be a fair assessment.

I think that a Commissioner could visit all the head stations in his district Clause 9. four times a-year, but it would not be an easy task; I, however, do not conceive that such will be found necessary; I think it may be desirable that some stations should be visited oftener than others, and it should, therefore, be left to the discretion of the Commissioner.

I do not think that beasts sold under the fifteenth and twentieth clauses would Clause 15. meet with purchasers who would pay a fair price for them; they would be bought by persons of the worst description.

I am of opinion that it would be necessary that the Commissioner should be stationed at some central spot as a head quarter, if he is to keep books of record, and take charge of the proceeds of sales of stock, and of fines or fees to be levied under this Bill.

Captain

*Captain George W. Smyth, of the Mounted Police, in Reply to a Letter from
a Member of the Committee.*

Sydney, 25th February, 1839.

SIR,

Captain Geo. W.
Smyth, M. P.
25 February, 1839.

In obedience to your wishes, I beg leave to offer the following suggestions in regard to the appointment of the Mounted Police, so as to render that body, alone, sufficient to protect the Districts of Port Phillip and Geelong from disturbances of every kind. Stations on a liberal footing have already been directed to be formed on the Hume, Ovens, Broken and Goulburn Rivers, and at Melbourne, and Geelong. By this arrangement, when complete, the passage of settlers and stock along the main roads will be fully protected, alike from the attacks of the Aborigines, and the aggressions of convict runaways, and other bad characters.

Since the sale of land near Melbourne, many settlers who were unable to purchase, have been compelled to move their stock, and have, with few exceptions, migrated to and in the neighbourhood of Lake Colac, where commences a fine tract of country, extending in the direction of Port Fairy and Portland Bay. I would recommend another Police Station on that Lake.

In the neighbourhood of Mount Macedon are several of the largest stockholders. There a detachment of Infantry has been placed for some months past; but dismounted men are but of little use, however active they may be. Of this, two instances came under my notice, in which the Aborigines made an attack on stations, and long ere military assistance could arrive, the Tribe had, in both instances, decamped.

Another Police Station at this spot would, I conceive, complete the arrangements for the security of the whole district.

These eight stations possess the advantage of being nearly equi-distant from each other.

The

6. Liverpool Plains—on the South-west, the Macquarie River ; South-east, the location limits ; North-east, the Nammoy and Peel Rivers ; North-west, indefinite. John Thompson,
Esquire.
25 February, 1839
7. New England—on the South-west, the Peel and Nammoy Rivers ; East, the Eastern extreme of the dividing Range ; Northerly, indefinite to the Karaula and Big River or Wallasplyn.
8. Moreton Bay—on the South, the location limits of the County of Macquarie ; West, the eastern extreme of the dividing Range ; East, the sea ; and Northerly, to Moreton Bay.

On the ninth clause I would observe, that the Legislature should guard very Clause 9. jealously against the assumption by individuals of any right of occupancy under the proposed Act. It will be seen that the license will only be to graze cattle for a period, and be renewable—and not to occupy land for a renewable period ; consequently, there is a tacit admission of a right to occupy indefinitely as to time, and this would be greatly strengthened by allowing the Commissioner to adjudicate, as on the rights of occupancy, and to make such occupancy matter of record, as is proposed by this clause ; all that is recorded by the Commissioner should be in his capacity of Police Magistrate only, and in accordance with the Police Laws. I doubt the propriety of endeavouring to invest the Commissioner with power to burn down houses, and drive away cattle ; because A. may make out to the Commissioner that he has a better right than B. to graze on certain land.

In the sixteenth clause, no arrangement is made for the issuing and regulation Clause 16. of the Licenses, but it appears to me to be essential that the machinery of this part of the proposed Act should be very complete ; otherwise, in consequence of the frequent removal and transfer of stock, the greatest embarrassments may arise. In order to afford every facility for obtaining licenses, they should perhaps be given without reference to character, or to districts ; and as they are to be paid for in Sydney, so they should be obtainable in Sydney at any time, and be renewable at any time, when required by a person, in consequence of the increase of his stock. It should

John Thompson, Esquire.
25 February, 1839. should also be considered, whether a license should be transferable wholly, or in part, when stock changes hands. Perhaps the Commissioners might issue the licenses subject to their being paid for in Sydney on a certain time.

Cattle-stealing on any extensive scale, might perhaps be checked by such a provision in the proposed Act, as should compel persons removing cattle from one district to or through other districts, to produce the certificate of a Commissioner or his Bailiff, setting forth their number and brands; indeed, unless this be done, and that the licenses are made to apply to the whole Colony, improper characters may wander through the different districts; on the plea of travelling, and set the Act at defiance.

MONDAY, 25 FEBRUARY, 1839.

Lawrence V. Dalhanty, Esq., Commissioner of Crown Lands; called in and examined.

Lawrence V. Dalhanty, Esquire.
25 February, 1839. I have read the Bill now before the Council, and think that it will be attended with some considerable advantage.

In the district in which I have acted as Commissioner of Crown Lands, I have seen nothing to render any protection necessary against the Blacks. In fact, many of them are employed in herding cattle at different stations, and I have never heard of any outrage being committed by them; I should say that if a Commissioner had from three to four Mounted Men with him, he could do every thing that was necessary for the peace of his district; and I think from my knowledge of the working of the Act now in force, that the greatest difficulty he would have to encounter, would be the settling disputes between the occupiers of stations as to their boundary lines; as a Commissioner of Crown Lands, I would much rather that a second Magistrate should be called in to assist the Commissioner

in

The Goulburn River has already been fixed on as the head quarters of the district; nor could a more central or better spot have been chosen.

Captain Geo. W.
Smyth, M. P.
25 February, 1839.

So much for the site of the stations.

To render the force efficient, I would propose that an Aboriginal Native for each Police Station be selected from the foot Police now at Melbourne. These men could, on an emergency, be mounted on the spare horses, and would serve as trackers. A simple ration, without pay, would be all that is requisite for them, and the value of the rum (which, on no account, should be issued to them) would clothe them in a light and suitable dress.

As the districts are so extensive, and a constant patrolling is necessary, the work for the horses is arduous. It is therefore necessary to keep them in good condition: The supply of forage for this purpose will, I am aware, entail a great expense upon the Government. It is a subject consequently of importance, to ascertain the most economical method of foraging the horses and rationing the men.

I am convinced that it can be done by a resident in Melbourne at a cheaper rate than by any one else, as the supplies there are obtained from Launceston; and also that it can be done more cheaply by one person taking the contract for the two districts, than by several individuals contracting for the supply of the different stations.

I would, therefore, recommend that separate Tenders should be called for, for the Mounted Police, and that these Tenders should be required at Melbourne.

It would be well to state, that at the out-stations, the Contractor would be allowed to supply corn and bran, instead of hay and straw; cartage being an item of such consequence, this permission would reduce the Tender considerably.

During half the year, the grass is so good as to render hay unnecessary, as also any additional supply of corn and bran in lieu thereof; but to secure this grass, paddocks *must* be immediately fenced in at every station.

The Police Officer should be directed to turn his attention to this fact, and
never

Captain Geo. W. Smyth, M. P. never to draw more forage than is absolutely necessary for the support of his horses.
 25 February, 1839.

Again, when a numerous party remains in the bush for any length of time, an accumulation of forage is unavoidable. It is true that on the return of the horses, a somewhat increased allowance of corn, beyond what is usual, is necessary, to get them quickly into condition, but still much might be saved. This is another point to which the Police Officer's attention should be turned. The simplest way would be for the Officer to require, at certain periods, from the Contractor, a supply of so many rations of forage, and then direct his men in the disposal of it, so as to make it last as long as possible. I cannot but think that this plan would work well, if properly attended to.

To ensure a supply of serviceable horses, a Board of Survey should be appointed at Melbourne, to pass and cast them. The Officer of Police could constantly procure good horses from Van Diemen's Land, and the sale of cast horses would be more favourable on the spot than if they were harassed by a journey of six hundred miles to Sydney.

With a Mounted Police on this footing, and with Officers authorised to take cognizance of every thing illegal which may pass under their notice while travelling the Country, I would venture to say, with due diffidence, that that force alone would be found adequate to the protection of the persons and property of the whole district.

Of course, the observations I have ventured to make relate only to the districts in which I have had some experience; nor would I have ventured to obtrude them upon you, but by your express wish.

I trust that I have fulfilled my task to your satisfaction;

And have the honor to be,

Sir,

Your obedient Servant,

GEO. W. SMYTH,

Captain Mounted Police.

MONDAY, 4 MARCH, 1839.

Robert Scott, of Glendon, Esq.; called in and examined.

I have been induced to come before the Committee to offer some explanations on the Bill now under their consideration, and to point out wherein its provisions differ from the views of the gentlemen who drew it up, mentioned by His Excellency the Governor, and the Attorney General, in Council.

Robert Scott.
Esquire.
4 March, 1839.

The grand objects of the Memorialists interested in the North Western district were, to put an end to the disturbed state of things, in every point of view, as regarded squatting, and to purchase security in life and property at any price; to extend protection equally to Blacks as to Whites; and to guard mutually against each others aggressions and intrusions.

The Interior is so circumstanced that there must be some persons in authority, armed with extraordinary powers to enforce the provisions of any law suited to these purposes; and the great difficulty is, to give those persons just sufficient authority to render them effective, and at the same time, effectually to guard against its abuse.

The present Bill gives to a single Justice the most unwarrantable power—that Clause 5. of depriving a man of his means of subsistence for the most indefinite offences. So severe a penalty ought not to be inflicted except upon *conviction of specific offences*; and even from those convictions the parties should have the right of appeal; and the Commissioner should be made, as much as possible, a ministerial officer alone, as regards the annulling of Licenses. The depriving a man of his License, involves such serious consequences, that an abuse of that power should be guarded against by the most jealous restrictions; and it should never be resorted to but upon imperative necessity. And this necessity would seldom occur if great care were taken to grant Licenses to none but proper persons.

The establishment of a Commissioner, and a body of Mounted Police, sup- Clause 10.
ported

Robert Scott,
Esquire.
4 March 1839.

Clause 9.

ported as provided by the tenth clause of the proposed Bill, would amply secure us against violence. But the Bill is almost entirely silent upon one of the most material objects desired by the Colonists, which is the undisturbed possession of the runs they occupy; and whether they pay for such occupation by an Assessment on stock, or a Rent on the Land, this grand point ought to be most carefully secured; otherwise the very object of the Bill will be completely frustrated. If the limits of a man's run are not defined, how is intrusion to be prevented, or even ascertained? If a dispute arise, the Commissioner (by clause nine) must examine into the Boundaries of the run before he can decide. Then why not ascertain and register Boundaries at first, as at last? Why not prevent disputes rather than settle them?

The intrusion of one man upon the run of another, is the greatest grievance a squatter is subject to, and, therefore, an object of the last importance, and it ought neither to be left to chance, to contending interests, nor to the *ipse dixit* of a Commissioner to make, perhaps, a fresh award upon each new occurring case. Whatever a man has, let him keep it in quiet and undisturbed possession. Any difficulty or dispute in ascertaining Boundaries being once surmounted, the question is settled for ever, and remains unaltered. A man will then have a right to a distinct portion of Land, and the payment of a rent for the same will confirm him in it—and this rent once ascertained, would never vary, and would be, therefore, a far better mode of ascertaining the sum to be paid by each individual, than that proposed by means of the Muster Returns of cattle; than which nothing can be more liable to deceit and error; besides entailing an endless and most irksome task upon the Commissioner, in what must ever be a fruitless attempt to arrive at the truth.

Again, if people pay by an Assessment on their stock, they will grasp as much Land as possible, and extend their stock over an unnecessary space, which will probably lead to an appeal to the Commissioner by each new comer in succession, and be a source of constant trouble to him, as well as a temptation to favour a friend or punish an enemy. And such a discretionary and irresponsible power in the Commissioner is not only invidious, but dangerous, and ought to be avoided; which can easily be done, by allowing persons to pay for Land according to quantity, in which
case,

case, they might be safely trusted not to occupy more than they required, without any interference on the part of the Commissioner.

Robert Scott,
Esquire.

4 March. 1839.

For these and other reasons, I am decidedly of opinion that a Rent upon Land is far preferable to an Assessment upon stock. The introduction of the arbitrary laws of enforcing Assessment cannot but be objectionable, and the difficulty of carrying them into execution in the Interior, great, and will give rise, probably, to every species of evasion, if not resistance. A Rent upon Land, on the contrary, would be extremely simple, and understood by every body: it would also possess the advantage of curtailing some of the most onerous, unpleasant, and unconstitutional duties of the Commissioner, and would not extend his powers beyond what could be avoided; and above all, it would give the Squatter a right in the Land he occupies. An Assessment on stock has very much the complexion of a Tax upon stock, and may hereafter be made a plea for a compulsory Tax, though now bearing the gentle appellation of a "voluntary Assessment." A Rent upon Land can never be tortured into a perverted meaning. If, however, Assessment be insisted on, let it be accompanied by a recognised right to the Land on which the stock are fed; let the Boundaries be defined and registered with the Commissioner, and let the Squatter be protected from all disturbance in the possession of it; without these provisions, I conceive that what ought to be the grand object of any Bill for the benefit of the Grazier, will still remain unaccomplished.

It is said that a fixed rent upon all Land is an unequal Tax upon stock, because of its varying fertility. Then let the Grazier avoid renting sterile land, as he would avoid buying Land, not worth 5s. In the same way, it may be said that the minimum price of Land ought not to be one penny, because millions of acres of the Blue Mountains, &c., are not worth so much. But the fact is, the proposed Rent or Assessment is so small in comparison to the benefit to be derived, that this inequality is not worth consideration; and when contrasted with the cost of feeding stock upon Land purchased at 12s. an acre, or even 5s., it is of still less weight.

If three acres be allowed for the maintenance of each sheep, then a rent of 20s. per section, or an Assessment of 1d. upon sheep, would be nearly the same,

Robert Scott,
Esquire.
4 March, 1639.

same. In both instances then, the rent cost upon each sheep fed upon Land occupied under License, would be 1d., or nearly so.

Upon Lands bought at 5s., at 10 per cent., it is 1s. 6d., or as 18 to 1.

Ditto ditto 12s, ditto, 3s. 7d., or as 43 to 1.

There can be no doubt then, how much more profitable Squatting must be, than grazing upon purchased Lands; And who can *now* buy Land? Can sheep pay a rent of 3s. 7d. each? If not, where are we to look for an Emigration Fund? I should be disposed to answer—to the Rent upon Waste Lands. I think a large Revenue might be raised from this source, beyond what would be required for the support of the Border Police; and I conceive it ought to be done, not only because of the reasons which I have already given, but also because there are hundreds of Squatters who do not contribute one penny to the Immigration Fund, and yet they are all employers of labour; nor ought any man to grudge payment in proportion to the advantages he derives—neither the Landholder who takes out a License for Land beyond the Limits of Location, nor the Squatter who holds no purchased Land at all.

I would further beg to suggest to the Committee, that, as the Commissioner must be entrusted with extraordinary powers, every means should be adopted to secure proper persons for the office; and I conceive none would be more effectual than a liberal salary, to induce men of talent and integrity to undertake the irksome and responsible task; and I would not consider a sum equal to £700 per annum (to include every allowance to the Commissioner personally) more than an adequate payment.

I would earnestly beg the Committee to move His Excellency the Governor to lay a copy of the Bill presented to him (and of which His Excellency and the Attorney General made mention in Council) before your Committee. This request I
respectfully

respectfully urge upon the Committee; not only in justice to the gentlemen who framed that Bill, but also, because the Bill itself contains much useful detail; the result of the deliberate and carefully digested opinions of a number of persons deeply interested in the question under consideration, and which I conceive would add materially to the evidence before the Committee.