

Index.



Daily Proceedings,
from No 1 to No 54

Page
1
to
351

Papers laid before the Council by the Governor Despatches from the Secretary of State.

1837, December 30, No 58-	Criminal Statistics - with Extract from order of Select Committee on Transportation,	369 369
1839, August 15, No 158-	Government of New Zealand - with Letter to Captain Hobson, of 14 th August, 1839,	179 179
"	to Attorney & Solicitor General, of 30 th May, 1839,	183
"	to A. Y. Spearman Esq, of 13 th June, 1839,	184
"	to John Backhouse Esq, of 12 th December, 1838,	185
"	to James Stephen Esq, of 31 st December, 1838,	185
"	to A. Y. Spearman Esq, of 4 th July, 1839,	186
"	to the Under Secretary, of 24 th June, 1839,	186
"	to James Stephen Esq, of 22 nd June, 1839,	186
"	to James Stephen Esq, of 24 th July, 1839,	187
"	to the Rt. Hon. Mr. Labouchere, of 11 th August, 1839,	188
"	to Captain Hobson, of 13 th August, 1839,	188
"	to Captain Hobson, of 13 th August, 1839,	188
"	to Marquis Normanby, of 14 th June, 1839,	188
"	to the Under Secretary, of Aug th , 1839,	189
"	to Captain Hobson, of 15 th August, 1839,	190
" " 21- No 121-	Ordinance Property - with Letter to R. Byham Esq, of 16 th March, 1839,	204 204
"	to James Stephen Esq, of 31 st May, 1839,	204
"	to A. Y. Spearman Esq, of 28 th July, 1839,	205
"	to James Stephen Esq, of 5 th August, 1839,	205
"	to R. Byham Esq, of 27 th August, 1839,	206
" " 26- No 127-	Eccelesiastical Establishments	309
" " 29- " 130-	Judicial and Legal Improvements	157
" " December, 26, " 58-	Retiring Allowance to Fred. Farling Esq	207
" " " 31, " 67-	Eccelesiastical Establishments - with Letter to Rev. E. Hawkins, of 26 th August, 1839,	310 310
"	to Rev. St. M. Campbell, of 31 st December, 1839,	310
"	from Sir J. Franklin to Marquis Normanby, of 28 th July, 1839,	311
"	to Rev. Principal Macfarlane, of 31 st December, 1839,	312
1840, July, " 6- No 96-	Discontinuance of Transportation from New South Wales to Norfolk Island	371 371
" " May, " 31- " 93-	Division of the Territory & Sale of Crown Lands,	373
" " " June, " 28- " 88-	Finance	377

Despatches.

Papers laid before the Council by the Governor - continued
 Despatched to the Secretary of State

1838 September 26, No 150 - Ordinance Property	201
27. . 151 - ditto	201
28. . 152 - ditto	203
November 9, . 183 - Ecclesiastical Establishments	309
1839, January 1, (Extract.) Judicial & Legal Improvements	156
3, No 3, Retiring Allowance to ^{Mr} Fred. Earling Esq, with	207
Letter to Sir George Gipps Aid de Camp, and	208
Copy of Despatch to Governor Macquarie, of 5 th July 1814, No 31,	208
December, 3, No 163, Ecclesiastical Establishments	312

Other Papers

Judicial and Legal Improvements:-

1838 December, 18, Letter from Chief Justice Sir James Dowling	164
1840 February, 28, Letter from Mr Justice Willis	167
March, 12, Ditto Ditto - with	170
Minutes by Lieut Governor Smyth of N. Guiana	172
and Extract from his Hon ^{ble} Letter to Sir Gipps, 15 Decr. 1838,	172
March, 12, Letter from Chief Justice Sir James Dowling,	158
13, Letter from Mr Justice Stephen	175
Ordinance Property Bill - Governor's Minute on re-presenting,	199
Presbytery and Synod - Moderator Duncan's Letter of 21 Decr. 1839,	257
Religious Establishments - Governor's Minute	307
Census Bill - Judges Protest	367

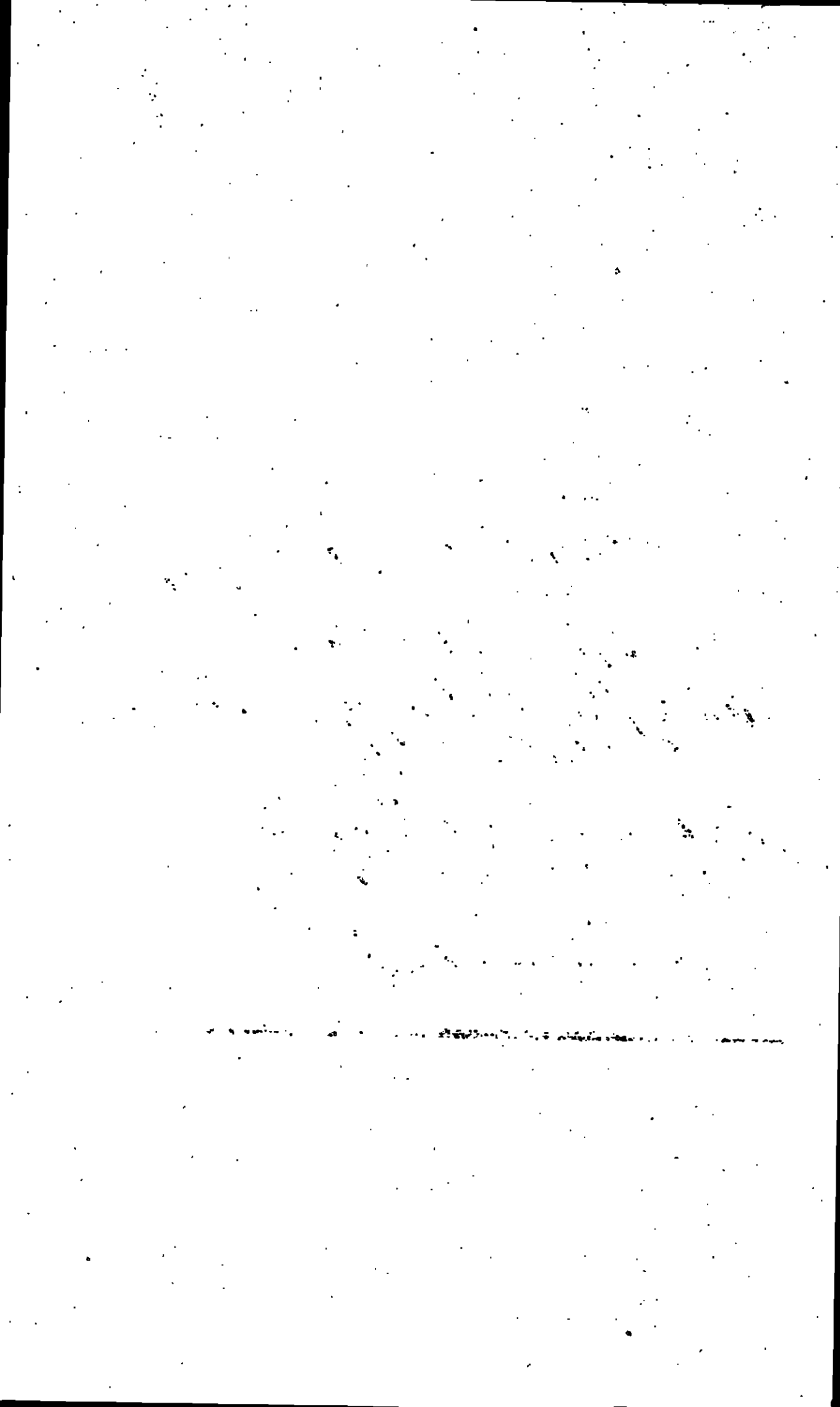
Statistical Returns - viz:-

Convictions before Supreme Court, 1840	249
Vessels arrived at New Zealand during the half Year ending	193
Population, 1839	313
Imports from 1826 to 1839	314
Exports from 1826 to 1839	315
Live Stock Imported from 1828 to 1839	316
Shipping Inwards from 1826 to 1839	317
Shipping Outwards from 1826 to 1839	318
Registry of Vessels from 1822 to 1839	319
Wool Exported from 1822 to 1839	320
Auction Duty	324
Sales of Crown Lands from 1824 to 1839	322
Cultivated Lands on 31 Decr. 1839	323
Police and Gaol Expenditure from 1835 to 1839	363
Convict Population on 30 June 1840	365

Papers laid before the Council by the Governor - Continued
 Other Papers - Continued

Finance:

Governor's Minute	303
Abstract of Revenue & its appropriation for 1839, with Statement No 1	215
	223
	2
	224
	3
	225
	4
	227
	5
	228
	6
	230
	7
	232
	8
	232
	9
	233
	10
	236
Statement of sums to be expended, on 31 dec ^r 1839	253
Statement of sums not required for 1839	254
Estimates of Expenditure for 1841	257
Estimate of Expenditure for Port Phillip for 1841	285
Appendix to the Estimates for 1841	291
Supplementary Estimate for 1840	299
Appendix to Supplementary Estimate for 1840	301
Reports of Committees, & other Papers, on Bills passed:-	
Ordinance Property - Report	237
Evidence	241
Sketch of Ransack Square	247
Reports of Committees, & other Papers, unconnected with Bills:-	
Immigration - Report	325
Evidence	331
Appendix	345
Immigration Agents' Report	209
Appendix	211



NEW SOUTH WALES.

VOTES

AND

PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL,

DURING

THE SESSION

1840

WITH THE VARIOUS DOCUMENTS CONNECTED THEREWITH.

SYDNEY :

PRINTED BY JAMES TEGG, GEORGE STREET.

VOTES AND PROCEEDINGS.

OF

THE LEGISLATIVE COUNCIL.

THURSDAY, 28 MAY, 1840.

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 business at the ordinary season of the year, I am happy to congratulate you on the general state and prospects of the Colony.

Our Revenue in the past year, has exhibited a considerable increase, upon that of the one which preceded it, and an addition of more than ten thousand Souls has been made to our Population by means of Immigration alone.

In the Act of the Imperial Parliament, by which the functions of this Council are continued for another year, an important alteration has been introduced, enabling the Council to regulate all matters connected with the administration of Justice in the Colony:— Amongst the first measures therefore which I shall lay before you, will be Bills for the institution of Circuit Courts, and for the extension of Courts of Requests throughout the Territory.

The establishment of Her Majesty's authority in the Islands of New Zealand, is a matter of the highest importance to British interests in this Quarter of the Globe; and I am therefore happy to offer to you on it, my hearty congratulations. The annexation to this Government of Her Majesty's Possessions in those Islands will impose additional labours on the Council; but these I am sure you will join with me in cheerfully performing, until the Colonists of New Zealand shall be in a position themselves to undertake the business of Legislation.

I shall immediately lay before you all the papers which are necessary to a right understanding of the different questions which will be brought before you in respect to those New portions of Her Majesty's Dominions, as well as several Bills which I shall propose to you to pass into Laws. Among these, one of the most important will be a Bill to authorise enquiries into the claims which are advanced by many of Her Majesty's Subjects to tracts of Land, by virtue of purchase or cession, from the Chiefs, or Native Tribes of those Islands. These claims can have, I believe, no foundation in Law, or the usage of Colonizing Powers; but Her Majesty having been pleased graciously to express Her intention to allow and confirm such of them as may be founded on equitable principles, and not in extent or otherwise prejudicial to the present or prospective interests of Her Subjects in New Zealand, an enquiry into the nature of them by Commissioners, to be named for and on behalf of Her Majesty, becomes necessary, which enquiry cannot be made in a satisfactory manner, unless the Commissioners be furnished with certain powers by an Act of this Council. A Bill consequently, on the model of the Act under which claims to Grants of Land are investigated in this Colony, will be immediately submitted to your consideration.

You will perceive by the papers which I shall lay before you, that an advance has been authorised by the Lord's of the Treasury, from the Crown Revenue of this Colony, for the purpose of defraying the first expence incident on the establishment of Her Majesty's Sovereignty in New Zealand. This advance is however only in the nature of a Loan to be re-paid to New South Wales.

The opinion of the Public in favour of applying the Net Revenue derived from the Sale of the Wild Lands of the Crown, to the purposes of Immigration, has been so widely expressed in the Colony, and the same is so earnestly desired by Her Majesty's Government, that I deem it my duty to bring under your consideration, the means by which so salutary an object, an object indeed deemed essential to the continued prosperity of the Colony, can be accomplished.

On the most mature consideration of the different measures by which it may be effected, I have myself arrived at the opinion; that the best course that can be adopted, will be to cause the Police of each District, and the Public Works within the limits of the same to be defrayed, as in England, out of funds raised in each District by local assessments, with such exceptions only as circumstances may require, or experience prove to be necessary: A Bill therefore to effect this object has been prepared, and will be laid before you.

Whether it may be necessary to propose any further addition to the taxation of the Colony, in the way recommended by the Sub-Committee on Immigration in 1839, I cannot distinctly say, until the Estimates which are now in preparation shall be laid upon your Table.

Our

Our Land Revenue is, I am happy to say, in a very flourishing condition; and if the net proceeds of it be so appropriated, as to secure to the Colony a plentiful supply of labour, I doubt not that it will continue to improve; I trust we may even be able to dispense with a Loan, or that if we have to borrow money, it will be only to a small amount. To borrow at all, without securing the net proceeds of the Land Fund to the purposes of Immigration, would be as contrary to sound policy as to the expressed wishes of the Community. The fact of our being able to devote so large a sum as £150,000 a-year to the importation of Immigrants, must assuredly be calculated to create in the Mother Country, a high opinion of the wealth and resources of New South Wales; whilst the employment afforded to her shipping, and the relief to her over-peopled districts by so extensive an Emigration, are additional proofs of the value of this Colony to Great Britain. At the same time it is essential to bear in mind, that the large sum to be spent in Immigration, though raised in the Colony, is in no shape whatever a tax upon the Colonists. A moment's reflection must indeed suffice to satisfy any one, that the purchase money paid by a Settler for his Land, is no more a tax on him, than is the purchase money of the materials wherewith he builds a house on it; it is in fact only an investment of his money, and one which has hitherto proved more profitable in this Country than almost any other.

There is I believe, no part of the British Empire, in which fewer articles either of use or luxury are taxed, than in New South Wales; that a low rate of taxation should produce a large revenue, is a proof only of the general prosperity of the Colony—whilst it is the same prosperity which renders necessary a large expenditure by the Government, in order to meet the wants of an increasing population, widely and rapidly extending itself into new regions; and it is again this same prosperity, which requires that the Salaries paid to the Servants of Government should be fixed on a liberal scale, in order that their remuneration may be in some degree in proportion to the profits with which Industry is rewarded in other undertakings.

Among the wants which are seriously felt in this Community, I have been led to think that that of Municipal Institutions is one of the most prominent and pressing. The early establishment of Municipal Corporations, and of other Institutions by which men are led, in any Town, District, or County, to take the management of their local affairs into their own hands, has never failed to produce good effects, in Countries peopled by the descendants of Englishmen; and it is I believe, principally to the neglect of these Institutions, in the early stages of their existence, that in Colonies or Countries not of British origin, the failures are to be attributed of the exertions which have often been made in after periods, to establish the principles of Constitutional Government. To introduce therefore such Institutions into this peculiarly British Colony, may be considered an imperative duty on us; and the introduction of them seems to me to be especially necessary at a time when the People of the Colony are anxiously expecting an alteration in the Constitution of their Government, which shall give to it a more popular form; for it is I believe impolitic, if not unsafe, to entrust any People with a Control over their Government, in the exercise of its higher functions, who have not been previously trained to the temperate exercise of their own powers in the management of their local affairs.

The Bill which I shall present to you on the subject of Corporations, is closely modeled upon the Act which was passed in 1836, for the regulation of such Bodies in England; and I propose to grant to Corporations in New South Wales, all the advantages which have been given to some of the great Towns in England, which have been incorporated since the passing of that Act.

The Annual Estimates, and the usual Financial Papers, are in course of preparation, and will speedily be laid before you.

GEORGE GIPPS.

His Excellency the Governor laid upon the Table, the undermentioned Bills:—

2. A Bill further to continue for a limited time, an Act intituled, "An Act for regulating the Constitution of Juries, and for the trial of Issues in Certain Cases, in the Supreme Court of New South Wales." Bill read a first time; to be printed and read a second time on Tuesday next, June 2.
3. A Bill to further continue for a limited time, an Act intituled, "An Act to facilitate the apprehension of transported Felons and Offenders illegally at large, and of persons found with Arms and suspected to be Robbers." Bill read a first time; to be printed, and read a second time on Tuesday next, June 2.
4. A Bill to continue for a limited time, an Act intituled, "An Act for preventing the extension of the disease commonly called the Influenza or Catarrh, in Sheep and Lambs, in the Colony of New South Wales." Bill read a first time; to be printed, and read a second time on Tuesday next, June 2.
5. A Bill for vesting all Estates and Property in the Colony of New South Wales occupied for the Ordnance Service, in the Principal Officers of Her Majesty's Ordnance, and for granting certain Powers to the said Principal Officers. Bill read a first time; to be printed, and read a second time on Wednesday, June 10.
5. A Bill to provide for the Establishment and Regulation of Municipal Corporations within the Territory of New South Wales. Bill read a first time; to be printed, and read a second time on Wednesday, June 24.

7. A Bill

7. A Bill to declare and extend the Laws of New South Wales to Her Majesty's Dominions in the Islands of New Zealand, and to apply the same, so far as applicable, in the administration of Justice therein; and to indemnify certain Officers for acts already done. Bill read a first time; to be printed, and read a second time on Tuesday, June 9.
 8. A Bill to empower the Governor of New South Wales to appoint Commissioners to examine and report on Claims to Grants of Land in New Zealand. Bill read a first time; to be printed, and read a second time on Tuesday, June 30.
 9. A Bill to amend an Act intituled, "An Act to repeal an Act of the Governor and Council of New South Wales," intituled, "An Act to authorise the erection of Pounds; and for regulating the Impounding of Cattle, and to make further and other provisions in lieu thereof, and to extend the provisions thereof." Bill read a first time; to be printed, and read a second time on Tuesday next, June 2.
 10. A Bill to amend an Act intituled, "An Act for the better preservation of the Ports, Harbours, Havens, Roadsteads, Channels, Navigable Creeks and Rivers, in New South Wales, and the better regulation of shipping in the same." Bill read a first time; to be printed, and read a second time on Tuesday, June 9.
 11. A Bill to repeal an Act intituled, "An Act for regulating Foreign Attachment in New South Wales, and to consolidate and amend the Laws relating to Actions against Persons absent from the Colony, and against Persons sued as Joint Contractors." Bill read a first time; to be printed, and read a second time on Wednesday, July 1.
 12. A Bill to exempt from Duty, and Wharfage Rates, for a certain time; Flour, and Meal, and Wheat, and other Grain, and Pulse, imported into New South Wales. Bill read a first time; to be printed, and read a second time on Wednesday next, June 3.
 13. 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. Bill read a first time; to be printed, and read a second time on Wednesday, June 17.
 14. A Bill to provide for the maintenance of deserted Wives and Children. Bill read a first time; to be printed, and read a second time on Thursday next, June 4.
- And also the undermentioned Despatches and other Papers:—
15. Extract from a Despatch from Governor Sir George Gipps to Lord Glenelg, dated 1st January, 1839, proposing alterations in the Law relating to the administration of Justice: a Despatch from the Most Noble the Marquis of Normanby to His Excellency, No. 130, dated 29 August, 1839, transmitting the Act of the Imperial Parliament, 2 and 3 Victoria, cap. 70, for the amendment and continuance for a year, of the New South Wales Act 9 Geo. IV., cap. 83; and Letters from their Honors the Judges, on the improvement of the Judicial and Legal Institutions of the Colony.
 16. A Despatch from the Most Noble the Marquis of Normanby, No. 118, dated 15 August, 1839, transmitting a copy of the Instructions addressed to Captain Hobson, R. N., on his embarkation to assume the Government of the British Settlements in progress in New Zealand, with its Enclosures.
 17. A List of the Vessels which visited the Bay of Islands in New Zealand, during the six months ending 31 December 1839, with a Summary for the whole year.
 18. Copies of Despatches Nos. 150, 151, and 152, dated 26, 27, and 28 September 1838, from Governor Sir George Gipps to Lord Glenelg, on the subject of Ordnance Property, and a Despatch from the Marquis of Normanby in reply, No. 121 dated 21 August 1839, with its enclosures.
 19. A Despatch from the Right Honorable Lord John Russell to Governor Sir George Gipps No. 58, dated 16 December 1839, sanctioning a Retiring allowance to Frederick Garling Esqr. late Clerk of the Peace, with a copy of His Excellency's Despatch to Lord Glenelg dated 3 January 1839, on the same subject, with its enclosures.
 20. A Return of the number of Immigrants arrived in the Colony of New South Wales from 1 January to 31 December 1839, distinguishing those by Government Chartered Ships, those for whom Bounties have been paid, and those who arrived unassisted; and shewing the respective cost of those by Chartered Ships, and those for whom Bounties have been paid, and the total cost of the whole to the Colony: with an annexed Summary shewing the number of each Trade or Calling, and the Average rates of wages respectively.

To be printed.

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

ORDERS OF THE DAY.

TUESDAY, JUNE 2.

1. Jury Act continuation Bill; second reading.
2. Bushranging Act continuation Bill; second reading.
3. Catarrh in Sheep Act continuation Bill; second reading.
4. Impounding Act Amendment Bill; second reading.

WEDNESDAY, JUNE 3.

1. Flour and Grain, exemption from Duty Bill; second reading.

THURSDAY, JUNE 4.

1. Deserted Wives and Children Bill; second reading.

TUESDAY, JUNE 9.

1. New South Wales Laws' extension to New Zealand Bill; second reading.
2. Preservation of Ports and Harbours Act Amendment Bill; second reading.

WEDNESDAY, JUNE 10.

1. Ordnance Vesting Bill; second reading.

WEDNESDAY, JUNE 17.

1. Hawkesbury Benevolent Society Bill; second reading.

WEDNESDAY, JUNE 24.

1. Municipal Corporations Bill; second reading.

TUESDAY, JUNE 30.

1. Claims to Grants of Land in New Zealand Bill; second reading.

WEDNESDAY, JULY 1.

1. Foreign Attachment Act and Laws as to Absent persons Amendment Bill; second reading.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, 2 JUNE, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. New Member sworn, James Macarthur, Esquire.
2. His Excellency the Governor then read the following Minute on the question of an Insolvent Law.

I again feel it my duty to ask the attention of the Council to the Insolvent Law of the Colony.

In the year 1838, on the recommendation of the Judges, I presented a Bill to the Council, which had been drawn up by Mr. Justice Burton on the Model of the Insolvent Law of the Cape of Good Hope: The Bill having been referred to a Committee, evidence was taken on it, the effect of which went to shew that though the principle of the Bill was approved by a great majority of the Witnesses examined, the method of proceeding under it was objected to, on account of the apparent complexity of its details.

The Committee did not report until late in the Session, and consequently nothing was done in that year, save the re-enactment for two years (with slight alterations) of the Law of 1832, then about to expire.

In 1839, the same Bill was again presented by me, and again referred to a Committee, principally for the purpose of obtaining the evidence of Mr. Justice Stephen, then recently arrived from Van Diemen's Land, where the subject of Insolvency had engaged much of his attention. This Committee reported on the 17th of September last, and recommended that the Bill presented by me in 1838, should be withdrawn, and that another founded on the same principles, but altered in its details, should be brought forward in the present Session.

Before however I undertake to prepare such a Bill, I am anxious to ascertain the extent to which the Council will adhere to the views of their Committee, as otherwise much loss of labour and of time may be occasioned, which will be the more inconvenient as the temporary law of 1838, will expire on the first of October next.

The Resolution on which I propose to take the sense of the Council, will simply express the adherence of the Council to the recommendation of the Committee, but it will of course be competent to the Council, so to alter the Resolution, as to fix in any other manner the principle of the Bill, or if an Insolvent Law be deemed unnecessary, to dispense with the Bill altogether.

The great objects of either a Bankrupt or an Insolvent Law, are to rescue the person of a Debtor from Imprisonment, unless he shall be found guilty of fraud or concealment, and to secure to his Creditors the equal, or rateable division of the whole of his property.

The present Law of the Colony does not answer either of these purposes; it does not secure the person of a debtor from successive imprisonments, neither does it ensure the equitable division of his property among his creditors.—It gives to the harsh or unmerciful creditor an undue advantage over the mild or merciful one, and it subjects the insolvent to successive imprisonments at the successive suits of his creditors, there being no process by which they can be forced all to come forward at the same time; and with respect to insolvents absent from the Colony, or not in custody, it is altogether inoperative—the consequence of which was, in a late notorious case, that instead of one process being instituted for the equal benefit of all the creditors, a vast number of separate proceedings, (I believe more than fifty) by foreign attachment or otherwise, were entered in the Supreme Court, and no dividend has as yet I believe been paid to the Creditors.

In England, as in New South Wales, under the law as it now stands, imprisonment is a necessary preliminary to the benefit of the Insolvent Act, whilst on the contrary, no imprisonment is necessary to entitle a person to the benefit of the Bankrupt Laws—which Laws moreover apply only to Traders; another difference is, that property acquired in any after period of life, may be taken in satisfaction of debts incurred prior to insolvency, whilst property acquired by a person who has been a Bankrupt, and obtained his certificate, cannot be so taken. There is perhaps little reason for either of these distinctions between Insolvency and Bankruptcy, especially in a country like New South Wales, where with few exceptions almost every person is engaged in some sort of traffick; and it is also worthy of remark, that Commissioners have recently been appointed in England, to consider how the

two sets of Laws, and the Separate Courts, which at present exist for Bankruptcy, and Insolvency may be united, and a System established to comprehend all cases.

The leading principles of the Bill, prepared by Mr. Justice Burton, and recommended by the Judges in 1838, were.

- (1.)—That any person, whether a Trader or not, might on finding himself in difficulties, voluntarily declare himself Insolvent; and that any person having the management of the estate of another, might do the same in respect to it.
- (2.)—That any person, whether present in, or absent from the Colony, might under circumstances of apparent inability to meet the demands against him, be declared insolvent by a process, analagous to that by which in England, a man is made a Bankrupt.
- (3.)—That in either case the personal liberty of the Insolvent should not be invaded, except by way of punishment for fraud or concealment; but that the whole of his property should be got at, and divided equally or rateably among his Creditors.
- (4.)—That property acquired in after life should not be answerable for debts incurred before Insolvency, provided a certain majority of his Creditors, both in number and value, concur in granting a Certificate similar to the Certificate of Conformity granted to a Bankrupt in England.

These principles are also fully adopted by the Committee of 1839, the alterations recommended by that Committee, at the suggestion of Mr. Justice Stephen, having reference only to the working out of these principles, or to the *modus operandi* of the measure,

The chief objections which have been urged against the principles of the Bill, may, I believe, be summed up as follows.

- (1.)—That the dread of the severities to which an Insolvent is now exposed, being removed, many persons will be induced to declare themselves insolvent, who might otherwise struggle on, and ultimately overcome their difficulties.
- (2.)—That in the same way many Creditors will compel their Debtors to become insolvent, though they might refrain from doing so, if obliged, as at present, to have recourse to the harsh measure of incarceration.
- (3.)—That Insolvencies being thus rendered more common than they now are, the apprehension of loss through the insolvencies of others, will become more general than it now is; and that as a natural consequence, the disposition to give credit will be diminished, and Commercial enterprise cramped in proportion.
- (4.)—That a practice of Surrender or *cessio bonorum*, by private arrangement, exists in the Colony, under which Insolvencies are frequently arranged in a satisfactory manner, though not strictly according to legal forms, and perhaps on this very account, less expensively than they could be, if the parties were forced to go into Court.
- (5.)—And lastly, that an Insolvent Law somewhat similar to that which is now proposed was in force in the Colony (11 Geo. IV. No. 7.) for two years from April 1830 to April 1832, but was abandoned, partly in consequence of the expense which it occasioned in Law proceedings, and partly from the increased number of insolvencies which occurred under it.

That credit is necessary to Commerce, is an axiom too well established to be denied; but at the same time there must be a point beyond which it ceases to be advantageous; and without attempting to decide where this point is to be fixed, it may perhaps be considered that in the present state of our Community, any thing which tends to produce caution in the giving of credit, is advisable rather than otherwise.

A relaxation in the severities to which Debtors are now exposed may perhaps be reasonably expected to have the effect of inducing such caution; but on the other hand, if it fail to do so, it will encourage, rather than repress hazardous enterprizes, by diminishing the apprehension of personal disgrace or suffering, consequent upon failure.

The question to be decided by the Council, is a very grave as well as a very wide one, for it is not to be concealed, that either a sudden contraction of credit in the Colony, or a great prevalence of avowed insolvency, would greatly check its forward movement, and by diminishing the Revenue derived from the Sale of Crown Lands, might stop the course of Immigration, to which we all look as the chief means of our prosperity; whilst on the other hand a System of Credit so extensive as to give birth to schemes and speculations, incommensurate with our real Capital or strength, though productive for the moment of a great seeming prosperity, may only lay the foundation of reverses, such as of late years have been experienced in America, and have at different epochs seriously affected Great Britain.

I will only in conclusion observe, that an Insolvent Law cannot *create* Insolvencies, though it may unmask a good many.

GEORGE GIPPS.

Government House,

June 2, 1840.

His Excellency then laid upon the Table, a draft of the following Resolution, upon which His Excellency proposes to take the sense of the Council, on Tuesday the 16th Instant.

That this Council does adhere to, and adopt the recommendation of the Committee, to which the Insolvent Bill, presented by His Excellency the Governor on the 11th June 1839 was referred; and that His Excellency be consequently requested by this Council to cause the said Bill to be so modified in its details, as to meet the recommendation of the Committee.

3.—Committee appointed: To take into consideration, the Correspondence on the subject of the Ordinance Bill presented by His Excellency the Governor on the 28th Ultimo, and to report to the Council on the expediency of entering into an arrangement for the removal of the

the Military Barracks, and the surrender to the Colony, of the Ground on which they stand in George Street, Sydney, on the conditions stated in the Correspondence.

The Honorable the Colonial Secretary.

The Auditor General.

Mr. Jones.

Mr. Berry.

Sir John Jamison.

- 4.—Jury Act continuation Bill; read a second time; to be read a third time on Tuesday next, June 9.
- 5.—Bushranging Act continuation Bill; read a second time; to be read a third time on Tuesday next.
- 6.—Motion made and Question put, That His Excellency the Governor be respectfully requested to lay before the Council, A Return of the Convictions on the Criminal Side of the Supreme Court since the commencement of the present year, designating the Offences, the Statutes or Acts under which those Offences were tried, and the Sentences of the Court thereupon; *Passed.*
- 7.—Catarrh in Sheep Act continuation Bill; read a second time; to be read a third time on Tuesday next.
- 8.—Impounding Act Amendment Bill; read a second time; to be read a third time on Tuesday next.
- 9.—Flour and Grain exemption from Duty Bill; second reading deferred from to-morrow, until Thursday next, June 4.

Council adjourned at Four o'Clock until Thursday next at Twelve o'Clock.

ORDERS OF THE DAY.

THURSDAY, JUNE 4.

1. Flour and Grain, exemption from Duty Bill; second reading.
2. Deserted Wives and Children Bill; second reading.

TUESDAY, JUNE 9.

1. Jury Act continuation Bill; third reading.
2. Bushranging Act continuation Bill; third reading.
3. Catarrh in Sheep Act continuation Bill; third reading.
4. Impounding Act Amendment Bill; third reading.
5. New South Wales Laws' extension to New Zealand Bill; second reading.
6. Preservation of Ports and Harbours Act Amendment Bill; second reading.

WEDNESDAY, JUNE 10.

1. Ordnance Vesting Bill; second reading.

TUESDAY, JUNE 16.

1. Insolvent Bill of 1839; Resolution relative to, to be considered.

WEDNESDAY, JUNE 17.

1. Hawkesbury Benevolent Society Bill; second reading.

WEDNESDAY, JUNE 24.

1. Municipal Corporations Bill; second reading.

TUESDAY, JUNE 30.

1. Claims to Grants of Land in New Zealand Bill; second reading.

WEDNESDAY, JULY 1.

1. Foreign Attachment Act and Laws as to Absent persons Amendment Bill; second reading.

Wm. MACPHERSON,

Clerk of Councils.

8

THE
STATE OF
NEW YORK

IN SENATE
JANUARY 10, 1906

REPORT
OF THE
COMMISSIONERS OF THE LAND OFFICE

IN RESPONSE TO A RESOLUTION
PASSED BY THE SENATE
MAY 10, 1905

ALBANY:
J. B. LIPPINCOTT COMPANY,
PRINTERS

1906

ALBANY:

THE STATE OF
NEW YORK

No. 3.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

THURSDAY, 4 JUNE, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and laid upon the Table, an "*Abstract of the Revenue of the Colony of New South Wales, and of its Appropriation, for the year 1839.*"
2. His Excellency the Governor laid upon the Table, "*A Bill to authorise the Election of Commissioners of Police and Public Works in the Colony of New South Wales.*" Bill read a first time; to be printed, and read a second time on Tuesday, July 7.
3. Flour and Grain, exemption from Duty Bill; read a second time; to be read a third time on Wednesday next, June 10.
4. Deserted Wives and Children Bill; Motion made, and question put, That the second reading of this Bill be deferred until Tuesday, June 16: *Passed.* Council adjourned at Two o'Clock, until Tuesday next, June 9, at Twelve o'Clock.

ORDERS OF THE DAY.

TUESDAY, JUNE 9.

1. Jury Act continuation Bill; third reading.
2. Bushranging Act continuation Bill; third reading.
3. Catarrh in Sheep Act continuation Bill; third reading.
4. Impounding Act Amendment Bill; third reading.
5. New South Wales Laws' extension to New Zealand Bill; second reading.
6. Preservation of Ports and Harbours Act Amendment Bill; second reading.

WEDNESDAY, JUNE 10.

1. Flour and Grain, exemption from Duty Bill; third reading.
2. Ordnance Vesting Bill; second reading.

TUESDAY, JUNE 16.

1. Insolvent Bill of 1839; Resolution relative to, to be considered.
2. Deserted Wives and Children Bill; second reading.

WEDNESDAY, JUNE 17.

1. Hawkesbury Benevolent Society Bill; second reading.

WEDNESDAY, JUNE 24.

1. Municipal Corporations Bill; second reading.

TUESDAY, JUNE 30.

1. Claims to Grants of Land in New Zealand Bill; second reading.

WEDNESDAY, JULY 1.

1. Foreign Attachment Act and Laws as to Absent persons Amendment Bill; second reading.

TUESDAY, JULY 7.

1. Commissioners of Police and Public Works Bill; second reading.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, 9 JUNE, 1840. ;

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and laid upon the Table, "*A Bill to provide for the making and repairing of Parish Roads in the Colony of New South Wales,*" Bill read a first time, to be printed, and read a second time on Wednesday, July 8.
 2. Jury Act continuation Bill; read a third time and *Passed*.
 3. Bushranging Act continuation Bill; read a third time and *Passed*.
 4. Catarrh in Sheep Act continuation Bill; read a third time and *Passed*.
 5. Impounding Act Amendment Bill; re-committed; to be further considered on Tuesday next.
 6. New South Wales Laws' extension to New Zealand Bill; read a second time; to be read a third time on Tuesday next.
 7. Preservation of Ports and Harbours Act Amendment Bill; second reading deferred until Tuesday next.
 8. Flour and Grain exemption from Duty Bill; Motion made and Question put, That the third reading appointed for to-morrow, be postponed until Tuesday next; *Passed*.
 9. Ordnance Vesting Bill; Motion made and Question put, That the second reading appointed for to-morrow, be postponed until Tuesday next; *Passed*.
- Council adjourned at Two o'Clock, until Tuesday next, June 16, at Twelve o'Clock.

ORDERS OF THE DAY.

TUESDAY, JUNE 16.

1. Insolvent Bill of 1839; Resolution relative to, to be considered.
2. New South Wales Laws' extension to New Zealand Bill; third reading.
3. Flour and Grain exemption from Duty Bill; third reading.
4. Impounding Act Amendment Bill; re-committal, and further consideration.
5. Preservation of Ports and Harbours Act Amendment Bill; second reading.
6. Ordnance Vesting Bill; second reading.
7. Deserted Wives and Children Bill; second reading.

WEDNESDAY, JUNE 17.

1. Hawkesbury Benevolent Society Bill; second reading.

WEDNESDAY, JUNE 24.

1. Municipal Corporations Bill; second reading.

TUESDAY, JUNE 30.

1. Claims to Grants of Land in New Zealand Bill; second reading.

WEDNESDAY, JULY 1.

1. Foreign Attachment Act and Laws as to Absent persons Amendment Bill; second reading.

TUESDAY, JULY 7.

1. Commissioners of Police and Public Works Bill; second reading.

WEDNESDAY, JULY 8.

1. Parish Roads Bill; second reading.

W. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, 16 JUNE, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair.
Mr. H. H. Macarthur presented a Petition from the "Officers and Members of the Hawkesbury Benevolent Society," stating certain objections to the 6th, 10th, 11th, and 17th clauses of the Bill now before the Council for regulating the proceedings of that Society, inasmuch as, by the 6th clause they are prevented from holding any Land but by Grant from the Crown; and they pray that they may not be so restricted: the 10th clause enacts, that elections of Trustees shall be made only at *Annual* General Meetings; they pray that the word *Annual* may be expunged, in order that vacancies among the Trustees may be filled up at a *Special* General Meeting to be held within one year from the occurrence of such vacancies; the 11th clause excludes Members constituted by an Annual Subscription of One Pound from voting or taking any part in the management of the affairs of the Society until after they shall have been Members for *three* years; they pray that this exclusion may be limited to *one* year; the 17th clause authorises the appointment of Visitors, and if such Visitors shall report that the affairs of the Society are not properly managed, empowers the Governor and Executive Council to appoint other Trustees in their room, or if such Visitors shall report that the value of the property of the Society exceeds Forty thousand pounds, or that their Annual income exceeds three thousand pounds, the same clause empowers the Governor and Executive Council to appropriate a portion of such funds to other Charitable or useful Public purposes within a limited distance; the Petitioners object very strongly to both of these proposed enactments, and pray that the 17th clause may be expunged from the Bill except in so far as to empower the Governor to appoint Visitors from time to time to inspect into and report on the state of the affairs of the Society. Petition received and read; on its being moved that it be printed, His Excellency observed that he must steadily oppose motions for printing Private Petitions which, as he had stated on a previous occasion, had added considerably to the bulk of the Council Printing last year: Motion negatived.
2. Mr. Berry presented a Petition, signed by 108 persons, from certain "Inhabitants of the Town of Sydney and other parts of the Colony." representing that the Bill now before the Council for vesting all Estates and Property in the Colony occupied for the Ordnance Service, in the Principal Officers of Her Majesty's Ordnance, and particularly the first, fourth, and fifth clauses of that Bill will materially affect the interests of the Petitioners and their fellow Colonists, inasmuch as the said Officers will thereby be invested with the uncontrolled power of alienating and in any manner disposing of such Lands as may be granted to them; a power which the petitioners deem wholly unnecessary and liable to abuse; and they pray that the Council will not consent to a Bill legalising the Grant of any Land for Military purposes but such as may be absolutely required and used for such purposes and may be specifically mentioned and defined in the Bill; and containing also a Proviso that whenever such Land shall no longer be so used it shall revert to the Crown; and praying further that, if necessary towards the attainment of the object of their Petition, the Petitioners may be heard by Counsel. Petition received and read; to lie on the Table.
3. The Lord Bishop of Australia presented a Petition from "Mr. James Busby formerly Her Majesty's Resident at New Zealand, and a proprietor of Land there," representing that the Bill now before the Council to enable the Governor of New South Wales to appoint Commissioners to examine and report on Claims to Grants of Land in New Zealand will seriously affect the interests of the Petitioner and others in whom he is interested, and that the said Bill in its present form could not be passed into Law without great and manifest injustice to a large body of Her Majesty's Subjects as he believes he could shew, if permitted to be heard in person. Petition received and read; to lie on the Table, and notice to be given to Mr. Busby that he will be heard in person, on Tuesday, June 30.
4. Insolvent Bill of 1839; the following proposed Resolution taken under consideration; "That this Council does adhere to, and adopt the recommendation of the Committee to which the Insolvent Bill presented by His Excellency the Governor on the 11th of June 1839, was referred; and that His Excellency be consequently requested by this Council to cause the said Bill to be so modified in its details, as to meet the recommendation

- "mendment of the Committee." After a long debate, the further consideration of the foregoing proposed Resolution deferred until Tuesday next, June 23.
5. Motion made and Question put, That His Excellency the Governor be respectfully requested to lay before the Council, a Return of the number of persons taken in execution for debt, and for what amount, since the first of January 1838, shewing the full time any such person has been confined, and under what number of executions; Passed.
 6. New South Wales Laws' extension to New Zealand Bill; read a third time and *Passed*.
 7. Flour and Grain exemption from Duty Bill; read a third time and *Passed*.
 8. Impounding Act Amendment Bill; re-committed and further amended; to be fairly transcribed and presented to the Governor by Mr. H. H. Macarthur and Sir John Jamison.
 9. Preservation of Ports and Harbours Act Amendment Bill; read a secondtime; committed and amended; to be fairly transcribed and presented to the Governor by the Collector of Customs and Mr. Jones.
 10. The Colonial Secretary as Chairman of the Committee appointed, "To take into consideration the Correspondence on the subject of the Ordnance Bill presented by His Excellency the Governor on the 28 Ultimo, and to report to the Council on the expediency of entering into an arrangement for the removal of the Military Barracks, and the surrender to the Colony of the Ground on which they stand in George Street, Sydney, on the conditions stated in the Correspondence" brought up the Report, and laid upon the Table the Evidence taken before the Committee; to be printed.
 11. Ordnance Vesting Bill; second reading deferred until to-morrow.
 12. Deserted Wives and Children's Bill; second reading deferred until to-morrow.
- Council adjourned at Five o'Clock, until to-morrow at Twelve o'Clock.

ORDERS OF THE DAY.

WEDNESDAY, JUNE 17.

1. Ordnance Vesting Bill; second reading.
2. Deserted Wives and Children Bill; second reading.
3. Hawkesbury Benevolent Society Bill; second reading.

TUESDAY, JUNE 23.

1. Insolvent Bill of 1839; Resolution relative to, further consideration.

WEDNESDAY, JUNE 24.

1. Municipal Corporations Bill; second reading.

TUESDAY, JUNE 30.

1. Claims to Grants of Land in New Zealand Bill; second reading.

WEDNESDAY, JULY 1.

1. Foreign Attachment Act and Laws as to Absent persons' Amendment Bill; second reading.

TUESDAY, JULY 7.

1. Commissioners of Police and Public Works Bill; second reading.

WEDNESDAY, JULY 8.

1. Parish Roads Bill; second reading.

W^{MR}. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

WEDNESDAY, 17 JUNE, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Preservation of Ports and Harbours Act Amendment Bill; presented by the Governor as amended; to be read a third time on Tuesday next, June 23.
2. Impounding Act Amendment Bill; presented by the Governor as amended; to be read a third time on Tuesday next.
3. Ordnance Vesting Bill; read a second time; committed and amended; to be fairly transcribed and presented to the Governor by the Colonial Secretary and Mr. James Macarthur.
4. Deserted Wives and Children Bill; read a second time; committed and amended; to be further considered on Tuesday next.
5. Hawkesbury Benevolent Society Bill; second reading deferred until Tuesday next. Council adjourned at Half-past four o'Clock, until Tuesday next, June 23, at Twelve o'Clock.

ORDERS OF THE DAY.

TUESDAY, JUNE 23.

1. Preservation of Ports and Harbours Act Amendment Bill; third reading.
2. Impounding Act Amendment Bill; third reading.
3. Insolvent Bill of 1839; Resolution relative to, further consideration.
4. Deserted Wives and Children Bill; further consideration.
5. Hawkesbury Benevolent Society Bill; second reading.

WEDNESDAY, JUNE 24.

1. Municipal Corporations Bill; second reading.

TUESDAY, JUNE 30.

1. Claims to Grants of Land in New Zealand Bill; second reading.

WEDNESDAY, JULY 1.

1. Foreign Attachment Act and Laws as to Absent persons Amendment Bill; second reading.

TUESDAY, JULY 7.

1. Commissioners of Police and Public Works Bill; second reading.

WEDNESDAY, JULY 8.

1. Parish Roads Bill; second reading.

NOTICE OF MOTION.

TUESDAY, JUNE 23.

1. The Lord Bishop of Australia—That the Deserted Wives and Children Bill be amended in the following manner, viz:
(1.) That a clause be substituted for the 4th clause, to allow the complainant in cases where no direct evidence can be given to prove her marriage, to make affidavit of the fact, setting forth the time, place, and circumstances of the same, which, until disproved, shall be considered sufficient for the purposes of the Act; and providing, that any woman falsely swearing in the premises, be liable to the penalties of wilful and corrupt perjury.
(2.) That clauses be introduced to protect Justices for any thing done by them under the Act, unless corruption or malice be proved against them; and to prevent the removal of their proceedings by certiorari, or otherwise, into the Supreme Court.

W^M. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, 23 JUNE, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Sir John Jamison presented a Petition from William Charles Wentworth, of Vacluse, Esquire, representing that the Petitioner has made extensive purchases of Land from the Native Chiefs of New Zealand, both before and since the Governor's Proclamation of the 14th January last, and that the "Claims to Grants of Land in New Zealand Bill" now under consideration of the Council, will if passed into a law, greatly prejudice his rights and interests, and praying that he may be heard in person, in opposition to the said Bill. Petition received, and read; to lie on the Table, and notice to be given to Mr. Wentworth that he will be heard in person, on Tuesday, June 30.
2. Sir John Jamison presented a Petition from certain Inhabitants of Sydney and other parts of the Colony, signed by 373 persons, representing that the provision in the "Municipal Corporations Bill," now before the Council, disqualifying every person from being enrolled as a Burgess, and Member of the Body Corporate, of the Mayor, Aldermen, Councillors and Burgesses of a Borough, who shall at any time have been under any sentence of Transportation and shall not have received a Free Pardon, or whose sentence shall not have expired for a period of at least three years, or who shall not have held a Conditional Pardon for the like period; and from being elected a Councillor or Alderman of a Borough, unless such person shall have received a Free Pardon, or his sentence shall have expired for a period of at least seven years; is an infringement of the private rights of the Petitioners and a numerous and respectable body of other Free British Subjects residing in the Colony, and is also in many respects unjust and impolitic, by excluding from certain Municipal rights a very large portion of those persons, who, by reason of their property and respectability, are justly entitled to the enjoyment of every Municipal right and privilege; and praying, that the Petitioners may be heard, by Counsel, in opposition to the said provision. Petition received, and read; to lie on the Table, and notice to be given to the Petitioners that they will be heard by Counsel, on Thursday next, June 25.
3. Mr. Berry presented a Petition from certain Merchants and Owners of Coasting Vessels, and others interested in the Coasting Trade to and from the Port of Sydney, signed by 108 persons, representing that the clause introduced into the "Preservation of Ports and Harbours Act Amendment Bill" now before the Council, directing that "all Vessels, Steam Vessels excepted, entering the Harbour of Sydney between sun-set and sun-rise shall be brought up to the Eastward of Fort Macquarie," will, if passed into a Law, involve the Trade in endless difficulties, and subject all persons connected therewith to great loss and injury; that the average tonnage of Vessels engaged in the Coasting Trade ranges from about 20 to 60 Tons; that the time occupied in unloading and reloading such vessels, seldom exceeds twenty-four hours; that the Vessels employed in the Coal Trade commonly leave Newcastle in the morning, arrive at their respective wharves during the ensuing night, commence discharging by day-light, and at night depart for another cargo; a system of dispatch which could not be accomplished under the proposed new regulation, which, on the contrary, would not only cause much delay and loss to the Petitioners, but might frequently occasion an insufficient supply of Coals to the Inhabitants of Sydney; that Vessels brought up to the Eastward of Fort Macquarie might, by contrary winds, be delayed for many hours, and occasionally even days from reaching their respective destinations; and moreover that it is well known that the night-tides generally rise highest, and thus enable Vessels of larger tonnage to be moored closer to their wharves; that the shortness of the time elapsed since the proposed enactments came to the knowledge of the Petitioners has prevented their fully detailing the losses and grievances of which the enactment in question will be the cause; and Praying, that an opportunity may be afforded them of being heard personally, or of tendering evidence in support of their allegations; Petition received, and read; to lie on the Table.
4. Preservation of Ports and Harbours Act Amendment Bill; Motion made and question put, That this Bill be re-committed on Wednesday, July 1; Passed.
5. Impounding Act Amendment Bill; read a third time, and *Passed*.
6. His Excellency the Governor laid upon the Table a Numerical Return of the number of Persons taken in execution for Debt, and for what amount, from 1st January, 1838, to 18th June, 1840, distinguishing the period during which each person was confined, and under what circumstances discharged.

7. Insolvent Bill of 1839; Proposed Resolution relative to, after a long debate, negatived.
8. Ordnance Vesting Bill; presented by the Governor, as amended; to be read a third time on Wednesday, July 1.
9. Deserted Wives and Children Bill; further consideration deferred until Thursday next, June 25.
10. Hawkesbury Benevolent Society Bill; second reading deferred until Thursday next. Council adjourned at Half-past four o'Clock, until to-morrow at Twelve o'Clock.

ORDERS OF THE DAY,

WEDNESDAY, JUNE 24.

1. Municipal Corporations Bill; second reading.

THURSDAY, JUNE 25.

1. Municipal Corporations Bill; Counsel to be heard as to certain clauses.
2. Deserted Wives and Children Bill; further consideration.
3. Hawkesbury Benevolent Society Bill; second reading.

TUESDAY, JUNE 30.

1. Claims to Grants of Land in New Zealand Bill;
 - (1.) Mr. James Busby to be heard.
 - (2.) Mr. Wm. Charles Wentworth to be heard.
 - (3.) Second reading.

WEDNESDAY, JULY 1.

1. Ordnance Vesting Bill; third reading.
2. Preservation of Ports and Harbours Act Amendment Bill; re-committal.
3. Foreign Attachment Act and Laws as to Absent persons Amendment Bill; second reading.

TUESDAY, JULY 7.

1. Commissioners of Police and Public Works Bill; second reading.

WEDNESDAY, JULY 8.

1. Parish Roads Bill; second reading.

NOTICE OF MOTION.

THURSDAY, JUNE 25.

1. The Lord Bishop of Australia—That the Deserted Wives and Children Bill be amended in the following manner, viz:
 - (1.) That a clause be substituted for the 4th clause, to allow the complainant in cases where no direct evidence can be given to prove her marriage, to make affidavit of the fact, setting forth the time, place, and circumstances of the same, which, until disproved, shall be considered sufficient for the purposes of the Act; and providing, that any woman falsely swearing in the premisses, be liable to the penalties of wilful and corrupt perjury.
 - (2.) That clauses be introduced to protect Justices for any thing done by them under the Act, unless corruption or malice be proved against them; and to prevent the removal of their proceedings by *certiorari*, or otherwise, into the Supreme Court.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

THURSDAY, 25 JUNE, 1840.

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; after some observations from His Excellency in reference to the non-attendance of several Members yesterday, and to an old Rule of the Council which imposed a fine in such cases, the Attorney General intimated that he would give Notice of a Motion for the revival of such a Rule.
2. Mr. H. H. Macarthur presented a Petition from certain British Subjects, Inhabitants and Landholders of the Territory of New South Wales and its Dependencies and of New Zealand, signed by 153 persons, representing that the Petitioners having perused certain Proclamations, published by authority of His Excellency the Governor, in the New South Wales Government Gazette, on the 22nd of January last, and also a Bill now before the Council, intituled "A Bill to empower the Governor of New South Wales to appoint Commissioners to examine and report, on Claims to Grants of Land in New Zealand," containing Clauses declaring that all titles to Land in New Zealand which are not, or may not hereafter be allowed by Her Majesty, are, and shall be absolutely null and void: that the Governor of New South Wales may appoint Commissioners, with full power and authority to examine, and report on all claims to Grants of Land in New Zealand, with a proviso that such Commissioners shall not be authorised to receive or report on any claims but such as shall be referred to them by the said Governor, and that all claims not preferred in writing to the Colonial Secretary of New South Wales within Six Months after the passing of the Act shall be absolutely null and void; and other clauses which cause great alarm to the Petitioners; they submit that their rights and privileges as British Subjects, and individual rights and interests as Land owners in New Zealand will be unjustly and unconstitutionally invaded by the provisions of the said Bill—that the Petitioners were long before, and at the time of making the said Proclamations, and now are, in peaceable and undisputed possession of certain Lands in New Zealand, and have individually expended large sums of money, and much time and labour in the legal and equitable acquisition of the fee simple of such Lands from the Native Chiefs and rightful owners of the Soil, who, for fair and equitable compensation, freely parted with all their right and title to such Lands, to the Petitioners, who in entering upon and concluding such purchases, were advised and verily believed that they were acting in conformity with the laws of Great Britain; that the Territory of New Zealand having been recognized by the British Government, as an independent Foreign State, in amity with Great Britain, the Petitioners have not forfeited their allegiance or right as British Subjects, by residing or purchasing Lands therein; and that the introduction of British Laws, and the recognition by Her Majesty's Government of the full and complete right of the Native Chiefs to alienate their Lands should be a guarantee that no British Subjects holding Land in New Zealand previous to the introduction of British Laws, shall be dispossessed of his property otherwise than by the Verdict of a Jury of his Countrymen, as it is an admission of the validity of the titles of such Landowners; and that no condition can now be annexed to the possession of such Lands save what is founded on Law and the prerogative of the Queen, and that neither the Law, nor the prerogative of the Queen can entitle Her Majesty in her right of universal occupancy, or otherwise, to dispossess any British Subject of Lands lawfully acquired by purchase from New Zealand Chiefs where the terms of the Contract and the intention of the Parties have been carried into effect; and that it is not competent to Her Majesty or Her Majesty's Representative, by Proclamation to make new Laws or abrogate existing Laws. The Petitioners further submit that the increased, and increasing value of Land in New Zealand has been mainly owing to their outlay and exertions in improving the Inland revenues, and encouraging the Commercial relations between New Zealand and this Colony and other Countries, and by promoting the social and moral improvement of the Inhabitants; and that it would be unjust as well as illegal to submit the right of the Petitioners to the arbitrary discretion of any paid Officers of the Crown or to any other Tribunal than a Jury of their own Countrymen; and the Petitioners express their firm hope that the Governor and Council will have a due and proper regard to the Public right and private interests of the Petitioners, and will not pass a Law inconsistent with the Laws of Great Britain, or will allow

allow the Petitioners to be heard by Counsel in opposition to the Bill. Petition received, and read; to lie on the Table, and notice to be given to the Petitioners that they will be heard by Counsel, not more than two, on Tuesday next, June, 30.

3. Municipal Corporations Bill; The Colonial Secretary having moved the Order of the Day, "That Counsel be heard in support of the allegations contained in the Petition presented against certain clauses of this Bill;" Mr. A'Beckett, Mr. Broadhurst, and Mr. Darvel Counsel for the Petitioners, and Mr. Unwin their Solicitor were introduced.

(1.) Mr. A'Beckett addressed the Council to the following purport; He appeared before the Council to advocate the cause of a numerous Class of Colonists whose rights and interests seemed to be put in hazard by a Bill now before this Council; the Bill it was true, affected directly neither the lives nor the property of his Clients; but it struck at the dearest charm of life, their reputation, as it made a distinction on Moral grounds between them and the rest of the Community, and their enjoyment of their property could hardly be deemed secure, when rights to which others would become entitled by reason of their property were denied to his clients; he contended that the manner in which those rights would be affected by the Bill was in accordance neither with the spirit, nor the letter of the Law, nor the principles of the British Constitution; Among the Petitioners were many who were not Emancipists, but who thought, and as it seemed to him with reason, that if such an invasion of the rights of the Emancipists were without opposition submitted to, a similar encroachment upon their own, might soon follow; the Emancipists, were put upon a defence of their rights, and as those rights were allowed, or denied, the Public would learn the validity of the tenure by which they hold their own; the Council, to whom the protection of those rights was committed, would now by its decision say, whether it will legislate on grounds of expediency and policy, or on the principles of that Law, and that Constitution, from which it derives its right to legislate at all; he need not point out to the Council the importance of the question to all concerned; the clauses in the Bill which might be termed the objectionable clauses, were the fifth, and the thirtieth, which by certain exceptions as to qualification would deprive the Petitioners of their rights as Free Subjects; rights of which they had hitherto thought themselves in secure possession. He need not state to the Council the Law of the question, as they were doubtless better acquainted with the Law than himself; it was unnecessary to inform them that the effect of a Free pardon was not so much to restore a man to his original capacity as to make him a new man; but to shew that a Free pardon and the endurance of punishment have the same effect, he would refer the Council to the 9th Geo. IV., c. 32. sec. 3., by which it is enacted, as appears in Bacon's Abridgment p. 164; "That where any offender hath been or shall be convicted of any felony not punishable with death, and hath endured or shall endure the punishment to which such offender hath been or shall be adjudged for the same, the punishment so endured hath and shall have the like effects and consequences as a pardon under the Great Seal as to the felony whereof the offender was so convicted." The effects of such a pardon were, as stated in Blackstone's Commentaries vol. 4, p. 402, as follows: "The effect of a pardon by the King, is to make the offender a new man; to acquit him of all corporeal penalties and forfeitures annexed to that offence for which he obtains his pardon; and not so much to restore his former, as to give him a new credit and capacity." And again, in Bacon's Abridgment p. 143, it is laid down; "That a pardon of Treason or Felony, even after an attainder, so far clears the party from the infamy, and all other consequences thereof, that he may have an action against any who shall afterwards call him traitor or felon; for the pardon makes him as it were a new man." This would not be the effect of the proposed Bill. According to the Statutes of England, a pardon and the endurance of punishment are synonymous; and when the laws and constitution look upon a person who has endured the punishment awarded by them, as a free subject, as free as any other, his Clients might reasonably ask the Council upon what principle they were about to legislate, when they would brand men in a manner that the law would punish in another subject, if it were so done as to render him liable to an action for libel? There was only one exception in law to that principle, and that was in the case of a person convicted of perjury; by law such a person was no more admissible as a witness; and when the law of England made no other restriction or exception, why should any law in this Colony do so? There was nothing in the law of England to warrant the Council in doing so, on the contrary it was repugnant to the law. By this it was clear that both those who had received pardons and those who had endured their sentences, stood on the same footing as free men, with all their rights and privileges; and the disability which it was contemplated by the Bill to impose, was not at all a consequence of the judgment which had been passed upon the parties—it was not in any way annexed to the punishment—but was in fact a second punishment for the same offence, altogether distinct from the sentence of the law. The end of punishment was reformation, and as the period of that punishment had expired, the party who had endured it was made a new man—such a law too, would affect the prerogative of the Sovereign, and that in one of its most amiable qualities—the granting of mercy to offenders—it would invade the prerogative by restraining the effect of a pardon. He would read to the Council what was said on this subject by Blackstone in the fourth volume of his Commentaries pages 396, 397, 398:—"His power of pardoning was said by our Saxon Ancestors to be derived a *lege sua dignitatis*; and it is declared in Parliament, by Statute 27 Henry VIII., Chap. 24, that no other person hath power to pardon or remit any treason or felonies whatsoever; but the King hath the whole and sole power thereof united and knit to the Imperial Crown of this Realm."

“ Realm. This is indeed one of the great advantages of Monarchy in general, above any other form of government, that there is a Magistrate who has it in his power to extend mercy whenever he thinks it is deserved; holding a court of equity in his own breast, to soften the rigor of the general law, in such criminal cases as merit an exemption from punishment. Whenever the Nation see him personally engaged, it is only in works of legislature, magnificence, or compassion. To him, therefore, the people look up as the fountain of nothing but bounty and grace; repeated acts of goodness coming immediately from his own hand, endear the Sovereign to his subjects, and contribute more than any thing to root in their hearts that filial affection and personal loyalty, which are the sure establishment of a Prince.” The only grounds which could have existed in the mind of the framer of this Bill for the limited qualifications which it proposes, must have been some moral grounds, but those even were inadmissible—this Council had no right to legislate on Moral grounds, and he would again refer to the same undisputed authority on this subject. “Laws can have no concern with any thing but social and relative duties, being intended only to regulate the conduct of man, considered under various relations as a member of civil Society. All crimes ought therefore to be estimated merely according to the mischief which they produce in Civil Society; and of consequence private vices or a mere breach of absolute duties, which man is bound to perform considered only as an individual, are not, cannot be, the object of any Municipal Law, any further than as by their evil example, or other pernicious effects, they may prejudice the community, and thereby become a species of public crimes.”—Blackstone’s Commentaries Vol. 4, p. 41. If the Emancipists were to return to England, they would labour under no disability—why then should they here? Another ground of objection was too plain to require support from argument. It was an universally allowed principle of the British Constitution, that no man should be taxed except by his own consent, or the consent of his representatives—It could not be said that his Clients, whom it was sought to exclude from those privileges, would be represented. Besides the impolicy of the proposed measure—its expediency is doubtful, that is, whether it will effect the objects contemplated. To prescribe a period of probation seems a very extraordinary method of creating a reformation, for it is to be observed that it is the time alone, and not what changes may have been effected in that time, that is to establish the competency of the party. A man’s character may have remained as vile, or even become worse during that period, and yet when he has passed the boundary of the third or seventh year, he is qualified. The Emancipists had been allowed to sit as Jurymen, and their Verdicts had almost invariably given satisfaction. They had been entrusted with the lives and property of their fellow subjects, and in no instance had they proved themselves unworthy of their trust—it did then really appear to him not a little squeamish to object to their being allowed to vote for a Lord Mayor.

(2) Mr. Broadhurst then shortly addressed the Council nearly to the same purport.

(3) Mr. Darvel having also spoken much to the same effect, said; that there was an incongruity in the Bill which he could not understand—under its provisions an expirée from Van Diemen’s Land might come up to Sydney immediately on the expiration of his sentence, and enter into the full enjoyment of all the rights and privileges of a free British Subject, while the person who had the misfortune to be transported to New South Wales, must serve a probationary term of three or seven years beyond the period of the sentence of the law.

(4) Second reading deferred until Tuesday next.

- 4. Deserted Wives and Children Bill; further consideration deferred until to-morrow.
 - 5. Hawkesbury Benevolent Society Bill; read a second time; committed and amended; to be further considered to-morrow.
- Council adjourned at Five o’Clock, until to-morrow, at Twelve o’Clock.

ORDERS OF THE DAY.

FRIDAY, JUNE 26.

- 1. Hawkesbury Benevolent Society Bill; further consideration.
- 2. Deserted Wives and Children Bill; further consideration.

TUESDAY, JUNE 30.

- 1. Claims to Grants of Land in New Zealand Bill;
 - (1) Mr. James Busby to be heard.
 - (2) Mr. William Charles Wentworth to be heard.
 - (3) Counsel to be heard.
 - (4) Second reading.
- 2. Municipal Corporations Bill; second reading.

Wednesday,

WEDNESDAY, JULY 1.

1. Ordinance Vesting Bill; third reading.
2. Preservation of Ports and Harbours Act Amendment Bill; re-committal.
3. Foreign Attachment and Laws as to absent Persons Amendment Bill; second reading.

TUESDAY, JULY 7.

1. Commissioners of Police and Public Works Bill; second reading.

WEDNESDAY, JULY 8.

1. Parish Roads Bill; second reading.

NOTICES OF MOTION.

FRIDAY, JUNE 26.

1. The Lord Bishop of Australia—That the Deserted Wives and Children Bill be amended in the following manner, viz:
 - (1.) That a clause be substituted for the 4th clause, to allow the complainant in cases where no direct evidence can be given to prove her marriage, to make affidavit of the fact, setting forth the time, place, and circumstances of the same, which, until disproved, shall be considered sufficient for the purposes of the Act; and providing, that any woman falsely swearing in the premises, be liable to the penalties of wilful and corrupt perjury.
 - (2.) That clauses be introduced to protect Justices for any thing done by them under the Act, unless corruption or malice be proved against them; and to prevent the removal of their proceedings by *certiorari*, or otherwise, into the Supreme Court.

TUESDAY, JUNE 30.

1. The Attorney General; That Notice being given to the Council that it is to assemble, if any Member from ill health, or other cause, is unable to attend at the appointed day and hour, he will be expected to send information to the Clerk of the Council at or before Ten of the Clock on the morning of the day of Meeting that he is unable to attend—And if any Member shall neglect to send such Notice, he shall, for every such neglect; pay a fine of Ten Pounds into the hands of the Clerk of the Council, such fine to be disposed of in such manner as the Council may direct.

WM. MACPHERSON,

Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

FRIDAY, 26 JUNE, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Hawkesbury Benevolent Society Bill; further considered and amended; to be fairly transcribed and presented to the Governor by the Lord Bishop of Australia, and Mr. H. Macarthur.
2. Deserted Wives and Children Bill; the Lord Bishop of Australia's Motion considered in Committee; and the suggested amendments agreed to; the Bill further considered and amended; to be fairly transcribed, and presented to the Governor by the Lord Bishop of Australia and the Attorney General.
3. His Excellency the Governor laid upon the Table, "*a Bill to Amend an Act intituled 'An Act to Consolidate and Amend the Laws for the Transportation and Punishment of Offenders in New South Wales, and for defining the respective powers and authorities of General Quarter Sessions and of Petty Sessions,—and for determining the places at which the same shall be holden; and for better regulating the Summary Jurisdiction of Justices of the Peace; and for repealing certain Laws and Ordinances relating thereto.'*" Bill read a first time; to be Printed, and read a second time on Thursday next, July 2.
Council adjourned at Three o'Clock, until Tuesday next, June 30, at Twelve o'Clock.

ORDERS OF THE DAY.

TUESDAY, JUNE 30.

1. Claims to Grants of Land in New Zealand Bill;
 - (1.) Mr. James Busby to be heard.
 - (2.) Mr. Wm. Charles Wentworth to be heard.
 - (3.) Counsel to be heard.
 - (4.) Second reading.
 Municipal Corporations Bill; second reading.

WEDNESDAY, JULY 1.

1. Ordnance Vesting Bill; third reading.
2. Preservation of Ports and Harbours Act Amendment Bill; re-committal.
3. Foreign Attachment and Laws as to Absent persons Amendment Bill; second reading.

THURSDAY, JULY 2.

1. Punishment of Transported Offenders Amendment Act Bill; second reading.

TUESDAY, JULY 7.

1. Commissioners of Police and Public Works Bill; second reading.

WEDNESDAY, JULY 8.

1. Parish Roads Bill; second reading.

NOTICE OF MOTION.

TUESDAY, JUNE 30.

1. The Attorney General; That Notice being given to the Council that it is to assemble, if any Member from ill health, or other cause, is unable to attend at the appointed day and hour, he will be expected to send information to the Clerk of the Council at or before Ten of the Clock on the morning of the day of Meeting that he is unable to attend—And if any Member shall neglect to send such Notice, he shall, for every such neglect, pay a fine of Ten Pounds into the hands of the Clerk of the Council, such fine to be disposed of in such manner as the Council may direct.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

TUESDAY, 30 JUNE, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and laid upon the Table, "A Return of Convictions before the Supreme Court during the "February and May Sessions in the year 1840," designating the Offences, the Statutes or Acts under which those offences were tried, and the Sentences of the Court thereupon; to be printed.
2. Mr. H. H. Macarthur presented a Petition from Henry Croasdale Wilson, Esq., representing, that he is a proprietor of about ten thousand acres of Land in New Zealand, and is very desirous that the Island in which his land is situated, should be ceded to the British Crown, and be under the protection of British Laws, by which the value of his property would be increased; but he fears the Native and other Land-holders in New Zealand will have the desire, as well as the influence, to prevent such cession being made, if the proposed Bill to empower the Governor of New South Wales to appoint Commissioners to examine and report on Claims to Grants of Land in New Zealand should become a Law; and representing further, that the proposed Bill is in many other respects inexpedient; and praying that it may not be further proceeded with. Petition read, and received; to lie on the Table.
3. Claims to Grants of Land in New Zealand Bill; the Colonial Secretary having moved the Order of the Day for the Gentlemen being heard who had been allowed to address the Council in opposition to this Bill, Mr. James Busby, and Mr. Wm. Charles Wentworth, and also Mr. A'Beckett and Mr. Darvel, Barristers at Law, and Mr. Unwin Solicitor were introduced:

Mr. Busby addressed the Council at great length; the purport of his address may be shortly stated as follows: He respectfully submitted, that the Council would be assuming a very arbitrary power, and one at variance with the principles of the British Constitution, were they to proceed in the confiscation of property at New Zealand which seemed to be contemplated by the provisions of the proposed Bill; he felt bound to oppose the measure as well on account of its inevitable effect upon his own pecuniary interests, as an act of justice towards those who had purchased from him; he felt conscious that his Land had been justly acquired, and he would not shrink from the strictest inquiry into his transactions; but there was one clause in the proposed Bill which would despoil him of all his possessions; the clause he alluded to was the Fifth, by which it was declared that no claims to Land would be allowed, which comprehended the Sea Coast, the Banks of Navigable Rivers, or any Promontory or Headland; part of his land he had been compelled to purchase with his own private funds, for the purpose of building upon it, a residence, shortly after his arrival at New Zealand as the Representative of the British Government in that Country; and that land having become almost the only inheritance of himself and his family, he should consider it a grievous hardship were he now to be deprived of it; many Aboriginal families who held lands under grants from him, would also become sufferers by such an act of oppression, and in such an event, he conceived it would be impossible to convince them that he and they were not despoiled by the hand of power; and he would suggest to the Council, whether such an impression might not be wholly destructive of that confidence in the British Government which the Natives had hitherto evinced; for one tract of land at the Bay of Islands, comprising about 300 acres, he had given little short of £146; and for another, about £1,000; he would admit that there were many claims which would not bear investigation; still there were many worthy possessors of land on the banks of the various Harbours and Rivers, who would suffer greatly if the proposed Bill, in its present form, became law; no attempt had been made on the part of Government to prevent British Subjects from acquiring property in New Zealand; such was not the case with the enterprising Settlers from Van Diemen's Land who originated the now flourishing Colony of Port Phillip; no sooner was it known that they had purchased large tracts of land from the Natives of that District, than a Proclamation was published declaring the illegality of their proceedings; another proof of the injustice of the proposed measure was, that up to the time that New Zealand was taken under the protection of the British Crown, the Sovereignty of the Chiefs as ruling over an Independent People had been admitted, and their Flag acknowledged in such Ports as their Vessels had visited; and the Declaration of Independence made by the

the Confederated Chiefs had been approved, and ordered to be printed as a State Paper, by the Home Government; that in the recent Instructions to Captain Hobson, much anxiety was manifested to conciliate the New Zealanders; and in the Treaty between Captain Hobson and the Assembled Chiefs of New Zealand, the latter agreed to forego their right of selling Land to any but the British Government, thus giving to Her Majesty the right of pre-emption; but if, as assumed by the Bill, the Chiefs never had that right, why he would ask, were they called upon by that Treaty to relinquish that which they had never possessed. After replying to sundry interrogatories by His Excellency, and several Members of the Council, Mr. Busby withdrew.

Mr. Wentworth next addressed the Council, in a speech of very great length, and abounding in quotations from Legal, and other authorities; the purport of what he said may be stated shortly as follows: He was a proprietor of Land, in both the Northern and the Southern Islands of New Zealand; some of his possessions in the latter, had been acquired since the publication of His Excellency's and Captain Hobson's Proclamations, which proved that in his opinion at least, those Proclamations were a perfect nullity, and such being his opinion he would dispose of them at once by referring the Council to the Law of the case as laid down by Blackstone Vol. 1. chap. 7. page 270; in accordance with the doctrine there laid down, it was clear that a Proclamation to be binding, must be founded upon some Law previously existent; if the Proclamations in question were founded on any Law, it was for those who had issued them to shew what that Law was; having shewn that the Proclamations were not founded in Law, that they were issued without Legal authority, and that they were therefore not binding, he would next advert to the principle contained in the Preamble of the Bill; if that principle were true, the Bill might be sustained, but if otherwise, it must become a nullity; the principle was, that no Chiefs or other Individuals of Tribes of Uncivilized Savages had any right to dispose of the Lands occupied by them;—a principle at variance with Lord Normanby's Despatches, which proceeding on the assumption that the Natives of New Zealand had an indisputable right to the soil, authorised the Government to treat with them for the cession of the Sovereignty, and for the purchase of the soil; if the principle of the preamble were true, and that of the instructions false, the self evident consequence would be, that if the New Zealanders had no right to sell to British Subjects, neither had they a right to sell to the British Government; and thus while Britain would be "estopped" (as the lawyers would say) by her own Law, New Zealand would be open to the French, to the Americans, and to all other Nations: it had been said that the preamble was not intended to be declaratory of a new principle, but of an old law; he would defy the Learned Gentleman whom he was bound to consider as the framer of the Bill, to put his finger on any part of the British Law, or of the Law of Nations, on which it was founded; it might be a law of America, but then it should have been introduced as such, and not under false colours; in order to ascertain how far the declaration of the disability of the New Zealanders to sell their Lands was justified by the Law of Nations, he would call the attention of the Council to the state of the New Zealanders as compared with that of the North American Indians, whose Territories it would be admitted had been acquired by right of conquest, and parcelled out by the Government into immense Grants, yet the right of the Natives to the soil remained undisturbed, and he could point out numerous instances of purchases from them both by Individuals and by the Government; he would refer the Council to Abiel Holmes' Annals of America at pages 247 and 248 and elsewhere; he would mention the cases of John Davenport, Theophilus Eaton, and others in the year 1639; of Richard Smith in 1641; of John Wentthrop in 1659 and others: In 1633, 1648, and 1662, the State of Massachusetts, the Colony of Plymouth, and the State of Virginia respectively passed Laws prohibiting the purchase of Lands from the Indians by Individuals; those Acts did not annul past, but prohibited future purchases; they were all prospective, and did not interfere with any man's rights or possessions. The grand difference between those laws and the Bill now before the Council was, that they interfered with no man's rights whilst that Bill was intended to sweep away all Property acquired before the Bill was even thought of. Those Laws shewed that not only were the Indians considered capable of holding and dealing in lands, but that their right to do so was exercised even within the limits of the King's Patents; and if it was considered competent for those American Savages to deal in Land why should the like competency be denied to the New Zealanders? The New Zealanders were not less civilized than were the Americans—the latter did not cultivate their land—they had no fixed habitation, but lived together solely for the purposes of the chase and war—whilst the New Zealanders had fixed habitations, cultivated their land, reared domestic animals—had a national flag, and many of them had been converted to the Christian Religion and had learnt the rudiments of a common education; they knew the value of their property, and exacted it from those who dealt with them—They could not then be inferior to those American Savages to whom the rights of soil had been ceded by British subjects and the British Crown. There was another great difference too between the position of those Indians and the New Zealanders—The Indians inhabited a Country which had been conquered, inhabited, and planted, by British subjects, and to which the Commissions of the Crown extended; whilst as regards New Zealand, if the Crown ever had any power, it had entirely divested itself of it, and yet an attempt was made to deprive the New Zealanders of their rights, *in limine*, before Britain had even obtained a footing in the soil, or knew that she ever would. The proposition was therefore the more unjust, as it was advanced when Britain had scarcely a footing on the soil,
before

before any of the soil had been ceded, and before it was known whether it or the Sovereignty ever would be ceded to Her Majesty. He cared not whether the New Zealanders were an Independent Nation or only a few Independent Tribes or Families scattered over the Country—they still possessed the Demesne or soil of that Country, and had a right to use it as they thought proper, and those who had bought from them only acted in accordance with the natural rights of the Natives and the law of Nations, as would be seen on reference to Vattel, whom he had heard the late Mr. Canning refer to as a standing authority. The deduction from all the authorities to which he had referred was, that until the Council passed a restrictive law, the New Zealanders had a right to dispose of their land in whatever quantities and manner they pleased—The Council had no power whatever to examine into titles—All the Council could do was to establish Courts of Law to which the New Zealanders could appeal if they felt aggrieved—He would not object to such a measure, but he did object to an *ex post facto* enactment like the one proposed, founded on a fiction, under which it was intended to sweep away all land whether acquired justly or not. It had been said that British subjects had no right to form Colonies without the previous sanction or authority of the Crown; whether they had a right to form Colonies was one proposition, and whether they had a right to buy land in an Independent Country was another; with the former he had nothing to do; but he imagined that he could shew that both propositions were true—As to the first he would again refer to Vattel, according to whom Individuals landing in an uninhabited Country might not only establish Colonies, but also erect a Government and an Empire; and if that might be done in an uninhabited Country, it resulted *à fortiori*, that it might be done in a Country that was peopled, if the Natives of that Country gave their consent thereto; and he would instance, in support of that position, the first settlement of New England in 1620 under Davenport and others, which was conclusive that British Subjects, without the pale of a Royal Charter, might form Colonies and erect Governments, as had been done in Connecticut, where the Government so established had continued unmo-
lestated for upwards of two centuries.

The further hearing of Mr. Wentworth was then deferred until to-morrow; and the Council adjourned at Half-past Five o'Clock, until to-morrow, at Twelve o'Clock.

ORDERS OF THE DAY.

WEDNESDAY, JULY 1.

1. Claims to Grants of Land in New Zealand Bill;
 - (1.) Mr. Wm. Charles Wentworth to be further heard;
 - (2.) Counsel to be heard;
 - (3.) Second reading.
2. Municipal Corporations Bill; second reading.
3. Ordnance Vesting Bill; third reading.
4. Preservation of Ports and Harbours Act Amendment Bill; re-committal.
5. Foreign Attachment and Laws as to Absent persons Amendment Bill; second reading.

THURSDAY, JULY 2.

1. Punishment of Transported Offenders Amendment Act Bill; second reading.

TUESDAY, JULY 7.

1. Commissioners of Police and Public Works Bill; second reading.

WEDNESDAY, JULY 8.

1. Parish Roads Bill; second reading.

NOTICE OF MOTION.

WEDNESDAY, JULY 1.

1. The Attorney General; That Notice being given to the Council that it is to assemble, if any Member from ill health, or other cause, is unable to attend at the appointed day and hour, he will be expected to send information to the Clerk of the Council at or before Ten of the Clock on the morning of the day of Meeting that he is unable to attend—And if any Member shall neglect to send such Notice, he shall, for every such neglect, pay a fine of Ten Pounds into the hands of the Clerk of the Council, such fine to be disposed of in such manner as the Council may direct.

Wm. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

WEDNESDAY, 1 JULY, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Claims to Grants of Land in New Zealand Bill: The Colonial Secretary having moved the Order of the Day for the further hearing of Mr. Wentworth, and the hearing of Counsel, and Mr. Wentworth, Messrs. à Beckett, and Darvell, Barristers at Law, and Mr. Unwin, Solicitor, being introduced, Mr. Wentworth resumed his argument; He said, he endeavoured yesterday, and he thought he had succeeded in establishing, 1st—That the Proclamations issued at Sydney and at New Zealand had no validity; 2nd—That Independent Tribes, situated exactly as the New Zealanders were—the Indians of America—exercised without interruption or controul that right of disposing of their Lands, of which it was intended to deprive the New Zealanders; 3rd—That that right was not only not opposed to the Law of England, but that the Law of England was totally silent upon it, and that it was completely recognized by the Law of Nations; 4th—That it was competent by the Law of Nations for British subjects to found Colonies, as was proved more particularly in the instance of the Colony of New England, which had formed a Government for itself, which it continued to enjoy for two centuries, without either interference or confirmation. Having thus clearly, as he thought, established the right of the New Zealander to sell land, the next proposition he would enquire into was, whether there was any thing in law to prevent a British subject from purchasing land from a native, or any thing in his allegiance,—of which he admitted a British subject could not divest himself,—which militated against his right to do so; and that right he thought quite clear from a variety of cases, which he quoted, all tending to shew that a British subject could hold Lands in a foreign state, and enjoy all the privileges of a subject of that state, and yet not forfeit his allegiance, provided he did not take up arms against his natural Sovereign, and that he returned home if called upon so to do by a Writ of Privy Seal, or by Proclamation. If that was not allowed by the Law of Nations, there might be some reason for saying that British subjects could not hold lands in New Zealand; but it would be absurd to dwell on the topic of allegiance, as the Independence of New Zealand had ceased, and it was now a Colony of Great Britain, or else that Bill would not have been laid upon the Council-table; and he would only advert to one topic more before he closed his argument as to the right of the New Zealanders to sell, and of British subjects to buy, their land. In his first letter, Lord Normanby made no difference between the Northern and Southern Islands; nor did the Bill make any distinction between them, yet a distinction was sought to be made by Captain Hobson, who adverted to the comparative state of Civilization, and the small number of Natives upon the Southern Island, upon which Lord Normanby remarked, that his observations relative to the Independence of New Zealand, bore reference only to the Northern Island, and that if the number of Inhabitants was small, and there should be any difficulty in entering into a treaty with them, Captain Hobson was authorised to assert Her Majesty's right to the Sovereignty of the Island, by virtue of discovery. Here then was a distinction endeavoured to be established which would materially affect the rights of some of Her Majesty's subjects. It was said in the Despatch, that the Natives of the Southern Island were fewer in number and inferior in civilization to those of the Northern Island. Whether such was the fact or not, was a question which perhaps he was not competent to deal with; but he had seen the savages of both Islands, and he could see no difference between them, or, if there was a difference, the Inhabitants of the Southern Island were the most civilized of the two, as indeed they ought to be, inasmuch as they had been in constant communication with the British, settled on the establishments of various merchants at different Ports, who had taught them many habits of civilized life, with which the natives of the Northern Island were totally unacquainted. They formed part of the crews of the boats engaged in the Black-whale Fishery; in some cases they were headsmen, and in others boatsteerers, and were treated in every respect the same as British subjects. They had lays, and earned considerable sums of money, which they expended in the purchase of such articles as they required; and when the whaling seasons terminated, they went about in boats and caught seals for their own profit; therefore, as far as he could ascertain, they were more civilized than the Natives of the Northern Island. He adverted to that part of the case, because it was assumed by Captain
Hobson

Hobson that the Queen had a right to that Island by virtue of discovery; but that assumption he denied; discovery gave no right to the occupation of an inhabited Country; discovery gave a sort of right of priority to the discoverer of a desert or uncivilized country, who might settle in it if he thought fit; but that right did not extend to any but to a desert, uncultivated, and uninhabited country; nor even in that case, according to Vattel, would the Law of Nations acknowledge the property and sovereignty of any nation, unless it had really taken actual possession, and had formed actual settlements, or made actual use of the country. But he would dismiss that subject, and again advert to the Bill; the Bill rested upon one proposition, which he thought he had disproved—the incompetency of the New Zealanders to sell, and of British subjects to buy, their land. The Bill itself was neither more nor less than a Bill of confiscation; its object being to take away property, annul grants, and, at one fell swoop, to do away with all the property acquired by British subjects in the Islands of New Zealand. Compensation for that wholesale spoliation was talked about, but he did not expect any thing very liberal; he objected to the Bill in toto, for he had proved by authorities which could not be refuted, that, the right of the New Zealanders to sell, and of British subjects to buy land was indisputable, and could not be restrained until the Council passed an Act for that purpose; and therefore he would say, that any Act to divest parties of their land in New Zealand, without a compensatory clause, such as was contained in Acts passed in England, to deprive parties of Property required for Public purposes, would be illegal; the compensation to be awarded must be decided by a Jury, and therefore he would say, that the proposed Bill was clearly repugnant to the law of England; that the Council could not pass it, or if they did, that the Judges could not certify it. Only a few days ago the Council passed a law, making all the laws of England and of this Colony applicable to New Zealand; and among other rights thus conferred, was the right of trial by Jury, of which the proposed Bill was completely suicidal: it took away the right of trial by Jury, and if there was no other objection to it, than that it deprived the subject of his right of trial by Jury, it could not pass—it violated *Magna Charta*—it violated one of the fundamental principles of the constitution, that no man should be deprived of his land but by the judgment of his Peers; and he would repeat that the Council could not pass the Bill, or if they did, that the judges could not certify it. It appeared to him that the Bill was not less objectionable in its details than in its principle; the compensation clause did not carry out the Instructions of Lord Normanby on that point, for it not only did not confirm any Claims, nor pretended to enquire whether they were injurious to the present or prospective interests of the country, in extent or otherwise, but said, that no Claims should be confirmed to any Land within a certain distance of the Sea-shore or Navigable Rivers, or Headlands, or in fact any where, where land was valuable. What could be the object of such an enactment?—what could it be for? Why, no title would be confirmed; instead of people getting their land, they would be driven forty or fifty miles up the country; and surely that would be contrary to Lord Normanby's Instructions, that all claims to land that were not prejudicial in extent or otherwise should be confirmed; the principal part of the land purchased was of course near the coast, where it was the most useful, and instead of those claims being confirmed, they were all to be rejected; so that, in that respect, at any rate, the Bill was one of spoliation. If, instead of prohibiting the holding of land beyond certain limits, there had been a clause, enacting that all beyond a certain quantity should be diminished in a certain degree, and the remainder devoted to Immigration purposes, he thought no one would have objected to it; but framed as the Bill now was, it was a Bill of confiscation and spoliation; it denied the right of the natives to sell the land, and of British subjects to purchase it, and it swept away the whole of the possessions in the country; it took away every thing, and gave nothing, and he would confidently, but with the greatest deference and respect, submit to the Council, that they could not pass it into a law, in its present shape. In reply to interrogatories from His Excellency and several Members of the Council, Mr. Wentworth said, he could not give any proximate idea of the extent of the Land which he claimed in New Zealand; the whole of the Southern Island had been conveyed to him and his associates, but the New Zealand Company claimed more than half of it now; there were some five or six associated with him, and he believed they claimed altogether some twenty millions of acres; he had possessions in the Northern Island also. Mr. Wentworth then withdrew.

Mr. de Beckett then addressed the Council, to the following effect;—As a preliminary to his arguments, in order to induce the Council not to pass the Bill, he observed, that the claims of the rights of the Crown as to any portion of territory which it sought to exercise its jurisdiction over, were invariably founded on possession, acquired either by conquest or discovery; but in the case stated in the Bill proposed to be passed, it did not appear that the British Government had ever acquired such a right, either by discovery or conquest. He then quoted at considerable length from Storey's Commentaries, a case which he said he had no doubt the framer of the present Bill had in view when he drew it, but he need hardly say, that the case would not apply, it being a case of American, and not of English law. Storey contended, in the case quoted, that the right was founded on the Law of Nature, which was the substratum on which the Law of Nations was founded; but that was merely matter of opinion; besides Storey was not a British, but an American Commentator, and what he had written as a Commentary on a Trans-atlantic transaction could not be received as a precedent, or a principle of the

the Laws of the British Empire; he would observe, too, that in the work referred to, the Commentator spoke of the Indians as a race of beings, so debased in the scale of existence, that they were merely the creatures of conquest; but such could not be said of the Aboriginal Inhabitants of New Zealand; the New Zealanders were an intelligent race, and had been elevated to the rank of a Nation; their chiefs had been received and honored by the British Empire as Sovereign Princes; it was preposterous to assert that they were savages: they were in fact civilized men; they had the use of language, and knew how to apply it; they were also a race capable of conveying their considerations to the purchaser, either by words, palpable tokens, or by visible symbols, and therefore ought not to be objected to as conveyancers of their own property; they knew and recognized the right of property; and if Mr. Busby's dictum could be at all received, it went to prove that the New Zealanders had rights, knew they were possessed of them, and were perfectly able to protect them, by reason, as well as by brute force. One of the principal arguments in favour of the Bill, he understood, was founded on the paternal care which the British Government had exercised over the rights of all its subjects resident in its Dependencies; but he would ask, what extent the rights of the Body Politic in New Zealand had been attended to, by the British Government, either in London or in Sydney? The fact was, that there had been no compassion asked, needed, or afforded, until that had been proffered, which was neither wanted nor required by the parties whose interests the Bill ostensibly advocated, or at least professed to protect; and in order to prove his statement, he need only mention the fact, that in the year 1839, a vessel from New Zealand had been refused a Colonial Register, merely because she was a vessel built by or belonging to a foreign nation; and in the Correspondence published by the British Government, New Zealand was officially styled a kingdom; and he confidently called upon the Council to remember that, up to the time that Governor Hobson had been dispatched from Britain to take possession of New Zealand, in the name of Her Majesty's Government, that country had been treated, spoken, and written of, and negotiated about as an Independent State; and until the public had been informed of the particular situation in which the Government of Great Britain regarded New Zealand, he thought that country had the right, according to the Law of Nations, of rejecting any interference in its internal Government, as well as of objecting to any attempt to control its subjects respecting the disposal of either heritable or personal property among themselves, or to the subjects of any other dynasty. The treaty by which the British Crown sought to extend its sovereignty over New Zealand contained three remarkable points: It purported to cede to the British Crown all rights of soil, on the ground that they are paternal subjects of Her Majesty's regard: Then as regarded the Colonial Proclamation, which had been called a warning, the one document, in fact, completely nullified the other, inasmuch as the one adverted to New Zealand as a Kingdom, while the other styles it a Dependency of the Colony of New South Wales, without shewing by what means New Zealand, an Independent Kingdom, had become a Dependency of the British Empire. The mode in which the Council had been legislating on the Bill, was not in accordance with the principles of the New South Wales Act, by which the Council were authorised to make Acts for the government of this Colony only. The preamble of the Bill itself, shewed that the regulation of property in New Zealand, in the terms proposed by the Bill, was not at all necessary; because, if the New Zealand Deeds were void, then no law could be necessary to make them so; and if they were valid, then a Bill must be passed for the express purpose of declaring them invalid; and therefore, he submitted, the Bill, ought not to pass without an alteration in those points, which his clients had distinctly objected to. But if the Bill, in its present shape, did pass through the Council, it must become a dead letter, as the Judges could not conscientiously reduce such a Bill to practice in the Courts, in which the legality of the measure must be ultimately contested; and he felt convinced that Honorable Members would not feel warranted in passing a measure by which they would ultimately be made to appear as having been legislating for the subjects, not of Britain, but of a foreign state, over which the British Crown had not hitherto exercised any rights of lordship; and he was not aware of any law of nations, or of Britain, by which persons, owing allegiance to Britain, could be prevented from purchasing lands in a foreign state; and this brought him to another question that had not yet been touched, as bearing on the Bill in question; it was the mode by which his clients had acquired their land—it was neither by discovery, nor conquest, but by purchase; and he was not aware that the purchase of lands in one kingdom by the subjects of another, gave the Government of the latter state any right to interfere in the arrangements of the Government of the former. He had searched the laws of England, and had found nothing there recorded that would favor such an opinion; and he confidently asserted, that if any such statute ever had existed, the laws of England, or the Commentators on them, would have noticed it. It had been stated, that the New Zealanders had laws and customs among themselves, and so long as they had such laws and customs, and were acknowledged independent, those laws and customs, however simple, must be respected. In looking over the Instructions given by Lord Normanby to Captain Hobson, he could not see that any such measure as the present Bill had ever been contemplated by the Home Government; as far as he could learn, there were two objects particularly aimed at in those Instructions, and to which Captain Hobson's attention was to be particularly directed. The first of those was, to establish a system of Civil Government for the protection of such subjects

subjects of the Crown as were either settled at, or had an interest in New Zealand; but there was nothing in that object which called on the Council to pass such a Bill as the present; the next object to which Captain Hobson's attention had been particularly directed was, to induce the Chiefs, in return for the establishment of a regular form of Government, *henceforward* to sell their lands and alienate their claims to them to the British Government only; but that assuredly was not an authority to the Council to pass a Bill to render null and void, contracts which had been made prior to the promulgation of Captain Hobson's Proclamation, which, as he had already said, was only a warning, and intended to act prospectively only. If such a Bill had been contemplated by Lord Normanby, there could have been no embarrassment to his explicitly intimating his intention of having it called into being. Such a Bill as the present could not be passed, even by the British Parliament; because the authority of that Legislative Body, great as it was, was circumscribed by the well-known principle, that it could not pass any law which would be repugnant to the principles of British liberty; and one of the most prominent of those was well known to be, that no Subject could be divested of his property without the intervention of a Jury of his countrymen; whereas, according to the present Bill, the Crown, by appointing Commissioners, and furnishing them with their instructions, became in reality the judge, jury, and administrators of the law. There were other and legitimate modes by which the Crown could regain possession of such lands as it claimed the ownership of; and he submitted that the Government, in enforcing those claims, could only proceed by those modes by which the rights both of the Crown and its Subjects would be preserved without any violation being done to the principles of the British Constitution. Mr. à Beckett then withdrew. Mr. Darvell next addressed the Council, and having briefly recapitulated some of the leading arguments of the gentlemen who preceded him, also withdrew.

Second reading of the Bill deferred until Thursday, July 9.

2. Municipal Corporations Bill; second reading deferred until Thursday, July 9.
 3. Ordnance Vesting Bill; third reading deferred until To-morrow, July 2.
 4. Preservation of Ports and Harbours Act Amendment Bill; re-committal deferred until To-morrow.
 5. Foreign Attachment and Laws as to Absent Persons Amendment Bill; second reading deferred until To-morrow.
 6. The Attorney General's Motion relative to the Absence of Members; deferred until To-morrow.
- Council adjourned at Five O'Clock, until To-morrow at Twelve O'Clock.

ORDERS OF THE DAY.

THURSDAY, JULY 2.

1. Ordnance Vesting Bill; third reading.
2. Preservation of Ports and Harbours Act Amendment Bill; re-committal.
3. Foreign Attachment Act and Laws as to Absent Persons Amendment Bill; second reading.
4. Punishment of Transported Offenders' Amendment Act Bill; second reading.

TUESDAY, JULY 7.

1. Commissioners of Police and Public Works Bill; second reading.

WEDNESDAY, JULY 8.

1. Parish Roads Bill; second reading.

THURSDAY, JULY 9.

1. Claims to Grants of Lands in New Zealand Bill; second reading.
2. Municipal Corporations Bill; second reading.

NOTICE OF MOTION.

THURSDAY, JULY 2.

1. The Attorney General; That Notice being given to the Council that it is to assemble, if any Member, from ill health, or other cause, is unable to attend on the appointed day and hour, he will be expected to send information to the Clerk of the Council, at or before Ten of the Clock on the Morning of the day of Meeting, that he is unable to attend; and if any Member shall neglect to send such Notice, he shall, for every such neglect, pay a fine of ten pounds into the hands of the Clerk of the Council; such fine to be disposed of in such manner as the Council may direct.

WM. MACPHERSON,

Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

THURSDAY, 2 JULY, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. The Attorney General's Motion relative to the absence of Members, after some discussion, withdrawn.
2. Ordnance Vesting Bill; read a third time and *Passed*.
3. Preservation of Ports and Harbours Act Amendment Bill; re-committed and further amended; to be fairly transcribed and presented to the Governor by the Collector of Customs and Mr. Berry.
4. Foreign Attachment and Laws as to Absent Persons Amendment 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.
5. Punishment of Transported Offenders' Amendment Act Bill; second reading deferred until Friday, July 10.
6. Hawkesbury Benevolent Society Bill; presented by the Governor as amended; re-committed and further amended; to be fairly transcribed and presented to the Governor by the Lord Bishop of Australia and Mr. H. H. Macarthur. Notice having been given that several Members would be unable to attend on Tuesday and Wednesday next, Resolved,
 - (1.) Commissioners of Police and Public Works Bill; that the second reading, appointed for Tuesday next, be postponed until Thursday next, July 9.
 - (2.) Parish Roads Bill; that the second reading appointed for Wednesday next, be postponed until Friday, July 10.
 - (3.) Municipal Corporations Bill; that the second reading appointed for Thursday next, be postponed until Friday, July 10.
 Council adjourned at Three o'Clock, until Thursday next, July 9, at Twelve o'Clock.

ORDERS OF THE DAY.

THURSDAY, JULY 9.

1. Claims to Grants of Land in New Zealand Bill; second reading.
2. Commissioners of Police and Public Works Bill; second reading.

FRIDAY, JULY 10.

1. Punishment of Transported Offenders Amendment Act Bill; second reading.
2. Municipal Corporations Bill; second reading.
3. Parish Roads Bill; second reading.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

THURSDAY, 9 JULY, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Claims to Grants of Land in New Zealand Bill; On the Order of the day being called for the second reading of this Bill, His Excellency the Governor addressed the Council at great length in refutation of the positions maintained by the Gentlemen who had been heard in opposition to the Bill, and read a number of passages from Works of standard authority to prove, that by the Law and practice, not only of England, but of all the Colonizing Powers of Europe, as well as of the United States of America, the Uncivilized Aboriginal inhabitants of any Country, have always been held to have but a qualified dominion over it, or a right of occupancy only: and that until they establish amongst themselves a settled form of government, and subjugate the ground to their own uses, by the cultivation of it, they cannot grant to individuals, not of their own tribe, any portion of it, for the simple reason, that they have not themselves any individual property in it.

Secondly, that if a settlement be made in any such country by a civilized power, the right of pre-emption of the soil; or in other words, the right of extinguishing the Native title, is exclusively in the Government of that Power; and cannot be enjoyed by individuals without the consent of their Government.

Thirdly, that neither individuals, nor bodies of men belonging to any Nation, can form Colonies, except with the consent, and under the direction and control of their own Government: and that from any settlement which they may form without the consent of their Government, they may be ousted; that is simply to say, in so far as Englishmen are concerned, that Colonies can not be formed without the consent of the Crown.

The first passages read by His Excellency were extracts from Storey's Commentaries on the Constitution of the United States, Chap. I sect. 6, 7, and 8.

CH. I. SECT. 6.—The principle, then, that discovery gave title to the Government, by whose subjects, or by whose authority it was made, against all other European Governments, being once established, it followed almost as a matter of course, that every Government, within the limits of its discoveries, excluded all other persons from any right to acquire the soil by any grant whatsoever from the natives. No nation would suffer either its own subjects, or those of any other nation, to set up or vindicate any such title. It was deemed a right exclusively belonging to the government in its sovereign capacity to extinguish the Indian title, and to perfect its own dominion over the soil, and dispose of it according to its own good pleasure.

SECT. 7.—It may be asked, what was the effect of this principle of discovery in respect to the rights of the natives themselves. In the view of the Europeans, it created a peculiar relation between themselves and the Aboriginal inhabitants. The latter were admitted to possess a present right of occupancy, or use in the soil, which was subordinate to the ultimate dominion of the discoverer. They were admitted to be the rightful occupants of the soil, with a legal, as well as just claim to retain possession of it; and to use it according to their own discretion. In a certain sense, they were permitted to exercise rights of sovereignty over it. They might sell or transfer it to the sovereign who discovered it; but they were denied the authority to dispose of it to any other persons: and, until such a sale or transfer, they were generally permitted to occupy it as sovereigns *de facto*. But notwithstanding this occupancy, the European discoverers claimed and exercised the right to grant the soil, while yet in possession of the natives, subject, however, to their right of occupancy: and the title so granted was universally admitted to convey a sufficient title in the soil to the granters in perfect dominion, or, as it is sometimes expressed in treaties of public law, it was a transfer of *plenum et utile dominium*.

SECT. 8.—This subject was discussed at great length in the celebrated case of Johnson v. McIntosh (8 Wheat. 543); and one cannot do better than transcribe, from the pages of that report, a summary of the historical confirmations adduced in support of these principles, which is more clear and exact than has ever been before in print.

His Excellency remarked that the next passages which he would read, although taken from Storey, were in fact extracts from the judgment of Chief Justice Marshall.

SECT. 10.—France, also, founded her title to the vast territories she claimed in America on discovery. However conciliatory her conduct to the natives may have been, she still asserted her right of dominion over a great extent of country, not actually settled by Frenchmen, and her exclusive right to acquire and dispose of the soil, which remained in the occupation of the Indians.

SECT. 19.—Thus has our whole country been granted by the Crown while in the occupation of the Indians. These grants purport to convey the soil, as well as the right of dominion to the grantees. In those governments, which were denominated Royal, where the right to the soil was not vested in individuals, but remained in the Crown, or was vested in the Colonial Government, the king claimed and exercised the right of granting lands, and of dismembering the government at his will. The grants made out of the two original colonies, after the resumption of their charters by the Crown, are examples of this. The Governments of New England, New York, New Jersey, Pennsylvania, Maryland, and a part of Carolina, were thus created. In all of them, the soil, at the time the grants were made, was occupied by the Indians. Yet almost every title within those

those governments is dependent on these grants. In some instances, the soil was conveyed by the Crown, unaccompanied by the powers of government, as in the case of the northern Neck of Virginia. It has never been objected to this, or to any other similar grant, that the title as well as possession was in the Indians when it was made, and that it passed nothing on that account.

SECT. 20.—These various patents cannot be considered as nullities; nor can they be limited to a mere grant of the powers of government. A charter, intended to convey political power only, would never contain words expressly granting the land, the soil, and the waters. Some of them purport to convey the soil alone; and in those cases, in which the powers of government, as well as the soil, are conveyed to individuals, the Crown has always acknowledged itself to be bound by the grant. Though the power to dismember regal governments was asserted and exercised, the power to dismember proprietary governments was not claimed. And in some instances, even after the powers of government were reverted in the Crown, the title of the proprietors to the soil was respected.

SECT. 21.—Charles the Second was extremely anxious to acquire the property of Maine; but the grantees sold it to Massachusetts, and he did not venture to contest the right of the colony to the soil. The Carolinas were originally proprietary governments. In 1721, a revolution was effected by the people, who shook off their obedience to the proprietors, and declared their dependence immediately on the Crown. The king, however, purchased the title of those who were disposed to sell. One of them, Lord Carteret, surrendered his interest in the government, but retained his title to the soil. That title was respected till the revolution, when it was forfeited by the laws of war.

SECT. 29.—By the treaty which concluded the war of our revolution, Great Britain relinquished all claim, not only to the government, but to the proprietary and territorial rights of the United States, whose boundaries were fixed in the second article. By this treaty, the powers of government, and the right to the soil, which had been previously in Great Britain, passed definitively to these states. We had before taken possession of them, by declaring independence; but neither the declaration of independence, nor the treaty confirming it, could give us more than that which we before possessed, or to which Great Britain was before entitled. It has never been doubted, that either the United States, or the Several States, had a clear title to all the lands within the boundary lines described in the treaty, subject only to the Indian right of occupancy, and that the exclusive power to extinguish that right was vested in that government, which might constitutionally exercise it.

SECT. 30.—Virginia, particularly within whose chartered limits the land in controversy lay, passed an Act, in the year 1779, declaring her exclusive right of pre-emption from the Indians of all the lands within the limits of her own chartered territory, and that no persons whatsoever have, or ever had, a right to purchase any lands within the same from any Indian nation, except only persons duly authorised to make such purchase, formerly for the use and benefit of the colony, and lately for the Commonwealth. The Act then proceeds to annul all deeds made by Indians to individuals for the private use of the purchasers.

SECT. 31.—Without ascribing to this Act the power of annulling vested rights, or admitting it to countervail the testimony furnished by the marginal note, opposite to the title of the law, forbidding purchases from the Indians, in the revivals of the Virginia statutes, stating that law to be repealed, it may safely be considered as an unequivocal affirmance, on the part of Virginia, of the broad principle, which had always been maintained, that the exclusive right to purchase from the Indians resided in the government.

SECT. 37.—The United States, then, have unequivocally acceded to that great and broad rule by which its civilized inhabitants now hold this country. They hold, and assert in themselves the title by which it was acquired. They maintain, as all others have maintained, that discovery gave an exclusive right to extinguish the Indian title of occupancy, either by purchase or by conquest; and gave also a right to such a degree of sovereignty, as the circumstances of the people would allow them to exercise.

SECT. 38.—The power now possessed by the government of the United States to grant lands, resided, while we were colonies, in the Crown, or its grantees. The validity of the titles given by either has never been questioned in our courts. It has been exercised uniformly over territory in possession of the Indians. The existence of this power must negative the existence of any right which may conflict with and control it. An absolute title to lands cannot exist at the same time in different persons or in different governments. An absolute must be an exclusive title, or at least a title which excludes all others not compatible with it. All our institutions recognize the absolute title of the Crown, subject only to the Indian right of occupancy, and recognize the absolute title of the Crown to extinguish that right. This is incompatible with an absolute and complete title in the Indians.

His Excellency then read the following extracts from Kent's Commentaries on American Law.

SECT. 1.—It is a fundamental principle in the English law, derived from the maxims of the feudal tenures, that the king was the original proprietor of all the land in the kingdom, and the true and only source of title. In this country we have adopted the same principle, and applied it to our republican governments; and it is a settled and fundamental doctrine with us, that all valid individual title to land within the United States, is derived from the grant of our own local governments, or from that of the United States, or from the Crown, or loyal chartered governments established here prior to the revolution.*

SECT. 2.—The European nations, which respectively established colonies in America, assumed the ultimate dominion to be in themselves, and claimed the exclusive right to grant a title to the soil, subject only to the Indian right of occupancy. The natives were admitted to be the rightful occupants of the soil, with a legal as well as just claim to retain possession of it, and to use it according to their own discretion, though not to dispose of the soil at their own will, except to the government claiming the right of pre-emption.

SECT. 3.—The peculiar character and habits of the Indian nations, rendered them incapable of sustaining any other relation with the whites than that of dependence and pupilage. There was no other way of dealing with them, than that of keeping them separate, subordinate, and dependent, with a guardian care thrown around them for their protection. The rule that the Indian title was subordinate to the absolute, ultimate title of the government of the European colonists, and that the Indians were to be considered as occupants, and entitled to protection in peace in that character only, and incapable of transferring their right to others, was the best one that could be adopted with safety. The weak and helpless condition in which we found the Indians, and the immeasurable superiority of their civilized neighbours, would not admit of the application of any more liberal and equal doctrine to the case of Indian lands and contracts. It was founded on the pretension of converting the discovery of the country into a conquest, and it is now too late to draw into discussion the validity of that pretension, or the restrictions which it imposes. It is established by numerous compacts, treaties, laws, and ordinances, and founded on immemorial usage. The country has been colonized and settled, and is now held by that title. It is the law of the land, and no court of justice can permit the right to be disturbed by speculative reasonings on abstract rights.

The original Indian nations were regarded and dealt with as proprietors of the soil which they claimed and occupied, but without the power of alienation, except to the governments which protected them, and had thrown over them, and beyond them, their assumed patented domains. Those governments asserted and enforced

* In the elaborately-discussed case of *De Armas v. Mayor, &c., of New Orleans*, 5 Miller's Louisiana Rep., 132, it was admitted to have been uniformly the practice of all the European nations having colonial establishments and dominion in America, to consider the unappropriated lands occupied by savage tribes, and obtained by them by conquest or purchase, to be Crown lands, and capable of a valid alienation, by sale or gift, by the Sovereign, and by him only. No valid title could be acquired without letters patent from the king.

enforced the exclusive right to extinguish Indian titles to lands, enclosed within the exterior lines of their jurisdictions, by fair purchase, under the sanction of treaties; and they held all individual purchases from the Indians, whether made with them individually, or collectively as tribes, to be absolutely null and void. The only power that could lawfully acquire the Indian title was the state, and a government grant was the only lawful source of title admitted in the courts of justice. The colonial and state governments, and the government of the United States, uniformly dealt upon these principles with the Indian nations, dwelling within their territorial limits. The Indian tribes placed themselves under the protection of the Whites, and they were cherished as dependent allies, but subject to such restraints and qualified control in their national capacity, as was considered by the Whites to be indispensable to their own safety, and requisite to the discharge of the duty of that protection.

His Excellency said that it seemed to him, that Lord Normanby must have had these passages under his eye when he wrote his instructions, so exactly did they correspond with his Lordship's description of the qualified dominion or sovereignty enjoyed by the Chiefs over the territory of New Zealand, and of the protection which it was the duty of the British, in settling in that Country to afford to them. His Excellency said he would read only one passage more, as he would exhaust the patience of the Council if he were to go through all the passages which might be quoted to the same effect.

The original English emigrants came to this country with no slight confidence in the solidity of such doctrines, and in their right to possess, subdue, and cultivate the American wilderness, as being by the law of nature and the gift of Providence, open and common to the first occupants in the character of cultivators of the earth. The great patent of New England, which was the foundation of the subsequent titles and subordinate Charters in that country, and the opinions of grave and learned men, tended to confirm that confidence. According to Chalmers, the practice of the European world had constituted a law of nations, which sternly disregarded the possession of the Aborigines, because they had not been admitted into the Society of nations. But whatever loose opinions might colonize America, it is certain, that in point of fact, the colonists were not satisfied, or did not deem it expedient, to settle the country without the consent of the Aborigines, procured by fair purchase, under the sanction of the civil authorities. The pretensions of the patent of King James were not relied on, and the prior Indian right to the soil of the country was generally, if not uniformly, recognized and respected by the New England Puritans. They always negotiated with the Indian nations as distinct and independent powers; and neither the right of pre-emption, which was uniformly claimed and exercised, nor the state of dependence and pupilage under which the Indian tribes, within their territorial limits, were necessarily placed, were carried so far as to destroy the existence of the Indians as self-governing communities. The manner in which the people of this country, through all periods of their colonial history, treated and dealt with the Indians, is a subject of deep interest, and well worthy of the thorough and accurate examination of every person conversant with our laws and history, and whose bosom glows with a generous warmth for the honour and welfare of his country.

His Excellency said, he thought the passages which he had read proved at least, that in the opinion of the Americans themselves, their Law on this subject was derived from the English Law; or in other words, that the Law which prohibited individuals from purchasing land from the Indians, was English Law before it was American Law; and that it only remained for him to shew, that it is English Law still, which, most fortunately, he was enabled to do by the production of the opinions of three of the most eminent of living lawyers—Mr. Burge, Mr. Pemberton, and Sir William Follett; which opinions had been elicited by the Members of the Port Phillip Association, who, during the Administration of His Excellency's predecessor, Sir Richard Bourke, attempted a settlement on some extensive tracts of land at Port Phillip, which they had purchased from the Aboriginal Natives of that District, and not being satisfied with the decision of Sir Richard Bourke, who had issued a Proclamation declaring their purchase to be invalid, they sent some of their body to England to appeal to the Home Government; but not meeting with much success, they resolved to take the opinion of Counsel on the validity of their claims.

The opinions thus obtained, were then read by His Excellency to the Council.

CASE AND OPINION.

THE accompanying Report, No. 1, gives a detailed account of the occupation by Mr. Batman, of certain tracts of land situated at the south-western extremity of New Holland, and in the vicinity of a port marked upon the English charts as Port Phillip.

The documents, Nos. 2 and 3, are copies of deeds of Feoffment in favor of Mr. Batman, executed by the Chiefs of the native tribe, living at and contiguous to Port Phillip.

The document, No. 4, is a copy of a letter addressed by the Members of the Association for forming a settlement upon the tracts of land in question to the Secretary of State for the Colonies, soliciting a confirmation on the part of the Crown, of the tracts of land granted by the deeds, Nos. 2 and 3. This letter has not yet been delivered to the Colonial Secretary.

The tracts of country in question are within the limits of Australia, as defined in the maps, of which the line extends from the Australian Bight to the Gulf of Carpentaria, but they are situated some hundred miles from New South Wales, which is only a part of Australia.

Port Phillip was named after Governor Phillip, the first Governor of New South Wales, who formed a temporary settlement there, which was immediately abandoned, and no act of ownership has since been exercised by the Crown.

The natives are, as appears by the Report, an intelligent set of men, and the grants were obtained upon equitable principles, of which the reservation of the tribute is strong evidence, and the purport of the deeds was fully comprehended by them.

The gentlemen composing the Association have possessed themselves of the tracts of country in question, and have flocks and other property there of the value of at least £30,000.

The following documents are added as tending to illustrate the present situation of the colonists, as well as their views and intentions.

No. 5. Copy answer returned through the office of the Colonial Secretary of Van Diemen's Land to Mr. Batman's Report, addressed to the Lieutenant-Governor.

No. 6. Map of the ceded territory.

No. 7. Copy Indenture made by John Batman, Charles Swanston, and others, for defining the objects of the parties, who propose to establish a settlement on the ceded territories.

No. 8. Copy Conveyance of the ceded territories made by Mr. Batman, and relative declaration of trust.

Your Opinion is requested,

1. Whether the grants obtained by the Association are valid?

- 2. Whether the right of soil is or is not vested in the Crown ?
- 3. Whether the Crown can legally oust the Association from their possessions ?
- 4. What line of conduct or stipulations would you advise the Association to pursue and make with the British Government ; in particular, ought they to offer Government any specific terms, and ought the whole of the documents now laid before you to be at once communicated to Government, or ought such communication to embrace only part of them, and if so, what part ?

OPINION.

1 and 2. I am of opinion, that, as against the Crown, the grants obtained by the Association are not valid, and that, as between Great Britain and her own subjects, as well as the subjects of foreign states, the right to the soil is vested in the Crown. It has been a principle adopted by Great Britain as well as by the other European states, in relation to their settlements on the continent of America, that the title which discovery conferred on the government, by whose authority or by whose subjects the discovery was made, was that of the ultimate dominion in and sovereignty over the soil, even whilst it continued in the possession of the Aborigines. Vattel, B. 2, c. 18. This principle was reconciled with humanity and justice towards the Aborigines, because the dominion was qualified by allowing them to retain, not only the rights of occupancy, but also a restricted power of alienating those parts of the territory which they occupied. It was essential that the power of alienation should be restricted. To have allowed them to sell their lands to the subjects of a foreign state would have been inconsistent with the right of the state, by the title of discovery to exclude all other states from the discovered country. To have allowed them to sell to her own subjects would have been inconsistent with their relation of subjects,

The restriction imposed on their power of alienation consisted in the right of pre-emption of these lands by that state, and in not permitting its own subjects or foreigners to acquire a title by purchase from them without its consent. Therein consists the sovereignty of a dominion or right to the soil asserted, and exercised by the European Government against the Aborigines, even whilst it continued in their possession. The Commission granted by England to Cabot, the Charter to Sir Humphrey Gilbert in 1578, and which was afterwards renewed to Sir Walter Raleigh, the Charter to Sir Thomas Gates and others in 1606, and to the Duke of Lennox and others in 1620, the grants to Lord Clarendon in 1663, and to the Duke of York in 1664, recognize the right to take possession on the part of the Crown, and to hold an absolute property, notwithstanding the occupancy of the natives.

The cession of "all Nova Scotia or Arcadia, with its ancient boundaries," made by France to Great Britain by the 12th Article of the Treaty of Utrecht in 1703, and the cession of other lands in America, made at the peace of 1763, comprised a great extent of territory which was in the actual occupation of the Indians. Great Britain, on the latter occasion, surrendered to France all her pretensions to the country west of the Mississippi, although she was not in possession of a foot of land in the district thus ceded. But that which Great Britain really surrendered was her sovereignty, or the exclusive right of acquiring, and of controlling the acquisition by others, of lands in the occupation of the Indians.

On the cession by Spain to France of Florida, and by France to Spain of Louisiana, and on the subsequent retrocession of Louisiana by Spain to France, and the subsequent purchase of it by the United States from France, these powers were transferring and receiving territories, the principal parts of which were occupied by the Indians.

The history of American colonization furnishes instances of purchases of land from the native Indians by individuals. The most memorable is the purchase made by William Penn. It has, however, been observed by Chief-Justice Marshall, in the case of Johnson v McIntosh, 8 Wheaton's Rep. 570, that this purchase was not deemed to have added to the strength of his title. Previously to this purchase the lands called Pennsylvania, and which comprised those subsequently purchased by him, had been granted by the Crown to him and his heirs in absolute property, by a charter in 1681, and he held a title derived from James II. when Duke of York. He was, in fact, as a proprietary governor, invested with all the rights of the Crown, except those which were specially reserved. Another instance is the purchase from the Narragansetts Indians of the lands which formed the colonies of Rhode Island and Providence. They were made by persons whose religious dissensions had driven them from Massachusetts. The state of England at this period might account for this transaction having escaped the attention of the Government. It is evident, however, that the settlers were not satisfied with the title acquired by this purchase, for on the restoration of Charles II. they solicited and obtained from the Crown a charter, by which Providence was incorporated with Rhode Island. The grant is made to them "of our Island called Rhode Island," and of the soil as well as the powers of Government. The judgment of Lord Hardwicke in the case of Penn v. Lord Poltimore, 1. Ves. 454, is not inconsistent with, but in many respects supports, this view of the rights of the Crown and its grantees.

In all the colonies which now constitute the United States, the Crown either granted to individuals the right in the soil, although occupied by the Indians, as was the case in most of the proprietary governments, or the right was retained by the Crown, or vested in the Colonial Government. The United States, at the termination of the Revolution, acquired the right to the soil which had been previously vested in the Crown, for Great Britain by treaty relinquished all claim "to the proprietary and territorial rights of the United States." The validity of titles acquired by purchases from the Indians has been on several occasions the subject of decision in the courts of the United States. The judgment of Chief-Justice Marshall, in the case of Johnson v. McIntosh, contains the elaborate opinion of the Supreme Court, that the Indian title was subordinate to the absolute ultimate title of the Government, and that the purchase made otherwise than with the authority of the Government, was not valid. A similar decision was given by the same court in the case of Worcester v. the State of Georgia, in January 1832. 3 Kent's Com. 382, and the case referred to in the note, p. 385.

3. I am of opinion that the Crown can legally oust the Association from their possession.

The enterprise manifested by the expedition,—the respectability of the parties engaged in it, and the equitable and judicious manner in which they conducted the intercourse with the native tribes, and made their purchase, afford a strong ground for anticipating that the Crown would, in conformity with its practice on other occasions, on a proper application, give its sanction to, and confirm the purchase which the Association has made. Lord Hardwicke, in the case which has been referred to, expressed a very strong opinion, that the possession of persons making these settlements ought to receive the fullest protection.

There is no ground for considering that the lands comprised in this purchase are affected by the act erecting South Australia into a Province, 4 and 5 W. IV., c. 95. They are clearly not within the boundaries assigned to the territory which is the subject of the act, and therefore the Crown is not precluded from confirming the purchase.

4. I am of opinion that the Association should make an application to the Government for a confirmation of the above purchase, and accompany it with a full communication, not only of all the documents now laid before me, but of every other circumstance connected with the acquisition.

(Signed) WILLIAM BURGE.

Lincoln's-Inn, 16th January, 1836.

We have perused the extremely able and elaborate opinion of Mr. Burge, and entirely concur in the conclusions at which he has arrived upon each of the queries submitted to us.

(Signed) { THO. PEMBERTON.
W. W. FOLLETT.

January 21, 1836.

The

The Members of the Association being however still dissatisfied, applied, somewhat in the nature of an appeal, to Dr. Lushington; and His Excellency considered it as fortunate for his view of the case that they did so; as the Opinion which he had just read, was given with the knowledge that Port Phillip was within the British Dominions; whereas Dr. Lushington was evidently under the erroneous impression that it never had previously been annexed to the British Crown, and his Opinion was therefore strictly applicable to the case of New Zealand, and was more valuable than it would have been had the fact been known to Dr. Lushington, that Port Phillip was a part of New South Wales.

His Excellency then read the following Case as submitted to Dr. Lushington.

MEMORANDUM IN ADDITION TO CASE IN REGARD TO THE GEELONG AND DUTIGALLA ASSOCIATION.

Since the Case relative to the settlement made in Australia by the Geelong and Dutigalla Association was laid before Counsel, inquiry has been made at Mr. Mercer, one of the Members of that Association, whether the settlement in question fell within the limits of *South Australia*, which His Majesty was empowered to erect into a British Province by the Act 4 and 5 W. IV., c 95, (passed 15th August, 1834.)

It will be seen from that Act that the Province of *South Australia* is described as lying "between the meridians of 132° and 141° east longitude, and between the Southern Ocean and 26° of south latitude, together with the islands adjacent thereto."

The settlement in question is not included in any other British province theretofore erected in Australia.

Mr. Mercer has answered this inquiry as follows:—

"Port Phillip, where we have settled, lies 300 miles from Lake Alexandrina, into which the river Murray flows, and between 37° 30' and 38° 15' south latitude, 144° 20' and 145° 20' east longitude, quite clear of the South Australian new colony, recognised by the late Act of Parliament: This Act I will shew you if able to go in on Friday next. The papers will shew that it had once been taken possession of, and afterwards abandoned; also that it is within the imaginary line drawn from the Gulf of Carpentaria to the Australia Bight. Any map of New Holland will shew its position. A question might even be raised, whether the Crown or Parliament had a right to Colonize South Australia, without a treaty with the native chiefs: this, however, is not our business just now."

OPINION by DR. LUSHINGTON.

1. I am of opinion, that the grants obtained by the Association are not valid without the consent of the Crown.

2 and 3. I do not think that the right to this territory is at present vested in the Crown; but I am of opinion that the Crown might oust the Association; for I deem it competent to the Crown to prevent such settlements being made by British subjects if it should think fit.

4. I think the most advisable course the Association can pursue is to give the Crown the fullest information on all points. I think it unwise and unsafe to hold back any document or information whatever. Indeed, the so doing, if in an important particular, might invalidate the security the Association might derive from the grants or acts of the Crown.

I further think that it would not be expedient, in the first instance, to propose specific terms. The best course would be, after getting full information, to request the countenance, sanction, and aid of the Crown; of course, afterwards, the security of the lands by confirmation or grant from the Crown must be obtained; under what conditions or restrictions must be matter for subsequent negotiation with Government.

This present plan is, truly speaking, the planting of a new colony, and nothing can be safely or effectually done but by the authority of the Crown.

(Signed)

STEPHEN LUSHINGTON.

Great George-street,
Jan. 18, 1836.

His Excellency remarked, that he thought the Authorities which he had quoted, would be allowed fully to establish the three principles on which the Bill was founded; but he had yet a few words to say on the question, whether Colonies could be founded, and Governments established, without the consent of the Crown; and fortunately he could produce the Opinion of an eminent Lawyer on this subject also; the opinion of Mr. Sergeant Wilde, as given to the New Zealand Company, not long after the sailing from England of the first expedition to Port Nicholson where, it would be remembered, the Company had entered into an Agreement with the persons composing that expedition to form a Government of their own; a measure which, Mr. Wentworth in reply to a question put to him by His Excellency, had pronounced to be perfectly lawful. But before he proceeded to Mr. Sergeant Wilde's opinion, His Excellency said he would read an Extract from a letter addressed by the Secretary of the New Zealand Land Company by order of the Directors, to Colonel Wakefield their Agent at Port Nicholson. which letter together with the Opinion of Sergeant Wilde was communicated to the Colonial Office in testimony of the entire submission of the Company to the Government.

EXTRACTS FROM A LETTER OF INSTRUCTIONS FROM JOHN WARD, ESQUIRE, SECRETARY TO THE NEW ZEALAND LAND COMPANY, TO COLONEL W. WAKEFIELD, DATED 14th NOVEMBER, 1839.

I have now, by order of the Directors, to draw your attention to matters of very great importance to the Settlement, and which are a source of no less embarrassment to themselves.

Since the departure of the gentlemen composing the committee, to whom the bulk of the settlers agreed to submit in all things needful to peace and order, until the establishment of a regular Government, the Directors have learned that very competent judges of the law are of opinion, that any act of coercion or authority done under the agreement would be illegal. I enclose a copy of Sergeant Wilde's opinion on the subject, which the Directors obtained only this morning. It appears that the agreement by itself is of no force nor effect, neither illegal nor legal, but mere waste paper, and that it will ever remain so until acted upon. But, on the other hand, any act performed under the agreement would be without warrant of law, and the parties performing it would therefore be subject either to prosecution or civil action, according to the nature of the act. For example, the settlers agreed that if any of them committed a breach of the law of England, he should be punished in the same way as if the offence had been committed in England. Now, if one of the parties to the agreement should commit a murder or an assault, and should be executed or imprisoned accordingly, all the parties to the agreement would be liable to a prosecution for murder, or to an action for false imprisonment. They would also, perhaps, be liable to prosecution for usurping the functions of the Crown and Parliament, by setting up a jurisdiction,

jurisdiction, whether in civil or criminal matters. I am now stating the case in its very worst point of view, and assuming the correctness of the most unfavourable of the legal opinions which the Directors have obtained. According to these opinions, whether such acts under such an agreement were done in a British dependency, or in a desert island, unknown to the Crown of England, or in a foreign country, having an independent government and laws of its own, they would, being done on British subjects by British subjects, be equally illegal, and would equally subject the parties performing them to the same penalties as if those acts had been performed in England.

Such the Directors are advised, is the strict letter of the law; and they have no reason to expect, from the feeling which the Colonial Office has recently displayed towards their enterprise, that the strict letter of the law would not be enforced in this case. Several cases have indeed occurred, in which a body of Englishmen, suffering in a distant land from the want of regular authority, have established some sort of tribunal for the protection of life and property, without incurring the displeasure of the government at home, or being subjected to any penalty or inconvenience for what was termed an act of self-preservation. The case of Honduras is the most remarkable. Even at the Bay of Islands, in New Zealand, a voluntary association for government has existed for at least two years, without being denounced or impeded in its operations by the Home authorities. In that case, as in this, the settlers did not act for themselves until after repeated applications to the Home authorities, for the establishment of British Law; but this case differs from that in a very important particular. The letter from Lord John Russell to Mr. Young, of which I enclose a copy, shows that, in this case, formal warning has been given by the Home Government of its intention to enforce the strict letter of the law.

This warning the Directors seize the first opportunity of conveying to you, in order that you may communicate it without delay to the Members of the Committee. And they further direct me to express to you, and to all the other servants of the Company, their positive order that you will all abstain from taking any part whatever in any act of coercion or authority under the agreement. With respect to the other settlers, the Directors do not possess, and cannot pretend to exercise any control over them; but they desire that you will communicate to every Member of the Committee their earnest advice and anxious hope that the agreement may not be put in force by any body. Whatever may be the consequence, they can have no hesitation in recommending implicit obedience to that which they are now informed is the law of the land. The Members of the Committee will indeed perceive that the agreement itself, viewed as a moral engagement, precludes the parties to it from committing any breach of that law which it is the declared object of the agreement to uphold.

The immediate consequence of complete obedience to the law, taken in conjunction with the neglect of the Colonial Department to provide any legal means of preserving order in the settlement, will be a state of things like to that which has long subsisted among the British settlers at the Bay of Islands, where the resident officer of the Crown has been described as resembling "a ship of war without guns." He has had a law to administer, but no means whatever of enforcing it. In the Company's settlement the law of England must be respected, even to the extent of inducing the settlers to abstain from adopting any means of enforcing the law of England. If they should punish breaches of the law, they would themselves break the law. In order to avoid one breach of the law, hundreds, perhaps, must be permitted. Such is the dilemma in which a strict interpretation of the law, together with Lord John Russell's threat, places the Colonists. Since, however, the law of England contemplates this dilemma, by leaving no excuse whatever for the exercise by British subjects, in any part of the world, of a jurisdiction not sanctioned either by the Parliament or by the Crown, the Directors have instructed me to explain the case thus fully to you, for the information of the settlers, in order that the latter may be exactly aware of their own position.

Finally, with reference to my letter of the 16th of September last, I am again desired to impress on you the anxious wish of the Directors that you, and all the servants of the Company, should do whatever may be in your power to promote the success of Captain Hobson's Mission, and to accelerate as much as possible the time when it is to be hoped that he, as Her Majesty's Representative, may establish a British authority, and the regular application of English law, not only in the Company's settlements, but throughout the islands of New Zealand.

I have, &c.,
JOHN WARD,
Secretary.

Counsel will please to advise:—

1st.—Whether persons acting under the articles of agreement above set forth will or will not be justified by law?

2nd.—And if you should be of opinion that the articles, or any of them, should be in any respect illegal, what would be the penal consequences to the parties who have affixed their signatures thereto, or to the Directors who have signed their qualified approval at the foot of the regulations, or to the persons who may act under the same, and what remedial steps should be taken by the Directors?

OPINION.

1st.—The parties will not be justified by law in acting under the agreement.

2nd.—No penal consequences will attach to the persons in consequence of their having been parties to the agreement, and affixed their signatures; but no acts which may be done or committed can be legally justified under the authority of the agreement. The consequences will be the same that would result from the acts being done as if no such agreement had been made.

The course for the Directors to take is to give notice to those who may be likely to act under the supposed authority of the agreement, that they must not do so on account of its illegality, and that the agreement is abandoned by the Directors.

(Signed) THOMAS WILDE.

14th November, 1839,
Temple.

His Excellency then remarked, that much had been said about an apparent discrepancy between Lord Normanby's instructions and the provisions of the Bill; it was true, he said, that Lord Normanby acknowledged New Zealand to be a sovereign and independent State; but it was equally true, that he qualified it afterwards by adding, "As far at least as it is possible to make that acknowledgment in favour of a People composed of numerous and petty tribes, who possess few political relations, to each other and are incompetent to act, or even to deliberate in concert." The more completely Lord Normanby admits the right of the Chiefs to the sovereignty and soil of New Zealand, the more fully must he rely upon the third principle upon which the Bill is founded, namely, that Englishmen cannot found Colonies without the consent of the Crown; and can obtain no titles to lands in Colonies but from the Crown.

It is not Independence, His Excellency then observed, which confers on any People the

the right of so disposing of the soil they occupy, as to give to Individuals not of their own tribes, a property in it; it is Civilization which does this, and the establishment of a Government capable at once of protecting the rights of individuals, and of entering into relations with Foreign Powers; above all, it is the establishment of a Government capable at once of protecting the rights of individuals, and of entering into relations with Foreign Powers; above all, it is the establishment of Law, of which, property is justly said to be the creature. As bearing upon this, His Excellency read a passage from Robertson's History of America.

Book 4, Sect. 3.—People in this state retain a high sense of equality and independence. Wherever the idea of property is not established, there can be no distinction among men, but what arises from personal qualities. These can be conspicuous only on such occasions as call them forth into exertion. In times of danger, or in affairs of intricacy, the wisdom and experience of age are consulted, and prescribe the measures which ought to be pursued. When a tribe of savages takes the field against the enemies of their country, the warrior of most approved courage leads the youth to the combat. If they go forth in a body to the chase, the most expert and adventurous hunter is foremost, and directs their motions.

Sect. 4.—Among people in this state, Government can assume little authority, and the sense of civil subordination must remain very imperfect. While the idea of property is unknown, or incompletely conceived; while the spontaneous productions of the earth, as well as the fruits of industry, are considered as belonging to the public stock, there can hardly be any such subject of difference or discussion among the members of the same community, as will require the hand of authority to interpose in order to adjust it. Where the right of separate and exclusive possession is not introduced, the great object of law and jurisdiction does not exist. When the members of a tribe are called into the field, either to invade the territories of their enemies, or to repel their attacks, when they are engaged together in the toil and dangers of the chase, they then perceive that they are part of a political body. They are conscious of their own connexion with the companions in conjunction with whom they act; and they follow and reverence such as excel in conduct and valour. But, during the intervals between such common efforts, they seem scarcely to feel the ties of political union. No visible form of government is established. The names of magistrate and subject are not in use. Every one seems to enjoy his natural independence almost entire. If a scheme of public utility be proposed, the members of the community are left at liberty to choose whether they will or will not assist in carrying it into execution. No statute imposes any service as a duty; no compulsory laws oblige them to perform it. All their resolutions are voluntary, and flow from the impulse of their own minds. The first step towards establishing a public jurisdiction, has not been taken in those rude societies. The right of revenge is left in private hands. If violence is committed, or blood is shed, the community does not assume the power either of inflicting or of moderating the punishment. It belongs to the family and friends of the person injured or slain, to avenge the wrong, or to accept of the reparation offered by the aggressor. If the elders interpose, it is to advise, not to decide, and it is seldom their counsels are listened to; for as it is deemed pusillanimous to suffer an offender to escape with impunity, resentment is implacable and everlasting. The object of government among savages is rather foreign than domestic. They do not aim at maintaining interior order and police by public regulations, or the exertions of any permanent authority, but labour to preserve such union among the members of their tribe, that they may watch the motions of their enemies, and act against them with concert and vigour.

In reference to the preamble of the Bill part of which had been much objected to, His Excellency observed that what had served as a hint for that passage, was a suggestion thrown out by the Committee of the House of Commons which was appointed in the year 1837 to enquire into the condition of the Aborigines in British Colonies. At page 78 of their Report are the following words;

So far as the lands of the Aborigines are within any territories over which the dominion of the Crown extends, the acquisition of them by Her Majesty's subjects, upon any title of purchase, grant, or otherwise, from their present proprietors should be declared illegal and void. The prohibition might also be extended to lands situate within territories which, though not forming a part of the Queen's dominions, are yet in immediate contiguity to them; but it must be admitted, that we have not the power to prevent transactions of this kind in countries which are neither within the Queen's allegiance, nor affected by any of those intimate relations which grow out of neighbourhood.

His Excellency added that New Zealand although not immediately in contiguity with New South Wales, has certainly relations with it growing out of neighbourhood, and therefore comes within the recommendation of the Committee.

His Excellency having gone into an elaborate explanation of the real objects of the Bill, and the substantial justice of its various enactments, concluded by stating, that he would commit it to the hands of the Council, who would, he felt assured, deal with it according to their consciences, and with that independence which they ought ever to exercise, having always before them a due regard for the honor of the Crown, and the interests of the Subject.

Several Members having then given their opinions, the further consideration of the Bill was postponed until to-morrow.

2. Commissioners of Police and Public Works Bill; second reading postponed until to-morrow.

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

ORDERS OF THE DAY.

FRIDAY, JULY 10.

1. Claims to Grants of Land in New Zealand Bill; further consideration.
2. Commissioners of Police and Public Works Bill; second reading.
3. Punishment of Transported Offenders Amendment Act Bill; second reading.
4. Municipal Corporations Bill; second reading.
5. Parish Roads Bill; second reading.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

FRIDAY, 10 JULY, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Claims to Grants of Land in New Zealand Bill; further considered, and read a second time; to be further considered on Tuesday next, July 14.
2. Second reading of the under-mentioned Bills postponed until Tuesday next;
 - (1.) Commissioners of Police and Public Works Bill;
 - (2.) Punishment of Transported Offenders Amendment Act Bill;
 - (3.) Municipal Corporations Bill;
 - (4.) Parish Roads Bill.Council adjourned at Half past Five o'Clock, until Tuesday next, at Twelve o'Clock.

ORDERS OF THE DAY.

TUESDAY, JULY 14.

1. Commissioners of Police and Public Works Bill; second reading.
2. Claims to Grants of Land in New Zealand Bill; further consideration.
3. Punishment of Transported Offenders Amendment Act Bill; second reading.
4. Municipal Corporations Bill; second reading.
5. Parish Roads Bill; second reading.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, 14 JULY, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Hawkesbury Benevolent Society Bill; presented by the Governor as amended; to be read a third time on Tuesday next, July 21.
2. His Excellency the Governor laid upon the Table, "A Bill to amend an Act, intituled, 'An Act for the better regulation of Servants, Labourers, and Work people;'" Bill read a first time; to be printed and referred to a Sub-Committee to consist of the following Gentlemen, viz. :—

The Honorable the Colonial Secretary.	
The Attorney General.	Mr. H. H. Macarthur.
Mr. Jones.	Sir John Jamison.

With instructions to enquire and report on the Bill generally, and particularly whether any expence incurred under it in the prosecution of hired Servants failing in their engagements, should not be borne by the persons prosecuting them, instead of by the Public.

3. His Excellency the Governor presented a Petition from certain "Merchants, Land and Stock holders, Tradesmen, and other Inhabitants of the District of Port Phillip," signed by 241 persons, representing that they have heard with great regret, that the deficiency of the Ways and Means of the Colony, is proposed to be made up from the Land Fund, instead of that Fund being dedicated to the exclusive purpose of Immigration, as promised by Lord Ripon, and confirmed by his Successors in Office; that such a measure presses with particular severity upon the Petitioners, as the excessive expenditure on account of the Police, is chiefly caused by the nature of the Population; whilst the Assignment of Convicts, to that Province of the Territory occupied by the Petitioners, is prohibited, and whilst the Land Fund to be thus encroached upon, has been latterly principally supplied by the Sales of Waste Lands in that important Province (amounting to £280,000 at ten restricted Sales.) They suggest, that instead of the deficiency of the Ways and Means being made up from the Land Fund, it might be defrayed by the imposition of an annual tax on Convicts at the rate of Twenty pounds each, being equal to one half only, of the Amount which the Petitioners are compelled to pay to Free Labourers; and they pray that their suggestions may meet with the favorable consideration of the Government; Petition read, and received; to lie on the table.

His Excellency informed the Council that a communication in reply had been made to the Petitioners, expressive of his anxious desire that the Net proceeds of the Sales of Wild Lands after deducting the expence of management, and the sums necessary for the protection and civilization of the Aborigines, should be applied to the purposes of Immigration; that he had submitted a measure to the Council which, if passed, would enable him to secure that important object, and that measure embodied a proposal for taxing Convict labour, although not to the extent asked for, by the Memorialists; that although no assignments of Convict labour have been made on account of Land at Port Phillip, yet large numbers of Convicts have been taken by their Masters to that District; and the expence of maintaining a Police there, is fully as great, in proportion to the Population, as in any other part of the Colony.

4. His Excellency the Governor laid upon the Table a Petition recently addressed to him by certain Inhabitants of New South Wales, signed by 356 persons, expressing in strong terms, their opinion, that the entire maintenance of the Police and Gaol Establishments is a burden which ought not to be imposed on this Colony, inasmuch as it is one, the necessity of which, arises in a great measure from the circumstances of New South Wales having been hitherto the great Penal Settlement of the British Empire; that they are at a loss to conceive how the expence of maintaining such Establishments can be met, otherwise than by abstracting it from the Land Fund in violation of the principle, sanctioned by several successive Secretaries of State, appropriating the whole of that Fund to the purposes of Immigration; and the result of such an abstraction of a portion of that Fund, must be a serious diminution of the number of Immigrants to be introduced into the Colony, and must cause the Land Revenue to decline, and the Lands to lie waste; that to afford a supply of Labour adequate to the wants of the Colonists, it has been calculated by competent persons, that ten thousand adults ought to be imported within the

the

- the next twelve months; that even admitting the justice of the argument employed in support of the recent determination of the Secretary of State to cast upon the Colonists the entire burden of maintaining the Police and Gaol Establishments (which however the Petitioners think may be fairly controverted) viz.; "that as the Colonists enjoy the services of a very large body of Convicts at present under Assignment, they ought to maintain the Police which may be deemed indispensable for the proper discipline and controul of those Convicts;" the Petitioners would beg leave respectfully to urge, that upon the individuals who derive a direct gain, and positive advantage from the Assignment of those men, upon the recipients of Convict labour, and not upon the Colonists generally, the tax ought to be imposed; that the system of Assignment is productive of a partial, not a general benefit; and that it is not equitable that the Settler who possesses Convict Servants, and is thereby enabled to employ capital and skill more lucratively, should contribute to a Public expence incurred for the purpose of securing to him the fruits of the advantage which he enjoys, in only the same proportion with the Settler who does not partake of that advantage; and whom that very expence, if the means of defraying it be derived from the Immigration Fund, may hinder from obtaining Free Labour in such abundance, and at so moderate a price, as he otherwise would.—And the Petitioners earnestly pray, that His Excellency will not sanction the application of the Land Revenue to any other purpose than the introduction, on economical terms, of carefully selected Emigrants from the Mother Country; and will in accordance with the wishes of the Legislative Council, and of the Free Inhabitants of this Colony, recommend, that the British Treasury bear one-half of the expence of the Police and Gaol Establishments; and will provide for the remaining portion, by exacting for each Convict now in Private Service, the sum of Five pounds annually, if he be a Mechanic, and Two pounds annually, if he be a Shepherd, or Labourer, employed in the Country, or Five pounds if he be employed in the Towns; to be paid by the Recipients of Convict Labour, towards the maintenance of the Colonial Police; Petition read.
5. Commissioners of Police and Public Works Bill; taken under consideration; Motion made by Mr. James Macarthur "that this Bill be read this day Six months," passed, after a long debate; and the Amendment moved, "that this Bill be now read a second time," negatived; the numbers on the Division being, for the original Motion six, for the Amendment five.
 6. Preservation of Ports and Harbours Act Amendment Bill; presented by the Governor as amended; to be read a third time on Tuesday next.
 7. Claims to Grants of Land in New Zealand Bill; further consideration postponed until to-morrow.
- Second reading of the under-mentioned Bills postponed until to-morrow;
- (1.) Punishment of Transported Offenders Amendment Act Bill;
 - (2.) Municipal Corporations Bill;
 - (3.) Parish Roads Bill.
- Council adjourned at Five o'Clock, until to-morrow, at Twelve o'Clock.

ORDERS OF THE DAY.

WEDNESDAY, JULY 15.

1. Claims to Grants of Land in New Zealand Bill; further consideration.
2. Punishment of Transported Offenders Amendment Act Bill; second reading.
3. Municipal Corporations Bill; second reading.
4. Parish Roads Bill; second reading.

TUESDAY, JULY 21.

1. Hawkesbury Benevolent Society Bill; third reading.
2. Preservation of Ports and Harbours Act Amendment Bill; third reading.

NOTICE OF MOTION.

THURSDAY, JULY 16.

1. Mr. James Macarthur; That His Excellency the Governor be respectfully requested to introduce a Bill to authorise the Election of Commissioners of Highways, in the Colony of New South Wales, and the levying of Rates for constructing and repairing the same.

Wm. MACPHERSON;

Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

WEDNESDAY, 15 JULY, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Foreign Attachment Act and Laws as to Absent persons Amendment Bill; presented by the Governor as amended; to be read a third time on Wednesday next, July 22.
2. Deserted Wives and Children Bill; presented by the Governor as amended; re-committed and further amended; to be fairly transcribed and presented to the Governor by the Lord Bishop of Australia, and the Attorney General.
3. His Excellency the Governor laid upon the Table, "*A Bill to prohibit the Aboriginal Natives of New South Wales, from having Fire Arms in their possession;*" Bill read a first time; to be printed, and read a second time on Tuesday next, July 21.
4. Claims to Grants of Land in New Zealand Bill; further considered and amended; to be further considered to-morrow.
Second reading of the under-mentioned Bills postponed until to-morrow;
(1.) Punishment of Transported Offenders Amendment Act Bill;
(2.) Municipal Corporations Bill;
(3.) Parish Roads Bill.
Council adjourned at Five o'Clock, until to-morrow, at Twelve o'Clock.

ORDERS OF THE DAY.

THURSDAY, JULY 16.

1. Claims to Grants of Land in New Zealand Bill; further consideration.
2. Punishment of Transported Offenders Amendment Act Bill; second reading.
3. Municipal Corporations Bill; second reading.
4. Parish Roads Bill; second reading.

TUESDAY, JULY 21.

1. Hawkesbury Benevolent Society Bill; third reading.
2. Preservation of Ports and Harbours Act Amendment Bill; third reading.
3. Aboriginal Natives' use of Fire Arms Prohibition Bill; second reading.

WEDNESDAY, JULY 22.

1. Foreign Attachment and Laws as to Absent persons Amendment Bill; third reading.

NOTICE OF MOTION.

THURSDAY, JULY 16.

1. Mr. James Macarthur; That His Excellency the Governor be respectfully requested to introduce a Bill to authorise the Election of Commissioners of Highways, in the Colony of New South Wales, and the levying of Rates for constructing and repairing such Highways.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

THURSDAY, 16 JULY, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and laid upon the Table, a Letter dated 21 December, 1839, from the Reverend Henry Duncan, Moderator of the Commission of the General Assembly of the Church of Scotland, stating that, that Reverend Body having had under consideration the recent proceedings regarding the division of the Presbyterian Church of New South Wales, have directed him to express the strong and grateful sense which the Commission entertains of the efforts of His Excellency and this Council to promote conciliatory feelings among the Presbyterians of this Colony, and at the same time, to maintain the privileges of the recognised Judicatory of the Branch of the Church of Scotland planted in New South Wales; and expressing likewise the confident hopes of the Commission, that the further instructions of Her Majesty's Government as to this matter will be carried into execution with the same judicious prudence, and the same conciliatory and impartial spirit, which have marked the previous proceedings of the Local Government; and they look forward with satisfaction, to the speedy restoration of harmony and peace: they request further, that their sentiments may be communicated by His Excellency to this Council:—Letter read; to be printed.
 2. Deserted Wives and Children Bill; presented by the Governor as amended; to be read a third time on Tuesday next, July 21.
 3. His Excellency the Governor laid upon the Table, the undermentioned Papers on the subject of Immigration, several of which, His Excellency informed the Council, had been printed in England; He purposed referring these papers to a Committee to be appointed with the same powers as last year:—
 - First*, A Circular from the Right Honourable Lord John Russell, dated 31 January, 1840, transmitting printed copies of,
 - (1.) The Commission appointing T. F. Elliot, and Robert Torrens, Esquires, and the Honourable Edward E. Villiers, Land and Emigration Commissioners.
 - (2.) The Instructions addressed by Lord John Russell to the Land and Emigration Commissioners.
 - (3.) A Commission revoking the existing Commission of the South Australian Commissioners, and appointing Robert Torrens, and T. F. Elliot, Esquires, and the Honourable Edward E. Villiers, Colonization Commissioners for South Australia.
 - Second*, A Despatch from Lord John Russell, No. 18, dated 12 February, 1840, transmitting a copy of a letter from the late Agent General for Emigration, dated 18 January, 1840, enclosing a return of last year's Emigration in Government Ships to New South Wales, and offering Observations on the Emigration of the past three years.
 - Third*, A Despatch from Lord John Russell, No. 25, dated 22 February, 1840, transmitting a copy of a letter from the late Agent General for Emigration, to Mr. Under Secretary, James Stephen, dated 17 January, 1840, containing Mr. Elliot's Observations on the General Report of Mr. Pinnock the Agent for Emigrants at Sydney.
 - Fourth*, A printed copy of a Return to an Address of the Honourable the House of Commons, dated 3 March, 1840, for,
 - Copies of any Report since the last laid before the House, from the Agent General for Emigration, (536—1. Sess. 1839.)
 - Copies, or Extracts of any Correspondence between the Secretary of State for the Colonies and the Governors of the Australian Colonies, respecting Emigration, since the Papers presented to the House, on 15 August, 1839, (No. 536-I. Sess. 1839.)
 - Copy of any General Return of Emigration for the year 1839.
- COMMITTEE APPOINTED, To consider the Question of Immigration generally, with the views 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 HONOURABLE THE COLONIAL SECRETARY,	MR. H. H. MACARTHUR,
THE AUDITOR GENERAL,	SIR JOHN JAMISON,
	MR. JAMES MACARTHUR.

4. Claims to Grants of Land in New Zealand Bill; further considered and amended; to be fairly transcribed and presented to the Governor by Mr. Jones and Mr. H. H. Macarthur.
5. Punishment of Transported Offenders Amendment Act Bill; proposed additional clauses to be printed; second reading postponed to Tuesday, July 28.
6. Second reading of the under-mentioned Bills postponed until Tuesday July 21.
 - (1.) Municipal Corporations Bill;
 - (2.) Parish Roads Bill.
7. Mr. James Macarthur's Motion:—Moved, That the consideration of this Motion be postponed until Tuesday, July 28. Passed.
Council adjourned at Five o'Clock, until Tuesday next, July 21, at Twelve o'Clock.

ORDERS OF THE DAY.

TUESDAY, JULY 21.

1. Hawkesbury Benevolent Society Bill; third reading.
2. Preservation of Ports and Harbours Act Amendment Bill; third reading.
3. Deserted Wives and Children Bill; third reading.
4. Aboriginal Natives' use of Fire Arms Prohibition Bill; second reading.
5. Municipal Corporations Bill; second reading.
6. Parish Roads Bill; second reading.

WEDNESDAY, JULY 22.

1. Foreign Attachment and Laws as to Absent persons Amendment Bill; third reading.

TUESDAY, JULY 28.

1. Punishment of Transported Offenders Amendment Act Bill; second reading.

NOTICES OF MOTIONS.

TUESDAY, JULY 21.

1. Mr. H. H. Macarthur; That this Council are of opinion, that Claimants to Grants of Land in New Zealand, upon satisfactory proof of an Outlay of Capital in New Zealand, previous to the year 1838, to an amount exceeding £1000, should be allowed to purchase at the rate of two shillings and sixpence per acre, a further Grant of Land in New Zealand beyond what the Commissioners may assign to them to any extent not exceeding Ten thousand acres, in the proportion of Five thousand acres, for every sum of One thousand pounds so laid out.

TUESDAY, JULY 28.

1. Mr. James Macarthur; That His Excellency the Governor be respectfully requested to introduce a Bill to authorise the Election of Commissioners of Highways, in the Colony of New South Wales, and the levying of Rates for constructing and repairing such Highways.

WM. MACPHERSON,
Clerk of Councils

VOTES
AND
PROCEEDINGS

1840

2nd Clerk
Assistant

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, 21 JULY, 1840.

1. Council met pursuant to adjournment ; His Excellency the Governor in the Chair. Hawkesbury Benevolent Society Bill ; read a third time and *Passed*.
 2. Preservation of Ports and Harbours Act Amendment Bill ; read a third time and *Passed*.
 3. Deserted Wives and Children Bill ; read a third time and *Passed*.
 4. Mr. H. H. Macarthur's Motion relative to allowing Claimants to Grants of Land in New Zealand, to make purchases in addition to such Grants, after some discussion, withdrawn.
 5. Aboriginal Natives' use of Fire Arms Prohibition 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.
 6. His Excellency the Governor laid upon the Table, " *A Bill to provide for the periodical publication of the Assets and Liabilities of Banks in New South Wales and its Dependencies, and the Registration of the names of the Proprietors thereof ;*" Bill read a first time ; to be printed, and read a second time on Wednesday, July 29.
 7. Municipal Corporations Bill ; second reading postponed until Tuesday next, July 28.
 8. Parish Roads Bill ; second reading postponed until Tuesday next, July 28.
 9. Foreign Attachment and Laws as to Absent persons Amendment Bill ; Motion made and question put, That the third reading of this Bill, appointed for to-morrow, be postponed until Tuesday next, July 28.
- Council adjourned at Four o'Clock, until Tuesday next, July 28, at Twelve o'Clock.

ORDERS OF THE DAY.

TUESDAY, JULY 28.

1. Foreign Attachment and Laws as to Absent persons Amendment Bill ; third reading.
2. Punishment of Transported Offenders Amendment Act Bill ; second reading.
3. Municipal Corporations Bill ; second reading.
4. Parish Roads Bill ; second reading.

WEDNESDAY, JULY 29.

1. Bank Assets and Liabilities publication Bill ; second reading.

NOTICES OF MOTION.

1. Mr. James Macarthur ; That he will move the adoption of the following Resolutions, viz. :—
 - (1.) That in the opinion of this Council, the establishment of Municipal Institutions for the regulation and management of Local affairs, would tend greatly to promote the good government of the Colony, and to advance its best interests.
 - (2.) That before proceeding to enact any Law upon the subject, His Excellency the Governor be respectfully requested, to transmit a copy of these Resolutions (accompanied by such further representations as His Excellency may deem advisable) to the Right Honourable the Secretary of State for the Colonial Department, and earnestly to solicit, that Her Majesty will be graciously pleased to sanction and authorise the establishment of Municipal Corporations in this Colony.
 - (3.) That His Excellency the Governor be further requested, to direct that a Census of the Population of the Colony be taken, with a view to the obtainment of such Statistical data, as may assist this Council in legislating upon the subject.

2. Sir John Jamison; That this Council are of opinion, that no Free person should be disqualified from Municipal franchise, by reason of any Sentence of Transportation passed out of the Colony of New South Wales.
3. Mr. James Macarthur; That His Excellency the Governor be respectfully requested, to introduce a Bill to authorise the Election of Commissioners of Highways, in the Colony of New South Wales, and the levying of Rates for constructing and repairing such Highways.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, 28 JULY, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and laid upon the Table, "*A Bill to render Shares in THE AUSTRALIAN SUBSCRIPTION 'LIBRARY, not transferable;'*" 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 RIGHT REVEREND THE LORD BISHOP OF AUSTRALIA,	
THE COLLECTOR OF CUSTOMS,	MR. H. H. MACARTHUR,
MR. BERRY,	MR. JAMES MACARTHUR:

with instructions, to consider, and report upon, the provisions of the Bill, and to examine Evidence if necessary.

2. His Excellency the Governor laid upon the Table, "*A Bill to simplify proceedings at 'Law, and in Equity, by, and against THE SYDNEY BANKING COMPANY, and 'for other purposes;'*" The Clerks of the Churches of St. Philip, St. James, and St. Lawrence, 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. JONES,
MR. CAMPBELL,	MR. BERRY;

with instructions, to consider, and report upon, the provisions of the Bill, and to examine Evidence if necessary.

3. His Excellency the Governor laid upon the Table, "*A Bill to simplify proceedings at 'Law, and in Equity, by, or against THE GENERAL STEAM NAVIGATION COMPANY, 'and for other purposes;'*" the Clerks of the Churches of St. Philip, St. James, and St. Lawrence, 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 the Committee on the Sydney Banking Company Bill; with instructions, to consider, and report upon, the provisions of the Bill, and to examine Evidence if necessary.
4. His Excellency the Governor laid upon the Table, "*A Bill further to amend an Act 'intituled 'An Act to provide for the Conveyance, and Postage of Letters;'*" Bill read a first time; to be printed, and read a second time on Tuesday next, August 4.
5. Mr. James Macarthur's Motions; Mr. James Macarthur being absent in consequence of indisposition, Mr. H. H. Macarthur moved, That he be allowed to amend the third proposed Resolution of the first Motion; and, that the consideration of both the Motions be deferred until Tuesday next; Passed.
6. Sir John Jamison moved, That the consideration of his Motion be deferred until Tuesday next; Passed.
7. Foreign Attachment and Laws as to Absent persons Amendment Bill; read a third time, and *Passed.*
8. Punishment of Transported Offenders Amendment Act Bill; second reading postponed until Tuesday next.
9. Municipal Corporations Bill; second reading postponed until Tuesday next.
10. Parish Roads Bill; read a second time; committed, and amended; to be fairly transcribed, and presented to the Governor by Mr. Berry and Sir John Jamison.
11. Claims to Grants of Land in New Zealand Bill; presented by the Governor as amended; to be read a third time on Tuesday next.

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

ORDERS OF THE DAY.

WEDNESDAY, JULY 29.

1. Bank Assets and Liabilities publication Bill; second reading.

TUESDAY, AUGUST 4.

1. Claims to Grants of Land in New Zealand Bill; third reading.
2. Municipal Corporations Bill; second reading.
3. Punishment of Transported Offenders Amendment Act Bill; second reading.
4. Postage Act Amendment Bill; second reading.

NOTICES OF MOTION.

TUESDAY, AUGUST 4.

1. Mr. James Macarthur; That he will move the adoption of the following Resolutions, viz. :—
 - (1.) That in the opinion of this Council, the establishment of Municipal Institutions for the regulation and management of Local affairs, would tend greatly to promote the good government of the Colony, and to advance its best interests.
 - (2.) That before proceeding to enact any Law upon the subject, His Excellency the Governor be respectfully requested, to transmit a copy of these Resolutions (accompanied by such further representations as His Excellency may deem advisable) to the Right Honorable the Secretary of State for the Colonial Department, and earnestly to solicit, that Her Majesty will be graciously pleased to sanction and authorise the establishment of Municipal Corporations in this Colony.
 - (3.) That His Excellency the Governor be further requested, to direct a Census to be taken, in order to ascertain the number and distribution of the Population of the Colony, together with such other Statistical data, as may assist the Local Legislature in passing a Law, hereafter, for the establishment of Municipal Institutions.
2. Sir John Jamison; That this Council are of opinion, that no Free person should be disqualified from Municipal franchise, by reason of any expired, or remitted Sentence, of Transportation passed out of the Colony of New South Wales.
3. Mr. James Macarthur; That His Excellency the Governor be respectfully requested, to introduce a Bill to authorise the Election of Commissioners of Highways, in the Colony of New South Wales, and the levying of Rates for constructing and repairing such Highways.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS

OF

THE LEGISLATIVE COUNCIL.

WEDNESDAY, 29 JULY, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair and laid upon the Table, the undermentioned Financial Papers:
 - (1.) Statement of Sums appropriated by the Legislative Council for the Service of the year 1839, or of previous years, remaining on 31st December, 1839, to be expended and charged, as being then still required to meet the purposes for which they were appropriated.
 - (2.) Statement of the amount appropriated by the Legislative Council, for the Services of the year 1839, which will not be required; and of the amount required to supply Deficiencies in the Estimates.
 - (3.) Supplementary Estimates of Expenditure for the present year.
 - (4.) Estimates of Expenditure for the year 1841.
To be printed.

His Excellency the Governor then read the undermentioned Minutes;

 - (1.) A Minute explanatory of the Estimates of Expenditure, and of the Ways and Means to meet the same.
 - (2.) A Minute on the Estimates of Expenditure for Schools.
To be printed.
2. His Excellency the Governor laid upon the Table, the undermentioned Despatches and Correspondence, on subjects connected with the Expenditure for Religious Establishments;
 - (1.) Copy of a Despatch dated 9 March, 1838, No. 183, addressed by His Excellency the Governor to the Right Honourable Lord Glenelg, relating to the appointment of a Protestant Chaplain to the exclusive duty of affording Religious Instruction to the Convicts in Sydney, with a salary of £200 a-year.
 - (2.) A Despatch dated 26 August, 1839, No. 127, from the Most Noble the Marquis of Normanby, transmitting a copy of a letter (of that date) addressed to the Secretary of the Society for the Propagation of the Gospel, sanctioning the appointment of additional Chaplains for New South Wales, and Van Diemen's Land, and stating the views of Her Majesty's Government on the subject, with reference to the present state of the Revenues of those Colonies.
 - (3.) A Despatch dated 31 December, 1839, No. 67, from the Right Honourable Lord John Russell, transmitting copies of communications (of same date) respectively addressed to the Society for the Propagation of the Gospel, and to the Committee of the General Assembly of the Church of Scotland on Colonial Churches, relative to the future maintenance of the Church and School Establishments in New South Wales, and Van Diemen's Land.
 - (4.) Copy of a Despatch dated 3 December, 1839, No. 163, addressed by His Excellency the Governor to the Marquis of Normanby, in reference to the estimated charge for the year 1840, for the Church Establishments of the Colony, being £34,066 15s., and requesting his Lordship not to sanction, for the present, the embarkation of any further number of Clergymen of any denomination, provision having already been made for 106 Clergymen, for a Population of 100,000 Souls.
To be printed.
3. Bank Assets and Liabilities publication Bill; second reading postponed until Tuesday next, August 4.
Council adjourned at Two O'Clock, until Tuesday next, at Twelve O'Clock.

ORDERS OF THE DAY.

TUESDAY, AUGUST 4.

1. Claims to Grants of Land in New Zealand Bill; third reading.
2. Municipal Corporations Bill; second reading.
3. Punishment of Transported Offenders Amendment Act Bill; second reading.

4. Postage Act Amendment Bill ; second reading.
5. Bank Assets and Liabilities publication Bill ; second reading.

NOTICES OF MOTION.

• TUESDAY, AUGUST 4.

1. Mr. James Macarthur ; That he will move the adoption of the following Resolutions, viz. :—
 - (1.) That in the opinion of this Council, the establishment of Municipal Institutions for the regulation and management of Local affairs, would tend greatly to promote the good government of the Colony, and to advance its best interests.
 - (2.) That before proceeding to enact any Law upon the subject, His Excellency the Governor be respectfully requested, to transmit a copy of these Resolutions (accompanied by such further representations as His Excellency may deem advisable) to the Right Honorable the Secretary of State for the Colonial Department, and earnestly to solicit, that Her Majesty will be graciously pleased to sanction and authorise the establishment of Municipal Corporations in this Colony.
 - (3.) That His Excellency the Governor be further requested, to direct a Census to be taken, in order to ascertain the number and distribution of the Population of the Colony, together with such other Statistical data, as may assist the Local Legislature in passing a Law, hereafter, for the establishment of Municipal Institutions.
2. Sir John Jamison ; That this Council are of opinion, that no Free person should be disqualified from Municipal franchise, by reason of any expired, or remitted, Sentence of Transportation passed out of the Colony of New South Wales.
3. Mr. James Macarthur ; That His Excellency the Governor be respectfully requested, to introduce a Bill to authorise the Election of Commissioners of Highways, in the Colony of New South Wales, and the levying of Rates for constructing and repairing such Highways.

WEDNESDAY, AUGUST 12.

1. The Colonial Secretary ; The Estimates of Expenditure for 1841 ; to be considered.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, 4 AUGUST, 1840.

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 Banking Company called 'THE PORT PHILLIP BANK,' and for other purposes therein mentioned.*" Mr. B. J. Bertelsen, Accountant of the Port Phillip Bank called in, and notification of the intention to apply for the Bill having been affixed on the doors of the five churches in the Town of Melbourne, on three successive Sundays, proved by him; Bill read a first time; to be printed, and referred to the Committee on the Sydney Banking Company Bill; with instructions, to consider, and report upon, the provisions of the Bill, and to examine Evidence if necessary.
2. His Excellency the Governor laid upon the Table, "*A Bill to enable the Proprietors of a Joint Stock Company carried on in the Town of Melbourne, in the Colony of New South Wales, under the Name, Style, and Firm of 'THE MELBOURNE FIRE AND MARINE ASSURANCE COMPANY,' to sue, until be sued, in the Name of the Chairman of the said Joint Stock Company for the time being, and for other purposes therein mentioned.*" Mr. B. J. Bertelsen, above mentioned, called in, and notification of the intention to apply for the Bill having been affixed on the doors of the five Churches in the Town of Melbourne, on three successive Sundays, proved by him; Bill read a first time; to be printed, and referred to the Committee on the Sydney Banking Company Bill; with instructions to consider, and report upon, the provisions of the Bill, and to examine Evidence if necessary.
3. Australian Subscription Library Bill; the Lord Bishop of Australia, as Chairman, brought up the Report of the Committee; Bill to be read a second time to-morrow.
4. The Sydney Banking Company Bill; the Collector of Customs, as Chairman, brought up the Report of the Committee; Bill to be read a second time to-morrow.
5. The General Steam Navigation Company Bill; The Collector of Customs, as Chairman, brought up the Report of the Committee; Bill to be read a second time to-morrow.
6. Aboriginal Natives' use of Fire Arms Prohibition Bill; presented by the Governor as amended; to be read a third time on Tuesday next, August 11.
7. His Excellency the Governor laid upon the Table, "*A Bill to remove doubts as to the validity of certain Marriages had, and solemnized, within the Colony of New South Wales, by Ministers of the CONGREGATIONAL or INDEPENDENT, and BAPTIST Denominations, and to regulate the Registration of certain Marriages, Births, or Baptisms, and Burials;*" Bill read a first time; to be printed, and read a second time on Tuesday next.
8. His Excellency the Governor laid upon the Table, "*A Bill for ascertaining the Number of the Inhabitants of the Colony of New South Wales, in the year One thousand eight hundred and forty;*" Bill read a first time; to be printed, and referred to a Sub-Committee, to consist of the following Gentlemen, viz. :—

THE HONORABLE THE COLONIAL SECRETARY,

THE AUDITOR GENERAL,
MR. BERRY.

MR. H. H. MACARTHUR,
MR. JAMES MACARTHUR;

with instructions to consider the provisions of the Bill and the Questions contained in the Schedules annexed thereto, and to report whether they can suggest any amendments thereupon, or deem it advisable to require any further information to be afforded.

9. Mr. James Macarthur moved for leave to withdraw the Proposed Resolutions on the subject of Municipal Institutions, of which he had given Notice, and to substitute others in a more detailed form, to be considered on Thursday next; Passed.
10. Sir John Jamison moved, That the consideration of the Proposed Resolution of which he had given Notice, be postponed until Thursday next; Passed.
11. Municipal Corporations Bill; Motion made and question put, That the second reading of this Bill be deferred until Thursday next; Passed.
12. Mr. James Macarthur moved, That His Excellency the Governor be respectfully requested, to introduce a Bill to authorise the Election of Commissioners of Highways in the Colony of New South Wales, and the levying of Rates for constructing and repairing such Highways; Passed.
13. Claims to Grants of Land in New Zealand Bill; read a third time and Passed.

which is absolutely necessary to enable it to Legislate safely, upon a Question so important in its principles, so complex in its details, and involving so many distinct and widely separated Interests would, with great deference and respect, submit to His Excellency the Governor, that previously to the Enacting of any Law upon the subject, a Census of the Colony should be taken, shewing the Number, Classes, and Local distribution of the Inhabitants, the length of time each Person has been in the Colony, and in the particular District in which he is resident, together with the approximate annual value of Freehold and other Landed Property, of Household Property (with the term for which such Landed or Household Property, not being Freehold, is held) and of personal Estate, possessed by each Individual in the different Classes and Districts respectively throughout the Colony.

(4.) That in order to set at rest all doubt as to the power of the Colonial Legislature to initiate a Law for establishing Municipal Institutions, His Excellency the Governor be respectfully requested to transmit a Copy of these Resolutions, (accompanied by such further representations as His Excellency may deem advisable,) to the Right Honorable the Secretary of State for the Colonial Department, and earnestly to solicit that Her Majesty will be graciously pleased to sanction and authorise the formation of Municipal Corporations in this Colony.

- 2. Sir John Jamison; That this Council are of opinion, that no Free person should be disqualified from Municipal franchise, by reason of any expired, or remitted, Sentence of Transportation passed out of the Colony of New South Wales.

WEDNESDAY, AUGUST 12.

- 1. The Colonial Secretary; The Estimates of Expenditure for 1841; to be considered.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

WEDNESDAY, 5 AUGUST, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. The Australian Subscription Library Bill; read a second time; to be read a third time on Wednesday next, August 12.
2. The Sydney Banking Company Bill; read a second time; to be read a third time on Wednesday next.
3. The General Steam Navigation Company Bill; read a second time; to be read a third time on Wednesday next.
Council adjourned at Two O'Clock, until To-morrow, at Twelve O'Clock.

ORDERS OF THE DAY.

THURSDAY, AUGUST 6.

1. Municipal Corporations Bill; second reading.

TUESDAY, AUGUST 11.

1. Aboriginal Natives' use of Fire Arms Prohibition Bill; third reading.
2. Punishment of Transported Offenders Amendment Act Bill; further consideration.
3. Postage Act Amendment Bill; second reading.
4. Bank Assets and Liabilities publication Bill; second reading.
5. Independent and Baptist Marriages' Registration Bill; second reading.

WEDNESDAY, AUGUST 12.

1. The Australian Subscription Library Bill; third reading.
2. The Sydney Banking Company Bill; third reading.
3. The General Steam Navigation Company Bill; third reading.

NOTICES OF MOTION.

THURSDAY, AUGUST 6.

1. Mr. James Macarthur; That he will move the adoption of the following Resolutions, viz. :—
(1) That in the opinion of this Council, the best interests of this Colony would be greatly promoted by the establishment of Municipal Institutions,—wherever circumstances admit of their being formed upon such principles of popular Election and controul, as may have a direct tendency to entrust the management of Municipal affairs to those persons, who from character and intelligence, deserve the confidence and respect of their fellow citizens; and who by the possession of Property, have the strongest interest in the good Government of the Community.
(2.) That the objects, which, in the opinion of this Council, would most immediately and beneficially come within the scope of Municipal Administration in this Colony would be—First, So much of the Police in each Municipality (independently of the Police required for the coercion and discipline of British and other transported Criminals) as may be justly considered local ;—Second, The making, keeping in order, and lighting the Public Streets and Thoroughfares, the providing Water, Drainage, and Sewerage, together with all such matters generally relating to the cleanliness, good regulation, and public welfare of the Municipality, as in England are kept separate from the duties of the general Government, and placed under Municipal; or Local Administration and Controul ;—Third, To collect the Funds requisite for carrying into effect the above objects by Local Rates and Assessments within the limits of each Municipality, and to render to the respective Municipal Constituencies periodical accounts of the application and expenditure of all Monies so raised.

(3.) That this Council, feeling that it is not in possession of the Statistical information (as relates even to the Town of Sydney, much less with respect to the Colony at large) which is absolutely necessary to enable it to Legislate safely, upon a Question so important in its principles, so complex in its details, and involving so many distinct and widely separated Interests would, with great deference and respect, submit to His Excellency the Governor, that previously to the Enacting of any Law upon the subject, a Census of the Colony should be taken, shewing the Number, Classes, and Local distribution of the Inhabitants, the length of time each Person has been in the Colony, and in the particular District in which he is resident, together with the approximate annual value of Freehold and other Landed Property, of Household Property (with the term for which such Landed or Household Property, not being Freehold, is held) and of personal Estate, possessed by each Individual in the different Classes and Districts respectively throughout the Colony.

(4.) That in order to set at rest all doubt as to the power of the Colonial Legislature to initiate a Law for establishing Municipal Institutions, His Excellency the Governor be respectfully requested to transmit a Copy of these Resolutions, (accompanied by such further representations as His Excellency may deem advisable,) to the Right Honorable the Secretary of State for the Colonial Department, and earnestly to solicit that Her Majesty will be graciously pleased to sanction and authorise the formation of Municipal Corporations in this Colony.

2. Sir John Jamison; That this Council are of opinion, that no Free person should be disqualified from Municipal franchise, by reason of any expired, or remitted, Sentence of Transportation passed out of the Colony of New South Wales.

WEDNESDAY, AUGUST 12.

1. The Colonial Secretary; The Estimates of Expenditure for 1841; to be considered.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

THURSDAY, 6 AUGUST, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and laid upon the Table, "*A Bill to authorise the Election of COMMISSIONERS OF HIGHWAYS AND PUBLIC WORKS, in the Colony of New South Wales*;" Bill read a first time; to be printed, and read a second time on Wednesday next, August 12.
2. The Port Phillip Bank Bill; the Collector of Customs, as Chairman, brought up the Report of the Committee; Bill to be read a second time on Wednesday next.
3. The Melbourne Fire and Marine Assurance Company Bill; the Collector of Customs, as Chairman, brought up the Report of the Committee; Bill to be read a second time on Wednesday next.
4. Mr. James Macarthur moved, That the Resolutions proposed by him be now taken under consideration, and that the first of those Resolutions be read, and be adopted by the Council; Resolution read;
The Collector of Customs moved as an Amendment, That the second reading of the Municipal Corporations Bill be now proceeded with;
After a long debate, the Amendment passed; the numbers on the Division being, for the original Motion six, for the Amendment eight.
5. Municipal Corporations Bill; second reading commenced; to be continued, on Tuesday next, August 11.
Sir John Jamison's Motion; upon the fifth clause of the Municipal Corporations Bill being read, Sir John Jamison moved the adoption by the Council, of the Resolution of which he had given Notice; and by the alterations made on that Clause, the Resolution was virtually adopted.
Council adjourned at Half past Four O'Clock, until Tuesday next, at Twelve O'Clock.

ORDERS OF THE DAY.

TUESDAY, AUGUST 11.

1. Aboriginal Natives' use of Fire Arms Prohibition Bill; third reading.
2. Municipal Corporations Bill; continuation of second reading.
3. Punishment of Transported Offenders Amendment Act Bill; further consideration.
4. Postage Act Amendment Bill; second reading.
5. Bank Liabilities and Assets publication Bill; second reading.
6. Independent and Baptist Marriages' Registration Bill; second reading.

WEDNESDAY, AUGUST 12.

1. The Australian Subscription Library Bill; third reading.
2. The Sydney Banking Company Bill; third reading.
3. The General Steam Navigation Company Bill; third reading.
4. The Port Phillip Bank Bill; second reading.
5. The Melbourne Fire and Marine Assurance Company Bill; second reading.
6. The Commissioners of Highways and Public Works' Bill; second reading.

NOTICE OF MOTION.

WEDNESDAY, AUGUST 12.

1. The Colonial Secretary; The Estimates of Expenditure for 1841; That they be considered.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, 11 AUGUST, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Aboriginal Natives' use of Fire Arms Prohibition Bill; Motion made, and Question put, that the Standing Orders of the Council be suspended, and that this Bill be re-committed; Bill re-committed and amended, read a third time, and *Passed*.
 2. Municipal Corporations Bill; Motion made, That the further second reading of this Bill be postponed until Tuesday next; Amendment moved, That the further second reading be now proceeded with; Amendment passed; the numbers on the Division being, for the original Motion six, for the Amendment seven; the second reading continued to the conclusion of the seventeenth clause; the further continuation of the second reading postponed until Tuesday next, August 18.
 3. Punishment of Transported Offenders Amendment Act Bill; further consideration postponed until Tuesday next.
 4. Postage Act Amendment Bill; read a second time; committed and amended; to be re-committed and further considered on Tuesday next.
 5. Bank Liabilities and Assets publication Bill; second reading postponed until Wednesday, August 19.
 6. Independent and Baptist Marriages' Registration Bill; second reading postponed until Tuesday, August 25.
 7. Parish Roads Bill; presented by the Governor as amended; to be re-committed and further considered to-morrow.
- Council adjourned at Half past Three O'Clock, until to-morrow, at Twelve O'Clock.

ORDERS OF THE DAY.

WEDNESDAY, AUGUST 12.

1. The Australian Subscription Library Bill; third reading.
2. The Sydney Banking Company Bill; third reading.
3. The General Steam Navigation Company Bill; third reading.
4. The Port Phillip Bank Bill; second reading.
5. The Melbourne Fire and Marine Assurance Company Bill; second reading.
6. The Commissioners of Highways and Public Works' Bill; second reading.
7. Parish Roads Bill; re-committal and further consideration.

TUESDAY, AUGUST 18.

1. Municipal Corporations Bill; second reading to be further continued.
2. Punishment of Transported Offenders Amendment Act Bill; further consideration.
3. Postage Act Amendment Bill; re-committal and further consideration.

WEDNESDAY, AUGUST 19.

1. Bank Liabilities and Assets publication Bill; second reading.

TUESDAY, AUGUST 25.

1. Independent and Baptist Marriages' Registration Bill; second reading.

NOTICE OF MOTION.

WEDNESDAY, AUGUST 12.

1. The Colonial Secretary; The Estimates of Expenditure for 1841; That they be considered.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

WEDNESDAY, 12 AUGUST, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. The Australian Subscription Library Bill; read a third time and *Passed*.
2. The Sydney Banking Company Bill; third reading postponed until Wednesday next, August 19.
3. The General Steam Navigation Company Bill; read a third time and *Passed*.
4. The Port Phillip Bank Bill; read a second time; committed, and amended; to be further considered on Wednesday next.
5. The Melbourne Fire and Marine Assurance Company Bill; read a second time; committed, and amended; to be further considered on Wednesday next.
6. The Commissioners of Highways and other Public Works' Bill; second reading postponed until Tuesday next, August 18.
7. Parish Roads Bill; re-committal and further consideration postponed until Tuesday next. Council adjourned at Three O'Clock, until Tuesday next, August 18, at Twelve O'Clock.

ORDERS OF THE DAY.

TUESDAY, AUGUST 18.

1. Municipal Corporations Bill; second reading to be further continued.
2. The Commissioners of Highways and other Public Works' Bill; second reading.
3. Parish Roads Bill; re-committal and further consideration.
4. Punishment of Transported Offenders Amendment Act Bill; further consideration.
5. Postage Act Amendment Bill; re-committal and further consideration.

WEDNESDAY, AUGUST 19.

1. Bank Liabilities and Assets publication Bill; second reading.
2. The Sydney Banking Company Bill; third reading.
3. The Port Phillip Bank Bill; further consideration.
4. The Melbourne Fire and Marine Assurance Company Bill; further consideration.

TUESDAY, AUGUST 25.

1. Independent and Baptist Marriages' Registration Bill; second reading.

NOTICE OF MOTION.

WEDNESDAY, AUGUST 19.

1. The Colonial Secretary; The Estimates of Expenditure for 1841; That they be considered.

Wm. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, 18 AUGUST, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Mr. James Macarthur presented a Petition from certain Magistrates, Landholders, and other Inhabitants of the Town of Sydney and other parts of the Colony, signed by 434 persons, submitting, that if the Proviso annexed to the thirtieth clause of the Bill, now before the Council, to provide for the establishment and regulation of Municipal Corporations, whereby persons who have endured sentences of Transportation, will, after receiving a Free Pardon, or after the lapse of seven years from the expiration of their sentences, become qualified to be elected Councillors or Aldermen, be passed into a Law, it will have the effect, both of discouraging the Emigration to this Colony of persons of Respectability and Capital, and of inducing persons of that description now resident here to remove; and will seriously injure the interests of the Petitioners, and depreciate the value of their property; and submitting further, that the qualifying of such persons to hold Magisterial, or Judicial powers, is illegal, and contrary to the principles of the British Constitution; or, if such be not the Law in England, that under the different circumstances of this Colony, the necessity for such a Law here, is apparent. The Petitioners further express their apprehension of the evil effects of the violation, by this Bill, of the great fundamental principle, of Taxation by Representation, and submit that there can be no urgent necessity for enacting any Law of this nature, at a time when it is more than probable, that a new and extended Legislature for the Colony, has been established by the Imperial Parliament.

The Petitioners, being aware that the Parties who would be affected, should the qualification in the Proviso above mentioned be omitted in the Bill, have been heard, by Counsel, pray that they may be heard also, by Counsel, in opposition to the qualification annexed to the Proviso above referred to, and at present proposed to be contained in the thirtieth clause of the Bill now under consideration.

Mr. Macarthur moved, That this Petition be read, and be received; Passed.

Mr. Macarthur moved, That a day be appointed for hearing the Counsel for the Petitioners; after a debate of some length, in which most of the Members delivered their opinions, the Council divided; for the Motion, seven; against it, six; after some further debate, the further consideration of the subject was deferred until to-morrow.

2. The consideration of the following Orders of the Day, deferred until to-morrow.
- (1.) Municipal Corporations Bill; the continuation of the second reading.
 - (2.) The Commissioners of Highways and other Public Works' Bill; the second reading.
 - (3.) Parish Roads Bill; the re-committal and further consideration.
 - (4.) Punishment of Transported Offenders Amendment Act Bill: the further consideration.
 - (5.) Postage Act Amendment Bill; the re-committal and further consideration.
- The Council adjourned at Two O'Clock, until to-morrow at Twelve O'Clock.

ORDERS OF THE DAY.

WEDNESDAY, AUGUST 19.

1. Mr. James Macarthur's Motion for appointing a day for hearing the Counsel for the Petitioners opposing the qualification contained in the Proviso annexed to the thirtieth clause of the Municipal Corporations Bill; continuation of the adjourned debate.
2. Municipal Corporations Bill; second reading to be further continued.
3. The Commissioners of Highways and other Public Works' Bill; second reading.
4. Parish Roads Bill; re-committal and further consideration.
5. Punishment of Transported Offenders Amendment Act Bill; further consideration.
6. Postage Act Amendment Bill; re-committal and further consideration.
7. Bank Liabilities and Assets publication Bill; second reading.
8. The Sydney Banking Company Bill; third reading.

9. The Port Phillip Bank Bill ; further consideration.
10. The Melbourne Fire and Marine Assurance Company Bill ; further consideration.

TUESDAY, AUGUST 25.

1. Independent and Baptist Marriages' Registration Bill ; second reading.

NOTICE OF MOTION.

WEDNESDAY, AUGUST 19.

1. The Colonial Secretary ; The Estimates of Expenditure for 1841 ; That they be considered.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

WEDNESDAY, 19 AUGUST, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Mr. James Macarthur presented a Petition from George Richard Griffiths, Esquire, Inspector of the Colonial Establishments of the Bank of Australasia, for and on behalf of the Corporation, representing, That the Petitioner approves generally, of the Bill now before the Council, intituled, "A Bill to provide for the periodical publication of the Liabilities and Assests of Banks in New South Wales and its Dependencies, and the Registration of the Names of the Proprietors thereof," so far as relates to the periodical Returns required from the several Colonial Banking Establishments in New South Wales and its Dependencies; but the Bank of Australasia being an incorporated Institution, with its Court of Directors in England, and at all times before the Public, both in this Colony and abroad, the Petitioner would humbly insist that no beneficial result can be anticipated from including the Bank of Australasia under the provisions of the Bill; That, that Bank was incorporated under a Royal Charter dated 21 May 1835, under the provisions of which, Weekly Statements of the Liabilities and Assests of the Bank are required to be made up and forwarded by the earliest opportunity to England, and likewise Half-yearly Abstracts of such Statements on the 10th of April, and 10th of October annually, which Half-yearly Abstracts are further required to be submitted to the Governor of the Colony, and verified on oath if he should so desire, and also to be published in one or more Gazettes or Newspapers of the Colony; which provisions being in some respects similar to those proposed in the enactments of the Bill now before the Council, and having been established under the high authority of a Royal Charter, the Petitioner submits that they cannot be in any manner interfered with, or altered, or other, or new conditions or restrictions imposed upon the Corporation, by, or under any other authority than the same from which such Charter was obtained; That the Petitioner apprehends the almost total impossibility of complying with the provision in the Bill requiring the yearly registration of the names, and places of abode, and descriptions of the Proprietors of Banking Establishments, as the greater part of the Proprietors forming the Corporation of the Bank of Australasia are resident in Great Britain; and that the provision in the seventh clause of the Bill under which every such proprietor whose name may be so recorded shall be liable to be sued individually cannot, without greatly encroaching upon the rights and privileges of each individual Member forming the Corporation of the Bank of Australasia, be applicable to them, inasmuch as by their Charter the Bank of Australasia alone can or may sue or be sued, and under that Name or Style; and the Petitioner further submits that manifest wrong would be done to him and others protected by their Charter if the Bill in its present state should pass into a Law, as it is expressly provided by the Charter, that in case of the insolvency of the Corporation, all and every the Proprietors for the time being of any interest or share in the Capital of the Corporation, should be individually liable in their persons and property to be called upon under the covenant or agreement in their Indenture of Copartnership or otherwise, to contribute for or towards the payment, satisfaction, and discharge of the debts, liabilities, and engagements of the said Corporation, not only such part or parts of all and every share or shares held by him her or them respectively in the Capital of the said Corporation as should not have been theretofore called for and paid up, but also such further sum of money (not exceeding the amount of the Share or interest so subscribed for and held by such proprietor or proprietors respectively in the Capital of the said Corporation) as should be requisite and necessary to pay, satisfy, and discharge the debts, engagements, and liabilities of the said Corporation, and no further; The Petitioner therefore prays that the Bank of Australasia may be excluded from the provisions of the said Bill;—Petition read and received.
2. Municipal Corporations Bill; In reference to the result of the Division yesterday, on Mr. James Macarthur's Motion, His Excellency the Governor stated, that being decidedly of opinion that the consequence of hearing the Counsel for the Petitioners must be a revival of those agitating and exciting feelings between the Free and Emancipist Population, which he was aware had formerly existed, but which he hoped had now subsided; he deemed he would best perform his duty, by proceeding no further with this Bill at present; His Excellency after further explaining, at some length, his reasons for so doing, then withdrew the Bill.

3. The Commissioners of Highways and other Public Works' Bill; this Bill being framed in some respects on similar principles to the Bill just disposed of, His Excellency withdrew it also, after some observations from several Members adverse to the proposed mode, and probable expence of carrying it into operation.
4. Parish Roads Bill; After a discussion of considerable length on the proposed mode of raising funds for carrying this Bill into operation by an *ad valorem* assessment on property generally, Mr. H. H. Macarthur gave notice of a Motion, that an acreable tax on Land be substituted for an *ad valorem* assessment on Property; the further consideration of the Bill was then deferred until Tuesday next, August 25.
5. Punishment of Transported Offenders' Amendment Act Bill; further considered and amended; to be fairly transcribed and presented to the Governor by the Attorney General and Mr. James Macarthur.
6. Postage Act Amendment Bill; re-committed;—The Postmaster General, Mr. James Raymond, called in and examined: The allowance of a Gratuity to Masters of Vessels for carrying Letters Coastwise commenced in the Year 1832, at the rate of two-pence for each Letter; Mr. Raymond put in the following Statement, shewing the number of Letters passed through the General Post Office in Mails forwarded by Vessels coastwise, and the amount of Gratuity paid for their conveyance, at 2d. per Letter, during the Years 1833, 1836, 1839, and the first Six Months of 1840—Free Letters and Newspapers having been carried in the same Mails, without payment of any Gratuity:—

Within what period.	No. of Letters bearing Postage.	Amount of Gratuity paid, at 2d. per Letter.
In the Year 1833	10,254	£ 85 9 0
In the Year 1836	32,041	267 0 2
In the Year 1839	89,141	742 16 10
From 1st January to 30th June 1840 .	58,156	484 12 8

Thus it will appear that the number of Letters passed through the Post Office in Sydney, by Coast Conveyance, has trebled upon every third Year.

The number of Free Letters and Newspapers conveyed Coastwise in 1839 and 1840, independent of the above number of Postage Letters, was:—

	Free Letters.	Newspapers.
In 1839	28,393	133,283
In first Six Months of 1840	13,183	71,167

The places to which Mails are sent by Water, are the several Towns on the Hunter, Port Macquarie, Brisbane Water, Wollongong, and Melbourne; Mails are sent both by Steamers and by Sailing Vessels, but a preference is given to Steamers; on one night in the week, twenty-one Mail-bags are made up for the River Hunter; on two nights in the week, seventeen Mails; on three nights in the week, thirteen Mails; and every night eight Mails; the places which have daily Mails being Newcastle, Hexham, Raymond Terrace, Hinton, Morpeth, East Maitland, West Maitland, and Darlington, although sometimes when the Steamers do not run, these Mails cannot be sent; the largest sum paid to any one Vessel on one trip last Year, was £3 16s. 8d. to the "Tamar," on the 21st of April; and the largest sum this year was £3 19s. 4d., on the 30th of May; this appeared to be the largest sum ever paid to a Coasting Vessel on any one trip for the conveyance of Mails, and £1 0s. 2d. the lowest, he believed.—The average rate paid for each Mail-bag is about Half a Crown or three Shillings: He was of opinion that the allowance to Masters of Coasting Vessels for the conveyance of Letters should not be under one Penny for every Letter chargeable with Postage; a liberal rate of payment would make Masters of Vessels more attentive to the performance of their duty, and induce them to exert themselves more to prevent the carriage of Letters by private hands. Mr. Raymond then retired; the Bill to be read a third time on Tuesday next.

7. Bank Liabilities and Assets Publication Bill, second reading deferred until Tuesday next.
8. Sydney Banking Company Bill; third reading deferred until Tuesday next.
9. The Port Phillip Bank Bill; the further consideration deferred until Tuesday next.
10. The Melbourne Fire and Marine Assurance Company Bill; the further consideration deferred until Tuesday next.
11. His Excellency the Governor laid upon the Table the undermentioned Returns:—
 - (1.) Return of Immigrants and Convicts arrived, and of Births and Deaths in the Colony of New South Wales, from the Year 1837 to 1839, inclusively.
 - (2.) Return of the Value of Imports from the Year 1826 to 1839, inclusively.
 - (3.) Return of the Value of Exports from the Year 1826 to 1839, inclusively.
 - (4.) Return of Live Stock Imported from the Year 1828 to 1839, inclusively.
 - (5.) Return of the Number and Tonnage of Vessels Entered Inwards, from the Year 1826 to 1839, inclusively.
 - (6.) Return of the Number and Tonnage of Vessels Entered Outwards, from the Year 1826 to 1839, inclusively.
 - (7.) Return of the Number of Vessels Built and Registered from the Year 1822, to 1839, inclusively.
 - (8.) Return of Wool Exported from the Year 1822 to 1839, inclusively.
 - (9.) Return of the Amount of Auction Duty at 1½ per cent., paid into the Colonial Treasury, from the Year 1824 to 1839, inclusively.
 - (10.) Return of the Amount received from the Sale of Crown Lands, from the Year 1824 to 1839, inclusively.

(11.) Return, shewing the Estimated Quantity of Land in Cultivation, (exclusive of Gardens and Orchards) on 31st December, 1839.
To be printed.

12. The Colonial Secretary's Motion relative to the Consideration of the Estimates of Expenditure for the year 1841; deferred until Wednesday August 26.
Council adjourned at Three o O'Clock, until Tuesday next, at Twelve O'Clock.

ORDERS OF THE DAY.

TUESDAY, AUGUST 25.

1. Postage Act Amendment Bill; third reading.
2. Parish Roads Bill; re-committal and further consideration.
3. Bank Liabilities and Assets publication Bill; second reading.
4. The Sydney Banking Company Bill; third reading.
5. The Port Phillip Bank Bill; further consideration.
6. The Melbourne Fire and Marine Assurance Company Bill; further consideration.
7. Independent and Baptist Marriages' Registration Bill; second reading.

NOTICES OF MOTION.

TUESDAY, AUGUST 25.

1. Mr. H. H. Macarthur: That clauses 9 and 10 of the Parish Road Bill, and such other clauses in connexion therewith as may be necessary, be re-committed, and be so amended as that the Assessment or Rates to be levied for the construction and repair of Roads shall not be determined by Valuation on Property, as therein at present provided, but shall be chargeable on Land at such a rate per acre as may be from time to time determined.

WEDNESDAY, AUGUST 26.

2. The Colonial Secretary: The Estimates of Expenditure for 1841;—that they be considered.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, 25 AUGUST, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and laid upon the Table, "*A Bill for the further and better Regulation and Government of Seamen within the Colony of New South Wales and its Dependencies, and for other purposes relating thereto.*" Bill read a first time; to be printed, and read a second time on Tuesday, September 8.
 2. Mr. James Macarthur moved, that His Excellency the Governor be respectfully requested to direct the following Returns to be laid before the Council:—
(1.) A Return shewing the quantity of Land surveyed, or of other work performed by each Officer of the Surveyor General's Department, respectively, during the period from the 30th June 1837, to the 30th June 1840; and shewing also the total quantity of Land Surveyed, or other work performed during the above period.
(2.) A similar Return for the District of Port Phillip.
 3. His Excellency the Governor laid upon the Table, "*A Bill for increasing the Duties on Spirits, Wine, and other Goods, and Merchandise, imported into the Colony of New South Wales, and its Dependencies;*" Bill read a first time; to be printed, and read a second time on Tuesday next, September 1.
 4. Punishment of Transported Offenders' Amendment Act Bill; presented by the Governor as amended; to be read a third time on Tuesday next.
 5. Postage Act Amendment Bill; read a third time and *passed*.
 6. Parish Roads Bill; re-committed, and further considered and amended; to be re-printed as amended, and further considered on Tuesday, September 8.
 7. Bank Liabilities and Assests Publication Bill; read a second time; committed and amended; to be fairly transcribed, and presented to the Governor by the Colonial Secretary and Mr. Jones.
 8. The Sydney Banking Company Bill; third reading postponed until Tuesday next.
 9. The Port Phillip Bank Bill; the further consideration postponed until Tuesday next.
 10. The Melbourne Fire and Marine Assurance Company Bill; the further consideration postponed until Tuesday next.
 11. Independent and Baptist Marriages' Registration Bill; read a second time; committed and amended; some proposed additional clauses to be printed, and the Bill to be further considered on Tuesday, September 8.
- Council adjourned at Four O'Clock, until To-morrow at Twelve O'Clock.

ORDERS OF THE DAY.

TUESDAY, SEPTEMBER 1.

1. Punishment of Transported Offenders' Amendment Act Bill; third reading.
2. Increased Duties on Imports Bill; second reading.
3. The Sydney Banking Company Bill; third reading.
4. The Port Phillip Bank Bill; further consideration.
5. The Melbourne Fire and Marine Assurance Company Bill; further consideration.

TUESDAY, SEPTEMBER 8.

1. Parish Roads Bill; further consideration.
2. Independent and Baptist Marriages' Registration Bill; further consideration.
3. Seamen's better Regulation Bill; second reading.

NOTICE OF MOTION.

WEDNESDAY, AUGUST 26.

1. The Colonial Secretary: The Estimates of Expenditure for 1841;—that they be considered.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

WEDNESDAY, 26 AUGUST, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair.
Mr. H. H. Marcarthur moved, That His Excellency the Governor be respectfully requested to direct the following Returns to be laid before the Council :—
 - (1.) A Return of the Original Estimates for the Gaols and Court Houses built, and now building, and of the amount already expended on them, with a Report of the present state of each Building.
 - (2.) A Return of the Estimate for the Circular Wharf, and of the sum already expended on it; Passed.
2. His Excellency the Governor said, that before proceeding to the consideration of the Estimates, there were two subjects connected with them, to which he wished to draw the attention of the Council.
 - (1.) The first was, the claim of Colonel Kenneth Snodgrass, for remuneration for extra services rendered by him to the Colony, from 1 January, 1829, to 31 December, 1835, for the particulars of which, His Excellency would refer to the Minutes of the proceedings of the Council on the 4th and 11th of October, 1838, which, with Colonel Snodgrass' Memorial, having been read, His Excellency observed, that the Lords of the Treasury had consented to the allowance of remuneration, from the Military Chest, to Colonel Snodgrass, for the time that he was Commandant of the Mounted Police, at the rate of 7s. 6d. per diem, amounting to £245 5s., but would not authorise any remuneration for his services in respect to the custody of Gunpowder, as the revenue from the Storage of Gunpowder was paid to the Colony: neither would their Lordships consent to his being allowed a Grant of Land; the sum of £1,000 having been formerly proposed to be granted to Colonel Snodgrass, the difference between that amount, and the sum paid to him from the Military Chest, or £754 15s.—had been placed on the Supplementary Estimates for the present year; when those Estimates came under consideration, it would remain for the Council to say, whether they would vote that sum to Colonel Snodgrass.
 - (2.) The next case, was a claim made by Mr. Thomas Moore, of Liverpool, for compensation for losses to the amount of about £3,000, sustained by him, in consequence of his having at the request of Governor Macquarie, and under an appointment from him, taken charge of the affairs of a Captain Rowley, who had died in 1806, bequeathing his property to his Children and their Mother, under the management of two executors or Trustees, Colonel Thompson and Doctor Harris; their presence in England having been required about the time that Governor Bligh was deposed, the affairs of the Rowley Estate were unattended to, and became confused, and the Children distressed; an application on their behalf having been made to Governor Macquarie, he granted the appointment before alluded to, to Mr. Moore, who, to meet the payment of the debts due by the Estate, and the pressing wants of the Children and their Mother, sold Cattle to the amount of about £500; and afterwards, with the leave of the Civil Court, sold the Estate of Burwood, for £550, to Mr. Riley; against whom, after twenty years' undisturbed possession, an action of ejectment was successfully brought by the Heirs at Law of Rowley; Mr. Riley proceeded against Mr. Moore, who had guaranteed the title, which, in His Excellency's opinion, it was unnecessary for him to do, acting as he did as a trustee under an appointment from Governor Macquarie, and with the sanction of the only Court then in existence in the Colony; a verdict of £5,000 was given against Mr. Moore, afterwards reduced to half that sum, which with Law Expences made the amount of Mr. Moore's loss about £3,000, which he claimed reimbursement of from the Government, on the alleged ground of Governor Macquarie having, by the act of issuing the appointment to Mr. Moore above adverted to, assumed an authority which he did not legally possess. The Lords of the Treasury refused to allow a grant of Land, which had been recommended by Sir Richard Bourke; but would not object to an allowance of Money, if recommended by the Council; His Excellency not only feared the consequences of admitting, by such a precedent, the present Government to be responsible for the acts of former Governments in excess of their authority, but was also of opinion that if Mr. Moore had not improperly guaranteed Riley's title, and due care and vigilance had been exercised in the defence of his case, he would not have sustained the loss of which he complained; His Excellency felt confident that if Mr. Moore had applied, in the first instance to the Government for assistance, and the case had been argued in England, either

either before the Court of Chancery, or the Privy Council, Governor Macquarie's appointment of Mr. Moore would have been upheld; as the custody of the Great Seal made him virtually the Chancellor of the Colony; another point which might have been urged was, that Governor King's Grant, under which the Heirs of Rowley claimed, was at that time illegal, and had not been made legal.

3. Upon some observations from Mr. Jones on the present high price of Coals, and the monopoly of the Australian Agricultural Company, His Excellency the Governor laid upon the table, the undermentioned correspondence relating to the subject of the Working of Coal Mines in New South Wales.

(1.) A Despatch from the Most Noble the Marquis of Normanby, dated 3 July, 1839, No. 84, transmitting copies of a correspondence with the Australian Agricultural Company, and stating, in reference to their claims to the exclusive right of Working Coal Mines in New South Wales, that, as the further Report of the Crown Lawyers goes to confirm their former opinion against the claim of the Company in regard to the working of the Coal Mines at Port Phillip, it will rest with His Excellency to take such measures as may appear most advisable for ensuring to the Settlers at Port Phillip the benefit of those Mines.

(2.) Copy of a Letter from H. Labouchere, Esq. to J. S. Brownrigg, Esq., Deputy Governor of the Australian Agricultural Company, dated 27 February, 1839, from which it appears that the Law Officers of the Crown, having again had under their consideration all the correspondence relating to the question of working Coal Mines in New South Wales, including a letter from Mr. Brownrigg dated 22 December 1838, have reported that the additional information brought before them does not in any way affect the opinion which they formerly adopted, and observe that the letter written on 31 July, 1828, by direction of Sir George Murray, to the Company, does not appear to be in any material respect different from the Despatch of the same date from Sir George Murray to General Darling, and that although the only circumstance particularly mentioned in that letter and Despatch likely to induce the Home Government to interfere with the monopoly of the Company, is the sale of Coal at an exorbitant price; yet, the powers reserved are quite general, and might be exercised whenever circumstances should render it necessary: and that, in truth, unless the Company mean to say that they will supply Coal in abundance at Port Phillip from their Mines at Newcastle, at the same price at which Coal might be raised and sold from the Mines supposed to exist in the neighbourhood of Port Phillip, they, the Law Officers, think the very case contemplated by the Despatch of 31 July, 1828 will have arisen, as the excess of cost occasioned by the carriage of the Coal 700 miles, will make its price at Port Phillip an exorbitant price, within the fair meaning of the parties when they were settling the terms of the Agreement in July 1828.

(3.) Copy of a Letter from J. S. Brownrigg, Esq. to the Marquis of Normanby, dated 30 May, 1839, from which it appears, with regard to the Colliery question, that Mr. Brownrigg, after referring to his letter of 22 December, 1838, as containing the grounds on which the Company found their claim to be protected by the Government from competition, so far as the Grant of Leases or the aid of Convict Labour is concerned, to any other Company, or Individual, further requests His Lordship to consider that the Company undertook the Working of the Colliery at the express desire of the Government; and that their main inducement to do so, was the promise made in the Under Secretary of State's Letter of 31 July, 1828, that, during thirty-one years they should be protected from competition in the manner above stated; that eleven years of that term have expired, and that the Company have yet to look for reimbursement of the heavy outlay they have incurred in placing the Collieries at Newcastle in a condition to meet the Public demand, and concludes with expressing his belief that His Lordship will dispose of the application for leave to work Coal Mines at Western Port, with that consideration for the rights of the Company, which their case might appear equitably to merit.

(4.) A Letter dated 25 June, 1830, from the Colonial Secretary of New South Wales to Sir Edward Parry, then the Company's Commissioner, explanatory of the annexed conditions on which the Australian Agricultural Company were to be put in possession of the Coal Mines at, and near to, Newcastle:—

1st—That the Company are to have 500 acres of the Coal Land at or near Newcastle, including the Mines now worked by Government.

2nd—The Company may select 1,500 acres of additional Land, on the Banks of the River Hunter, adjoining the said 500 acres, or otherwise, provided the same be unlocated.

3rd—Each allotment to have a liberal water frontage.

4th—All possible assistance in Convict Labour to be granted for working the Mines.

5th—The Colonial Government to cease working, so soon as the Company may be ready to commence.

6th—The usual rate of quit rent to be charged, according to the surface value of the Land, for the five hundred acres, and for as much of the fifteen hundred acres as may be Coal Land, without reference to its value as Mine Land.

7th—The quit rent on all such Coal Land is not to be redeemable.

8th—The Land may be resumed by Government, if in any year the Company shall raise a less quantity of Coals than two-thirds of the annual average quantity raised in the three years ending the 31st December, 1828.

9th—

9th—The Government to be entitled in perpetuity to all Coal wanted for its own consumption, not exceeding one quarter of the annual produce, to be delivered at the pit's mouth at prime cost, which is to be ascertained from the accounts of the Company's Manager, made up to the 30th of April in each year.

10th—No Land is to be granted by Government during thirty-one years after the date of the present grant, without a special reservation of all Coals and Coal Mines; nor is Government during that time to afford assistance in Convict Labour; for the purpose of working any Coal Mine, to any other Company or Individual, without previous sanction of the Secretary of State, which, however, would probably be granted, if the Company were to avail themselves of their monopoly by imposing an exorbitant price for their Coals.

(5.) A Letter from the Honorable C. J. La Trobe, Esq. Superintendent of the District of Port Phillip, dated 8 August, 1840, transmitting a Report, describing the appearances of the Strata of Coal discovered at Western Port; from which it appears, that the veins discovered on the beach between the small River Bass, and the extremity of the opposite point, Cape Wollomai or Phillip Island, are of excellent quality, being a light bituminous coal, exhibiting strong marks of its ligneous origin, but rarely more than nine inches in thickness, lying between thin beds of clay, loose iron stone, and a gritty conglomerate with iron, sand, and pebbles. From the shallow depth of the seams, and the shoalness of the water on this shore, it is deemed that the Coal here would scarcely be worth working, unless further researches should shew, that veins running inland under the clay hills, increase in size and number. At Cape Paterson, about twenty miles to the South-east of the above-mentioned locality, the beds discovered, are of greater thickness, several being from two to three feet across, and more exposed to view; the coal is of equally good quality with that before described, and the Geological formation of the surrounding country is yet more decidedly that which in Europe belongs to the Coal formation; the position is, however, here also exceedingly unfavourable to any enterprise that may be set on foot for turning the coal to account; as it lies at the foot and sides of a rocky shore, exposed to the full force of the heavy surf of the Straits, and offering no shelter for vessels of any description. Indications of Coal are also to be found on the Northern bank of an inlet or extensive lagoon running parallel with the shore, situated in the bight between Capes Paterson and Distress, recently explored by Mr. Anderson of Western Port, and found to be the outlet of a considerable stream running from the North-East; and it is said, that indications of Coal have been found on Phillip Island, and on the Western Shores of Western Port, between Cape Shank and Sandy Point; if coal in any quantity should be found on the Island, which is highly probable, there will be no obstacle to its removal, as there is good anchorage for vessels of any size off the North Shore, and fresh water is to be procured without difficulty; the employment of a scientific person to explore the Coal Fields of Western Port, is recommended, and has been authorised by His Excellency the Governor.

4. The Estimates of Expenditure for 1841; Motion made and question put, That they be now considered in Committee: Passed.

(1.) Resolved, that a sum not exceeding £580 1s. 3d., be appropriated to defray the expence of the Establishment of His Excellency the Governor, for the year 1841.

(2.) Resolved, that a sum not exceeding £1,435 8s. 9d., (including £300 towards the formation of a Library,) be appropriated to defray the expence of the Executive and Legislative Councils, for the year 1841.

(3.) Resolved, that a sum not exceeding £7,202 0s. 5d., be appropriated to defray the expence of the Colonial Secretary's Department, for the year 1841.

(4.) Resolved, that a sum not exceeding £4,027 11s. 8d., be appropriated to defray the expence of the Colonial Treasury, for the year 1841.

(5.) Resolved, that a sum not exceeding £2,579 8s. 9d., be appropriated to defray the expence of the Auditor General's Department, for the year 1841.

(6.) Resolved, that a sum not exceeding £8,246 14s. 7d., be appropriated to defray the expence of the Customs Department at Sydney, for the year 1841.

(7.) Resolved, that a sum not exceeding £386 16s. 3d., be appropriated to defray the expence of the Customs Department at Newcastle, for the year 1841.

(8.) Resolved, that a sum not exceeding £16,897 6s. 3d., be appropriated to defray the expence of the Post Master General's Department, for the year 1841.

(9.) Resolved, that a sum not exceeding £406 18s. 9d., (including Allowances for a Messenger, and the keep of a Horse,) be appropriated to defray the Salaries of Inspectors of Colonial Distilleries, for the year 1841.

(10.) Resolved, that a sum not exceeding £200, be appropriated to defray the Salary of the Inspector of Slaughter Houses for the District of Sydney, for the year 1841.

(11.) Resolved, that a sum not exceeding £345, 12s. 6d., be appropriated to defray the expence of the Department of the Commissioner for the Assignment of Convict Servants, for the year 1841.

(12.) Resolved, that a sum not exceeding £946 10s., be appropriated to defray the expence of the Department of the Colonial Botanist, for the year 1841.

(13.) Resolved, that a sum not exceeding £888 5s., be appropriated to defray the expence of the Government Domain, Parramatta, for the year 1841.

(14.) Resolved, that a sum not exceeding £200, be appropriated towards the support of the Australian Museum, for the year 1841.

- (15.) Resolved, that a sum not exceeding £1,440 11s. 7d., be appropriated to defray the expence of the Colonial Storekeeper's Department, for the year 1841.
 - (16.) Resolved, that a sum not exceeding £1,766 0s. 5d., be appropriated to defray the expence of the Department of the Harbour Master, at Sydney, for the year 1841.
 - (17.) Resolved, that a sum not exceeding £418 17s. 1d., be appropriated to defray the expence of the Light House, at South Head, for the year 1841.
 - (18.) Resolved, that a sum not exceeding £467 17s. 6d., be appropriated to defray the expence of the Floating-Light Vessel, near the entrance of Port Jackson, for the year 1841.
 - (19.) Resolved, that a sum not exceeding £292 3s., be appropriated to defray the expence of the Department of the Harbour Master, at Newcastle, for the year 1841.
 - (20.) Resolved, that a sum not exceeding £250 3s. 4d., be appropriated to defray the expence of the Department of the Harbour Master, at Port Macquarie, for the year 1841.
 - (21.) Resolved, that a sum not exceeding £430 17s. 6d., be appropriated to defray the expence of the Telegraph Stations, for the year 1841.
 - (22.) Resolved, that a sum not exceeding £300, be appropriated to defray the Salary of the Health Officer, Port Jackson, for the year 1841.
 - (23.) Resolved, that a sum not exceeding £250, be appropriated to defray the Salary of the Colonial Agent General, for the year 1841.
- Council adjourned at Half-past Three o'clock, until To-morrow, at Twelve o'clock.

ORDERS OF THE DAY.

THURSDAY AUGUST 27.

- 1. Estimates of Expenditure. for 1841, further consideration.

TUESDAY, SEPTEMBER 1.

- 1. Punishment of Transported Offenders' Amendment Act Bill; third reading.
- 2. Increased Duties on Imports Bill; second reading.
- 3. The Sydney Banking Company Bill; third reading.
- 4. The Port Phillip Bank Bill; further consideration.
- 5. The Melbourne Fire and Marine Assurance Company Bill; further consideration.

TUESDAY, SEPTEMBER 8.

- 1. Parish Roads' Bill; further consideration.
- 2. Independent and Baptist Marriages' Registration Bill; further consideration.
- 3. Seamen's better Regulation Bill; second reading.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

THURSDAY 27 AUGUST, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Motion made by Mr. H. H. Macarthur, and seconded by the Colonial Secretary, That His Excellency the Governor be respectfully requested to appoint a Committee of this Council to prepare Addresses of Congratulation to Her Most Gracious Majesty the Queen, and His Royal Highness Prince Albert, on the Auspicious Event of the Marriage of Her Majesty with His Royal Highness the Prince.

Committee appointed,

HIS HONOR THE CHIEF JUSTICE,
THE RIGHT REVEREND THE LORD BISHOP OF AUSTRALIA,
HIS EXCELLENCY THE COMMANDER OF THE FORCES,
MR. JONES, MR. H. H. MACARTHUR,
SIR JOHN JAMISON.

2. Estimate of the probable Expences of the Department of the Surveyor General, for the year 1841: Motion made, and question put, that the consideration of this Estimate be deferred until the Returns moved for by Mr. James Macarthur, on Tuesday last, be laid before the Council; Passed.

(24.) Resolved, that a sum not exceeding £19,021 7s. 8d. be appropriated to defray the expence of the Colonial Engineer's Department., for the year 1841.

(25.) Resolved, that a sum not exceeding £5,000, be appropriated to defray the expence for the year 1841, of Repairing Roads, and of the Conveyance of Metal.

(26.) Resolved, that a sum not exceeding £2,000, be appropriated to defray the expence for the year 1841, of repairing Bridges and Drains.

(27.) Resolved, that a sum not exceeding £8,000, be appropriated to defray the expence for the year 1841, of Constructing New Bridges and Drains.

(28.) Resolved, that a sum not exceeding £1,500, be appropriated to defray the expence for the year 1841, of erecting Fencing on New Lines of Road and elsewhere, as may be required.

Circular Quay, Sydney Cove; Motion made and Question put, that the consideration of the appropriation of the further sum of £3,500, towards the formation of the Circular Quay, in Sydney Cove, be deferred, until the Return moved for yesterday, by Mr. H. H. Macarthur, be laid before the Council; Passed.

(29.) Resolved, that a sum not exceeding £900, be appropriated to defray the expence for the year 1841, of laying down pipes, and carrying on the Works connected with the Tunnel which supplies Sydney with Water.

(30.) Resolved, that a sum not exceeding £1,000, be appropriated to defray the expence for the year 1841, of constructing a Dam across George's River.

(31.) Resolved, that a sum not exceeding £600, be appropriated to defray the expence for the year 1841, of constructing the Breakwater at Newcastle.

(32.) Resolved, that a sum not exceeding £1,700, be appropriated to defray the expence for the year 1841, of constructing a Basin at the Harbour of Wollongong.

(33.) Resolved, that a sum not exceeding £1,609 10s. be appropriated to defray the Expence of the Department of the Colonial Architect and Surveyor of Buildings for the year 1841.

(34.) Resolved, that a sum not exceeding £5,000, be appropriated to defray the expence for the year 1841, of Building a New Government House at Sydney.

Court Houses and Gaols: Motion made, and Question put, That the consideration of the appropriation of £16,500, for the year 1841, towards the erection of Court Houses and Gaols, be deferred until the Return moved for yesterday, by Mr. H. H. Macarthur, be laid before the Council; Passed.

(35.) Resolved, that a sum not exceeding £2,000, be appropriated to defray the expence for the year 1841, of repairing the Post Office, and the Building in Macquarie Place, occupied as a Museum, Library, and Public Offices.

(36.) Resolved, that a sum nor exceeding £2,000, be appropriated to defray the expence of Casual Repairs to Government Houses, Courts of Justice, and other Public Buildings during the year 1841.

(37.) Resolved, that a sum not exceeding £3,172 10s. 2d. be appropriated to defray the expence of the Town Surveyor's Department, for the year 1841.

(38.) Resolved, that a sum not exceeding £1,000 be appropriated to defray the expence for the year 1841, of conveying Stone for Metalling the Streets of Sydney.

(39.)

(39.) Resolved, that a sum not exceeding £350, be appropriated to defray the Salary, for the year 1841, of the District Surveyor of Buildings in Sydney.

(40.) Resolved, that a sum not exceeding £6,444, 11s. 8d. be appropriated to defray the expence of the Supreme Court, for the year 1841.

(41.) Resolved, that a sum not exceeding £4,044 10s. 0d. be appropriated to defray the expence of the Law Officers of the Crown, for the year 1841, including £500 as the Salary of a Crown Solicitor, for Criminal business, temporarily appointed.

(42.) Resolved, that a sum not exceeding £2,970 15s. 1d. be appropriated to defray the expence of Courts of Requests, for the year 1841.

(43.) Resolved, that a sum not exceeding £4,878 be appropriated to defray the expence of Courts of Quarter Sessions, for the year 1841.

(44.) Resolved, that a sum not exceeding £3,295 8s. 9d. be appropriated to defray the expence of the Sheriffs' Department for the year 1841.

(45.) Resolved, that a sum not exceeding £1,853 17s. 6d. be appropriated to defray the Salaries of Coroners, and the expences of Inquests, for the year 1841.

(46.) Resolved, that a sum not exceeding £14,150 16s. 8d. be appropriated to defray the expence of the Police, for the Town and District of Sydney, for the year 1841.

Police in the Country Districts:—Moved by the Colonial Secretary, that it be Resolved, that the sum of £35,708 5s. 10d. be appropriated to defray the expence for the year 1841, of the Police in the Country Districts—Moved, as an amendment, by Mr. James Macarthur, that only half that sum be so appropriated: Council divided; for the Original Motion, Eight; for the Amendment, Five. Resolution passed.

Council adjourned at Four o'clock, until Tuesday next, at Twelve o'clock.

ORDERS OF THE DAY.

TUESDAY, SEPTEMBER 1.

1. Estimates of Expenditure for 1841; further consideration.
2. Punishment of Transported Offenders' Amendment Act Bill; third reading.
3. Increased Duties on Imports Bill; second reading.
4. The Sydney Banking Company Bill; third reading.
5. The Port Phillip Bank Bill; further consideration. X
6. The Melbourne Fire and Marine Assurance Company Bill; further consideration.

TUESDAY, SEPTEMBER 8.

1. Parish Road Bill; further consideration.
2. Independent and Baptist Marriages' Registration Bill; further consideration.
3. Seamen's better Regulation Bill; second reading.

W. M. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, 1 SEPTEMBER, 1840.

- 1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Addresses of Congratulation to Her Majesty the Queen, and His Royal Highness Prince Albert; His Honor the Chief Justice as Chairman, brought up the Report of the Committee appointed to prepare those Addresses, of which the following are copies :—

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

We, the Members of the Legislative Council of New South Wales, participating in the universal joy diffused throughout the British Empire on the occasion of your Majesty's auspicious Marriage with His Royal Highness Prince Albert, of Saxe Cobourg and Gotha, venture to approach Your Majesty with our loyal, dutiful, and affectionate congratulations on an event so deeply affecting Your Majesty's domestic happiness, and so identical with the welfare of Your Majesty's loyal people. Remote as we are from the immediate scene of Home sympathies on this propitious occasion, we proudly claim the right to emulate with our fellow subjects, in expressing our share of the joy and satisfaction manifested throughout the Empire at seeing the heartfelt wishes of a faithful People fulfilled, by Your Majesty's choice of a Consort distinguished by a descent so illustrious, and by a character so formed to support and adorn His exalted station. The felicitous concurrence by such an alliance, of domestic bliss with a People's prosperity, constitutes an epoch in the history of our common Country, which eminently evokes the warmest acclamations of National feeling. In this feeling We, the Legislative Council of this Territory, most cordially unite, and ardently pray, that a relation formed under such happy auspices, may give assurance of unalloyed felicity in assuaging the cares of Royalty, and impart enduring renown to Your Majesty's Reign.

TO FIELD MARSHALL HIS ROYAL HIGHNESS PRINCE ALBERT, OF SAXE COBOURG AND GOTHA, &c., &c., &c.

The Legislative Council of New South Wales, emulating with Her Majesty's other Subjects in evincing joy and satisfaction on Her Majesty's auspicious Union with Your Royal Highness, hasten to express the sense which they entertain of Her Majesty's discrimination in choosing a Consort whose illustrious Ancestry, and distinguished personal endowments, augur the domestic happiness of our beloved Sovereign, and guarantee their sanguine anticipations of prosperity to the Reign of Her Majesty. The auspicious event which has invoked the heartfelt sympathies of British Subjects in the more immediate vicinity of the Royal Nuptials, is not, We beg to assure Your Royal Highness less sensibly appreciated in this remote part of Her Majesty's Dominions. We, the Members of the Legislative Council of Australia, therefore animated by like emotions, beg to offer to the Consort of our Gracious Sovereign, our warm, and hearty congratulations, on an event which, whilst it is auspicious of His own felicity, is no less acceptable to the generous aspirations of Her Majesty's liege and loving subjects.

His Honor the Chief Justice moved, that the Report, and the drafts of the Addresses prepared be approved and adopted; Passed.

His Honor then moved, that the Addresses be engrossed, and signed by the Members; and that His Excellency the Governor be respectfully requested to transmit them to the Right Honorable the Secretary of State for the Colonies, with the request of this Council, that His Lordship will be pleased to present them to Her Majesty, and His Royal Highness; Passed.

- 2. His Excellency the Governor, laid upon the Table " A Return of the Original Estimates for the Gaols and Court Houses built, and now building, from the year 1835, the amount expended on them to 31 July, 1840, with the present state of each Building; " shewing as follows :—

Buildings, and where situated.	Estimated Expende.	Amount expended to 31 July, 1840.			Present state of each Building.
	£	s.	d.		
New Gaol, Sydney	£45,000	37,719	16	3	Foundation and Basement of Central Building completed; Two Wings of Prison Building, containing 24 Solitary Cells, and 60 large Cells, and Gaoler's house nearly completed; also foundation of two more Prison Buildings complete, and another nearly so.
New Court House, Sydney	6000				Original Building completed; Wings in progress.
New Gaol, Parramatta	25,000	26,465	17	3	Expected to be finished in six months.
New Gaol, Maitland	3000	6118	18	9	Boundary Wall completed.
New Gaol, Bathurst, (Wall only) ..	3500	4010	4	6	Boundary Wall reported complete.
New Gaol, Berrima	5400				Completed, June, 1839.
New Court House, Berrima,	2568	13,724	17	2	Completed, June, 1838.
New Gaol, Goulburn, one Wing, and Court House	6000	Nil.			A Tender accepted in 1836, and given up; another Tender accepted in 1838, and given up in consequence of death of Contractor; another Tender accepted in 1839, and Contractor has since declined proceeding.
Court and Lock-up House, Patrick's Plains	794	794	0	0	Completed April 1838.
Court and Lock-up House, Yass,	1475	1475	0	0	Completed June 1837.
Court and Lock-up House, Vale of Clwyd	1426	1582	8	0	Completed August 1837.
Court House, Penrith	500	320	0	0	Completed 1836.
Court House, Raymond Terrace	500	270	0	0	Expected to be completed in six months.
Court House, Braidwood	1450	1450	0	0	Completed January 1839.
Court and Watch House, Newcastle	3500	2232	15	0	Expected to be completed in six months.
Police Office, Paramatta	4000	3917	12	0	Completed.
Temporary Gaol and Court House, Wollombl.	412	Nil.			Contracted for; will be completed in six months.
Temporary Gaol and Court House, Broulee	350	Nil.			Contracted for; to be completed October 1840.
Temporary Gaol and Court House, Merton	83 8/9	85	8	9	Completed April 1838.
Temporary Court and Lock-up House, Cashilis	85	85	0	0	Completed 1836.

Colonial Architect's Office,
Sydney, 29 Aug. 1840.

MORTIMER WILLIAM LEWIS,
Colonial Architect.

3. His Excellency the Governor laid upon the Table, "A Return" (as follows) "of the "Estimates for the Circular Wharf in Sydney Cove, and of the sums already expended on account of the wharf, up to 30 June 1840:"—

Estimated Allowance.	Amount.	Expenditure.	Amount.
Authorised Estimate for 1838	£5000	Existing Contracts and Expenditure from 14 September 1838, to 30 June 1840, in Superintendence, Tools, and Stores	£2291 17 6
Ditto ditto 1839	6997		
Ditto ditto 1840	5000		
	£16,997	Dredging Craft	5269 10 0
		Engine, Diving Bell, &c.	4605 0 0
			£12,166 7 6

No Estimate has been framed, shewing the probable expenditure upon the whole work, in fact, it is impossible to complete such estimate, until the Foundations have been examined, the means for which are only in preparation; the above statement shews the sums authorised for expenditure in the years 1838, 1839, and 1840; under the head of Expenditure, is stated the amount of the Contract for the Dredging Craft, which has not been paid, but which, it is expected, will be ready for launching in three weeks; the Engine received from England, has been put together and cleaned; arrangements are in progress for slinging one of the Diving Bells, which, it is expected, will be in operation in a few weeks; a large quantity of stone has been prepared for facing the Quay; His Excellency the Governor has approved of an Ironed Gang being stationed on the spot, which will materially expedite the work.

Colonial Engineer's Office,
Sydney, 28 August, 1840.

GEORGE BARNEY,
Major Royal Engineers.

4. His Excellency the Governor laid upon the Table, "A Return of Lands, and Town Allotments, &c. measured, Lines of Road surveyed, and other work performed, "by Officers of the Surveyor General's Department, New South Wales, between "30 June, 1837, and 30 June, 1840," accompanied by the following Letter :—

SIR

*Surveyor General's Office,
Sydney, 31 Aug., 1840.*

SIR,

In attention to your Letter of the 26th Instant, I have the honor to transmit herewith a Return, shewing at full length the work performed by Officers of this Department, between the 30th June, 1837, and 30th June, 1840, together with a Synopsis of the information contained in this Return; at the same time, I beg to forward, as requested, a Return of work performed by Officers of this Department, at Port Phillip, without reference to the Contract System, as well as of what has been accomplished under that system; and I have to add the following observations upon these Returns.

If it were in contemplation in calling for these Returns to establish a comparison between the two modes of operation, it should not be omitted to be considered that the Surveys carried on under the Contract system are consecutive measurements over an open country, where time is not lost in travelling; whereas, the Surveys performed in this part of the Colony, under the old system, are of lands lying frequently at very considerable, invariably at some distance from each other; and that the time occupied in Surveying, compared with that expended in travelling, is as three to six. Nor should it be forgotten, that even after the distance has been travelled, and the field of the Surveyor's operations has been reached, it may, and in Cumberland invariably does, cost much time and research to identify the site of the portion of Land to be measured. From the Return enclosed, it appears that, even under all these difficulties, one Surveyor has, in the course of three years, measured nearly one hundred and seventy thousand acres, and two hundred and twenty-six town allotments, besides measuring sundry lines of road, and performing other Surveys, while another, an equally active officer, has, within the period from 28 June, 1838 to 30 December, 1839, measured little more than six thousand acres, and one hundred and twenty-eight town allotments; and yet I feel as perfectly satisfied with the diligence and zeal of the latter as of the former Officer, and simply because he has had the almost innumerable difficulties of a densely populated District to contend with. "I find myself," he writes to me, "in a labyrinth of invisible lines, in which it is difficult to act without erring, the marks of former Surveys purposely destroyed, or unavoidably obliterated, amidst a thousand conflicting interests, rendering it dangerous to rely on the assertions of those best acquainted with what I am compelled to learn, I have been three days resurveying old lines before I could find a starting point for a single measurement." Unacquainted with these difficulties, many may wonder at the apparent smallness of the quantity of the work performed, when that quantity is set down in round numbers; but the better informed will weigh the difficulty of the task, and be satisfied with reasonable results.

I may also point out that much time is occupied in the preparation of maps, in reports, returns, and correspondence, which needs to be considered; that the severe life of a Surveyor in the field not unfrequently induces illness of a serious nature, and that time is required for the convalescence of the sufferer, before he can renew his operations—that domestic calamities sometimes call him from his duties—that periods of relaxation are solicited, and seldom denied to the deserving; and that equipments are, and I fear ever will be, while supplied by contract, defective, cumbrous, enormously expensive, and unsatisfactory to the last degree. But even taking all these circumstances into consideration, there are some persons, and I do not hesitate to make the admission, who are not of the zealous and active character that could be desired, and these are met with in private as well as in public appointments, who, preserving some appearance of activity, do not come so prominently under observation as to render severer measures than reprobation, and temporary stoppage of pay, immediately necessary or advisable. But I shall not fail, and this I have made generally known, to bring under the notice of His Excellency, the name of any Officer who may continue to disregard the warning. The Surveys at Moreton Bay I have omitted to notice in the Returns transmitted; but they have, I may take occasion to observe, though attended with the disastrous death of one of the officers employed, progressed in a rapid and most satisfactory manner.

I have the honor to be, Sir,

Your most obedient servant,

S. A. PERRY,
Dy. Sur. General.

(1.) SYNOPSIS TO ACCOMPANY GENERAL RETURN OF LANDS SURVEYED, (REFERRED TO IN THE FOREGOING LETTER.)

Name of Surveyor.	Period.	Large portions. No. of Acres Measured.	No. of Town Allotments.	Total Number of Portions.	Miles of Road Surveyed.
Butler.....	1837. 1 July.	1838. 18 June.	5,231.	47.	99.
Burnett.....	7 Oct.	1840. 30 June.	45,673.	169.	249.
Davidson.....	2 Nov. 1838.	30 June.	112,974.	206.	363.
Dalgety.....	30 July. 1837.	30 June. 1838.	10,471.	72.	165.
Finch.....	23 July. 1838.	15 Jan. 1839.	21,174.	3.	25.
Galloway.....	28 June. 1839.	30 Dec. 1840.	6,396.	73.	201.
Gorman.....	25 May. 1837.	30 June. 1840.	4,825.	8.	11.
Larmer.....	3 July. 1837.	30 June. 1839.	160,443.	306.	532.
Ogilvie.....	23 July. 1837.	30 Dec. 1840.	127,307.	110.	260.
Ralfe.....	10 July. 1837.	31 May. 1840.	118,934.	110.	256.
Rusden.....	30 June. 1837.	30 June. 1839.	80,731.	158.	249.
Townsend.....	1 July. 1838.	21 Sept. 1840.	88,897.	120.	229.
Wright.....	11 Dec. 1837.	30 June. 1840.	9,890.	"	14.
White, G. B.....	1 July. 1837.	30 June. 1838.	77,991.	371.	520.
White, H. F.....	26 July.	26 Dec.	4,152.	40.	49.
General Totals.....		875,089.	1,793.	3,222.	

Miles of Roads cannot at present be stated.

(2.) Return shewing the number of acres measured, and of other Surveys performed, at Port Phillip, by Officers of the Surveyor General's Department, from June 1837, to June 1840, of which the following is a Synopsis:—

Names of Surveyors.	No. of Acres measured.	General and Special Surveys of Rivers and Roads not stated in previous column.	Remarks.
Draftsman D'Arcy.....		Surveys of part of the harbour of Port Phillip from the mouth of the Weariby river, to the Western entrance; continuation thereof, and of the rivers Burwan, Mourabul and Yarrowl.	Mr. D'Arcy left the Department in January 1838.
Surveyor Hoddle.....	133,448	Surveys of North and South Melbourne and of William's Town.	
Asst. Surveyor Smythe .	22,056	Surveys of Geelong North, and South, of Suburban allotments, and of Violet Creek Village.	Messrs. Darke and Smythe commenced surveying by Contract in May 1839.
Asst. Surveyor Darke.....		Subdivision of Mr. Hoddle's sections in Jika Jika; Skeleton plan of Melbourne and sections of streets from Section 1 to 13.	
Draftsman Kemp.....	53,019	Mr. Kemp proceeded to Port Phillip in November 1838.
Asst. Surveyor Stapylton.....		Surveys of the River Plenty, and of the Country surrounding Port Phillip.	Mr. Stapylton returned to Head Quarters early in 1839
Draftsman Nutt.....	14,360	Survey of a portion of the Yarra Yarra River; of the 12½ acres sold to His Honor Mr. La Trobe and of 10 allotments near the Queen's Wharf, Melbourne.	Mr. Nutt proceeded to Port Phillip in November 1838.
Asst. Surveyor Townsend	15,360	(or 24 square miles); Surveys of 857 miles of road; of proposed Town of Port Fairy; of Town of Portland; of Suburban Allotments and of the Bar with Soundings.	Mr. Townsend proceeded overland to Melbourne from Yass in September 1839.

(3.) Return of Lands Surveyed by Contract at Port Phillip, from 1st May, 1839, to the present time; of which the following is a Synopsis:—

Names of Contractors.	No. of acres measured.	No. of portions.
W. W. Darke.....	156,414	203
H. W. H. Smythe..	66,960	88
	223,374	291

Surveyor General's Office, Sydney, 31 Aug., 1840.

S. A. PERRY, Dy. Sur. General.

- 81
5. Punishment of Transported Offenders Amendment Act Bill; read a third time and *Passed*.
 6. Increased Duties on Imports Bill; second reading postponed until To-morrow.
 7. The Sydney Banking Company Bill; read a third time and *Passed*.
 8. The Port Phillip Bank Bill; further considered, to be read a third time on Thursday next, September 3.
 9. The Melbourne Fire and Marine Assurance Company Bill; further consideration deferred until Tuesday, September 15.
 10. Estimates of Expenditure, for 1841, further considered, in Committee.
 - (48.) Resolved, that a sum not exceeding £19,650 11s. 9d. be appropriated to defray the expence of the Mounted Police, for the year 1841.
 - (49.) Resolved, that a sum not exceeding £10,965, be appropriated to defray the expence of the Border Police, for the year 1841.
 - (50.) Resolved, that a sum not exceeding £6,142 9s. 4d., be appropriated to defray the expence of the Sydney Gaol, for the year 1841.
 - (51.) Resolved, that a sum not exceeding £684 16s. 8d., be appropriated to defray the expence of the Debtors' Prison, Sydney, for the year 1841.
 - (52.) Resolved, that a sum not exceeding £6,709 11s. 3d., be appropriated to defray the expence of Gaols in the Country Districts, for the year 1841.
 - (53.) Resolved, that a sum not exceeding £18,371 10s., be appropriated to defray the expence of the Establishment of the United Church of England and Ireland, for the year 1841.
 - (54.) Resolved, that a sum not exceeding £6,800, be appropriated to defray the expence of the Presbyterian Church, for the year 1841.
 - (55.) Resolved, that a sum not exceeding £3,450, be appropriated to defray the expence of the Wesleyan Methodist Mission, for the year 1841.
 - (56.) Resolved, that a sum not exceeding £850, be appropriated for the year 1841, towards erecting Baptist Chapels, and Ministers' Dwellings, on condition of sums to an equal amount being raised by private contributions.
 - (57.) Resolved, that a sum not exceeding £8,850, be appropriated to defray the expence of the Establishment of the Roman Catholic Church, for the year 1841.
 - (58.) Resolved, that a sum not exceeding £3,172, be appropriated to defray the expence of the Male Orphan School, for the year 1841.
 - (59.) Resolved, that a sum not exceeding £3,022 2s. 9d., be appropriated to defray the expence of the Female Orphan School, for the year 1841.
 - (60.) Resolved, that a sum not exceeding £1,500, be appropriated for the support of Orphan Schools for destitute Roman Catholic Children, for the year 1841.
 - (61.) Resolved, that a sum not exceeding £3,950, be appropriated towards the support of Schools of the Church of England, for the year 1841, including £1,000, on condition of sums to an equal amount being raised by Private Contributions.
 - (62.) Resolved, that a sum not exceeding £1,500, be appropriated towards the support of Presbyterian Schools, for the year 1841, on condition of sums to an equal amount being raised by Private Contributions.
 - (63.) Resolved, that a sum not exceeding £350, be appropriated towards the support of Wesleyan Methodist Day Schools, for the year 1841, on condition of sums to an equal amount being raised by Private Contributions.
 - (64.) Resolved, that a sum not exceeding £1,450, be appropriated towards the support of Roman Catholic Schools, for the year 1841, including £700, on condition of sums to an equal amount being raised by Private Contributions.
 - (65.) Resolved, that a sum not exceeding £2,000, be appropriated towards Building new Orphan Schools, at Parramatta.
 - (66.) Resolved, that a sum not exceeding £1,670, be appropriated to defray the charge of Pensions, for the year 1841.
 - (67.) Resolved, that a sum not exceeding £1,000, be appropriated to defray the expence for the year 1841, of the Commission for Hearing and Determining on Claims to Grants of Land, in New South Wales.
 - (68.) Resolved, that a sum not exceeding £1,016, be appropriated to defray the expence for the year 1841, of the Management of the Church and School Estates.
 - (69.) Resolved that a sum not exceeding £200, be appropriated towards the support of the Sydney School of Arts, for the year 1841.
 - (70.) Resolved, that a sum not exceeding £4,000, be appropriated to defray the expence of Stationery, Printing, Bookbinding, Gazettes, and Almanacks, for the several Colonial Departments, for the year 1841.
 - (71.) Resolved, that a sum not exceeding £600, be appropriated to defray the expence for the year 1841, of Furniture for Government Houses, and Public Offices.
 - (72.) Resolved, that a sum not exceeding £450, be appropriated to defray the expence for the year 1841, of Fuel and Light for the several Colonial Departments.
 - (73.) Resolved, that a sum not exceeding £300, be appropriated to defray the expence for the year 1841, of conveying Stores to the several Public Departments.
 - (74.) Resolved, that a sum not exceeding £200, be appropriated to defray the expence for the year 1841, of Lighting the Public Lamps in Sydney.
 - (75.) Resolved, that a sum not exceeding £105, be appropriated to defray the expence for the year 1841, of Training Firemen to work the Engines when required.

- (76.) Resolved, that a sum not exceeding £2,500, be appropriated to defray the expence for the year 1841, of Supporting Free Paupers, in the Colonial Hospitals.
- (77.) Resolved, that a sum not exceeding £1,500, be appropriated to defray the expence for the year 1841, of Supporting Free Paupers in the Lunatic Asylum.
- (78.) Resolved, that a sum not exceeding £7,000, be appropriated to meet unforeseen expences on occasions of emergency, for the year 1841, to be hereafter accounted for.
- Council adjourned at Half-past Three o'clock, until To-morrow, at Twelve o'clock.

ORDERS OF THE DAY.

WEDNESDAY, SEPTEMBER 2.

1. Increased Duties on Imports Bill; second reading.
2. Estimates for 1841, further consideration.

THURSDAY SEPTEMBER 3.

1. Port Phillip Bank Bill: third reading.

TUESDAY, SEPTEMBER 8.

1. Parish Roads' Bill; further consideration.
2. Independent and Baptist Marriages' Registration Bill; further consideration.
3. Seamen's better Regulation Bill; second reading.

TUESDAY, SEPTEMBER 15.

1. The Melbourne Fire and Marine Assurance Company Bill; further consideration.

W. M. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS

OF
THE LEGISLATIVE COUNCIL.

WEDNESDAY, 2 SEPTEMBER, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Immigration Committee; 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. His Excellency the Governor laid upon the Table, "*A Bill to repeal so much of an Act passed in the Third year of the Reign of Her Majesty Queen Victoria, intituled, 'An Act to repeal an Act relating to the Revenue of Customs of New South Wales, and to provide for the general regulation thereof, as relates to the mode of ascertaining the ad valorem duties charged thereby, and to substitute other regulations in respect thereof, and to authorise the Governor of the said Colony, in certain cases, to remit, or reduce, the penalties, fines, and forfeitures, incurred by any violation of the said Act;*" Bill read a first time; to be printed, and read a second time Wednesday, September 16.
3. His Excellency the Governor laid upon the Table, "*A Bill to regulate the payment of the Duties of Customs, in Her Majesty's Dominions in the Islands of New Zealand;*" Bill read a first time; to be printed, and read a second time Wednesday, September 16.
4. Increased Duties on Imports Bill; second reading postponed until Tuesday next, September 8.
5. The Estimates of Expenditure of the Establishments at Port Phillip, for the year 1841; Motion made, and Question put, that they be now considered in Committee; Passed.
 - (1.) Resolved, that a sum not exceeding £1,204, be appropriated to defray the expence of the Establishment of His Honor the Superintendent of the District of Port Phillip, for the year 1841.
 - (2.) Resolved, that a sum not exceeding £1,812 10s. 8d., be appropriated to defray the expence of the Sub-Treasurer's Department, for the year 1841.
 - (3.) Resolved, that a sum not exceeding £4,302 3s. 9d., be appropriated to defray the expence of the Customs Department; for the year 1841.
 - (4.) Resolved, that a sum not exceeding £2,105 10s., be appropriated to defray the expence of the Post Master General's Department, for the year 1841.
 - (5.) Resolved, that a sum not exceeding £2,877 2s. 6d., be appropriated to defray the expence of the Harbour Master's Department, for the year 1841.
 - (6.) Resolved, that a sum not exceeding £312 15s., be appropriated to defray the expence of Light Houses at the Heads, and at William's Town, for the year 1841.

The consideration of the Estimate of the probable Expences of the Department of the Surveyor General, for the year 1841, deferred until Tuesday next.

 - (7.) Resolved, that a sum not exceeding £5,024 9s. 2d., be appropriated to defray the expence of the Department of Public Works, for the year 1841.
 - (8.) Resolved, that a sum not exceeding £20,500, be appropriated to defray the expence for the year 1841, of erecting Public Buildings.
 - (9.) Resolved, that a sum not exceeding £400, be appropriated to defray the Salary of the Clerk of the Crown, for the year 1841.
 - (10.) Resolved, that a sum not exceeding £1,090, be appropriated to defray the expence of Courts of Quarter Sessions, for the year 1841.
 - (11.) Resolved, that a sum not exceeding £1,291 16s. 3d., be appropriated to defray the expence of the Sheriffs' Department, for the year 1841.
 - (12.) Resolved, that a sum not exceeding £180, be appropriated to defray the Salary of a Coroner, and the expence of Inquests, for the year 1841.
 - (13.) Resolved, that a sum not exceeding £1,758 3s. 9d., be appropriated to defray the expence of the Police, at Melbourne, for the year 1841.
 - (14.) Resolved, that a sum not exceeding £1,013 13s. 9d., be appropriated to defray the expence of the Police, at Geelong, for the year 1841.
 - (15.) Resolved, that a sum not exceeding £747 18s. 9d., be appropriated to defray the expence of the Police, at Portland Bay, for the year 1841.
 - (16.) Resolved, that a sum not exceeding £4,808 16s. 8d., be appropriated to defray the expence of the Mounted Police, for the year 1841.

(17.)

(17.) Resolved, that a sum not exceeding £3,591 5s., be appropriated to defray the expence of the Border Police, for the year 1841.

(18.) Resolved, that a sum not exceeding £1,000 be appropriated to defray the expence of the Native Police, for the year 1841.

(19.) Resolved, that a sum not exceeding £2,950, be appropriated to defray the expence of the Ecclesiastical Establishment, for the year 1841; including £2,000 towards the erection of Churches, and Ministers' Dwellings, on condition of sums to an equal amount being raised by private contributions.

(20.) Resolved, that a sum not exceeding £750, be appropriated to defray the expence for the year 1841, of Aid towards the Establishment, and in support of Schools, on condition of sums to an equal amount being raised by private contributions.

(21.) Resolved, that a sum not exceeding £479 0s. 10d., be appropriated to defray the expence of the Medical Establishment, for the year 1841.

6. The Port Phillip Bank Bill; third reading appointed for To-morrow, postponed until Tuesday next.
7. Estimates of expenditure for 1841; further consideration postponed until Tuesday next.

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

ORDERS OF THE DAY.

TUESDAY, SEPTEMBER 8.

1. The Port Phillip Bank Bill; third reading.
2. Estimates of Expenditure, for 1841; further consideration.
3. Increased Duties on Imports Bill; second reading.
4. Parish Roads Bill; further consideration.
5. Independent and Baptist Marriages' Registration Bill; further consideration.
6. Seamen's Better Regulation Bill; second reading.

TUESDAY, SEPTEMBER 15.

1. The Melbourne Fire and Marine Assurance Company Bill; further consideration.

WEDNESDAY, SEPTEMBER 16.

1. Ad Valorem Duties Collection Regulation Bill; second reading.
2. New Zealand Customs' Bill; second reading.

NOTICE OF MOTION.

TUESDAY, SEPTEMBER 8.

1. The Colonial Secretary; The Supplementary Estimates of Expenditure for 1840; that they be considered.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, 8 SEPTEMBER, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and informed the Council, that it was his intention to withdraw the Bill which he had laid before them on Wednesday last, intituled, "*A Bill to repeal so much of an Act passed in the Third year of the Reign of Her Majesty Queen Victoria, intituled, 'An Act to repeal an Act relating to the Revenue of Customs of New South Wales, and to provide for the general regulation thereof,' as relates to the mode of ascertaining the ad valorem Duties charged thereby, and to substitute other regulations in respect thereof, and to authorise the Governor of the said Colony, in certain cases to requit, or reduce, the penalties, fines, and forfeitures, incurred by any violation of the said Act,*" His Excellency having since discovered, that he had no power to propose any alteration in the mode of levying those Duties, as the clause in the Act under which they were now levied, was not, as he had at first thought, entirely a Colonial clause enacted by this Council, but a clause taken from an Act of the Imperial Parliament, passed in the Third year of the Reign of His late Majesty King George the Fourth, intituled, "*An Act to continue, until the first day of January, One thousand eight hundred and twenty-four, an Act passed in the Fifty-ninth year of His late Majesty, relating to imposing and levying Duties in New South Wales; to authorise the imposing and levying other Duties imported into the said Colony; and to suspend, for ten years, the payment of Duty on the Importation of certain Goods the produce of New South Wales;*" after some further explanatory observations, and expressing his opinion that this Council has not the power of substituting a Tariff for an *ad valorem* Duty, except as regards Spirits and Tobacco, His Excellency withdrew the Bill.
2. Mr. James Macarthur presented a petition from Mr. Francis Kemble for himself and the other Directors and Shareholders of the Australasian Sugar Refining Company, representing, that the Petitioner with William Knox Child, W. R. Kemble, and Coles Child, Esquires, the other Directors of the Company, and Mechanics, and Workmen, and their Families, to the number of 42 persons in all, have emigrated to this Colony with the intention of refining Sugar on a large scale, and have brought with them Machinery and Utensils to the value of £20,000, and have accepted tenders for Buildings, on Cook's River, which when erected, will be worth about a like sum; that the quantity of refined sugar, which they will be able to manufacture, will be equal to three times the present consumption of all the Australasian Colonies, but they anticipate that a considerably increased consumption will be the consequence of the low prices at which, at the present rate of Duty, and Cost of raw sugar, they will be able to supply the Market; viz., best loaf sugar at from 5d. to 6d. per lb.; strong lumps for preserving fruit, &c., at 4d.; fine pieces, or "bastard" sugar, equal in quality to good Mauritius, at about 20s. per cwt.; and fine treacle, free from the acidity which remains in sugar-cane molasses, much used in England as a substitute for butter and for fattening cattle and sheep, at 2d. per lb., provided the Petitioners are protected from the competition of all other than British Refiners, and particularly from importations of Refined Sugar in a crushed State from the United States of America, and from Brazil, where it is manufactured by Slave Labour; and praying that a such Duty may be imposed on refined Sugar so imported, as may exceed the Duty on raw Sugar by fifty per cent., which the Petitioner deems necessary, to place the Australian manufacturer on a par with such Foreign manufacturers; Petition read, and received.
3. Masters' and Servants' Act Amendment Bill; The Honorable the Colonial Secretary, as Chairman of the Committee appointed on the 14th July last, with instructions to inquire into and report upon this Bill, brought up the Report; from which it appears, that by the 35th, 36th, and 37th clauses of the Act of Parliament, 9 Geo. IV., ch. 83, commonly called the New South Wales Act, enactments similar in principle have been passed with reference to Servants hired by indenture in Great Britain, or in this Colony, for service in this Colony; the Committee concur in the propriety of making the parties to any case liable for all expences attendant on its adjudication: the Committee have prepared clauses giving jurisdiction to Magistrates to determine in cases of ill-behaviour in Servants in the same way, and punishable in the same manner, as indented Servants under the New South Wales Act; and for determining all complaints, differences and disputes between Masters and Servants, as provided in the same Act; it appears to the Committee that one of the greatest objections hitherto, to the operation of the present Master and Servants'

Servants' Act is, the want of proper Gaols and Houses of Correction throughout the Colony, and the consequent necessity of sending Servants from great distances in the Interior under escort with Convicts, from whom it has been impossible to separate them during the period of their punishment; under which circumstances the Committee have prepared a clause to exempt Female Servants from imprisonment; the Committee further recommend that a Bill should be introduced for adopting the Laws in force in England for the prevention of illegal combinations; Bill to be re-printed, and read a second time, Tuesday, September 22.

4. Estimates of Expenditure for 1841; upon the Order of the Day for their further consideration having been moved, the Deputy Surveyor General was called in and examined; the purport of his examination may be shortly stated as follows; The great disproportion that exists between the quantity of work respectively performed by the Officers of the Survey Department, arises from various causes; for instance, disappointments in obtaining the necessary equipments from the Contractors; their cattle running away; having sometimes to send long distances for supplies; and sometimes, no doubt, from negligence; when such has occurred; and admonition proved unavailing, the omission of the name of the Offender in the Monthly Pay-Abstract has occasionally been resorted to; the operations of the Surveyors are greatly retarded by the permission granted to Applicants for the purchase of Land to select where they please, causing much of the time of the Surveyors to be wasted in travelling from one place to another; now that so much facility is afforded for the occupation of land beyond the boundaries of location, he thinks that such Special surveys should cease; and besides it sometimes happens that persons in possession of land in remote situations, apply for leave to purchase three or four sections in its vicinity, not with any intention of making the purchase, but in order that the land in their possession may be measured, which they are aware it will be; as a matter of course, when a Surveyor is in the neighbourhood; under the influence of similar motives, persons desirous of making a purchase in a remote situation, will apply for four or five sections when their intention may be to purchase only one perhaps. From forty to fifty thousand acres stand on the books as having been put up for sale, but under such circumstances, have not been sold; notwithstanding the facilities afforded to New-comers of selecting land where they please, they are, not unfrequently, unavoidably exposed to inconvenience and delay; he thinks experience proves, that from the system of continuous Survey at Port Phillip, causes of dissatisfaction will less frequently occur; the system of measurement by contract, which is partially in operation at Port Phillip, is cheaper, but he has not the same certainty as to its correctness; he can not suggest any mode that would relieve the system of special Surveys from the objections he has stated, and would at the same time be palatable to Settlers; when a Surveyor is sent to a distant Station, it is the interest of the Government that he should have a large quantity to measure there, but that is not the interest of the Settler, who wishes to be isolated, and to have abundance of vacant Government Ground to occupy with his flocks and herds: he thinks a system of task-work might perhaps be introduced with advantage; but he is doubtful of it, as payment for over-work would in some degree be a re-introduction of the fee-system; the Returns which have been furnished, do not shew all the work in the field which has been performed; two Surveyors have been employed at Moreton Bay, whose Surveys have extended over thirty thousand square miles of Country; the Survey is upon trigonometrical principles, and that part of it which extends from Moreton Bay to the Clarence River, is now in such a state, that the Country may be opened for purchase whenever it is the pleasure of the Government. The Country from Port Phillip to South Australia has also been surveyed, and a series of points established from Melbourne to the 146th degree of longitude, which will remain fixed for ever; he is of opinion, that, many of the difficulties under which Surveyors now labour, might be obviated, if they were to provide their own equipments; giving them a fixed allowance for so doing; or the plan pursued by the Ordnance might be adopted, viz.—allowing them a certain rate of pay when at Head Quarters, and an increased rate when on duty in the field; the cost of a Surveyor's equipment is about £250; the Deputy Surveyor General then retired.

(79.) Moved by the Colonial Secretary, that it be resolved, that the sum of £18,840 13s. 4d. be appropriated to defray the expence for the year 1841, of the Surveyor General's Department. Moved as an Amendment by Mr. James Macarthur, that as Sir Thomas L. Mitchell is now absent from the Colony, and engaged in preparing Military Plans of the Peninsular War, his Salary be withdrawn from the Estimate of the Surveyor General's Department, and placed upon a separate Estimate, as a Contribution from this Colony towards the completion of that National Work: the Original Motion passed, without a Division.

(80.) Resolved, that a sum not exceeding £3,500, be appropriated for the year 1841, towards forming a Circular Quay, in Sydney Cove.

(81.) Resolved, that a sum not exceeding £5,000, be appropriated for the year 1841, towards building the New Gaol, Darlinghurst.

(82.) Resolved, that a sum not exceeding £5,000, be appropriated for the year 1841, towards building the New Gaol, Parramatta.

(83.) Resolved, that a sum not exceeding £1,500, be appropriated for the year 1841, towards building a Court and Watch House at Newcastle.

- (84.) Resolved, that a sum not exceeding £750, be appropriated for the year 1841 towards building a Court and Lock-up House, Muswell Brook.
- (85.) Resolved, that a sum not exceeding £500, be appropriated for the year 1841, towards building a Court and Lock-up House Murrurundi.
- (86.) Resolved, that a sum not exceeding £500, be appropriated for the year 1841, towards building a Court and Lock-up House, Wollombi.
- (87.) Resolved, that a sum not exceeding £500, be appropriated for the year 1841, towards building a Court and Lock-up House, at Mudgee.
- (88.) Resolved, that a sum not exceeding £400, be appropriated for the year 1841, towards building a Court and Lock-up House, Broulee.
- (89.) Resolved, that a sum not exceeding £1,600, be appropriated for the year 1841, towards building Lock-up Houses, at Carcoar, Gunning, Breadalbane Plains, and between Braidwood and Bungonia, at £400, each.
- (90) Resolved, that a sum not exceeding £400, be appropriated for the year 1841, towards completing the Solitary Cells, at the Vale of Clwyd.
- (91.) Resolved, that a sum not exceeding £350, be appropriated for the year 1841, towards completing Solitary Cells, at the Gaol, Liverpool.
- 5. The consideration of the Estimate of the probable expence of the Surveyor General's Department at Port Phillip deferred until to-morrow.
- 6. Increased Duties on Imports Bill ; second reading deferred until to-morrow.
- 7. Parish Roads Bill ; the further consideration deferred until to-morrow.
- 8. Independent and Baptist Marriages' Registration Bill ; the further consideration deferred until to-morrow.
- 9. Seamen's better Regulation Bill ; second reading deferred until to-morrow.
Council adjourned at Five O'Clock until to-morrow at Twelve O'Clock.

ORDERS OF THE DAY.

WEDNESDAY SEPTEMBER 9.

- 1. Estimates of Expenditure for 1841 ; further consideration.
- 2. Increased Duties on Imports Bill ; second reading.
- 3. Independent and Baptist Marriages' Registration Bill ; further consideration.
- 4. Bank Liabilities and Assets Publication Bill ; recommittal, and further consideration.
- 5. Seamen's better Regulation Bill ; second reading.
- 6. Parish Road's Bill ; further consideration.

TUESDAY, SEPTEMBER 16.

- 1. The Melbourne Fire and Marine Assurance Company Bill ; further consideration.

WEDNESDAY, SEPTEMBER 16.

- 1. New Zealand Customs' Bill ; second reading.

TUESDAY, SEPTEMBER 23.

- 1. Masters and Servants Act Amendment Bill ; second reading.

NOTICES OF MOTION.

TUESDAY, SEPTEMBER 15.

- 1. The Colonial Secretary ; That out of the sum of £48,322 1s. 10d. being the excess of the Amount appropriated for the service of the year One thousand eight hundred and thirty-nine, there shall and may be issued and applied any sum or sums of money not exceeding £46,211 11s. 6d. to supply the deficiencies in the Amount appropriated for certain Departments and Services for that year.
- 2. Mr. Jones ; That he will move the adoption of the following Resolution.

That in compliance with the prayer of the Petition of Thomas Moore, Esq., presented to His Excellency Sir Richard Bourke in the year 1837, and with the sanction of The Lords Commissioners of Her Majesty's Treasury granted under the peculiar circumstances of the case, this Council do recommend to His Excellency the Governor, that the sum of £3,063 16s. 2d. be included in the Supplementary Estimate for the Service of the present year, to be appropriated to indemnify the said Thomas Moore from the loss sustained by him in consequence of the Sale of Burwood Estate, in the year 1812, under a Commission granted by the late Governor Macquarie, and with the approbation of the Judge, and Members of the then subsisting Court of Civil Jurisdiction, as directed and required by the said Commission.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

WEDNESDAY, 9 SEPTEMBER, 1840.

1. Council met pursuant to adjournment: His Excellency the Governor took the Chair, and laid upon the table, "*A Bill to render valid certain Acts already performed, or hereafter to be performed, by one Trustee, and the Accountant of the Savings' Bank of New South Wales;*" Bill read a first time; to be printed, and read a second time on Tuesday next, September 15.
2. His Excellency the Governor laid upon the table, "*A Bill to amend an Act, 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;'*" Bill read a first time; to be printed, and read a second time on Tuesday next.
3. Estimates of Expenditure of the Establishments at Port Phillip for the year 1841; further considered in Committee.
(22.) Resolved, that a sum not exceeding £5,691 18s. 4d., be appropriated to defray the expence for the year 1841, of the Surveyor-General's Department at Port Phillip.
4. The Supplementary Estimates of Expenditure for the year 1840; Motion made and Question put, that they be now considered in Committee. Passed.
(1.) Resolved, that a sum not exceeding £599 18s. 5d., be appropriated to defray the Supplementary expence for the year 1840, of the Department of the Councils.
(2.) Resolved, that a sum not exceeding £4,138 8s., be appropriated to defray the Supplementary expence for the year 1840, of the Post-Master General's Department.
(3.) Resolved, that a sum not exceeding £109 16s. be appropriated to defray the Salary for the year 1840, of an additional Temporary Clerk in the Colonial Storekeeper's Department.
(4.) Resolved, that a sum not exceeding £350, be appropriated to defray the Salary for the year 1840, of the District Surveyor appointed under the Building Act.
(5.) Resolved, that a sum not exceeding £379 3s. be appropriated to defray the Supplementary charge on the Colonial Treasury, for the year 1840, for aid towards the erection of the Parochial School of St. Philip, in the Town of Sydney, sums to an equal amount having been raised by Private Subscriptions.
(6.) Resolved, that a sum not exceeding £659 19s. 4d., be appropriated to defray the Supplementary Charge on the Colonial Treasury, for the year 1840, for Grants to the undermentioned Public Institutions, in aid of Private Contributions to an equal amount, received for those Institutions respectively, viz.—

The Wesleyan Methodist Sunday Schools, Sydney	£ 31 19 10
The Australian School Society	£183 14 6
The Sydney Dispensary	£350 12 0
The Sydney Strangers' Friend Society	£ 93 13 0

£659 19 4

- (7.) Resolved, that a sum not exceeding £754 15s. be granted to Colonel Kenneth Snodgrass, being the difference between £1,000 proposed by Resolution of the Legislative Council, dated 11th October, 1838, to be paid to him for extra services rendered to the Colony, while holding the appointment of Brigade Major, from 1st January, 1829, to 31st December, 1835; and the sum of £254 5s., which has been paid to him from the Military Chest.
- (8.) Resolved, that a sum not exceeding £600, be granted to Frederick Garling, Esq., late Clerk of the Peace, comprising £300 as an allowance for the year 1839, on condition of properly arranging and giving over the Records of his Office; and a Retired Allowance of £300, for the year 1840.
- (9.) Resolved, that a further sum not exceeding £5,000, be appropriated to defray the Supplementary Charge on the Colonial Treasury for the year 1840, towards building the New Gaol, Darlinghurst.
- (10.) Resolved, that a further sum not exceeding £4,000, be appropriated to defray the Supplementary Charge on the Colonial Treasury, for the year 1840, towards building the New Gaol, Parramatta.
- (11.) Resolved, that a sum not exceeding £1,000, be appropriated to defray the Supplementary

- plementary Charge on the Colonial Treasury, for the year 1840, for Draining, and Fencing, and other extra work at the Lunatic Asylum, Tarban Creek.
5. Increased Duties on Imports Bill; read a second time; to be read a third time on Tuesday next.
 6. Independent and Baptist Marriages' Registration Bill; further considered and amended; to be fairly transcribed, and presented to the Governor by the Attorney-General, and Sir John Jamison.
 7. Bank Liabilities and Assests Publication Bill; recommitted and amended; to be fairly transcribed, and presented to the Governor by the Colonial Secretary and Mr. Jones.
 8. Seamen's better Regulation Bill; second reading deferred until Tuesday next.
 9. Parish Roads Bill; further consideration deferred until Tuesday next.
- Council adjourned at Half past Three o'Clock, until Tuesday next, at Twelve O'Clock.

ORDERS OF THE DAY.

TUESDAY, SEPTEMBER 15.

1. Increased Duties on Imports Bill; third reading.
2. Supplementary Estimates of Expenditure for the year 1840; further consideration.
3. Seamen's Better Regulation Bill; second reading.
4. Savings Bank Act Amendment Bill; second reading.
5. Presbyterian Church Act Amendment Bill; second reading.
6. Parish Roads Bill; further consideration.
7. The Melbourne Fire and Marine Assurance Company Bill; further consideration.

WEDNESDAY, SEPTEMBER 16.

1. New Zealand Customs' Bill; second reading.

TUESDAY, SEPTEMBER 22.

1. Masters' and Servants' Act Amendment Bill; second reading.

NOTICES OF MOTION.

TUESDAY, SEPTEMBER 15.

1. The Colonial Secretary; That out of the sum of £48,322 1s. 10d., being the excess of the amount appropriated for the service of the year one thousand eight hundred and thirty-nine, there shall and may be issued and applied any sum or sums of money not exceeding £46,211 11s. 6d., to supply the deficiencies in the Amount appropriated for certain Departments and Services for that year.
2. The Colonial Secretary; That a gratuity be allowed to Mr. Surveyor Hoddle, who retires from the Service.
3. Mr. Jones; That he will move the adoption of the following Resolution;—That in compliance with the prayer of the Petition of Thomas Moore, Esq., presented to His Excellency Sir Richard Bourke, in the year 1837, and with the sanction of the Lords' Commissioners of Her Majesty's Treasury, granted, under the peculiar circumstances of the case, this Council do recommend to His Excellency the Governor that the sum of £3,063 16s. 2d., be included in the Supplementary Estimate for the service of the present year, to be appropriated to indemnify the said Thomas Moore from the loss sustained by him in consequence of the Sale of Burwood Estate in the year 1812, under a Commission granted by the late Governor Macquarie, and with the approbation of the Judge and Members, of the then subsisting Court of Civil Jurisdiction as directed and required by the said Commission.
4. Mr. James Macarthur; that he will move the adoption of the following Resolutions:—
 - (1.) That in the opinion of this Council the direct pecuniary saving to the Parent State, (independently of other advantages,) derived from the assignment of Convicts to Private Service, in New South Wales, far exceeds any gain the Colony can derive therefrom; inasmuch as if the Convicts were employed upon the Public Works, the maintenance of each would cost the Government from £20 to £30 per annum, which upon the number of Convicts in Assignment, (about 22,000) would amount to from £440,000, to £660,000, yearly, whilst it scarcely admits of dispute, that free labour, if introduced to the extent required to meet the wants of the Colony, would be less expensive than Convict labour, and infinitely more productive, to say nothing of the moral evils of the one system, or advantages of the other.
 - (2.) That by the absorption since the year 1835, of so large an amount (£) of the Colonial Revenue, in defraying the whole charge of the Police and Gaol Establishments, including Buildings, and the consequent deficiency of those Funds which would

would otherwise have been available for the introduction of Free labour, every branch of the productive industry of this Colony is in danger of falling into decay, to the great loss and injury, not only of the Colony, but of the Parent State also, more especially of its Manufacturing, Commercial, and Shipping Interests.

(3.) That His Excellency the Governor be respectfully solicited to forward these Resolutions to Her Majesty's Secretary of State for the Colonial Department, and to represent that, although this Council has voted the full amount of the Estimate for the Police and Gaol Establishments for the year 1841, and since the 1st July, 1835, so large an expenditure from the Colonial Revenue has been most reluctantly consented to, solely from a conviction that this Council would not be justified in declining to make provision for the maintenance of the Public tranquility and security; but at the same time, under a full persuasion, that at least one half of this expence, which is rendered necessary by the introduction of a Convict Population into this Colony, ought in justice to be borne by the Parent State, whose interests are, at all events in an equal, if not a greater degree, involved in the due coercion, and discipline of such Transported Offenders.

5. Mr. James Macarthur; That he will also move the adoption of the following Resolutions:—

(1.) That this Council, whilst it altogether dissents from the exaggerated statements which have been made in England, of the evils inflicted upon the moral condition and character of the People of this Colony, by the Transportation and Assignment of Convicts, is nevertheless of opinion, that the period has now arrived, when the true interests and permanent welfare of the Colony would be most effectually promoted by the discontinuance of the practice of transporting and assigning British and other Convicts within any part of this Territory.

(2.) That in the opinion of this Council, the effect of transporting Convicts to Norfolk Island, or other Penal Settlements, and introducing them, at the expiration of their sentences, into New South Wales, must inevitably be to inflict upon this Colony, a continuance of the worst of the moral evils arising out of Transportation, together with the necessity for the enormous Police expenditure, inseparable from such a system, without any countervailing advantage, and would be both unjust, and in the highest degree impolitic.

(3.) That His Excellency the Governor be respectfully requested to communicate these Resolutions to Her Majesty's Secretary of State for the Colonies, and to represent the very earnest desire of this Council, that the strictest prohibitory measures should be adopted and enforced, to prevent the introduction into this Colony, under any pretence whatsoever, of Convicts transported to Norfolk Island, or any other Penal Settlements, after the termination or remission of their several sentences.

WM. MACPHERSON,

Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, 15 SEPTEMBER, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair; and laid upon the Table, "A Bill to provide for the more effectual Administration of Justice in New South Wales and its Dependencies;" Bill read a first time; to be printed, and read a second time on Tuesday, September 29.
2. His Excellency the Governor laid upon the Table, a Petition from the Reverend John Mc Garvie, A.M., Minister of St. Andrew's Scots Church, Sydney, purporting, that although the Parent Church in the Mother Country has confirmed its jurisdiction over Ministers, it has not yet expressed an opinion in regard to the extent of its jurisdiction over Elders, Congregations, and Property, and it would therefore be expedient that the Bill now before the Council for substituting a Synod for the Presbytery of New South Wales, should be deferred, until the decision of the Parent Church be received; that if however, the Council shall resolve on proceeding with the Bill, the Petitioner earnestly prays, that certain additional clauses may be introduced, for the purpose of securing— 1, to the existing Ministers of the Presbytery, undisturbed possessions of all advantages at present enjoyed by them, *ad vitam, aut culpam*; 2, that all Lands, Churches, Tenements, and other Church Property, may be vested in such Presbyterian Body in this Colony as the General Assembly of the Church of Scotland shall recognise as the Governing Head; 3, that all Marriages solemnized by Ministers of the Synod as well before, as after the passing of the Bill shall be deemed valid; 4, that such Trustees as are required by the provisions of the Acts of the Governor and Council, 7 William IV., No. 3, and 8 William IV., No. 7, may yet be appointed for such Churches as Trustees have not yet been so appointed, notwithstanding the time respectively limited by those Acts for such appointments of Trustees have expired; 5, that the number of Presbyteries to be established under the Bill be limited, and that the constitution of such Presbyteries, and of the Synod, of which they are to be constituent parts, be regulated in accordance with the usages of the Established Church of Scotland; 6, that the Moderator of the Synod of Australia for the time being, be considered the sole Head of the Church of Scotland in this Colony; Provided nevertheless that nothing in the proposed Act shall invalidate such right to property, privileges, jurisdiction, and authority, as the General Assembly of the Church of Scotland may claim, in addition to the personal jurisdiction claimed, and exercised, over her Ministers, and Licentiates, in regard to Heresy, Schism, and Misconduct; Petition read; to lie on the Table.
3. Mr. Jones presented a Petition from Messrs. John Lamb, and Frederick Parbury, of Sydney, Merchants, representing that, in consequence of information communicated by the Petitioners to Messrs. Newman, Hunt, Christophers and Co., of London and Oporto, Merchants, that the Duty payable in this Colony, on Wines and other produce of Portugal, was five per cent. on the invoice value increased by an addition of ten per cent., an English brig named the Olinda was sent from London to Oporto, to receive a Cargo of Wines, &c., and is now daily expected to arrive in the Port of Sydney; and praying that the cargo of that vessel may be admitted to entry at the old rate of Duty, as otherwise the parties interested will sustain great loss; and representing further, that the trade betwixt this Colony and the Cape of Good Hope will be greatly curtailed, if not wholly annihilated, by an advance of Duty on Cape Wines, from five to fifteen per cent., and praying that the increased Duty may not be levied on any cargoes now afloat, or which may be shipped at the Cape of Good Hope before intelligence of the rise in the Duties here can reach that Colony; Petition read, and received.
4. Upon the Motion of the Colonial Secretary, Resolved that out of the sum of £48,322 1s. 10d., being the excess of the amount appropriated for the service of the year 1839, there shall and may be issued and applied, any sum or sums of money not exceeding £46,211 11s. 6d., to supply the deficiencies in the amount appropriated for certain Departments and Services, for that year.
5. Supplementary Estimates of Expenditure for the year 1840; further considered; (12.) Resolved, that a Gratuity of £500, be allowed to Mr. Surveyor Robert Hoddle, who after being seventeen years and upwards in the Service, now retires from it in infirm health.

(13.) Resolved, that a further sum not exceeding £611, be appropriated to defray the Supplementary expence for the year 1841, of the Town Surveyor's Department.

(14.) Resolved, that a sum not exceeding £1,600, be appropriated towards the expence of building a strong room for preserving the Colonial Records, with a Vault for the Treasury beneath it.

(15.) Resolved, that a further sum not exceeding £150, be appropriated to defray the Supplementary expence for the year 1840, of the Post-Master General's Department, for the purpose of supplying Stamps to the Country Post Offices shewing the dates of receipt and dispatch of Letters.

The further consideration of the Supplementary Estimates deferred until Tuesday next, September 22.

6. Mr. Jones' Motion relative to Thomas Moore, Esq. ; the consideration of deferred until Tuesday next.
 7. Mr. James Macarthur's Motion relative to the Expence of the Police and Gaol Establishments ; consideration of deferred until Tuesday, September 29.
 8. Mr. James Macarthur's Motion relative to Transportation and Assignment ; consideration of deferred until Tuesday, September 29.
 9. Increased Duties on Imports Bill ; read a third time, and *Passed*.
 10. Seamen's better Regulation Bill ; read a second time ; committed and amended ; to be further considered to-morrow.
 11. Savings' Bank Amendment Bill ; second reading deferred until to-morrow.
 12. Presbyterian Church Act Amendment Bill ; second reading deferred until to-morrow.
 13. Parish Roads Bill ; further consideration deferred until to-morrow.
 14. The Melbourne Fire and Marine Assurance Company Bill ; further consideration deferred until to-morrow.
- Council adjourned at Five o'Clock, until to-morrow at One o'Clock.

ORDERS OF THE DAY.

WEDNESDAY, SEPTEMBER 16.

1. Seamen's Better Regulation Bill ; further consideration.
2. Savings Bank Act Amendment Bill ; second reading.
3. Parish Roads Bill ; further consideration.
4. The Melbourne Fire and Marine Assurance Company Bill ; further consideration.
5. New Zealand Customs' Bill ; second reading.
6. Presbyterian Church Act Amendment Bill ; second reading.

TUESDAY, SEPTEMBER 22.

1. Masters' and Servants' Act Amendment Bill ; second reading.

TUESDAY, SEPTEMBER 29.

1. Supreme Court regulation Bill ; second reading.

NOTICES OF MOTION.

TUESDAY, SEPTEMBER 22.

1. Mr. Jones ; That he will move the adoption of the following Resolution :—That in compliance with the prayer of the Petition of Thomas Moore, Esq., presented to His Excellency Sir Richard Bourke, in the year 1837, and with the sanction of the Lords' Commissioners of Her Majesty's Treasury, granted, under the peculiar circumstances of the case, this Council do recommend to His Excellency the Governor that the sum of £3,068 16s. 2d., be included in the Supplementary Estimate for the service of the present year, to be appropriated to indemnify the said Thomas Moore from the loss sustained by him in consequence of the Sale of Burwood Estate in the year 1812, under a Commission granted by the late Governor Macquarie, and with the approbation of the Judge and Members, of the then subsisting Court of Civil Jurisdiction as directed and required by the said Commission.

TUESDAY, SEPTEMBER 29.

1. Mr. James Macarthur ; that he will move the adoption of the following Resolutions :—
(1.) That in the opinion of this Council the direct pecuniary saving to the Parent State, (independently of other advantages,) derived from the assignment of Convicts to Private Service, in New South Wales, far exceeds any gain the Colony can derive therefrom ; inasmuch as if the Convicts were employed upon the Public Works, the maintenance of each would cost the Government from £20 to £30 per annum, which upon the number

number of Convicts in Assignment, (about 22,000) would amount to from £440,000, to £660,000, yearly, whilst it scarcely admits of dispute, that free labour, if introduced to the extent required to meet the wants of the Colony, would be less expensive than Convict labour, and infinitely more productive, to say nothing of the moral evils of the one system, or advantages of the other.

(2.) That by the absorption since the year 1835, of so large an amount (£) of the Colonial Revenue, in defraying the whole charge of the Police and Gaol Establishments, including Buildings, and the consequent deficiency of those Funds which would otherwise have been available for the introduction of Free labour, every branch of the productive industry of this Colony is in danger of falling into decay, to the great loss and injury, not only of the Colony, but of the Parent State also, more especially of its Manufacturing, Commercial, and Shipping Interests.

(3.) That His Excellency the Governor be respectfully solicited to forward these Resolutions to Her Majesty's Secretary of State for the Colonial Department, and to represent that, although this Council has voted the full amount of the Estimate for the Police and Gaol Establishments for the year 1841, and since the 1st July, 1835, so large an expenditure from the Colonial Revenue has been most reluctantly consented to, solely from a conviction that this Council would not be justified in declining to make provision for the maintenance of the Public tranquility and security; but at the same time, under a full persuasion, that at least one half of this expence, which is rendered necessary by the introduction of a Convict Population into this Colony, ought in justice to be borne by the Parent State, whose interests are, at all events in an equal, if not a greater degree, involved in the due coercion, and discipline of such Transported Offenders.

2. Mr. James Macarthur; That he will also move the adoption of the following Resolutions:—

(1.) That this Council, whilst it altogether dissents from the exaggerated statements which have been made in England, of the evils inflicted upon the moral condition and character of the People of this Colony, by the Transportation and Assignment of Convicts, is nevertheless of opinion, that the period has now arrived, when the true interests and permanent welfare of the Colony would be most effectually promoted by the discontinuance of the practice of transporting and assigning British and other Convicts within any part of this Territory.

(2.) That in the opinion of this Council, the effect of transporting Convicts to Norfolk Island, or other Penal Settlements, and introducing them, at the expiration of their sentences, into New South Wales, must inevitably be to inflict upon this Colony, a continuance of the worst of the moral evils arising out of Transportation, together with the necessity for the enormous Police expenditure, inseparable from such a system, without any countervailing advantage, and would be both unjust, and in the highest degree impolitic.

(3.) That His Excellency the Governor be respectfully requested to communicate these Resolutions to Her Majesty's Secretary of State for the Colonies, and to represent the very earnest desire of this Council, that the strictest prohibitory measures should be adopted and enforced, to prevent the introduction into this Colony, under any pretence whatsoever, of Convicts transported to Norfolk Island, or any other Penal Settlements, after the termination or remission of their several sentences.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

WEDNESDAY, 16 SEPTEMBER, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Seamen's Better Regulation Bill; further considered and amended; to be further considered on Tuesday next, September 22.
2. Savings' Bank Act Amendment Bill; second reading deferred until Tuesday next.
3. Parish Roads Bill; further considered, and some amendments made; to be read a third time on Tuesday next.
4. The Melbourne Fire and Marine Assurance Company Bill; further consideration deferred until Tuesday next.
5. New Zealand Customs Bill; read a second time; committed and amended; to be further considered on Tuesday next.
6. Presbyterian Church Act Amendment Bill; second reading deferred until Tuesday next.
7. Bank Liabilities and Assets Publication Bill; presented by the Governor as amended; to be read a third time on Tuesday next.
8. Independent and Baptist Marriages' Registration Bill; presented by the Governor as amended; to be read a third time on Tuesday next.
9. His Excellency the Governor laid upon the Table, "A Bill to increase the Duty on Spirits Distilled in New South Wales and its Dependencies;" Bill read a first time; to be printed, and read a second time on Tuesday next.
Council adjourned at Four o'Clock, until Tuesday next at Twelve o'Clock.

ORDERS OF THE DAY.

TUESDAY, SEPTEMBER 22.

1. Parish Roads Bill; third reading.
2. Bank Liabilities and Assets Publication Bill; third reading.
3. Independent and Baptist Marriages' Registration Bill; third reading.
4. Seamen's Better Regulation Bill; further consideration.
5. The Melbourne Fire and Marine Assurance Company Bill; further consideration.
6. New Zealand Customs' Bill; further consideration.
7. Savings Bank Act Amendment Bill; second reading.
8. Presbyterian Church Act Amendment Bill; second reading.
9. Increased Duty on Spirits distilled in the Colony Bill; second reading.
10. Masters' and Servants' Act Amendment Bill; second reading.

TUESDAY, SEPTEMBER 29.

1. Supreme Court regulation Bill; second reading.

NOTICES OF MOTION.

TUESDAY, SEPTEMBER 22.

1. Mr. Jones; That he will move the adoption of the following Resolution;—That in compliance with the prayer of the Petition of Thomas Moore, Esq., presented to His Excellency Sir Richard Bourke, in the year 1837, and with the sanction of the Lords' Commissioners of Her Majesty's Treasury, granted, under the peculiar circumstances of the case, this Council do recommend to His Excellency the Governor that the sum of £3,063 16s. 2d., be included in the Supplementary Estimate for the service of the

the present year, to be appropriated to indemnify the said Thomas Moore from the loss sustained by him in consequence of the Sale of Burwood Estate in the year 1812, under a Commission granted by the late Governor Macquarie, and with the approbation of the Judge and Members, of the then subsisting Court of Civil Jurisdiction as directed and required by the said Commission.

TUESDAY, SEPTEMBER 29.

1. Mr. James Macarthur ; that he will move the adoption of the following Resolutions :—
 - (1.) That in the opinion of this Council the direct pecuniary saving to the Parent State, (independently of other advantages,) derived from the assignment of Convicts to Private Service, in New South Wales, far exceeds any gain the Colony can derive therefrom ; inasmuch as if the Convicts were employed upon the Public Works, the maintenance of each would cost the Government from £20 to £30 per annum, which upon the number of Convicts in Assignment, (about 22,000) would amount to from £440,000, to £660,000, yearly, whilst it scarcely admits of dispute, that free labour, if introduced to the extent required to meet the wants of the Colony, would be less expensive than Convict labour, and infinitely more productive, to say nothing of the moral evils of the one system, or advantages of the other,
 - (2.) That by the absorption since the year 1835, of so large an amount (£) of the Colonial Revenue, in defraying the whole charge of the Police and Gaol Establishments, including Buildings, and the consequent deficiency of those Funds which would otherwise have been available for the introduction of Free labour, every branch of the productive industry of this Colony is in danger of falling into decay, to the great loss and injury, not only of the Colony, but of the Parent State also, more especially of its Manufacturing, Commercial, and Shipping Interests.
 - (3.) That His Excellency the Governor be respectfully solicited to forward these Resolutions to Her Majesty's Secretary of State for the Colonial Department, and to represent that, although this Council has voted the full amount of the Estimate for the Police and Gaol Establishments for the year 1841, and since the 1st July, 1835, so large an expenditure from the Colonial Revenue has been most reluctantly consented to, solely from a conviction that this Council would not be justified in declining to make provision for the maintenance of the Public tranquillity and security ; but at the same time, under a full persuasion, that at least one half of this expence, which is rendered necessary by the introduction of a Convict Population into this Colony, ought in justice to be borne by the Parent State, whose interests are, at all events in an equal, if not a greater degree, involved in the due coercion, and discipline of such Transported Offenders.
2. Mr. James Macarthur ; That he will also move the adoption of the following Resolutions :—
 - (1.) That this Council, whilst it altogether dissents from the exaggerated statements which have been made in England, of the evils inflicted upon the moral condition and character of the People of this Colony, by the Transportation and Assignment of Convicts, is nevertheless of opinion, that the period has now arrived, when the true interests and permanent welfare of the Colony would be most effectually promoted by the discontinuance of the practice of transporting and assigning British and other Convicts within any part of this Territory.
 - (2.) That in the opinion of this Council, the effect of transporting Convicts to Norfolk Island, or other Penal Settlements, and introducing them, at the expiration of their sentences, into New South Wales, must inevitably be to inflict upon this Colony, a continuance of the worst of the moral evils arising out of Transportation, together with the necessity for the enormous Police expenditure, inseparable from such a system, without any countervailing advantage, and would be both unjust, and in the highest degree impolitic.
 - (3.) That His Excellency the Governor be respectfully requested to communicate these Resolutions to Her Majesty's Secretary of State for the Colonies, and to represent the very earnest desire of this Council, that the strictest prohibitory measures should be adopted and enforced, to prevent the introduction into this Colony, under any pretence whatsoever, of Convicts transported to Norfolk Island, or any other Penal Settlements, after the termination or remission of their several sentences.

WM. MACPHERSON,

Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, 22 SEPTEMBER, 1840.

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

Mr Jones moved the adoption of the Resolution of which he had given Notice, viz:— That in compliance with the prayer of the Petition of Thomas Moore, Esq. presented to His Excellency Sir Richard Bourke, in the year 1837, and with the sanction of the Lords Commissioners of Her Majesty's Treasury, granted, under the peculiar circumstances of the case, this Council do recommend to His Excellency the Governor that the sum of £3,063 16s. 2d. be included in the Supplementary Estimate for the service of the present year, to be appropriated to indemnify the said Thomas Moore from the loss sustained by him in consequence of the sale of Burwood Estate in the year 1812 under a Commission by the late Governor Macquarie, and with the approbation of the Judge and Members, of the then subsisting Court of Civil Jurisdiction as directed and required by the said Commission.

After an animated Debate of near four hours, Mr. Jones amended his Motion by substituting the sum of £2536, for that above stated, being the amount of the Award of the Court as finally adjusted, excluding the Costs; upon which the Council divided; For the Motion as amended, Seven; Against it, Four;

(16.) Resolution passed, That the sum of £2536, be included in the Supplementary Estimate for the service of the present year, to be appropriated to Thomas Moore, Esq., towards indemnifying him from the loss which he sustained by the sale of the Burwood Estate, as above mentioned.

2. Circular Quay: The Honorable the Colonial Secretary, as Chairman, of the Committee appointed on the 4th Ultimo, to resume the consideration of the proposed purchase of certain Properties in Macquarie Place, and of other matters connected with the formation of the Circular Quay in Sydney Cove, brought up the Report, and laid upon the Table the Evidence taken before the Committee. It appears from the Report, that the Committee have not succeeded in making any satisfactory arrangement with the Proprietors of the properties in question, on whose behalf a valuation was submitted amounting to £58,700, exclusive of the purchase from the Tenants in occupation, of their Leases, part of which have ten years to run, and part three; being an advance on the valuation of Major Barney and Captain Perry, to which the Proprietors had agreed in February, 1839, of no less than £6,700; which demand appears to the Committee so exorbitant, that they have no hesitation in recommending its rejection; it being their opinion that no higher price should be given for the Land than £35 per foot of frontage, measured according to the principle proposed by the Valuers referred to, and that the Buildings should be taken at the same rate as the value then set upon them, making a total of £47,295, exclusive of what further sums may be necessary to accomplish arrangements with the Proprietors of Land abutting on the Tank Stream, and on the Cove from the corner of Mr. Lord's Land to the King's Wharf, if the Circular Quay be carried completely round to that Point.

As the lines of the principal Streets running North and South, with the exception of Pitt Street, may be carried down to the Quay through Public Land, and without in any way affecting the Properties in Macquarie Place, and as this and the formation of the Quay are the improvements which, in a public point of view, are the most essential, the Committee recommend that the Cross Streets, except where they may be carried through Public Property, should be abandoned, unless the Proprietors, as is most probable, should deem it for their advantage to continue the streets through their Allotments, according to the Plan proposed by Major Barney and Mr. Perry.

The Committee bearing in mind the numerous precedents which may be found in the Mother Country in similar cases, further recommend that a Bill be introduced into Council to appoint Commissioners, with certain powers, to carry into effect the work—to treat with the parties whose interests will be affected, and, in case of any disagreement; to provide for the appointment of Arbitrators, or if the parties desire it, a Jury to determine the matter between the Commissioners and the Parties. The Bill should expressly provide, that while on the one hand the injury to the party is estimated, the benefit accruing to him by the improvements effected at the Public expense, should also be allowed by way of set-off; and as by carrying out the Quay into deep water, a large portion of Land will be redeemed, the Bill should also invest the Commissioners with powers

powers to dispose of it for the Public advantage. The Committee think it will be equitable to give the Parties whose properties may adjoin any Land so redeemed, the right of pre-emption at a fair value. The Committee consider that according to this Plan, there would not perhaps be the necessity for any outlay of Public Money by way of Compensation; but in order to avoid the possibility of a large expenditure without the express authority of the Legislature, the Committee recommend, that if ultimately it should be determined that any sum be paid to the Proprietors, it should only be done with the approval and consent of His Excellency the Governor and the Legislative Council.

The Committee observe, that in arriving at the foregoing conclusion, it is upon the express understanding; that the whole of the improvements connected with the Circular Quay according to the modified plan, are to be proceeded with, otherwise, the measures they have recommended would be futile and unnecessary.

The remaining Orders of the Day postponed until to-morrow.

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

ORDERS OF THE DAY.

WEDNESDAY, SEPTEMBER 23.

1. Parish Roads Bill; third reading.
2. Bank Liabilities and Assets Publication Bill; third reading.
3. Independent and Baptist Marriages' Registration Bill; third reading.
4. Seamen's Better Regulation Bill; further consideration.
5. The Melbourne Fire and Marine Assurance Company Bill; further consideration.
6. New Zealand Customs' Bill; further consideration.
7. Savings Bank Act Amendment Bill; second reading.
8. Presbyterian Church Act Amendment Bill; second reading.
9. Increased Duty on Spirits distilled in the Colony Bill; second reading.
10. Masters' and Servants' Act Amendment Bill; second reading.

TUESDAY, SEPTEMBER 29.

1. Supreme Court regulation Bill; second reading.

NOTICES OF MOTION.

TUESDAY, SEPTEMBER 29.

1. Mr. James Macarthur; that he will move the adoption of the following Resolutions:—
 - (1.) That in the opinion of this Council the direct pecuniary saving to the Parent State, (independently of other advantages,) derived from the assignment of Convicts to Private Service, in New South Wales, far exceeds any gain the Colony can derive therefrom; inasmuch as if the Convicts were employed upon the Public Works, the maintenance of each would cost the Government from £20 to £30 per annum, which upon the number of Convicts in Assignment, (about 22,000) would amount to from £440,000, to £660,000, yearly, whilst it scarcely admits of dispute, that free labour, if introduced to the extent required to meet the wants of the Colony, would be less expensive than Convict labour, and infinitely more productive, to say nothing of the moral evils of the one system, or advantages of the other.
 - (2.) That by the absorption since the year 1835, of so large an amount (£) of the Colonial Revenue, in defraying the whole charge of the Police and Gaol Establishments, including Buildings, and the consequent deficiency of those Funds which would otherwise have been available for the introduction of Free labour, every branch of the productive industry of this Colony is in danger of falling into decay, to the great loss and injury, not only of the Colony, but of the Parent State also, more especially of its Manufacturing, Commercial, and Shipping Interests.
 - (3.) That His Excellency the Governor be respectfully solicited to forward these Resolutions to Her Majesty's Secretary of State for the Colonial Department, and to represent that, although this Council has voted the full amount of the Estimate for the Police and Gaol Establishments for the year 1841, and since the 1st July, 1835, so large an expenditure from the Colonial Revenue has been most reluctantly consented to, solely from a conviction that this Council would not be justified in declining to make provision for the maintenance of the Public tranquillity and security; but at the same time, under a full persuasion, that at least one half of this expence, which is rendered necessary by the introduction of a Convict Population into this Colony, ought in justice to be borne by the Parent State, whose interests are, at all events in an equal, if not a greater degree, involved in the due coercion, and discipline of such Transported Offenders.

2. Mr. James Macarthur; That he will also move the adoption of the following Resolutions:—

(1.) That this Council, whilst it altogether dissents from the exaggerated statements which have been made in England, of the evils inflicted upon the moral condition and character of the People of this Colony, by the Transportation and Assignment of Convicts, is nevertheless of opinion, that the period has now arrived, when the true interests and permanent welfare of the Colony would be most effectually promoted by the discontinuance of the practice of transporting and assigning British and other Convicts within any part of this Territory.

(2.) That in the opinion of this Council, the effect of transporting Convicts to Norfolk Island, or other Penal Settlements, and introducing them, at the expiration of their sentences, into New South Wales, must inevitably be to inflict upon this Colony, a continuance of the worst of the moral evils arising out of Transportation, together with the necessity for the enormous Police expenditure, inseparable from such a system, without any countervailing advantage, and would be both unjust, and in the highest degree impolitic.

(3.) That His Excellency the Governor be respectfully requested to communicate these Resolutions to Her Majesty's Secretary of State for the Colonies, and to represent the very earnest desire of this Council, that the strictest prohibitory measures should be adopted and enforced, to prevent the introduction into this Colony, under any pretence whatsoever, of Convicts transported to Norfolk Island, or any other Penal Settlements, after the termination or remission of their several sentences.

WM. MACPHERSON,

Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

WEDNESDAY, 23 SEPTEMBER, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Addresses of Congratulation to Her Majesty the Queen, and His Royal Highness Prince Albert; His Honor the Chief Justice, as Chairman, brought up the further Report of the Committee appointed to prepare those Addresses; Motion made and question put, That they be taken under consideration to-morrow; Passed.
2. Parish Road Bill; read a third time, and *Passed*.
3. Bank Liabilities and Assets Publication Bill; re-committed, and the date from whence the Act shall commence and take effect, altered, from the first day of October next, to the first day of January, 1841; Bill then read a third time, and *Passed*.
4. Independent and Baptist Marriages' Registration Bill; read a third time, and *Passed*.
5. Seamen's Better Regulation Bill; further consideration deferred until to-morrow.
6. The Melbourne Fire and Marine Assurance Company Bill; further consideration deferred until to-morrow.
7. New Zealand Customs' Bill; further considered and amended; to be fairly transcribed, and presented to the Governor by the Collector of Customs, and Sir John Jamison.
8. Savings' Bank Act Amendment Bill; read a second time; to be read a third time on Tuesday next, September 29.
9. Presbyterian Church Act Amendment Bill; read a second time, committed, and amended; to be fairly transcribed, and presented to the Governor by Mr. Berry and Sir John Jamison.
10. Increased Duty on Spirits distilled in the Colony Bill; second reading deferred until to-morrow.
11. Masters' and Servants' Act Amendment Bill; second reading deferred until to-morrow. Council adjourned at Four o'Clock, until to-morrow at Twelve o'Clock.

ORDERS OF THE DAY.

THURSDAY, SEPTEMBER 24.

1. Addresses of Congratulation to Her Majesty and Prince Albert; to be considered.
2. Seamen's Better Regulation Bill; further consideration.
3. The Melbourne Fire and Marine Assurance Company Bill; further consideration.
4. Increased Duty on Spirits distilled in the Colony Bill; second reading.
5. Masters' and Servants' Act Amendment Bill; second reading.

TUESDAY, SEPTEMBER 29.

1. Savings Bank Act Amendment Bill; third reading.
2. Supreme Court regulation Bill; second reading.

NOTICES OF MOTION.

TUESDAY, SEPTEMBER 29.

1. Mr. James Macarthur; that he will move the adoption of the following Resolutions;—
(1.) That in the opinion of this Council the direct pecuniary saving to the Parent State, (independently of other advantages,) derived from the assignment of Convicts to Private Service, in New South Wales, far exceeds any gain the Colony can derive therefrom; inasmuch as if the Convicts were employed upon the Public Works, the maintenance of each would cost the Government from £20 to £30 per annum, which upon the number of Convicts in Assignment, (about 22,000) would amount to from £440,000, to £660,000, yearly, whilst it scarcely admits of dispute, that free labour, if introduced to the extent required to meet the wants of the Colony, would be less expensive than Convict labour, and infinitely more productive, to say nothing of the moral evils of the one system, or advantages of the other.

(2.)

(2.) That by the absorption since the year 1835, of so large an amount (£) of the Colonial Revenue, in defraying the whole charge of the Police and Gaol Establishments, including Buildings, and the consequent deficiency of those Funds which would otherwise have been available for the introduction of Free labour, every branch of the productive industry of this Colony is in danger of falling into decay, to the great loss and injury, not only of the Colony, but of the Parent State also, more especially of its Manufacturing, Commercial, and Shipping Interests.

(3.) That His Excellency the Governor be respectfully solicited to forward these Resolutions to Her Majesty's Secretary of State for the Colonial Department, and to represent that, although this Council has voted the full amount of the Estimate for the Police and Gaol Establishments for the year 1841, and since the 1st July, 1835, so large an expenditure from the Colonial Revenue has been most reluctantly consented to, solely from a conviction that this Council would not be justified in declining to make provision for the maintenance of the Public tranquillity and security; but at the same time, under a full persuasion, that at least one half of this expence, which is rendered necessary by the introduction of a Convict Population into this Colony, ought in justice to be borne by the Parent State, whose interests are, at all events in an equal, if not a greater degree, involved in the due coercion, and discipline of such Transported Offenders.

2. Mr. James Macarthur; That he will also move the adoption of the following Resolutions:—

(1.) That this Council, whilst it altogether dissents from the exaggerated statements which have been made in England, of the evils inflicted upon the moral condition and character of the People of this Colony, by the Transportation and Assignment of Convicts, is nevertheless of opinion, that the period has now arrived, when the true interests and permanent welfare of the Colony would be most effectually promoted by the discontinuance of the practice of transporting and assigning British and other Convicts within any part of this Territory.

(2.) That in the opinion of this Council, the effect of transporting Convicts to Norfolk Island, or other Penal Settlements, and introducing them, at the expiration of their sentences, into New South Wales, must inevitably be to inflict upon this Colony, a continuance of the worst of the moral evils arising out of Transportation, together with the necessity for the enormous Police expenditure, inseparable from such a system, without any countervailing advantage, and would be both unjust, and in the highest degree impolitic.

(3.) That His Excellency the Governor be respectfully requested to communicate these Resolutions to Her Majesty's Secretary of State for the Colonies, and to represent the very earnest desire of this Council, that the strictest prohibitory measures should be adopted and enforced, to prevent the introduction into this Colony, under any pretence whatsoever, of Convicts transported to Norfolk Island, or any other Penal Settlements, after the termination or remission of their several sentences.

W. M. MACPHERSON,

Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

THURSDAY, 24 SEPTEMBER, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Addresses of Congratulation to Her Majesty the Queen, and His Royal Highness Prince Albert; considered in Committee, and the following amended Addresses adopted.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

We, Your Majesty's Loyal and dutiful Subjects, the Governor, and the Legislative Council of New South Wales, in Council Assembled, unanimously present to Your Majesty our heartfelt Congratulations upon the auspicious occasion of Your Royal Marriage with a Prince who adheres to the principles of His illustrious Protestant Ancestry; and unites in his own person virtues and endowments promising the best security for Your Majesty's happiness and the welfare of Your People.

This expression of our Loyalty will unavoidably reach Your Majesty long after the happy event, but our feelings, we trust, will not be considered the less deep and sincere.

May Your Majesty, with Your Royal Consort, under the blessing of Divine Providence, enjoy a long, prosperous, peaceful, and truly Glorious Reign, and may the Imperial Crown of Great Britain be transmitted to Your Descendants as the Protectors of Right and the Guardians of Liberty, Civil and Religious, to the remotest Posterity.

TO HIS ROYAL HIGHNESS PRINCE ALBERT OF Saxe COBOURG AND GOTHA, &c. &c.

We, the Governor, and Legislative Council of New South Wales, in Council Assembled, with unfeigned respect and sincerity, unanimously Congratulate Your Royal Highness upon the joyful occasion of Your Marriage with our Most Gracious Queen.

In the Historical Renown of Your illustrious Family, and in the personal character of Your Royal Highness, we hail the bright presage of happiness to our beloved Sovereign, whilst we equally recognize in this auspicious Union, a strong additional security for the maintenance of the National honor and prosperity.

These cheering anticipations we entertain in common with our fellow subjects throughout the Empire, and it is our fervent prayer, that Heaven, by showering blessings upon Her Majesty and Your Royal Highness, may fulfil the ardent hopes of a Loyal, United, and Grateful People.

His Honor the Chief Justice moved, that the Addresses as amended be engrossed, and that His Excellency the Governor as President of the Council be respectfully requested to sign the same, on behalf of himself and the Council, and to transmit them to the Right Honorable the Secretary of State for the Colonies with the request of this Council that His Lordship will be pleased to present them to Her Majesty and His Royal Highness; Passed.

2. The Attorney General presented a Petition from Mr. Nicholas James, of Sydney, complaining of certain statements recently made and circulated through the Public Press, in reference to the introduction into this Colony of Emigrants of an improper description and character, which statements he believes were intended to apply principally to ships sent out by Mr. John Marshall of London, and representing, that having been for several years connected with Mr. Marshall, he knows the extreme care and caution exercised by that Gentleman in the selection of Emigrants; that without imputing to the authors of the statements complained of, any other motive than a desire to promote the Public Good, and believing them to have been made under some misapprehension of the facts of the Case, the Petitioner nevertheless ventures to assert that the statements made

made are incorrect, and are not fair, or just descriptions, of the Emigrants brought out in Bounty Ships; and he prays that his Petition may be referred to the Committee of the Council appointed to consider the subject of Immigration, with instructions to inquire and report upon the System adopted in reference to the admission of Emigrants proposing to proceed to this Colony by Ships under the Bounty System; and further to report whether the allegations complained of, be true, or not; Petition read, and received.

3. His Excellency the Governor laid upon the Table, "*A Bill to enable the Trustees for the intended New Roman Catholic Church of St. Patrick, in the Town of Sydney, to build the Southern Wall thereof, at a less distance from the Northern Boundary-line of Charlotte Place than is allowed by Law;*" Bill read a first time; to be printed, and referred to a Sub-Committee to consist of the following Gentlemen; viz.

THE HONORABLE THE COLONIAL SECRETARY, THE ATTORNEY GENERAL, MR. BERRY,	MR. JONES, SIR JOHN JAMISON.
--	---------------------------------

with instructions to consider, and report upon, the provisions of the Bill, and to examine Evidence if necessary.

4. Seamen's Better Regulation Bill; further considered and amended; to be fairly transcribed, and presented to the Governor by the Collector of Customs, and Mr. Jones.
5. The Melbourne Fire and Marine Assurance Company Bill; further consideration postponed until Tuesday next, September 29.
6. Increased Duty on Spirits distilled in the Colony Bill; read a second time; to be read a third time on Tuesday next.
7. Masters' and Servants' Act Amendment Bill; second reading postponed until Tuesday next.

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

ORDERS OF THE DAY.

TUESDAY, SEPTEMBER 29.

1. Savings Bank Act Amendment Bill; third reading.
2. Increased Duty on Spirits distilled in the Colony Bill; third reading.
3. The Melbourne Fire and Marine Assurance Company Bill; further consideration.
4. Masters' and Servants' Act Amendment Bill; second reading.
5. Supreme Court regulation Bill; second reading.

NOTICES OF MOTION.

TUESDAY, SEPTEMBER 29.

1. Mr. James Macarthur; that he will move the adoption of the following Resolutions;—
 - (1.) That in the opinion of this Council the direct pecuniary saving to the Parent State, (independently of other advantages,) derived from the assignment of Convicts to Private Service, in New South Wales, far exceeds any gain the Colony can derive therefrom; inasmuch as if the Convicts were employed upon the Public Works, the maintenance of each would cost the Government from £20 to £30 per annum, which upon the number of Convicts in Assignment, (about 22,000) would amount to from £440,000, to £660,000, yearly, whilst it scarcely admits of dispute, that free labour, if introduced to the extent required to meet the wants of the Colony, would be less expensive than Convict labour, and infinitely more productive, to say nothing of the moral evils of the one system, or advantages of the other.
 - (2.) That by the absorption since the year 1835, of so large an amount (£) of the Colonial Revenue, in defraying the whole charge of the Police and Gaol Establishments, including Buildings, and the consequent deficiency of those Funds which would otherwise have been available for the introduction of Free labour, every branch of the productive industry of this Colony is in danger of falling into decay, to the great loss and injury, not only of the Colony, but of the Parent State also, more especially of its Manufacturing, Commercial, and Shipping Interests.
 - (3.) That His Excellency the Governor be respectfully solicited to forward these Resolutions to Her Majesty's Secretary of State for the Colonial Department, and to represent that, although this Council has voted the full amount of the Estimate for the Police and Gaol Establishments for the year 1841, and since the 1st July, 1835, so large an expenditure from the Colonial Revenue has been most reluctantly consented to, solely from a conviction that this Council would not be justified in declining to make provision for the maintenance of the Public tranquillity and security; but at the same time, under a full persuasion, that at least one half of this expense, which is rendered necessary by the introduction of a Convict Population into this Colony, ought in justice

to

to be borne by the Parent State, whose interests are, at all events in an equal, if not a greater degree, involved in the due coercion, and discipline of such Transported Offenders.

2. Mr. James Macarthur; That he will also move the adoption of the following Resolutions:—

(1.) That this Council, whilst it altogether dissents from the exaggerated statements which have been made in England, of the evils inflicted upon the moral condition and character of the People of this Colony, by the Transportation and Assignment of Convicts, is nevertheless of opinion, that the period has now arrived, when the true interests and permanent welfare of the Colony would be most effectually promoted by the discontinuance of the practice of transporting and assigning British and other Convicts within any part of this Territory.

(2.) That in the opinion of this Council, the effect of transporting Convicts to Norfolk Island, or other Penal Settlements, and introducing them, at the expiration of their sentences, into New South Wales, must inevitably be to inflict upon this Colony, a continuance of the worst of the moral evils arising out of Transportation, together with the necessity for the enormous Police expenditure, inseparable from such a system, without any countervailing advantage, and would be both unjust, and in the highest degree impolitic.

(3.) That His Excellency the Governor be respectfully requested to communicate these Resolutions to Her Majesty's Secretary of State for the Colonies, and to represent the very earnest desire of this Council, that the strictest prohibitory measures should be adopted and enforced, to prevent the introduction into this Colony, under any pretence whatsoever, of Convicts transported to Norfolk Island, or any other Penal Settlements, after the termination or remission of their several sentences.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, 29 SEPTEMBER, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. His Honor the Chief Justice presented a Petition from 2856 Mechanics and other Operatives of Sydney, purporting, That although the Petitioners admit that the existing Act for the Regulation of Servants, Labourers, and Work People, is unsuited to the present state of the Colony, they are apprehensive that if the Bill now before the Council to amend that Act, be passed into a law in its present form, some of its provisions will be found too harsh and stringent, and will operate partially; particularly that Employers will have it in their power to oppress and defraud their Workmen on undefined charges of ill behaviour or misdemeanor, while no protection is afforded to Workmen against unjustifiable insolence and provocation on the part of the Employer; that it appears unjust to punish Servants by pecuniary fines, and also by imprisonment; that the oath of one interested individual should not be deemed sufficient proof for the conviction of a free British subject; that greater powers are conferred on Justices of the Peace, than they ought to possess, inasmuch, as many of them are not only incompetent to decide on the value of labour, but for the most part they are themselves Employers of Labourers, and must necessarily, even if unconsciously, be biassed in their feelings; that the effect of the proposed Bill will, in the opinion of the Petitioners, certainly be to deter Operatives from emigrating to this Colony; they pray that such a law may be passed as will afford equal protection and security both to Masters and Servants.
This Petition was incorrect in point of form, inasmuch as none of the signatures were subscribed on the same sheet of parchment that contained the Petition; an objection which would have been fatal to its reception, but for the rank in life of the Petitioners, and their probable ignorance of the practice in such cases, under which circumstances it was read and received, upon the understanding that it should not form a precedent.
2. His Excellency the Governor presented a Petition, signed by 23 Solicitors of the Supreme Court, expressive of their conviction of the absolute necessity for the separation of the Offices of Master in Chancery and Chief Clerk of the Supreme Court; the duties of the former office being now so increased as to require the undivided attention of at least one Principal of first-rate ability, and the interests involved being of such magnitude, that delays in this Department, even in a single suit, would often occasion losses far exceeding the savings of years by a misplaced economy, and in many instances operate as a positive denial of justice. Petition read, and received.
3. Mr. H. H. Macarthur presented a Petition from 34 Gentlemen qualified to act as Special Jurors in the County of Cumberland, representing, That they are frequently summoned from distances varying from ten to forty miles and upwards, to attend the Supreme Court, on a number of cases, although after six or seven days' attendance, they often sit on one or two cases only, and obtain no remuneration for their expenses and loss of time but a fee of fifteen shillings on such cases as the Jury are actually sworn, while they are at the same time subject to a heavy fine for non-attendance; they pray, that exclusive of the mileage now paid, the fee on each case may be raised from fifteen shillings to one guinea (the Special Jurors fee in England); that it be imperative on a party applying for a Special Jury to deposit in the hands of the Sheriff the amount of the fees, and that after the Jurors are summoned, no cause may be struck out of the list, though settled, but that the cases may be called in rotation, and the Jurors who attend in their places paid, whether the trial proceeds or not; the expence would thus fall on the party seeking the benefit of a higher class of Jurors, whose services would then only be required when really demanded. Petition read, and received.
4. Mr. H. H. Macarthur presented a Petition, signed by 28 Magistrates resident in the County of Cumberland, representing, That in the performance of their duties as Magistrates at the Quarter Sessions and Petty Sessions of their respective Districts, and by their attendance at the Supreme Court as Special Jurors and Assessors, they devote more time to the public service than any other class of the community; that under the existing Colonial Jury Act, they are also liable to serve as Common Jurors, on Criminal Cases; a practice at variance with that of the Mother Country, and imposing an unnecessary increase of duty on the Petitioners, as there is no longer a scarcity of respectable qualified Jurors; that moreover, it subjects them to a certain degree of degradation, as on entering the Jury box they are commonly challenged by the Prisoners; and it is also frequently inoperative, as many cases which come before the Supreme Court are committals from the respective Benches of which the Petitioners form a part,
and

and they find themselves called from a distance without the satisfaction even of their services having proved of use ; under all which circumstances the Petitioners pray, that in any Act which may be passed to regulate Trial by Jury, Magistrates may be exempted from liability to serve as common Jurors on Criminal Cases.

- 5. Mr. James Macarthur moved, That the consideration of the Motions of which he had given notice, be postponed until Tuesday next. *Passed.*
- 6. Mr. James Macarthur moved, That His Excellency the Governor be respectfully requested to lay before the Council the undermentioned Returns :—
 - (1.) A Return shewing the actual Expenditure of the Police and Gaol Establishments, from 1st July, 1835, to 31st December, 1839, including Buildings, but exclusive of the expence of the Debtors' Prison, in Sydney, and of the Establishments at Port Phillip ; and shewing, also, the estimated Expence of the same, for the years 1840 and 1841.
 - (2.) A Return of the number of Convicts holding Tickets of Leave, and of the number under Assignment.
- 7. Savings' Bank Act Amendment Bill ; read a third time, and *Passed.*
- 8. Increased Duty on Spirits distilled in the Colony Bill ; read a third time and *Passed.*
- 9. The Melbourne Fire and Marine Assurance Company Bill ; the further consideration postponed until Tuesday next.
- 10. Masters' and Servants' Act Amendment Bill ; read a second time ; committed and amended ; to be further considered on Thursday next, October 1.
- 11. Supreme Court Regulation Bill ; second reading deferred until to-morrow.
- 12. Census Bill ; The Honorable the Colonial Secretary as Chairman of the Committee, appointed on the 4th of August last, with instructions to consider the Provisions of this Bill, and the Questions contained in the Schedule annexed to it, and to report whether they can suggest any amendments thereupon, or deem it advisable to require any further information to be afforded, brought up their Report, from which it appears that the Committee are strongly impressed with the importance of obtaining much more extended information than has been procured in any former enumeration of Population in this Colony. In the Census taken in Great Britain, in the year 1821, the ages of the Population were divided into thirteen classes, viz. :—Under 5 years,

Between 5 and 10	Between 50 and 60
" 10 " 15	" 60 " 70
" 15 " 20	" 70 " 80
" 20 " 30	" 80 " 90
" 30 " 40	" 90 " 100
" 40 " 50	And 100 and upwards.

The result of that Census having shewn that the Males above the age of 20 and those under that age were about equal in number, the inquiry concerning ages in the subsequent Census of 1831 was restricted to ascertaining what number of Males out of the whole Population had attained the age of 20 years and upwards ; but the writers on this subject had expressed their regret that the details taken in the Census of 1821 had not been continued, and there is considerable ground for supposing that in the Act which will provide for the Census in Great Britain in 1841, the practice of 1821, in this respect, will be reverted to.

The ages taken in the Census of Prussia, are divided into five classes, viz.—Under 7 years

Between 7 and 14	Between 45 and 60
" 14 " 45	Above 60

And as this practice has the advantage of much greater simplicity, the Committee are disposed to recommend its adoption, with two additional classes for persons under the age of 2 years, and between those of 21 and 45 years.

In the previous Census taken in the Colony, the only subdivision in respect to age was that of persons above and under 12 years.

In addition to the subdivision of the ages, the Committee recommend that the following information be obtained, viz.—

- (1.) The number of Males and Females, married and single.
- (2.) The condition of Males and Females, separately, under the following heads :—Born in the Colony—Arrived Free—Free by Pardon—Free by Servitude—Convicts holding Tickets of Leave—Convicts in Government Employment—and Convicts in Private Service.
- (3.) Religion, divided as follows :—Church of England ; Church of Scotland ; Wesleyan Methodists ; other Protestant Dissenters ; Roman Catholics ; Jews ; Mahometans and Pagans.
- (4.) Occupation, under the following heads :—Landed Proprietors, Merchants, Bankers, and Professional Persons—Shopkeepers and other Retail Dealers—Mechanics and Artificers—Shepherds and others in the care of Sheep—Gardeners, Stockmen, and Persons employed in Agriculture—Domestic Servants—all other Persons not included in the foregoing classes.

By this means the number of individuals actually employed in each branch of profession or industry will be ascertained, whilst the Females and Children, not following any particular occupation will be classed in the last subdivision.

Following the precedents of England, the Committee think it desirable also to obtain the number of Houses, subdivided as follows :—Stone or Brick—Wood—Finished—Unfinished—Inhabited—Uninhabited.

The Committee propose that the care of superintending the taking of the Census should be confided to the Police Magistrates, in the several Police Districts, and in those Districts where there may happen to be no Police Magistrate, to the Justices assembled in Petty Sessions, at the chief place of the District—and in parts beyond the boundaries of location to the Commissioner in each District.

As it is of great consequence that intelligent and trustworthy persons should be employed to collect the information, under the direction of the Magistrates, the Committee recommend that a sufficient remuneration be paid, to allow of properly qualified persons being appointed.

The Committee have not made any provision in the Bill for taking the Census in the Island of New Zealand, as they are not aware that any sufficient machinery at present exists, which could be made available for that purpose; they suggest, however, that it might be desirable to grant special power to the Lieutenant-Governor, to enable him, as far as may be practicable, to effect so desirable an object.

13. Seamen's Better Regulation 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.

ORDERS OF THE DAY.

WEDNESDAY, SEPTEMBER 30.

1. Supreme Court regulation Bill; second reading.

THURSDAY, OCTOBER 1.

1. Masters' and Servants' Act Amendment Bill; further consideration.

TUESDAY, OCTOBER 6.

1. Seamen's Better Regulation Bill; third reading.
2. The Melbourne Fire and Marine Assurance Company Bill; further consideration.

NOTICES OF MOTION.

TUESDAY, OCTOBER 6.

1. Mr. James Macarthur; that he will move the adoption of the following Resolutions;—
(1.) That in the opinion of this Council the direct pecuniary saving to the Parent State, (independently of other advantages,) derived from the assignment of Convicts to Private Service, in New South Wales, far exceeds any gain the Colony can derive therefrom; inasmuch as if the Convicts were employed upon the Public Works, the maintenance of each would cost the Government from £20 to £30 per annum, which upon the number of Convicts in Assignment, (about 22,000) would amount to from £440,000, to £660,000, yearly, whilst it scarcely admits of dispute, that free labour, if introduced to the extent required to meet the wants of the Colony, would be less expensive than Convict labour, and infinitely more productive, to say nothing of the moral evils of the one system, or advantages of the other.
(2.) That by the absorption since the year 1835, of so large an amount (£) of the Colonial Revenue, in defraying the whole charge of the Police and Gaol Establishments, including Buildings, and the consequent deficiency of those Funds which would otherwise have been available for the introduction of Free labour, every branch of the productive industry of this Colony is in danger of falling into decay, to the great loss and injury, not only of the Colony, but of the Parent State also, more especially of its Manufacturing, Commercial, and Shipping Interests.
(3.) That His Excellency the Governor be respectfully solicited to forward these Resolutions to Her Majesty's Secretary of State for the Colonial Department, and to represent that, although this Council has voted the full amount of the Estimate for the Police and Gaol Establishments for the year 1841, and since the 1st July, 1835, so large an expenditure from the Colonial Revenue has been most reluctantly consented to, solely from a conviction that this Council would not be justified in declining to make provision for the maintenance of the Public tranquillity and security; but at the same time, under a full persuasion, that at least one half of this expence, which is rendered necessary by the introduction of a Convict Population into this Colony, ought in justice to be borne by the Parent State, whose interests are, at all events in an equal, if not a greater degree, involved in the due coercion, and discipline of such Transported Offenders.
2. Mr. James Macarthur; That he will also move the adoption of the following Resolutions:—
(1.) That this Council, whilst it altogether dissents from the exaggerated statements which have been made in England, of the evils inflicted upon the moral condition and character of the People of this Colony, by the Transportation and Assignment of Convicts, is nevertheless of opinion, that the period has now arrived, when the true interests and permanent welfare of the Colony would be most effectually promoted by the discontinuance of the practice of transporting and assigning British and other Convicts within any part of this Territory.

(2.)

(2.) That in the opinion of this Council, the effect of transporting Convicts to Norfolk Island, or other Penal Settlements, and introducing them, at the expiration of their sentences, into New South Wales, must inevitably be to inflict upon this Colony, a continuance of the worst of the moral evils arising out of Transportation, together with the necessity for the enormous Police expenditure, inseparable from such a system, without any countervailing advantage, and would be both unjust, and in the highest degree impolitic.

(3.) That His Excellency the Governor be respectfully requested to communicate these Resolutions to Her Majesty's Secretary of State for the Colonies, and to represent the very earnest desire of this Council, that the strictest prohibitory measures should be adopted and enforced, to prevent the introduction into this Colony, under any pretence whatsoever, of Convicts transported to Norfolk Island, or any other Penal Settlements, after the termination or remission of their several sentences.

WM MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

WEDNESDAY, 30 SEPTEMBER, 1840.

1. Council met pursuant to adjournment; His Honor the Chief Justice took the Chair, and laid upon the Table a letter from the Governor, stating that His Excellency was unable, from illness, to attend, and requesting that His Honor would preside, and present the following Bills, which His Honor accordingly laid upon the Table;
 - (1.) "A Bill to revive and continue for a limited time, an Act passed in the Second Year of the Reign of Her present Majesty Queen Victoria, intituled "An Act to revive and continue for a limited time an Act passed in the Second Year of the Reign of His late Majesty, intituled "An Act for the "Relief of Debtors" in Execution for Debts which they are unable to pay;" Bill read a first time; to be printed, and read a second time on Tuesday next, October 6.
 - (2.) "A Bill for applying certain Sums arising from the Revenue receiveable in New South Wales, to the service thereof for the Year One thousand eight hundred and forty-one, and for further appropriating the said Revenue;" Bill read a first time; to be printed, and read a second time on Tuesday next.
 - (3.) The Presbyterian Church Act Amendment Bill, as amended in Committee, and fairly transcribed; Bill to be read a third time on Tuesday next.
2. Supreme Court Regulation Bill; upon the Order of the Day for the second reading of this Bill being called, Mr. Jones moved, That in consequence of the absence of His Excellency the Governor, the second reading be postponed until Tuesday next; Passed.
3. Masters' and Servants' Act Amendment Bill; the further consideration of this Bill appointed for to-morrow, postponed until Tuesday next.
Council adjourned at Two o'Clock, until Tuesday next, at Twelve o'Clock.

ORDERS OF THE DAY.

TUESDAY, OCTOBER 6.

1. Seamens' Better Regulation Bill; third reading.
2. Presbyterian Church Act Amendment Bill; third reading.
3. The Melbourne Fire and Marine Assurance Company Bill; further consideration.
4. Masters' and Servants' Act Amendment Bill; further consideration.
5. Supreme Court regulation Bill; second reading.
6. Debtors in Execution Relief Act Revival Bill; second reading.
7. Appropriation Bill; second reading.

NOTICES OF MOTION.

TUESDAY, OCTOBER 6.

1. Mr. James Macarthur; that he will move the adoption of the following Resolutions;—
 - (1.) That in the opinion of this Council the direct pecuniary saving to the Parent State, (independently of other advantages,) derived from the assignment of Convicts to Private Service, in New South Wales, far exceeds any gain the Colony can derive therefrom; inasmuch as if the Convicts were employed upon the Public Works, the maintenance of each would cost the Government from £20 to £30 per annum, which upon the number of Convicts in Assignment, (about 22,000) would amount to from £440,000, to £660,000, yearly, whilst it scarcely admits of dispute, that free labour, if introduced to the extent required to meet the wants of the Colony, would be less expensive than Convict labour, and infinitely more productive, to say nothing of the moral evils of the one system, or advantages of the other.
 - (2.) That by the absorption since the year 1835, of so large an amount (£) of the Colonial Revenue, in defraying the whole charge of the Police and Gaol Establishments, including Buildings, and the consequent deficiency of those Funds which would otherwise have been available for the introduction of Free labour, every branch of the productive industry of this Colony is in danger of falling into decay, to the great loss and injury, not only of the Colony, but of the Parent State also, more especially of its Manufacturing, Commercial, and Shipping Interests. (3.)

(3.) That His Excellency the Governor be respectfully solicited to forward these Resolutions to Her Majesty's Secretary of State for the Colonial Department, and to represent that, although this Council has voted the full amount of the Estimate for the Police and Gaol Establishments for the year 1841, and since the 1st July, 1835, so large an expenditure from the Colonial Revenue has been most reluctantly consented to, solely from a conviction that this Council would not be justified in declining to make provision for the maintenance of the Public tranquillity and security; but at the same time, under a full persuasion, that at least one half of this expence, which is rendered necessary by the introduction of a Convict Population into this Colony, ought in justice to be borne by the Parent State, whose interests are, at all events in an equal, if not a greater degree, involved in the due coercion, and discipline of such Transported Offenders.

2. Mr. James Macarthur; That he will also move the adoption of the following Resolutions :—

(1.) That this Council, whilst it altogether dissents from the exaggerated statements which have been made in England, of the evils inflicted upon the moral condition and character of the People of this Colony, by the Transportation and Assignment of Convicts, is nevertheless of opinion, that the period has now arrived, when the true interests and permanent welfare of the Colony would be most effectually promoted by the discontinuance of the practice of transporting and assigning British and other Convicts within any part of this Territory.

(2.) That in the opinion of this Council, the effect of transporting Convicts to Norfolk Island, or other Penal Settlements, and introducing them, at the expiration of their sentences, into New South Wales, must inevitably be to inflict upon this Colony, a continuance of the worst of the moral evils arising out of Transportation, together with the necessity for the enormous Police expenditure, inseparable from such a system, without any countervailing advantage, and would be both unjust, and in the highest degree impolitic.

(3.) That His Excellency the Governor be respectfully requested to communicate these Resolutions to Her Majesty's Secretary of State for the Colonies, and to represent the very earnest desire of this Council, that the strictest prohibitory measures should be adopted and enforced, to prevent the introduction into this Colony, under any pretence whatsoever, of Convicts transported to Norfolk Island, or any other Penal Settlements, after the termination or remission of their several sentences.

WM MACPHERSON,

Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, 6 OCTOBER, 1840.

1. Council met pursuant to adjournment ; His Excellency the Governor took the Chair, and laid upon the table the undermentioned Returns ;
 (1.) A Return shewing the Actual Expenditure of the Police and Gaol Establishments, from 1st July, 1835, to 31st December, 1839, including Buildings, but exclusive of the Expence of the Debtors' Prison, in Sydney, and of the Establishments at Port Phillip; and shewing also the Estimated Expence of the same, for the years 1840, and 1841.
 (2.) A return of the number of Convicts in New South Wales, on the 30th of June 1841, and shewing their distribution.
 To be Printed.
2. Mr. James Macarthur's proposed Resolutions, relative to the Expenditure of the Police and Gaol Establishments, considered in Committee.. Motion made and question put, that the first of those Resolutions, amended as follows, be adopted: That in the opinion of this Council, the direct pecuniary saving to the Parent State; (independently of other advantages) derived from the employment of Convicts in Private Service; in New South Wales, far exceeds any gain the Colony can derive therefrom; inasmuch as if the Convicts were employed upon the Public Works, the maintenance of each would cost the Government from £20 to £30 per annum, which upon the number of Convicts in Assignment, and holding Tickets of Leave, (about 30,000) would amount to from £600,000 to £900,000, yearly, whilst it scarcely admits of dispute that Free Labour, if introduced to the extent required to meet the wants of the Colony, would be less expensive than Convict Labour, and infinitely more productive; to say nothing of the moral evils of the one system, or advantages of the other; After a long debate, the Council divided; for the Resolution six; against it six; The Governor declared the Resolution negatived by His Excellency's casting vote.
 Mr. James Macarthur moved for leave to withdraw the two remaining Resolutions, and to substitute others in their room, to be considered to-morrow; Passed.
3. Mr. James Macarthur's Motion relative to Transportation and Assignment; consideration of, deferred until to-morrow.
4. Seamen's Better Regulation Bill; read a third time, and Passed.
 The remaining Orders of the Day postponed until to-morrow.
 Council adjourned at Half-past Four o'Clock, until To-morrow, at Twelve o'Clock.

ORDERS OF THE DAY.

WEDNESDAY, OCTOBER 7.

1. Presbyterian Church Act Amendment Bill; third reading.
2. The Melbourne Fire and Marine Assurance Company Bill; further consideration.
3. Masters' and Servants' Act Amendment Bill; further consideration.
4. Supreme Court regulation Bill; second reading.
5. Debtors' in Execution Relief Act Revival Bill; second reading.
6. Appropriation Bill; second reading.

NOTICES OF MOTION.

WEDNESDAY, OCTOBER 7.

1. Mr. James Macarthur; that he will move the adoption of the following Resolutions;—
 (1.) That in the opinion of this Council the Parent State, indisputably deriving a direct pecuniary saving (independently of other advantages) from the Assignment of Convicts to Private Service in New South Wales, and its interests being at all events in an equal if not a superior degree involved in the due coercion and discipline of such Transported Offenders, ought in justice to bear at least one-half of the Expenses attendant on the Police and Gaol Establishments, which are raised to their present large amount chiefly through the introduction of a Convict Population into the Colony.

(2.)

(2.) That His Excellency the Governor be respectfully solicited to represent on behalf of this Council to Her Majesty's Secretary of State for the Colonies, that this Council has most reluctantly consented to so large an expenditure for the support of those Establishments, since the 1st of July, 1835, and has voted the full amount of the Estimate for the same for the year 1841, solely from a conviction that it would not be justified in declining to make provision for the maintenance of the public tranquillity and security.

(3.) That by the appropriation for the period from the 1st July, 1835, to the 31st December, 1841, of so large an amount (about £597,000) of the Colonial Revenue, arising partly from the Sale of Public Lands, partly from ordinary sources, in defraying the whole charge of the Police and Gaol Establishments, including Buildings, and the consequent diminution of those Funds, which would have been available for the introduction of Free Labour, every branch of the productive industry of this Colony is in danger of falling into decay, to the great loss and injury not only of the Colony, but of the Parent State also, more especially of its Manufacturing, Commercial, and Shipping Interests.

2. Mr. James Macarthur; That he will also move the adoption of the following Resolutions:—

(1.) That this Council, whilst it altogether dissents from the exaggerated statements which have been made in England, of the evils inflicted upon the moral condition and character of the People of this Colony, by the Transportation and Assignment of Convicts, is nevertheless of opinion, that the period has now arrived, when the true interests and permanent welfare of the Colony would be most effectually promoted by the discontinuance of the practice of transporting and assigning British and other Convicts within any part of this Territory.

(2.) That in the opinion of this Council, the effect of transporting Convicts to Norfolk Island, or other Penal Settlements, and introducing them, at the expiration of their sentences, into New South Wales, must inevitably be to inflict upon this Colony, a continuance of the worst of the moral evils arising out of Transportation, together with the necessity for the enormous Police expenditure, inseparable from such a system, without any countervailing advantage, and would be both unjust, and in the highest degree impolitic.

(3.) That His Excellency the Governor be respectfully requested to communicate these Resolutions to Her Majesty's Secretary of State for the Colonies, and to represent the very earnest desire of this Council, that the strictest prohibitory measures should be adopted and enforced, to prevent the introduction into this Colony, under any pretence whatsoever, of Convicts transported to Norfolk Island, or any other Penal Settlements, after the termination or remission of their several sentences.

WM MACPHERSON,
Clerk of Councils.

No. 43.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

WEDNESDAY, 7 OCTOBER, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair, Mr. James Macarthur's proposed Resolutions, relative to the Expenditure of the Police and Gaol Establishments, considered in Committee: and the following Resolutions severally moved, and adopted:
 - (1.) Resolved, That in the opinion of this Council the Parent State, indisputably deriving a direct pecuniary saving (independently of other advantages) from the Assignment of Convicts to Private Service in New South Wales, and its interests being at all events in an equal, if not in a superior degree, involved in the due coercion and discipline of such Transported Offenders, ought in justice to bear at least one-half of the Expenses attendant on the Police and Gaol Establishments, which are raised to their present large amount chiefly through the introduction of a Convict Population into the Colony.
 - (2.) Resolved, That His Excellency the Governor be respectfully solicited to represent on behalf of this Council to Her Majesty's Secretary of State for the Colonies, that this Council has most reluctantly consented to so large an expenditure for the support of those Establishments, since the 1st of July, 1835, and has voted the full amount of the Estimate for the same for the year 1841, solely from a conviction that it would not be justified in declining to make provision for the maintenance of the public tranquillity and security.
 - (3.) Resolved, That by the appropriation for the period from the 1st July, 1835, to the 31st December, 1841, of so large an amount (about £597,000) of the Colonial Revenue, arising partly from the Sale of Public Lands, partly from ordinary sources, in defraying the whole charge of the Police and Gaol Establishments, including Buildings, and the consequent diminution of those Funds, which would have been available for the introduction of Free Labour, every branch of the productive industry of this Colony is in danger of falling into decay, to the great loss and injury not only of the Colony, but of the Parent State also, more especially of its Manufacturing, Commercial, and Shipping Interests.
 2. Mr. James Macarthur's proposed Resolutions relative to Transportation and Assignment, considered in Committee; Mr. Macarthur withdrew the First of those Resolutions; the following, severally moved, and adopted:—
 - (1.) Resolved, That in the opinion of this Council, the effect of transporting Convicts to Norfolk Island, or other Penal Settlements, and introducing them, at the expiration of their sentences, into New South Wales, must inevitably be to inflict upon this Colony, a continuance of the worst of the Moral-evils arising out of Transportation, together with the necessity for the enormous Police expenditure, inseparable from such a system, without any countervailing advantage, and would be both unjust, and in the highest degree impolitic.
 - (2.) Resolved, That His Excellency the Governor be respectfully requested to communicate the foregoing Resolution to Her Majesty's Secretary of State for the Colonies, and to represent the very earnest desire of this Council, that the strictest prohibitory measures should be adopted and enforced, to prevent the introduction into this Colony, under any pretence whatsoever, of Convicts transported to Norfolk Island, or any other Penal Settlements, after the termination or remission of their several sentences.
 3. Presbyterian Church Act Amendment Bill; read a third time, and *Passed*.
 4. The Melbourne Fire and Marine Assurance Company Bill; further considered, and amended; to be fairly transcribed, and presented to the Governor by the Attorney-General and Mr. Jones.
 5. Masters' and Servants' Act Amendment Bill; further considered, and amended, and the title altered to, "*A Bill to ensure the fulfilment of engagements, and to provide for the settlement of disputes between Masters and Servants in New South Wales and its Dependencies*;" to be fairly transcribed, and presented to the Governor by the Attorney-General and Mr. James Macarthur.
- The remaining Orders of the Day postponed until To-morrow.
Council adjourned at Five o'Clock, until To-morrow, at Twelve o'Clock.

ORDERS

ORDERS OF THE DAY.

THURSDAY, OCTOBER 8.

1. Supreme Court regulation Bill; second reading.
2. Debtors' in Execution Relief Act Revival Bill; second reading.
3. Appropriation Bill; second reading.

WM MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

THURSDAY, 8 OCTOBER, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. The Attorney General presented a Petition from Mr. George Robert Nichols, of Sydney, stating, that the non-existence of any Local power to admit the Australian Youth, and others educated in New South Wales, to practise as Advocates at the Bar of the Courts of Justice in this Colony, is felt to be particularly discouraging to those Australian Youths who, stimulated by a laudable ambition, would aspire to the honor of pleading at the Tribunals of their Native Land; that the distance of sixteen thousand miles from the Seats of Learning in the Parent Country, the expence incurred in the prosecution of the required Studies, the time which must elapse, and other difficulties to be encountered preliminary to their being admitted as practitioners at the Bar of the Colonial Courts, put it beyond the power of but very few, to have an opportunity of distinguishing themselves as Members of the Legal Profession; that the present circumstances and condition of the Colony, and the Educational Establishments, and other sources of knowledge which it now possesses, place within reach of the Student the means of cultivating the branches of Study necessary to qualify him for the possession of the privilege sought for; that the Lord Bishop of Australia has been invested with the power of Ecclesiastical Ordination, and a corresponding power is possessed by the British Judges in Canada, and other British Colonies, and it appears to the Petitioner that an equal necessity exists, for extending to the Queen's Judges in this Colony, a similar power; that the Lieutenant Governor of Van Diemen's Land has expressed his intention of submitting to the Legislative Council of that Colony, an enactment legalising the admission of the Colonial Youth as Practitioners in the Supreme Court, without demanding it of them as an essential requisite that they shall have had admission to one of the Courts of Great Britain or Ireland; the Petitioner prays that a clause may be introduced into the Bill now before this Council, for the regulation of the Supreme Court, empowering the Judges of this Colony, to admit as Advocates, such persons as they, upon examination, may deem to be professionally, and otherwise qualified; Petition read and received.
2. Mr. H. H. Macarthur presented a Petition signed by nine Magistrates of Sydney, representing that the Petitioners being either Mercantile men or engaged in business which claims all their attention, feel with some severity the obligation enforced on them by Law, of attending as Jurymen in their capacity as Citizens, while at the same time they are called upon to act as Assessors in the Supreme Court, as Magistrates in the Court of Quarter Sessions, and frequently to attend the Bench of the Sydney Police Office. That inasmuch as the position of Assessors to try Civil Issues in the Supreme Court, implies a greater degree of responsibility in the Magistrate, than that of Special, or Ordinary Jurymen in the Citizen, from the circumstance of the Jury in the former case consisting of two, while, in the latter, it consists of twelve, the Petitioners respectfully suggest that the performance of this portion of their duty to the Public, should exempt them from service as Jury-men at all; or at least that they should not be fined for non-attendance on shewing a valid reason, so long as it appears that they do their duty punctually as Assessors when called upon; and they moreover would humbly urge, that their duties in the Court of Quarter Sessions, and at the Police Office, should be taken into account, as falling upon men who, according to the present Law, are liable to be called from their Private business to attend Jurymen equally with other Citizens, who have no such extra demand upon their time; the Petitioners state that they have reason to believe, that at least one, if not two of their Honors the Judges are disposed to view favourably the prayer of the Petition; Petition read, and received.
3. The Lord Bishop of Australia presented a Petition, purporting to be, from the Diocesan Committee of the Societies for promoting Christian Knowledge, and for the Propagation of the Gospel in Foreign Parts, and to be signed by direction, and on behalf of the Committee, by the Secretaries; but no other signatures being appended to the Petition, but those of the Secretaries only, it was decided that the Petition could be received only, as the Petition of the Secretaries; the Petitioners state, that having understood that in conformity with an established Regulation respecting the erection of School Houses, and the support of Schoolmasters in this Colony, the Government would grant a sum equal to the amount of contributions from Private sources, with painful regret have learned, by recent communications from the Honorable the Colonial Secretary, that it is not the intention of Government

ment to grant any sum corresponding with the amount applied to those purposes derived from the contributions of individuals to the funds of the Diocesan Committee; that the Petitioners respectfully submit for the consideration of His Excellency and this Council, that although sums contributed by the Australian Diocesan Committee may be said to be from the funds of a Body, yet, in as much as the subscribers to that fund are residents in the Colony, and must be regarded as deeply interested in every plan adopted, or proposed, for the Religious and Moral improvement, and highest welfare of the Community, the sums contributed by that Institution are, in the opinion of the Petitioners, in reality, individual subscriptions, and in that view justly entitled to an equal amount from the Colonial Government; and they respectfully solicit, that before the Appropriation Bill for the Service of the year 1841, be passed, a grant towards the expence of Schools in connexion with the Church of England, may be authorised, of a sum equal in each case, to the amount contributed by individuals privately, and from the funds of the Australian Diocesan Committee; Petition read, and received.

4. New Zealand Customs' Bill; presented by the Governor as amended; to be read a third time on Tuesday next, October 13.
 5. Supreme Court Regulation Bill; read a second time; committed and amended; to be further considered to-morrow.
 6. Debtors' in Execution Relief Act Revival Bill; second reading postponed until Tuesday next.
 7. Appropriation Bill; second reading postponed until to-morrow.
- Council adjourned at Five o'Clock, until To-morrow, at Twelve o'Clock.

ORDERS OF THE DAY,

FRIDAY, OCTOBER 9.

1. Supreme Court Regulation Bill; further consideration.
2. Appropriation Bill; second reading.

TUESDAY, OCTOBER 13.

1. New Zealand Customs' Bill; third reading.
2. Debtors in Execution Relief Act Revival Bill; second reading.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS.

OF

THE LEGISLATIVE COUNCIL.

FRIDAY, 9 OCTOBER, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor in the Chair. Roman Catholic Church of St. Patrick Bill; The Honorable the Colonial Secretary, as Chairman of the Committee appointed 24th September, to consider and report upon the provisions of this Bill, brought up the Report, and laid upon the Table the Evidence taken before the Committee; It appears from the Report, that the dimensions of the intended Church will be 128 feet, by 52, comprising the whole length of the ground allotted for the Site, and that although the building itself will range with the proper building line of Charlotte Place, it has been proposed, that an Ornamented Landing in front of the Principal Entrance, with two flights of steps descending to the Foot-way in lines parallel to it, should project six feet into the Foot-way, reducing the same to one half only of the regulated breadth; and that to protect the buttresses and walls of the building from injury, an iron railing should extend along the front at a like distance from it of six feet; the Committee having examined the Colonial Engineer Major Barney, who in addition to his other duties, is at present charged with those of Town Surveyor, and also Mr. Fernyhough, who prepared, for the Trustees, the Elevation and Plan of the Church, upon the suggestion of the former, recommended, that the Steps and iron railing be allowed to project three feet into the Foot-way instead of six as proposed; by which, the width of the Foot-way would not be reduced to less than nine feet, which the Committee consider essential for the Public convenience, especially in a situation likely to become at no distant period a considerable thoroughfare; in coming to this conclusion, the Committee have also, had in view the precedent afforded by the Act of Council 3 Victoria No. 20, in respect to the Protestant Church of St. James, in Sydney, which permitted a deviation from the provisions of the Alignment Act, by authorising the erection of a new Northern side-wall to that Church, at the distance of nine feet from the exterior edge or curb stone of the Foot-way, but within the original boundary of the ground appropriated to that Church; and the Committee recommend that the present case be placed upon the same footing, by allowing the outer wall of the projecting landing and steps, and the iron railing in front of the proposed New Church, to be erected at a distance not less than nine feet from the exterior edge or curb stone of the Foot-way, and within the original boundary line of the Private property which has been dedicated as a Site for the Church of St. Patrick; should the Trustees of that Church deem it essential to carry into effect the original plan in respect to the width of the Landing and Steps, and distance of the railing from the building, it will still be in their power to do so, by shortening the Church three feet only, which in a length of One hundred and twenty-eight feet, it is conceived will not be of material consequence; while to permit the proposed projection to its full extent, would afford a dangerous precedent, and reduce the Foot-way to a very inconvenient width; the Committee in conclusion observe, that although under the peculiar circumstances of this case they have been induced to recommend a deviation from the principle of the Alignment Act, they deem it of much importance to discourage as much as possible, applications of this nature, as calculated to interfere with the convenience of the Public generally, and in most cases, although not in the present, to injure the appearance of the Streets, which has been so materially improved since the Act in question came into operation;
Bill to be read a second time on Thursday next.
2. Census Bill; The Honorable the Colonial Secretary as Chairman of the Committee on this Bill, whose Report was presented 29th September, moved that the Bill be printed, and read a second time on Tuesday next; Passed.
3. Supreme Court Regulation Bill; further considered 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 1841; The Colonial Secretary moved, That a sum not exceeding £800, be appropriated to defray the Salary for the year 1841, of a Master in Equity: Passed.
5. Appropriation Bill read a second time; to be read a third time on Wednesday next, October 14.
Council adjourned at Five o'Clock, until Tuesday next, at Twelve o'Clock.

ORDERS

ORDERS OF THE DAY,

TUESDAY OCTOBER 13.

1. New Zealand Customs' Bill ; third reading.
2. Debtors in Execution Relief Act Revival Bill ; second reading.
3. Roman Catholic Church of St. Patrick Bill ; second reading.
4. Census Bill ; second reading.

WEDNESDAY, OCTOBER 14.

1. Appropriation Bill ; third reading.

NOTICE OF MOTION,

TUESDAY, OCTOBER 13.

1. Mr. Jones ; That he will move that this Council take under consideration on Tuesday next, (October 13) the Report of the Committee on Immigration, and will adopt certain Resolutions founded thereon, which he will then submit.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, 13 OCTOBER, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and laid upon the Table, "*A Bill to provide for the Trial by Jury in Civil and Criminal Cases in the Circuit Courts to be holden within the Colony of New South Wales;*" Bill read a first time; to be printed, and read a second time on Friday next, October 16,
 2. His Excellency the Governor laid upon the Table, *A Bill to amend an Act*, intituled "*An Act for better regulating the Courts of Requests in the Colony of New South Wales;*" Bill read a first time; to be printed, and read a second time on Friday next.
 3. Mr. Jones moved for leave to postpone the consideration of the Motion on the subject of Immigration, of which he had given Notice, until Tuesday next; Passed.
 4. New Zealand Customs' Bill; read a third time, and *Passed*.
 5. Debtors' in Execution Relief Act Revival Bill: second reading postponed until Friday next.
 6. Roman Catholic Church of St. Patrick Bill; read a second time; to be read a third time on Friday next.
 7. Census Bill; read a second time; to be read a third time on Tuesday next, October 13.
 8. Supreme Court regulation Bill; presented by the Governor as amended; to be read a third time on Friday next.
 9. The Melbourne Fire and Marine Assurance Company Bill; presented by the Governor as amended; to be read a third time on Tuesday next.
 10. Masters' and Servants' Act Amendment Bill; presented by the Governor as amended; to be read a third time on Tuesday next.
 11. Appropriation Bill; the third reading appointed for to-morrow, postponed until Friday next.
- Council adjourned at Half-past Two o'Clock, until Friday next, at Twelve o'Clock.

ORDERS OF THE DAY,

FRIDAY, OCTOBER 16.

1. Appropriation Bill; third reading.
2. Roman Catholic Church of St. Patrick Bill; third reading.
3. Supreme Court Regulation Bill; third reading.
4. Debtors' in Execution Relief Act Revival Bill; second reading.
5. Circuit Courts Jury Bill; second reading.
6. Courts of Requests Act Amendment Bill; second reading.

TUESDAY OCTOBER 20.

1. Census Bill; third reading
2. Masters' and Servants' Act Amendment Bill; third reading.
3. The Melbourne Fire and Marine Assurance Company Bill; third reading.

NOTICE OF MOTION.

TUESDAY, OCTOBER 20.

1. Mr. Jones; That he will move that this Council take under consideration on Tuesday next (October 20), the Report of the Committee on Immigration, and will adopt certain Resolutions founded thereon, which he will then submit.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

FRIDAY, 16 OCTOBER, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and adverting to the Resolution by which the sum of £300 was appropriated towards the formation of a Library, informed the Council that he now proposed appointing a Committee, to carry that Resolution into effect; Committee appointed;

THE LORD BISHOP OF AUSTRALIA,
THE HONORABLE THE COLONIAL SECRETARY,
THE ATTORNEY GENERAL, SIR JOHN JAMISON,
THE AUDITOR GENERAL, MR. JAMES MACARTHUR,
MR. BERRY,

2. His Excellency the Governor laid upon the Table a Petition from certain Inhabitants of the Districts of Cook's River, Botany, and Petersham, signed by 35 persons, representing that the Districts in which the Petitioners reside, with the Roads and Paths in the Vicinity, are almost daily, but particularly on Sundays, disturbed by persons resorting thither, from Sydney, and other places, for the purpose of enjoying the amusement of Shooting, to the great annoyance and danger of the Petitioners, and other persons passing along those roads and paths, who from the thickness of the Bush are prevented from seeing the danger to which they are exposed from the frequent and unexpected discharges of the fire arms used by the persons complained of; but the evil of which the Petitioners chiefly complain is, that on the Sabbath day they are not only endangered and annoyed in the manner described, but even during the hours of Public Worship are disturbed by the frequent reports of guns and other unseemly noises, arising from the prevalence of the practices complained of; the Petitioners pray that the Council will take the subject under consideration, and pass a Law to remedy the evils complained of; Petition read and received.

3. Mr. Jones presented a draft of the Resolutions on the subject of Immigration, of which he had given Notice, and moved that they be taken under consideration, on Tuesday next. Passed.

4. Appropriation Bill: read a third time, and *Passed*.

5. Roman Catholic Church of St. Patrick Bill; read a third time, and *Passed*.

6. Supreme Court Regulation Bill; read a third time, and *Passed*.

7. Debtors in Execution Relief Act Revival Bill; read a second time; to be read a third time on Tuesday next, October 20.

8. Circuit Courts Jury Bill; second reading postponed until Tuesday next.

9. Courts of Requests Act Amendment Bill; read a second time; to be read a third time on Tuesday next.

10. His Excellency the Governor laid upon the Table "A Bill for enabling Persons indicted of Felony, to make their Defence by Counsel or Attorney;" Bill read a first time; to be read a second time on Tuesday next.

11. His Excellency Major-General Sir M. C. O'Connell moved, That His Excellency the Governor be respectfully requested to appoint a Committee of this Council to prepare an Address to Her Majesty the Queen, on the occasion of the late daring attempt made upon Her life; Committee appointed;

HIS EXCELLENCY SIR M. C. O'CONNELL,
THE HONORABLE THE COLONIAL SECRETARY,
THE COLLECTOR OF CUSTOMS, SIR JOHN JAMISON,
MR. BERRY, MR. JAMES MACARTHUR,

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

ORDERS OF THE DAY,

TUESDAY, OCTOBER 20.

1. Census Bill; third reading

2. Masters' and Servants' Act Amendment Bill; third reading.

3.

3. The Melbourne Fire and Marine Assurance Company Bill ; third reading.
4. Debtors' in Execution Relief Act Revival Bill ; third reading.
5. Courts of Requests Act Amendment Bill ; third reading.
6. Circuit Courts Jury Bill ; second reading.
7. Prisoners' Counsel Bill ; second reading.

NOTICE OF MOTION.

TUESDAY OCTOBER 20.

1. Mr. Jones ; That this Council take under consideration the Report of the Committee on Immigration, and adopt the following Resolutions founded thereon ;
 - (1.) That this Council having had under consideration the Report presented on the 2nd ultimo by the Committee appointed to inquire into, and report on the subject of Immigration concurs in and adopts the opinions therein expressed.
 - (2.) That this Council especially concurs in the statement of the Committee, that there exists throughout the Colony an urgent and increasing want of working hands, in every branch of industry ; that Emigrants readily find ample employment at highly remunerating wages, without the interruption during the winter months experienced in colder climates ; and that even during the worst period of the past severe drought, no persons, able and willing to work, found any difficulty in procuring advantageous employment.
 - (3.) That in the opinion of this Council, the effects of the high prices of provisions occasionally occurring in this Colony from the partial failure of the grain crops during seasons of drought are felt rather by the employers of labour than by the servants themselves it being the practice in addition to the wages agreed upon, for Masters in the Country Districts to supply their Servants and their families with provisions on a liberal scale.
 - (4.) That this Council equally concurs with their Committee, that every department of industry is cramped, and that no undertaking, public or private, can be prosecuted except at great disadvantage, in consequence of the exorbitant rate of wages and the almost inconceivable difficulty of procuring Workmen, Servants, or Mechanics, upon any terms whatsoever ; and this Council cannot but view with apprehension, the check which must be given to the advancing prosperity of the Colony, unless the urgent demand for labour which exists in every part of the Colony, be promptly and effectually supplied.
 - (5.) That this Council recommends the insertion as a condition in each promise of bounty, that a return be made quarterly to the Land and Emigration Board in London, of the number and description of persons sent out under it, in order that in the event of the aggregate number proving less than required, ships may be chartered by Government, or other means adopted, to provide for such deficiency.
 - (6.) That in the opinion of this Council there can be no more advantageous field for the employment of industry than is presented at this time in New South Wales ; experience proving that able-bodied, sober, industrious, and careful emigrants may, within a few years after their arrival, rise from the condition of labourers to be themselves employers of labour ; and that while the prosperity of the labouring classes is thus effectually promoted, a constant demand for additional labourers is created, sufficient to remove all apprehension of a dearth of employment for as many as may arrive.
 - (7.) That this Council would particularly instance the large and increasing sums at the credit of the working classes in the Savings' Bank of New South Wales, as affording a gratifying and striking proof of their prosperous condition.
 - (8.) That in the opinion of this Council, the misrepresentations of the moral condition of this Colony so extensively and industriously circulated in the Mother Country with a view to deter persons from emigrating hither are obviously to every unbiassed mind, greatly exaggerated, as regards the Convict population, and altogether unfounded in respect of the Emigrant Classes ; and that in the vast expanse of country necessarily occupied by the Settlers in pastoral pursuits, the chief occupation of the Colonists, the causes of immorality are infinitely fewer, than amidst the denser population of older Countries.
 - (9.) That in the opinion of this Council, many important interests of the Mother Country are involved in the maintenance and augmentation of the resources of this Colony, more especially the production of wool, its great staple article of export, which constitutes the chief medium of exchange for British Produce and Manufactures so extensively consumed in the Colony, as shown by the Official Returns of imports the declared value of which during the period from 1826 to 1839 amounted to no less a sum than £8,044,396, from Great Britain alone.
 - (10.) That in the opinion of this Council, the carrying trade between the Mother Country and this Colony, together with the Whale Fisheries in the adjoining Seas, affords a valuable

valuable Nursery for Seamen, important in this respect, in proportion to the distance from Great Britain, and calculated to strengthen and secure her Maritime power; and that this field for the employment of British Shipping must increase with the growing prosperity of the Colony; circumstances which appear to this Council to constitute a strong additional claim, on the part of the Colony, to the fostering care of the British Government.

(11.) That this Council fully concurs with the Committee, that the system of sale by Public Auction of the Crown Lands, in this Colony, combined with a continuous Survey as adopted in the District of Port Phillip is the best mode of obtaining the real value, at the same time that it exercises a beneficial influence upon the welfare of this Community, by enabling the bonâ fide Settler, occupying Lands for Pastoral purposes, gradually to purchase such portion of them as may be essential to his permanent establishment in the Colony.

(12.) That the boundless extent of unoccupied fertile lands in the Colony, embracing every variety of soil and climate, and suitable as well for pastoral purposes as for raising almost every description of produce, holds out not only the strongest inducement to Capitalists and others to emigrate to these shores, but is capable, under careful management and a judicious application of the proceeds, to afford an inexhaustible fund, to provide an adequate supply of labor, upon which essentially depends the progressive and complete development of its vast resources.

(13.) That this Council would respectfully suggest that the continuance of the requisite supply of labour should not be allowed to be prevented by any temporary deficiency of funds (the reverse of which is now happily the case), as there can be no doubt that in proportion as Emigrants arrive, the demand for Land will increase, and the necessary funds be provided; and this Council would therefore express its earnest hope that Her Majesty's Government will, at all times, be ready to assist this important Dependency of the Crown, in a matter so deeply affecting its interests, under a full assurance, that any advances of money, for this vital object, will be certain of immediate re-payment.

(14.) That His Excellency the Governor be respectfully requested to communicate a Copy of these Resolutions to the Right Honorable the Secretary of State for the Colonies.

WM. MACPHERSON,
Clerk of Councils.

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry should be supported by a valid receipt or invoice. This ensures transparency and allows for easy verification of the data.

In the second section, the author outlines the various methods used to collect and analyze the data. This includes direct observation, interviews with key personnel, and the use of specialized software tools. Each method is described in detail, highlighting its strengths and potential limitations.

The third section presents the results of the study. It shows a clear trend of increasing activity over the period observed. The data indicates that the most significant changes occurred in the latter half of the study period.

Finally, the document concludes with a series of recommendations based on the findings. It suggests that further research should be conducted to explore the underlying causes of the observed trends. Additionally, it provides practical advice for how the information can be used to improve operational efficiency.

Appendix A: List of Participants

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, 20 OCTOBER, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and informed the Council that the following Protest against certain items of the Estimates of Expenditure had been entered with the Clerk, according to regulation;

We, whose names are hereto subscribed, notwithstanding our tacit acquiescence in the appropriation of the several sums required for defraying the estimated expences of our Police and Gaol Establishments, deem it our duty to state, that we have so acted merely in consideration of there being left to the Legislative Council no available alternative; and we now therefore protest,

(1) Against this Colony being charged now, but more especially hereafter, with the entire amount of those expences; inasmuch as a considerable portion of them have been, and a greater proportion hereafter will be, required, in consequence of the presence of Convicts transported to this Colony from the Parent Country, and from other parts of the British dominions, *who are worked in gangs by the Government*, as well as the presence of this class of persons after they become free, and of those who will, on the expiration or remission of their sentences, unavoidably arrive here from Norfolk Island, and other neighbouring Penal Settlements. From the former class of individuals the Colonists derive no commensurate advantage, and from the latter they can expect to derive only unqualified injury: and we are therefore of opinion, that only a due proportion of the expences incurred on account of the first description of persons, and no part of the expences incurred on account of the second, ought to be defrayed by this Colony.

(2.) In respect to that portion of the Police and Gaol Expences, incurred by this Colony on account of those Convicts who are assigned to private service; although, from the reformatory nature of that system on those Convicts, the Colony has been greatly benefitted, and in no way injured, and ought therefore to be charged with this portion of these expences, yet, as the benefits derived have been, and are, primarily and principally enjoyed by assignees, we protest against the Colony generally being charged with it; and therefore we beg to suggest such measures as we deem best fitted to do justice to the case. We however beg to preface our suggestions, not only in justice to the Colony and the Colonists, and to the merits of a highly important system of secondary punishment, but by way of explanation of the principles on which our suggestions are based, by observing that we dissent entirely from the gross misrepresentations which have been made in England and elsewhere of the evils inflicted upon the moral condition of the people of this Colony, by the transportation and assignment of Convicts. That we are of opinion, after mature and careful consideration, that the transportation and assignment of Convicts is the most reformatory and humane punishment that has hitherto been adopted, or, to the best of our information, devised; not only in respect to its curative, moral effects, and its peculiar tendency to prevent relapse, but in respect also to the offspring of those Convicts; and that, according to the shewing even of those who have been the most opposed to its continuance, it has (a proof of its reformatory effect) been productive of no moral contamination on the rest of the population, whether Immigrant or Native; inasmuch as we have the testimony of such objectors, that, after a lapse of half a century, "the proportion of crime committed in New South Wales by those classes of the inhabitants who have never been convicts is not greater than the proportion in the parent country, and does not appear to exceed that, either of the European Communities in general, or of the United States of America."—(Mr. James Macarthur's *New South Wales, &c.*, page 39.) And we are of opinion, that if no moral evils have flowed from transportation, accompanied with assignment hitherto, they are now less likely to occur; in consequence,—firstly, of the great increase of respectable immigrants daily arriving, and hence affording a more eligible body of assignees; and secondly, of the great improvements that have been effected of late, in the regulations for the better discipline and management of Convicts, both in assignment and otherwise.

And we are further of opinion that, considering the inadequacy of the means hitherto provided to restrain the use of spirituous liquors, notwithstanding the endeavours of this Council, as well as the unavoidable inadequacy of the means for religious instruction and general education, which even still exists, the moral condition of the people of this Colony

Colony is highly satisfactory. That our penal statistics, taken without due illustrations, are deceptive tests, whether of the comparative moral condition of the Colony, at different periods, or of its moral condition in relation to other countries; inasmuch as registers of the committals and convictions in this Colony have been kept during some periods, in respect to little more than the graver offences, and in others, although more generally, yet very inaccurately; while of late years, every committal or conviction, however slight the offence, has been committed to record; and this, as well in respect to the convicts, as to the free portion of the population: the former of whom are here, as at home and in other countries, necessarily subjected to laws suited to their circumstances, whether in assignment or otherwise; by which, many acts are treated as offences or crimes which involve no moral turpitude, and which would expose a free person to no kind of penal animadversion. Further, it is notorious that in England, and many other countries, an immense mass of the people are known not only to be criminals, though unconvicted, but to live by the daily commission of crime—(Colquhoun)—a circumstance arising, no doubt, from the dense state of the population, the inadequate demand for labour, and insufficient means of procuring an honest maintenance. And we are of opinion that, if this class of offenders and criminals were added to the penal statistics of those countries, the amount of crime, in proportion to their respective population, would be found to exceed that of New South Wales, even under the circumstances (tending so largely to enhance the *apparent* amount of crime in this Colony) above described—an opinion in which we are confirmed from the observation that, notwithstanding the scattered state of our population, the frequent inadequacy and obvious inferiority of our Police, life and property are certainly not less, and probably far more, safe in this Colony, than in those countries. Further, we are of opinion, deduced from the reformatory effects of the system of Assignment, and other circumstances above explained, that that system may be continued without risk either of moral or other injury to this Colony: and that, from the opening of South Australia, and, more recently, of New Zealand, as points of Immigration, and the consequent greatly-increasing demand for labour, and the difficulty of obtaining it, transportation to this Colony, accompanied with assignment, may be continued not only without injury to any of those Colonies now established, or about to be so, but to their obvious advantage.

We are also of opinion, that the protracted confinement of Convicts in penal settlements, penitentiaries, hulks, gaols, or the working of them in gangs, in consequence of the *unavoidably-despotic principle of management* to which they are subjected, and the *contaminating effects* derived from the *congregating of individuals*, and more particularly of such characters, unfits such Convicts for all future social purposes, or for ever exercising the rights of free citizens,—while transportation, if accompanied with assignment, from its highly reformatory effects, (resulting, most probably, from the fact of the convict so circumstanced being never deprived of the rights of a free citizen in respect to the administration of the laws to which he is subjected,) as well as the beneficial effects arising from dispersion—the nature of his employments in this Colony, reformatory in themselves, and presenting a certain means for his future maintenance when free,—and the moral impression derived from the superintendence of respectable assignees; as well as from the small number of Convicts who, after the expiration of their sentences, can be enabled, in the present state of the Colony, to acquire qualifications in common with the Native and Immigrant classes to entitle them even to the franchise of electing; and the vastly inferior number who can possess the franchise of being elected to any Municipal bodies, or to any Legislative body, that may be granted to this Colony, will not, in our opinion, if continued, interfere with the immediate introduction of those Institutions into this Colony.

And we beg respectfully to submit our opinion, that in consideration of the facts above stated in proof of the beneficial effects of transportation with assignment; as well as in consideration of the destructive consequences that must result both to this Colony, and to other British colonies, from the discontinuance of that system, more particularly during the present sudden and excessive demand for labour, it is highly desirable that it should be continued. And in the event of its continuance, we beg to suggest that the practice partially adopted during Sir Thomas Brisbane's administration, namely, that of levying a charge on certain classes of assigned Convicts, be revived, and extended to assigned Convicts generally: and that a charge, payable by assignees, be levied on each assigned convict of not less than Five Pounds, nor exceeding Ten Pounds; and that the proceeds from such charge be applied, 1st—to cover such portion of the Police, and other similar incidental disbursements required in consequence of the continuance of Transportation with Assignment; and 2ndly—that any surplus from the fund thus derived, be applied in aid of the fund for Immigration purposes.

Finally, we request, that His Excellency the Governor may be pleased to submit this our protest for the consideration of Her Majesty's Secretary of State for the Colonies,

JN. JAMISON,
J. BLAXLAND,
Members of the Legislative Council.

October 16, 1840.

2. Address to Her Majesty the Queen; His Excellency Sir M. C. O'Connell, as Chairman, brought up the Report of the Committee appointed to prepare the Address; Motion made

made, and Question put, that the same be taken under consideration on Friday next; Passed.

3. Mr. Jones moved for leave, further to postpone the consideration of the Motion on the subject of Immigration, of which he had given Notice, until Friday next. Passed.
4. Census Bill; re-committed and further amended; to be read a third time on Friday next, October 23.
5. Masters' and Servants' Act Amendment Bill; read a third time, and *Passed*.
6. The Melbourne Fire and Marine Assurance Company Bill; read a third time, and *Passed*.
7. Debtors in Execution Relief Act Revival Bill; read a third time, and *Passed*.
8. Courts of Requests Act Amendment Bill; read a third time, and *Passed*.
9. Circuit Courts Jury 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.
10. Prisoners' Counsel Bill; read a second time; to be read a third time on Friday next. Council adjourned at Half-past Four o'Clock, until Friday next, at Twelve o'Clock.

ORDERS OF THE DAY,
FRIDAY, OCTOBER 23.

1. Census Bill; third reading
2. Prisoners' Counsel Bill; third reading.

NOTICE OF MOTION.

FRIDAY, OCTOBER 23.

1. Mr. Jones; That this Council take under consideration the Report of the Committee on Immigration, and adopt the following Resolutions founded thereon;
 - (1.) That this Council having had under consideration the Report presented on the 2nd ultimo by the Committee appointed to inquire into, and report on the subject of Immigration concurs, in and adopts the opinions therein expressed.
 - (2.) That this Council especially concurs in the statement of the Committee, that there exists throughout the Colony an urgent and increasing want of working hands, in every branch of industry; that Emigrants readily find ample employment at highly remunerating wages, without the interruption in this mild climate, experienced in colder countries during the winter months; and that even during the worst period of the past severe drought, no persons able and willing to work, found any difficulty in procuring advantageous employment.
 - (3.) That in the opinion of this Council, the high prices of provisions during the seasons of drought, occasionally experienced; are felt rather by the employers of labour than by the servants themselves, it being the practice in this Colony, for Masters to supply their Servants and their families with provisions on a liberal scale, in addition to their wages.
 - (4.) That this Council equally concurs with their Committee, that every department of industry is cramped, and that no undertaking, public or private, can be prosecuted except at great disadvantage, in consequence of the exorbitant rate of wages and the difficulty of procuring Workmen, Servants, or Mechanics, upon any terms whatsoever; and this Council cannot but view with apprehension, the check which must be given to the advancing prosperity of the Colony, unless the urgent demand for labour which exists in every part of the Colony, be promptly and effectually supplied.
 - (5.) That this Council recommends the insertion as a condition in each promise of bounty, that a return be made quarterly, to the Land and Emigration Board in London, of the number and description of persons sent out under it, in order that in the event of the aggregate number proving less than required, ships may be chartered by Government, or other means adopted, to provide for such deficiency.
 - (6.) That in the opinion of this Council, it is highly desirable that all ships in which Emigrants may be brought to this Colony, whether by the Government, or under the Bounty System, should be conducted on Temperance principles.
 - (7.) That in the opinion of this Council, there can be no more advantageous field for the employment of industry than is presented in New South Wales; experience proving, that able-bodied, sober, industrious, and careful emigrants may, within a few years after their arrival, rise from the condition of labourers to be themselves employers of labour; by which process, and by the progressive increase of the flocks and herds of the Colony, a constant demand for additional labourers is created, sufficient to remove all apprehension of a dearth of employment for as many as may arrive.
 - (8.) That this Council would particularly instance the large and increasing sums at the credit of the working classes in the Savings' Bank of New South Wales, as affording a gratifying and striking proof of their prosperous condition, the deposits having increased from £24,469 the amount on 31st December, 1835, to £127,000 on 31st August, 1840.

(9.)

(9.) That in the opinion of this Council, the misrepresentations of the moral condition of this Colony so extensively and industriously circulated in the Mother Country with a view to deter persons from emigrating hither are obviously to every unbiassed mind altogether unfounded, as respects the Emigrant and Native Born Inhabitants, and greatly exaggerated as regards circumstances to the Penal character of the Colony alone, the causes of immorality and inducements to crime being infinitely less amongst a population chiefly engaged in pastoral pursuits and widely dispersed, than amidst the dense population of older Countries.

(10.) That in the opinion of this Council, many important interests of the Mother Country are involved in the maintenance and augmentation of the resources of this Colony,—that Fine Wool may with a comparatively small amount of labour be produced in this Colony to any extent required, the export from hence having increased progressively from 245lbs, the weight exported in 1807, to 6,597,981 lbs. in 1839; and the unbounded natural pastures of the Colony affording the means entirely to relieve Great Britain from her dependence upon Foreign States for the supply of this most important raw material, whilst the climate and soil of the Colony appear likewise well adapted for the production of wine, olive oil, silk, and other valuable articles which cannot be produced in England.

(11.) That independently of the advantage of being relieved from her dependence upon Foreign States for fine Wool, and other important articles of raw produce, which may hereafter be derived from this Colony, great additional advantage must accrue to the Mother Country, from the large consumption in this Colony, of British produce and manufactures, the declared value of which from 1826 to 1839, according to the Official Returns for that period, amounted to more than eight millions sterling, having progressively increased from £280,000, the amount in 1826, to £1,251,969 in 1839; whilst the Exports from the Colony, including the produce of the Fisheries, increased from £106,600, in the former year, to £948,776 in the latter—the total amount being £6,187,530 for the whole period.

(12.) That the trade between the Mother Country and this Colony, together with the Whale Fisheries in the adjoining Seas, also affords a valuable Nursery for Seamen, important in this respect, in proportion to the distance from Great Britain, and calculated to strengthen and secure her Maritime power; and that this field for the employment of British Shipping must increase with the growing prosperity of the Colony; circumstances which appear to this Council, to constitute a strong additional claim, on the part of the Colony, to the fostering care of the British Government.

(13.) That the boundless extent of unoccupied fertile lands in the Colony, embracing every variety of soil and climate, affords a most advantageous outlet for the superabundant population and capital of the Mother Country, and is capable, under careful management, and a judicious application of the proceeds, greatly to assist in providing that supply of labour, upon which essentially depends the progressive and complete development of the dormant resources of the Colony.

(14.) That this Council fully concurs with their Committee, that the system of sale by Public Auction of the Crown Lands, in this Colony, combined with a continuous Survey, as adopted in the District of Port Phillip, is the best mode of obtaining the real value, at the same time that it exercises a beneficial influence upon the welfare of this Community, by enabling the bonâ fide Settler, occupying Lands for Pastoral purposes, to ascertain when they are for sale, and gradually to purchase such portion of them as may be essential to his permanent establishment in the Colony.

(15.) That this Council would respectfully suggest that the continuance of the requisite supply of labour should not be allowed to be prevented by any temporary deficiency of Funds (the reverse of which is now happily the case), as there can be no doubt that in proportion as Emigrants arrive, the demand for Land will increase, and the necessary funds be created; and this Council would therefore express its earnest hope that Her Majesty's Government will, at all times, be ready to assist this important Dependency of the Crown, in a matter so deeply affecting its interests, under a full assurance, that any advances of money, for this vital object, will be certain of immediate re-payment.

(16.) That His Excellency the Governor be respectfully requested to communicate a Copy of these Resolutions to the Right Honorable the Secretary of State for the Colonies.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

FRIDAY, 23 OCTOBER, 1840.

1. Council met pursuant to adjournment; His Excellency the Governor took the Chair, and presented, the Circuit Courts Jury Bill, as amended in Committee, and fairly transcribed; to be read a third time to-day.
2. Library Committee; the Lord Bishop of Australia, as Chairman of the Committee appointed on the 16th Instant, to take into consideration, and to report upon, the means of most advantageously applying the sum voted during the present Session towards the formation of a Library, brought up the Report; from which it appears, that the Committee consider it advisable that attention should be, in the first instance, directed to procure such Books of reference, of established repute, as may furnish Members with means of ascertaining facts and principles connected with the most ordinary subjects of Legislation; also with the most authentic records and documents of an Historical character; and with information regarding Parliamentary History, precedents, and proceedings; National, Colonial, and Commercial Law; Political Economy; Statistics; and such branches of general information, as combined with the foregoing, may enable Members to find within their own walls, that information concerning the various questions in debate, which they are now under the necessity of deriving from widely scattered sources, and generally difficult of attainment. The Committee annex a List of Books which they consider likely to promote the above objects, and to serve as the foundation of a more extended Collection which may be formed hereafter. Committee obtained leave to sit during the adjournment.
3. Address to Her Majesty the Queen; considered in Committee, and the following adopted;

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal Subjects, the Governor and Legislative Council of New South Wales in Council assembled, beg leave humbly to lay before Your Majesty's Throne the expression of the universal abhorrence entertained by this Council, and the Colony at large, of the traitorous attempt upon Your Majesty's sacred life, the intelligence of which has but lately reached this distant part of Your Majesty's Dominions. We hasten unanimously to express to Your Majesty our heartfelt congratulations, that it has pleased the Almighty Disposer of events, to avert from the Nation the calamity with which it was threatened: That under a continuance of the Divine favour and protection, Your Majesty may be long preserved for the happiness and welfare of a loyal and affectionate People, and that Your Majesty with Your Royal Consort may reap the full measure of domestic peace and felicity is our fervent and united prayer.

The Honorable the Colonial Secretary, moved, That His Excellency the Governor as President of the Council, be respectfully requested to sign the same, on behalf of himself and the Council, and to transmit it to the Right Honorable the Secretary of State for the Colonies, with the request of the Council, that His Lordship will be pleased to present the Address to Her Majesty; Passed unanimously.

4. His Excellency the Governor laid upon the Table, "A Bill for the establishment of certain Courts of Civil Jurisdiction, and for the recovery in a summary way of Debts of a certain amount;" Bill read a first time; to be printed, and read a second time, Friday, November 5.
5. Census Bill; read a third time, and *Passed*.
6. Prisoners' Counsel Bill; read a third time, and *Passed*.
7. Circuit Courts Jury Bill; read a third time, and *Passed*.
8. Mr. Jones' proposed Resolutions founded on the Report of the Committee on Immigration, considered in Committee; and the following Resolutions severally moved, and adopted:
 - (1.) Resolved, That this Council having had under consideration the Report presented on the 2nd ultimo by the Committee appointed to inquire into, and report on the subject of Immigration concurs in, and adopts the opinions therein expressed.
 - (2.) Resolved, That this Council especially concurs in the statement of the Committee, that there exists throughout the Colony an urgent and increasing want of working hands, in every branch of industry; that there is ample employment for Emigrants, at highly remunerating wages, without the interruption in this mild climate, experienced in colder countries

countries during the winter months; and that even during the worst period of the past severe drought, no persons able and willing to work, found any difficulty in procuring advantageous employment.

(3.) Resolved, That in the opinion of this Council, the high prices of provisions during the seasons of drought occasionally experienced, are felt rather by the employers of labour than by the servants themselves, it being the practice in this Colony, for Masters to supply their Servants and their families with provisions on a liberal scale, in addition to their wages.

(4.) Resolved, That this Council equally concurs with their Committee, that every department of industry is cramped, and that no undertaking, public or private, can be prosecuted except at great disadvantage, in consequence of the exorbitant rate of wages and the difficulty of procuring Mechanics, Workmen, or Servants, especially Shepherds, upon any terms whatsoever; and this Council cannot but view with apprehension, the check which must be given to the advancing prosperity of the Colony, unless the urgent demand for labour which exists in every part of the Colony, be promptly and effectually supplied.

(5.) Resolved, That this Council recommends the insertion as a condition in each promise of bounty, that a return be made quarterly, to the Land and Emigration Board in London, of the number and description of persons sent out under it, in order that in the event of the aggregate number proving less than required, ships may be chartered by Government, or other means adopted, to provide for such deficiency.

(6.) Resolved, That in the opinion of this Council, it is highly desirable that all ships in which Emigrants may be brought to this Colony, whether by the Government, or under the Bounty System, should be conducted on Temperance principles.

(7.) Resolved, That in the opinion of this Council, there can be no more advantageous field for the employment of industry than is presented in New South Wales; experience proving, that able-bodied, sober, industrious, and careful emigrants may, within a few years after their arrival, rise from the condition of labourers to be themselves employers of labour; by which process, and by the progressive increase of the flocks and herds of the Colony, a constant demand for additional labourers is created, sufficient to remove all apprehension of a dearth of employment for as many as may arrive.

(8.) Resolved, That this Council would particularly instance the large and increasing sums at the credit of the working classes in the Savings' Bank of New South Wales, as affording gratifying evidence of their prosperous condition, the deposits having increased from £24,469 the amount on 31st December, 1835, to £127,000 on 31st August, 1840.

(9.) Resolved, That in the opinion of this Council, the unfavourable representations of the Moral condition of this Colony so extensively and industriously circulated in the Mother Country with a view to deter persons from emigrating hither are altogether unfounded, as respects the Emigrant and Native Born Inhabitants, and greatly exaggerated as regards circumstances attributable to the Penal character of the Colony alone, the causes of immorality and inducements to crime being infinitely less amongst a population chiefly engaged in pastoral pursuits and widely dispersed, than amidst the dense population of older Countries.

(10.) Resolved, That in the opinion of this Council, many important interests of the Mother Country are involved in the maintenance and augmentation of the resources of this Colony,—that Fine Wool may with a comparatively small amount of labour be produced in this Colony to any extent required, the export from hence having increased progressively from 245lbs, the weight exported in 1807, to 6,597,981 lbs. in 1839; and the natural pastures of the Colony affording the means entirely to relieve Great Britain from her dependence upon Foreign States for the supply of this most important raw material.

(11.) Resolved, That great additional advantage must accrue to the Mother Country, from the large consumption in this Colony of British produce and manufactures, the declared value of which from 1826 to 1839, according to the Official Returns for that period, amounted to more than eight millions sterling, having progressively increased from £280,000, the amount in 1826, to £1,251,969 in 1839; whilst the Exports from the Colony, including the produce of the Fisheries, increased from £106,600, in the former year, to £948,776 in the latter—the total amount being £6,187,530 for the whole period.

(12.) Resolved, That the trade between the Mother Country and this Colony, together with the Whale Fisheries in the adjoining Seas, also affords a valuable Nursery for Seamen, important in this respect, in proportion to the distance from Great Britain, and calculated to strengthen and secure her Maritime power; and that this field for the employment of British Shipping must increase with the growing prosperity of the Colony; considerations which appear to this Council, to constitute a strong additional claim, on the part of the Colony, to the fostering care of the British Government.

(13.) Resolved, That the wide extent of unoccupied fertile lands in the Colony, embracing every variety of soil and climate, affords a most advantageous outlet for the super-abundant population and capital of the Mother Country, and is capable, under careful management, and a judicious application of the proceeds, of greatly assisting to provide that

548

that supply of labour, upon which essentially depends the progressive and complete development of the dormant resources of the Colony.

(14.) Resolved, That in the opinion of this Council, the system of sale by Public Auction of the Crown Lands, in this Colony, combined as far as practicable with continuous Surveys, as adopted in the District of Port Phillip, is the best mode of obtaining the real value, at the same time that it exercises a beneficial influence upon the welfare of this Community, by enabling the *bonâ fide* Settler, occupying Lands for Pastoral purposes, to ascertain when they are for sale, and gradually to purchase such portion of them as may be essential to his permanent establishment in the Colony.

(15.) Resolved, That as, in the opinion of this Council, the continued influx of eligible Emigrants, will, in proportion to their number, increase the demand for Land, enhance its value, and replenish the fund applicable to the encouragement of Emigration, no temporary deficiency in its amount (the reverse of which is happily the case at present), should be allowed to interrupt the requisite supply of labour, and this Council would therefore express an earnest hope, that Her Majesty's Government will at all times be ready to assist this important Dependency of the Crown, in a matter so materially affecting its interests, under a full assurance of the certain and speedy reimbursement of any advance which may be made for promoting so vital an object.

(16.) Resolved, That His Excellency the Governor be respectfully requested to communicate a Copy of these Resolutions to the Right Honorable the Secretary of State for the Colonies.

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

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

TUESDAY, 8 DECEMBER, 1840.

1. Council met pursuant to Summons, His Excellency the Governor in the Chair.
His Excellency informed the Council, that the principal reason for his calling them together at present was, his having received a Letter from their Honors the Chief Justice, and Mr. Justice Stephen, representing, that in their opinion, some of the provisions contained in an Act passed by His Excellency and this Council, on the twenty-third day of October last, intituled "*An Act for ascertaining the number of the Inhabitants of New South Wales, in the year one thousand eight hundred and forty-one,*" are repugnant to the Law of England; His Excellency then laid their Honors' Letter upon the Table; Letter to be printed; and the Subject to be brought under review on Thursday next, December 10.
2. His Excellency the Governor laid upon the Table a Despatch from the Right Honorable Lord Glenelg, dated 30 December, 1837, No. 58, requiring certain Statistical Returns; among which, an Abstract of every Census of New South Wales, distinguishing, Convict, those whose sentences have been remitted, or have expired; and Free; distinguishing likewise, in each Class, the age and sex; to be printed.
3. His Excellency the Governor laid upon the Table, "*A Bill for the regulation of Gaols, Prisons, and Houses of Correction in the Colony of New South Wales and its Dependencies;*" Bill read a first time; to be printed, and read a second time on Thursday next.
4. His Excellency the Governor laid upon the Table, a Despatch from the Right Honorable Lord John Russell, dated 6 July, 1840, No. 96, relative to the discontinuance of Transportation from New South Wales and Van Diemen's Land to Norfolk Island, and appointing other places of confinement for prisoners convicted in the respective Colonies; to be printed.
5. His Excellency the Governor laid upon the Table, a Despatch from the Right Honorable Lord John Russell, dated 31 May, 1840, No. 93, relative to the introduction of a new principle for the disposal of Crown Lands without the limits of the nineteen Counties described in the Government Order of 14 October, 1829, and constituting the Old Colony of New South Wales; to be printed.
Council adjourned at Two o'Clock, until Thursday next at Twelve o'Clock.

ORDERS OF THE DAY.

THURSDAY, DECEMBER 10.

1. Census Act; to be brought under review.
2. Prison Regulation Bill; second reading.

NOTICE OF MOTION,

THURSDAY, DECEMBER 10.

1. The Lord Bishop of Australia; That he will move the adoption of the following Resolution;

That this Council, under a serious apprehension of the injury likely to be sustained by the Colony of New South Wales, in regard to its Staple produce and the important interests of Revenue, Commerce, and Population, through the dismemberment of so large a portion of the Territory, now annexed to it, as would be occasioned by the adoption of the limits assigned by the Royal Instructions of 22nd May, 1840, do present a humble and dutiful Address to Her Majesty, soliciting Her Majesty's Gracious re-consideration of the same: and praying that Her Majesty will be pleased to appoint such other limits of this Colony as may secure to it the course of the principal Rivers within the Territory, which have been discovered and explored by the enterprize, and at the expense of the Settlers;

144

Settlers; and, in addition to the nineteen Counties of which it is proposed that the Colony should consist, may preserve the union under one Government of those Districts beyond the present limits of location, which have not only been peopled from this Colony, and occupied by Stock, the property of residents within it, but must always continue united with it by the closest ties of a common origin and interest.

WM. MACPHERSON,
Clerk of Councils.

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

THURSDAY, 10 DECEMBER, 1840.

1. Council met pursuant to Adjournment, His Excellency the Governor in the Chair. Dismemberment of the Territory, and New Regulations for the disposal of Crown Lands; the Lord Bishop of Australia's Motion considered in Committee, and after a discussion of upwards of five hours, the following Resolution unanimously adopted; Resolved, That this Council, under a serious apprehension of the injury likely to be sustained by the Colony of New South Wales, in regard to its Staple produce and the important interests of Revenue, Commerce, and Population, through the dismemberment of so large a portion of the Territory, now annexed to it, as would be occasioned by the adoption of the limits assigned by the Royal Instructions of 22nd May, 1840, do present a humble and dutiful Address to Her Majesty, soliciting Her Majesty's Gracious re-consideration of the same: and praying that Her Majesty will be pleased to appoint such other limits of this Colony as may secure to it the course of the principal Rivers within the Territory, which have been discovered and explored by the enterprize, and at the expense of the Settlers; and, in addition to the nineteen Counties of which it is proposed that the Colony should consist, may preserve the union under one Government of those Districts beyond the present limits of location, which have not only been peopled from this Colony, and occupied by Stock, the property of residents within it, but must always continue united with it by the closest ties of a common origin and interest. Mr. Jones moved that a Committee be appointed to prepare a humble and dutiful Address to Her Majesty, in conformity with the foregoing Resolution; Passed unanimously.

Committee appointed:—

THE RIGHT REVEREND THE LORD BISHOP OF AUSTRALIA,	SIR JOHN JAMISON,
THE ATTORNEY GENERAL,	MR. JAMES MACARTHUR,
THE AUDITOR GENERAL,	
MR. JONES.	

2. Census Act; review of, deferred until To-morrow.
 3. Prison Regulation Bill; second reading deferred until To-morrow.
- Council adjourned at Half-past Five o'Clock, until To-morrow at Twelve o'Clock.

ORDERS OF THE DAY.

FRIDAY, DECEMBER 11.

1. Census Act; to be brought under review.
2. Prison Regulation Bill; second reading.

WM. MACPHERSON,
Clerk of Councils.

THE UNIVERSITY OF CHICAGO

DEPARTMENT OF CHEMISTRY

LABORATORY OF ORGANIC CHEMISTRY

REPORT OF THE RESEARCH WORK OF THE LABORATORY OF ORGANIC CHEMISTRY
DURING THE YEAR 1954

EDITED BY
ROBERT M. COOK

CHICAGO, ILLINOIS
1955

CONTENTS

Introduction

1. R. M. Cook, R. G. W. Norrish, and J. H. R. Taylor, *Journal of Organic Chemistry*, **20**, 100 (1955)

2. R. M. Cook, R. G. W. Norrish, and J. H. R. Taylor, *Journal of Organic Chemistry*, **20**, 105 (1955)

3. R. M. Cook, R. G. W. Norrish, and J. H. R. Taylor, *Journal of Organic Chemistry*, **20**, 110 (1955)

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

FRIDAY, 11 DECEMBER, 1840.

1. Council met pursuant to Adjournment, His Excellency the Governor in the Chair.
Address to Her Majesty the Queen; The Lord Bishop of Australia, as Chairman, brought up the Report of the Committee appointed to prepare that address, of which the following is a Copy:—

TO THE QUEEN'S MOST EXCELLENT MAJESTY;

May it please Your Majesty,

We, your Majesty's dutiful and loyal Subjects, the Legislative Council of New South Wales in Council assembled, in approaching Your Majesty on this occasion, desire to express our entire confidence in the disposition of Your Majesty to promote to the fullest extent the interests of this Colony, and of your Subjects resident therein.

Having had under our consideration the Instructions which Your Majesty was graciously pleased to issue under Your Royal Signet and Sign Manuel, on the 22nd of May, 1840, the purport of which, so far as relates to fixing the boundaries of the Middle District of this Colony, has been publicly notified. We intreat permission humbly to represent to Your Majesty our apprehension that its interests would be affected by the proposed measures in a manner which we are fully persuaded was not within Your Majesty's contemplation.

We desire with great submission, to solicit the attention of Your Majesty to the contracted extent of Sea-coast comprised within the proposed boundaries to which this portion of the Colony of New South Wales would henceforth be restricted; and also to the circumstance (in our opinion of momentous import to its interests) that the present Instructions of Your Majesty would occasion the separation from this Government of several very extended and important Districts; the retention of which we are persuaded is essential to the future greatness and prosperity of the Central Division of this Colony.

We feel assured that Your Majesty's Official Advisers will be made so well-acquainted with the grounds upon which this our unanimous persuasion rests, as to render it unnecessary that we should here state them to Your Majesty. But we trust we may be permitted to observe that, in addition to those objections of a Public nature, which we believe to exist, the proposal to detach from the existing Government those Districts which we have already noticed, and to place them under a totally different system of management, could not be carried into effect, without seriously disturbing the establishments, and deteriorating the properties of a numerous class of Your Majesty's Subjects, our fellow Colonists, who are in the permissive occupancy of the Lands in question, under Licenses, the granting of which has been regulated and sanctioned by Acts of the Governor and Council.

We profess with the utmost sincerity, that we neither entertain any dissatisfaction with the presumed intention of Your Majesty to establish other Colonies on the Shore of Australia, nor should we regard their erection with any feelings of jealousy. On the contrary, we thankfully acknowledge the wisdom of that measure in itself, and are sensible of its tendency to promote the welfare of this portion of the Colony in particular, by affording a more extended vent for its produce. Our sole anxiety is, that at the same time that these advantages are held out to view, the Central District of the Colony may not be dispossessed of the ability effectually to avail itself of them; and the object of our humble Address to Your Majesty is, that the establishment of the contemplated Settlements may be so conducted, as not to encroach upon those boundaries to which it is our unanimous opinion the Inhabitants of this part of the Colony can advance a natural claim, and which, with a view to their benefit, no less than that of the Empire in general, we are persuaded it will be desirable permanently to establish.

The prayer of Your Majesty's loyal and dutiful Subjects therefore is, that Your Majesty will be pleased to take under your gracious re-consideration the Instructions herein

herein referred to by us, with a view to their partial modification in the particulars above expressed. We entreat Your Majesty's goodness to appoint that the Southern boundary of the Central Colony of New South Wales may be a line drawn from near Cape Howe to the source of the River Hume or Murray; and from thence, the course of that River itself until it reaches the 141st degree of East Longitude; and that the Northern boundary may be the 28th parallel of South Latitude from the Sea-coast, to the same 141st degree of East Longitude.

In appealing to Your Majesty for the attainment of a boon so important, we desire, at the same time, to assure Your Majesty of the existence in this Colony of a universal feeling of loyalty and devotion to Your Majesty's Person and Government, and to express on our own behalf, the deep anxiety which we entertain that the prosperity of this, and of all other parts of the British Empire, may be secured under the Dominion of Your Majesty.

Motion made and Question put, that the foregoing Address be taken under consideration on Monday next; Passed.

2. Census Act; Representation of their Honors the Chief Justice and Mr. Justice Stephen, considered in Committee; Act thereupon amended; to be further considered on Monday next, December 14.
 3. Prison Regulation 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.
- Council adjourned at Half-past Four O'Clock, until *Monday* next, at Twelve o'Clock.

ORDERS OF THE DAY.

MONDAY, DECEMBER 14.

1. Address to Her Majesty; to be considered.
2. Census Act; to be further considered.

WM. MACPHERSON,

Clerk of Councils.

149

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

MONDAY, 14 DECEMBER, 1840.

- I. Council met pursuant to Adjournment, His Excellency the Governor in the Chair. The Petition to Her Majesty the Queen, considered in Committee, and the following amended Petition adopted.

TO THE QUEEN'S MOST EXCELLENT MAJESTY ;

May it please Your Majesty,

We, your Majesty's dutiful and loyal Subjects, the Legislative Council of New South Wales in Council assembled, in approaching Your Majesty on this occasion, desire to express our entire confidence in the disposition of Your Majesty to promote to the fullest extent the interests of this Colony, and of your Subjects resident therein.

The purport of the Instructions which Your Majesty was graciously pleased to issue under Your Royal Signet and Sign Manual, on the 22nd of May, 1840, having been publicly notified, so far as relates to fixing the boundaries of the Middle District of this Colony, we intreat permission humbly to represent to Your Majesty our apprehension that its interests would be affected by the proposed measures in a manner which we are fully persuaded was not within Your Majesty's contemplation.

We desire with great submission, to solicit the attention of Your Majesty to the contracted extent of Sea-coast comprised within the proposed boundaries to which this portion of the Colony of New South Wales would henceforth be restricted; and also to the circumstance (in our opinion of momentous import to its interests) that the present Instructions of Your Majesty may lead to the separation from the Central Division of this Colony, of several extensive and important Districts; the retention of which we are persuaded is essential to its prosperity and future greatness.

We feel assured that Your Majesty's Official Advisers will be made so well acquainted with the grounds upon which this our unanimous persuasion rests, as to render it unnecessary that we should here state them to Your Majesty. But we trust we may be permitted to observe that, in addition to those objections of a Public nature, which we believe to exist, any proposal to detach from the existing Government those Districts which we have already noticed, and to place them under a totally different system of management, could not be carried into effect, without seriously disturbing the establishments, and deteriorating the properties of a numerous class of Your Majesty's Subjects, our fellow Colonists, who are in the permissive occupancy of the Lands in question, under Licenses, the granting of which has been regulated and sanctioned by Acts of the Governor and Council.

We profess with the utmost sincerity, that we neither entertain any dissatisfaction with the presumed intention of Your Majesty to establish other Colonies on the Shore of Australia, nor should we regard their erection with any feelings of jealousy. On the contrary, we thankfully acknowledge the wisdom of that measure in itself, and are sensible of its tendency to promote the welfare of this portion of the Colony in particular, by affording a more extended vent for its produce. Our sole anxiety is, that at the same time that these advantages are held out to view, the Central District of the Colony may not be dispossessed of the ability effectually to avail itself of them; and the object of our humble Address to Your Majesty is, that the establishment of the contemplated Settlements may be so conducted, as not to encroach upon those boundaries to which it is our unanimous opinion the Inhabitants of this part of the Colony can advance a natural claim, and which, with a view to their benefit, no less than that of the Empire in general, we are persuaded it will be desirable permanently to establish.

The prayer of Your Majesty's loyal and dutiful Subjects therefore is, that Your Majesty will be pleased to take under your gracious re-consideration the Instructions herein referred to by us, with a view to their partial modification in the particulars above expressed. We entreat Your Majesty's goodness to appoint that the Southern boundary

of the Central Colony of New South Wales may be a line drawn from near Cape Howe to the source of the River Hume or Murray; and from thence, the course of that River itself until it reaches the 141st degree of East Longitude; and that the Northern boundary may be the 28th parallel of South Latitude from the Sea-coast, to the same 141st degree of East Longitude.

In appealing to Your Majesty for the attainment of a boon so important, we desire, at the same time, to assure Your Majesty of the existence in this Colony of a universal feeling of loyalty and devotion to Your Majesty's Person and Government, and to express on our own behalf, the deep anxiety which we entertain that the prosperity of this, and of all other parts of the British Empire, may be secured under the dominion of Your Majesty.

The Lord Bishop of Australia moved, that the Petition to her Majesty, as amended, be engrossed, and that His Excellency the Governor, as President of the Council, be respectfully requested to sign the same on behalf of the Council, and to transmit it to the Right Honorable the Secretary of State for the Colonies, with the request of this Council that His Lordship will be pleased to present it to Her Majesty; Passed.

2. Prison Regulation Bill; presented by the Governor as amended; to be read a third time on Wednesday next, December 16.
3. Census Act; Resolved, that this Council, upon a review of the Census Act, having before them the representation of their Honors the Chief Justice, and Mr. Justice Stephen, as to its repugnancy to the Laws of England, do adhere to the same; but to prevent all misapprehension, that a Clause be added to the Act, by way of Rider, declaring that no person has any power under its provisions to put to any other person any question respecting his or her Civil condition, and that no person to whom any such question may be put, shall be liable to be fined for refusing to answer the same. Additional Clause having been proposed and read a first time on Friday last, now read a second time; to be read a third time on Wednesday next.
4. His Excellency the Governor laid upon the Table a Despatch from the Right Honorable Lord John Russell, dated 28th June, 1840, No. 88, relative to the Financial Statements, and Estimates of the Revenue and Expenditure of the Colony for the year 1839-40; Despatch read, to be printed.
Council adjourned at Three o'Clock, until Wednesday next at Twelve o'Clock.

ORDERS OF THE DAY.

WEDNESDAY, DECEMBER 16.

1. Prison Regulation Bill; third reading.
2. Census Act; additional clause third reading.

WM. MACPHERSON,
Clerk of Councils.

No. 54

VOTES AND PROCEEDINGS
OF
THE LEGISLATIVE COUNCIL.

WEDNESDAY, 16 DECEMBER, 1840.

1. Council met pursuant to adjournment, His Excellency the Governor in the Chair. Prison Regulation Bill; read a third time and *Passed*.
2. Census Act Additional Clause; read a third time, *Passed*, and attached to the Act, by way of Rider, pursuant to the Résolution on Monday last, December 14.
Council adjourned at two O'clock *sine die*

Wm. MACPHERSON,
Clerk of Councils.

