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FORTE NON IGNAVE

Alfred Lee.

CASE \_\_\_\_\_ SHELF \_\_\_\_\_

N<sup>o</sup> \_\_\_\_\_





**PARTY POLITICS EXPOSED,**

**IN A LETTER**

ADDRESSED TO

THE RIGHT HONORABLE

**THE SECRETARY OF STATE FOR THE  
COLONIES;**

CONTAINING

COMMENTS ON CONVICT DISCIPLINE IN NEW SOUTH WALES;

AND EMBODYING

A PARTICULAR ANALYSIS

OF THE

**PUBLISHED EVIDENCE**

TAKEN AT

**CASTLE FORBES,**

BY

**COMMISSIONERS PLUNKETT AND HELY,**

RESPECTING

**THE TREATMENT OF ASSIGNED CONVICT SERVANTS.**

---

BY AN EMIGRANT  
OF 1821.

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**Sydney;**

PRINTED BY ANNE HOWE, AT THE SYDNEY GAZETTE  
OFFICE, GEORGE-STREET.

**1834.**

[Price Three Shillings.]



TO THE

**BRITISH NATION.**

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FELLOW COUNTRYMEN,

THE following observations collected by an eye-witness from the most fearful facts, and exposed in a Letter addressed to the Right Honorable the Secretary of State for the Colonies, are respectfully dedicated to you. Although the Atlantic and Pacific Oceans interpose their broad waves, and separate us ; yet, even at so immense a distance, can the voice of Humanity successfully address itself to your noble and susceptible minds. The Press is free, and through it's medium, the wrongs of your persecuted, though criminal Brethren, languishing in the bitterest bonds of Slavery, are wafted to your sea-girt Shores. To increase the cup of woe for the erring Children of Britain, is said to be the pre-

sent policy of those who guide the helm of her State affairs. Alas! that cup already overflows, as will manifestly appear from a perusal of the following details, which are earnestly submitted for your humane consideration, by

**THE AUTHOR,**

**A BRITISH EMIGRANT TO AUSTRALIA,**

OF THE YEAR 1821.

SYDNEY, NEW SOUTH WALES, }  
1st APRIL, 1834.

TO THE RIGHT HONORABLE

**EDWARD G. STANLEY,**

*His Majesty's Principal Secretary of State for  
the Colonial Department.*

SIR,

When you accepted the Seals of the Colonial Department, the expressions you were reported to have used in the House of Commons (circulated with great avidity by the enemies of the present system of prison discipline in this Colony), gave rise to feelings of great alarm; for the public hailed them as the precursors of a mode of cruelty to the prison population, which every Governor has endeavoured to prevent in those to whom the employment of transported offenders has been assigned.

In a debate in the Imperial Parliament respecting the funds devoted to the support of the Convict Establishments at Bermuda, a portion of the Public Press of this Colony has attributed to you the following expression:—" *that arrangements would be made to render the punishment of transportation worse than death!!!*"

The Executive power in this Colony, in attempting to impose restrictions upon the sanguinary dispositions of numerous Colonists, has, particularly since the establishment of the *Herald* newspaper, created much excitement; not only among those whose conduct has bordered on the ferocious, but even with such as have violated no christian principle in the treatment of their assigned servants. This pervading sentiment can be traced to a fancied interference by the Government with the prerogative of the settler, in exacting *labour* alone from the prisoner, without bestowing the least attention upon his moral *reformation*. These two opposites in the Colonists' vocabulary are wholly irreconcilable—considering, as they in common do, that the

prisoner is placed in their custody for the purpose of punishment alone, they view any system of discipline which contemplates another object, as destructive of their authority, and generating the seeds of immediate and dangerous disobedience. As the mode of transportation now operates, the punishment of offenders is of a very *unequal* character, and in many instances calculated to defeat the objects of philanthropy—*reformation*,—by sacrificing humanity at the altar of vengeance. If the Government should resolve to increase severities, already too often destructive of the best feelings and hopes of offenders, it will I think be found, when a remedy can hardly be applied, that evils have accrued, and a bitter spirit of hatred been excited, which, while it may not for years affect the security of the Government, may be planted as the germ of future disobedience, and even at the present moment, endanger the public safety by driving numerous desperadoes into the woods to pillage the Colonists. There is here, a strong and general sympathy felt among all classes, when a solitary instance of severity is exposed, beyond that which the good of the community demands, towards prisoners arriving in a strange and distant land, heart-broken for that they have left for ever, and separated from those domestic ties, the pleasures of which they are destined perhaps, never more to enjoy. I ask Sir, with all possible respect, if such men are immediately doomed to labour in chains (for this is now the punishment to be meted out to secondly convicted offenders), under the fiery rays of an almost vertical sun—spurned by low merciless overseers—scourged for a single look of resentment by Magistrates, accustomed in many instances to use the lash upon human flesh with less reluctance than upon their stubborn bullocks,—to what must the system lead? I answer Sir, unhesitatingly—to extensive bushranging.

Suppose, for the sake of argument, that punishment alone was to be the characteristic feature in prison discipline, allow me to enquire, in what respect would it benefit our state of society? What severity in this land can control the vicious passions and depraved natures nurtured in another? Does not the scaffold seem to possess sufficient horrors to

appal the most reckless mind?—and yet in what instance has it's terrors operated as a bar to the commission of acts of daring atrocity? Were a thousand victims to suffer death to-day for a crime, it would not deter others from heedlessly rushing into the same vortex to-morrow. This, Sir, is an incontrovertible fact, established on the broad basis of experience.

Can the people of England imagine that the prisoners here are comfortable? If they do, they cherish an idea which their better sense ought to teach them to abandon; for thousands, whose bosoms are capable of nourishing the sentiments of refinement, are languishing at this moment in Australia in broken-heartedness, without one solitary gleam of hope to encourage them in their miserable pilgrimage. And yet such persons will frequently tell their European friends that they enjoy prosperity; a representation seldom indeed correct, and mainly attributable to that natural proneness which even the most wretched man involuntarily feels to lull the fears of his relations. Perhaps, also, in contrasting his individual situation with that of others in the circle of his companions in adversity, he cheers himself with the reflection that he is rendered subject to some solitary instance of lesser misery than his wretched associates. These representations men in England too incautiously seize upon as the only ground for repudiating the inefficacy of banishment with penal consequences. With the view, therefore, of more distinctly removing opinions of this description, I will shew you, Sir, the exact condition in which the prison population of this Colony now stands, classified according to colonial custom.

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### EDUCATED CONVICTS.

Until, I believe, the arrival of General Darling, there was no classification of prisoners attempted: it therefore devolved upon that Governor partially to carry this measure into effect; and I take the freedom of quoting largely from one of the letters of a writer in the *Sydney Gazette* of 11th February, 1832, subscribed "*An Independent*," on this subject, to which I beg to call your serious attention.

"He (the Governor) depended for the success of his experiment upon the maxim that where education has been implanted, morality may slumber, but

" never die."—" Hence the distant settlement of Wellington Valley became  
 " the retreat of the decayed, erring fashionables, where they were placed  
 " under the care of that fatherly and humane Gentleman, Mr. Maxwell,  
 " whom every party in the Colony cannot fail to eulogise, whether in private  
 " life, or in the exercise of his public duty; and adverting to simple and  
 " incontestible facts, I believe I can satisfy the most sceptical opponent, that  
 " the result was extremely favourable; for, on a trial of thirty prisoners thus  
 " selected, not more than *one* has incurred a colonial sentence since the classi-  
 " fication was carried into effect. The privations consequent upon their  
 " seclusion from the vices and blandishments of Sydney, enabled them to  
 " appreciate the real want of that liberty, and those rational enjoyments which  
 " were once within their reach: on their return to society, they feel, as we  
 " have seen, a livelier interest in the blessings of domestic felicity, and enter-  
 " tain a more exalted view of the invaluable attributes of honesty. During  
 " former Governments, as well as during part of General Darling's adminis-  
 " tration, men of education suffered the most degrading punishments and  
 " privations without any adequate causes; equal, nay exceeding that to which  
 " the most abandoned ruffian was subject. I say worse, because the majority  
 " of Overseers of Clearing and other Gangs, under whom they were placed  
 " on their arrival in the Country, had sprung from the lowest orders, and had  
 " acquired a brief authority here, by acts of base and willing subserviency,  
 " bribery, and fraud. The extent of their power was in reality uncircum-  
 " scribed: their word was as the laws of the Medes and Persians, which  
 " 'altereth not.' Punishment, in fact, followed as certain as the threats they  
 " uttered:—having the support of their superiors, they naturally joined with  
 " avidity in depressing men under their control, who had moved in a higher  
 " sphere, or who possessed superior knowledge and habits to themselves.  
 " The intelligent and liberal portion of the people deplored the existence of  
 " such wanton abuses of authority, and gave General Darling full credit for  
 " the judicious distinction which he thus attempted to establish."

At this Establishment the educated prisoners were, I learn, occupied in manual labor apart from the other class; and since the Government abandoned Wellington Valley, the Settlement of Port Macquarie has been selected for their probationary residence.—If the system of General Darling be carried into operation by the Authorities there, with the same discernment as marked the superintendence of Mr. Maxwell, I make no doubt but that those men will, after a proper knowledge of the condition into which crime has placed them, return to society, as good members: but I would respectfully press upon the local Government the propriety of holding forth a stimulant, by rendering their removal solely dependent upon a certain period of uninterrupted good conduct. I am, Sir, decidedly opposed to that degree of severity which nourishes despair. The law exacts a fearful tribute by banishment,—seclusion from civilized

society,—and the various mortifying sufferings and restraints to which both classes of prisoners here are liable in a greater or lesser degree. It is only necessary to carry matters to dire extremes, when offences or motives justify the means employed to punish.—To tell a man who shews a manifest wish to reform, “ You are a convict—the law will punish—“ and if you perish during the ordeal, you are the property “ of the law—you shall not amend,” is a mode of dispensing justice without mercy, contrary to the established principles of British jurisprudence, which I can never learn to commend. But I am afraid you will be apt to suppose that the educated prisoners enjoying the favour of the Government form a numerous body. Be not deceived. I have taken the trouble of ascertaining the number now in Sydney holding temporary indulgences, the result of uniformly good conduct, and they amount to *five*, not one of whom has ever been placed before a Magistrate for the slightest offence. You, Sir, may collect from this fact, that the class of intelligent convicts is scattered over the country. It is preposterous to speak of Ironed Gangs, as some parties have recommended for such men on their arrival in the Colony : a system more refined in barbarity cannot be devised, and will, I trust, never be sanctioned. It’s tendency would be, to render desperation more desperate, and awfully to increase the catalogue of human suffering and crime.

Before concluding my remarks upon educated prisoners, I take leave to observe, that it may be well for some of the gay Dons of the Mall, and the exquisite Loungers of Regent-street, to know, that here they must exchange the reins of the sporting tandem for the bullock’s bridle ; the prancing charger for the stumbling stock horse ; and enjoy the felicity of a sheet of bark, and a rough-woolled blanket, in lieu of a bed of down.— Contemplate yourselves, ye Stars of the Western Metropolis ! under the boughs of a swamp-oak, washing a canvas shirt—turning the quill into a hoe or an axe—your countenances rendered brown as a nut with the rays of a fierce, scorching sun —and ask yourselves whether the temporary gratification of vicious passions can compensate for the degradation and misery into which a single step in the path of crime may irrevocably precipitate you.

The other class to which I have now to draw your attention, are the

### UNEDUCATED CONVICTS.

As there is a very great difference in the natural dispositions, and previous habits of men, so ought there to be degrees and modes of punishment to answer such differences. I admit that a comprehensive application of any such rule of correction would infallibly be attended with extreme difficulty, but still the system is capable of extensive improvement, and ought not to be abandoned because the duty is perhaps prospectively laborious. Some men will say that the punishment of criminals ought to be similar in every respect, because they have erred. I envy not minds that entertain such sentiments; will they be defended upon any principle that the same discipline is commendable, when it applies with equal force to a man, hitherto moving in respectable circles, well educated, and retaining about him a self-respect, unimpaired amidst all the vicissitudes to to which he has been liable: and to the hardened offender, cradled in infamy, and reared to habits of black enormity, wholly insensible to any emotion beyond that which proceeds from the gratification of the grossest passions? Besides, can it be necessary that the pickpocket, burglar, and worse than all, the beastly unnatural offender, should be placed on a level with the poacher, smuggler, or other unfortunate, suffering under a solitary instance of criminal error? Certainly not. The labour to which convicts in general are placed, particularly those of the uneducated class, consists either in clearing timber, and otherwise preparing land for cultivation, or in being employed as domestic servants. It may perhaps occur to you, Sir, as very probable, that the hardships of such an employment are not sufficiently severe on those who have committed crimes, since many of them have been accustomed to such occupations; but it is in the restraints imposed by the Local Government, and the proneness of masters to consider convict servants as less entitled to the exercise of a humane disposition than the animals around them, that the punishment consists. Yet the labour itself is severe, from it's unremitting duration; the heat and variation of the climate; and the insufficiency and bad quality of the food; the ration being pretty generally, one

pound of beef, and one pound of bread per diem, with, in some instances, a trifling occasional allowance of tea and sugar. The former article of provision is frequently unwholesome, from being putrid by reason of imperfect curing, and moreover the refuse of the carcass; and the latter consists of a better sort of pollard, containing barely sufficient farinaceous substance to keep body and soul together.

(This fact is established by the condemnation, as putrid and unwholesome of a whole ship's cargo of salted beef forwarded from Sydney a short time since, for the support of about 700 convicts at Moreton Bay, who, in consequence of it's total unfitness as provision, were reduced to a state bordering on starvation, until a supply could be forwarded from Head Quarters. One of the Commissariat Officers it is publicly said, is a partner in the contract for these scandalous supplies of unwholesome provisions, and through whose influence they are received into His Majesty's magazines.)

Should a single act of remissness of labour occur (and a bare suspicion of intention is proof of actual offence, according to the charitable lexicon of the settler), the prisoner is made to suffer an infliction of the lash; and I can assure you Sir, from personal observation, that it is not uncommon to see a poor wretch working on the roads, or labouring in the fields with his coarse shirt sticking to the green and tainted flesh of his lacerated back, and that too, for the most venial offence—the bare neglect of an order—a word of insolence or disrespect (and a sour look is so construed) are held to be sufficient grounds for awarding corporal punishment.

I have it from unquestionable authority, that it frequently occurs in the summer season, that the eggs of the blue-fly become inserted and hatched in the wounds of the punished offender, from which they are occasionally extracted by some humane companion; but I cannot more aptly explain to you the lamentable condition of the generality of the prison population, than by quoting the editorial comments of the *Sydney Gazette* of the 20th November, 1830, assuring you, Sir, that the punishment therein described has not abated,

unless in the substitution of 25, or 50, for 100 lashes in cases of trifling neglect, notwithstanding the vehement complaints of the *humane* Gentlemen resident on the banks of Hunter's River. In the publication referred to, it is observed, that

“ The prisoners of all classes in Government are fed with the coarsest food ; governed with the most rigid discipline ; subjected to the stern, and frequently capricious and tyrannical will of an Overseer,—for the slightest offence—sometimes for none at all,—the victim of false accusation—brought before a Magistrate, whom the Government has armed with the tremendous powers of a summary jurisdiction, and either flogged or sentenced to solitary confinement, or retransported to an Iron Gang, where he must work in heavy irons, or to a Penal Settlement, where he will be ruled with a rod of iron. If assigned to a private individual, he becomes the creature of chance. He may fall into the hands of a kind and indulgent master, who will reward his fidelity with suitable acknowledgments ; but in ninety-nine cases out of a hundred he will find his employer suspicious, or whimsical, or a blockhead, not knowing good conduct from bad, or a despot, who treats him like a slave, cursing and abusing, and getting him flogged for no reasonable cause. He may be harrassed to the very death. He may be worked like a horse, and fed like a chameleon. The master, though not invested by law with uncontrolled power, has yet great authority, which may be abused in a thousand ways precluding redress. Even his legal power is sufficiently formidable. A single act of disobedience—a single syllable of insolence—is a legitimate ground of complaint before the Magistrate, and is always severely dealt with. But, besides the master's power, the prisoners are in some measure under a dominion to the free population at large ; any man can give him in charge without ceremony. If seen drunk—if seen tippling in the public-house—if met after hours in the street—if unable to pay his trifling debt—if impertinent—the free man has nothing more to do than send him to the watch-house, and get him punished. The poor prisoner is at the mercy of all men.”

Is this leniency ?

There is, Sir, I submit, no theory more fallacious in practice, than that which solely relies upon severity of treatment for the moral improvement of offenders. The contrary axiom has been adopted after years of painful experience of the workings of the penal codes throughout Europe by men above every prejudice ; who are guided in their investigations by the noble and solid intention of mitigating suffering humanity from unnecessary debasement and cruelty, while the protection of society from the demoralizing examples and acts of atrocious men, is also brought within the range of their philanthropic enquiries. By such

men, Sir, it has been contended as a fixed principle, that whether as applicable to the Penitentiaries or Hulks, or to the numerous Prison Houses in Australasia, “the great ends of penal legislation are wholly defeated by blind severity, as a means of leading to the suppression of crime.”

I shall, Sir, in the sequel, have occasion to lay before you instances of barbarity, unknown to European society in the present century—cruelties that might even blanch the cheek of the veriest slave-master; the thought of which will excite a sympathy in English bosoms, throwing the crimes of individuals entirely in the shade, and exhibiting them as objects of barbarous persecution, entitled to the treatment of, at least, English convicts, if not fellow-men who have lost, for a time, the rights of British subjects. In the course of this display of fact and horror, it may become necessary to allude indirectly to some of the parties implicated: a direct charge would involve me in all the perplexities of litigation; and under these circumstances, though I am precluded from holding up to public execration particular parties, this, I am confident, will not derogate from the credit to which this exposition is entitled. The facts are notorious; and where it is desirable, I will accompany my statement with collateral evidence. But before even entering upon a field so pregnant with incidents of dire atrocity, I crave, Sir, your permission to give an outline of the political machinery by which the Press in this Colony is worked and controlled. Holding a command of great influence over the passions of civilized society, those who respect the Press, as giving a limit to the progress of rapacity and ambition, feel disgust when it’s profligacy degenerates into the hands of fierce partizanship, and when the national dignity or interests are compromised for foul objects of personal animosity and individual degradation. In no Colony under the British Crown has the fury of party acquired such an ascendancy and influence as in this. Religion, morality, and the best feelings of nature have been outraged by it’s virulence—the domestic circle shamefully violated—established authority traduced—and now, alas! to close the fearful catalogue of ills which have fallen from this “*palladium*,” we have the thunders of the Press

directed against mercy, and an attempt made to introduce a sanguinary code of laws to debase and fetter thousands of prisoners—annihilate *hope* for ever—and present the children of British parents in all the odious lights of slavery;—not, Sir, to strike terror into the vile, who revel amidst dissipation and crime in England, but to reduce the prison population here to the lowest possible standard which degraded humanity is capable of enduring, in order to command manual labour upon the same tenure as the Colonists hold their horses and cattle. This change in sentiment has been produced within the last few years. *The Sydney Herald*, basing it's popularity and success upon the Emigrant portion of the community, is the first to seize upon every petty circumstance to disseminate a belief that the prison population is under no control, and that a system of extreme coercion is necessary to prevent our streets from becoming the scenes of tumult and blood. When I shew you, Sir, that this journal is under the guidance of certain disaffected individuals opposed to this Government, and when I moreover allude to the notorious fact, that it's proprietors are merely nominal editors, whose capacities are below mediocrity, you will perceive that the *Herald* is a party paper, devoted to the caprice of individuals, and it's assumed independence entirely devoid of truth. Some months ago, the settlers in the district of Hunter's River, imagining that insubordination (a word to which they give a thousand interpretations) had appeared among their assigned servants, the *Herald* was the first to sound the tocsin of alarm, and to magnify every offence into an act of open insubordination, until defeated by the united voice of the people in other districts;—the compunction of some persons who had been persuaded to sign a Petition, grounded on the grossest fallacy, praying the Governor for protection, and at the same time advising the abrogation of a local enactment, which had justly deprived the Magistracy of exercising certain extensive powers they had previously possessed in their summary jurisdiction;—and last, though not least, the result of a public enquiry, which drowned, with indignant reproach, the base misrepresentations of the disaffected, and almost disloyal agents of the scheme.

I point out the political bias of this journal, because I feel convinced that it will be referred to as corroborative of the lamentable state of immorality which is alleged to exist here. As descriptive, however, of the real manners of the inhabitants—or as portraying the sentiments even of that class whose interests it professes to advocate—it cannot be received as evidence; for though many would desire, like it, to establish distinctions, odious in themselves, and destructive of that amalgamation of society which all men of sound honor and discrimination look to as best calculated to advance the real and true interests of the Colony,—yet the great body of Emigrants, reconciled to social intercourse with the Emancipists, both by mutual obligations, intermarriages, and the thousand other civilities incident to a limited society, repudiate even the implied *wish* to detract from, or perpetuate the recollections of, the former state of the Emancipists. The Petition from the “Hunter,” above alluded to, proceeded from the following cause:—

In March 1832, an Act passed the Legislative Council of this Colony, limiting the hitherto uncontrolled power of the Justices in administering punishment for certain offences, therein particularly described. The extraordinary scourgings which the Magistrates were accustomed to order, had excited in the minds of all men the greatest detestation, and this Act was received by the Colonists with cordial demonstrations of approval. For a time no symptom of discontent was exhibited. Confidence between the Governor and governed was not disturbed, until His Excellency brought the conduct of a Mr. Bingle under review for inviting a friend, his guest, to hold a Court in his parlour, to try certain of his assigned servants, and deal out severe punishment. This unconstitutional mode of truckling with justice, produced a merited censure. Mr. Bingle appealed to my Lord Goderich, who approved of the Governor’s conduct, and hence the almost immediate preaching up a crusade against the pretended inefficacy of his measures, and hostility to his government by the partizans of undue

severity, as the only probable mode either of driving His Excellency into a dilemma by which they might profit to his disadvantage; or of inducing a change of his confidential advisers, for others more congenial to their private wishes. The Governor allowed their party virulence and animosity to come to maturity in the shape of a bantling *Petition* for protection, upon the imputed ground that "insubordination" raged among the assigned servants of the Colonists generally, in consequence of the *limited* punishments which the law had provided. The Governor in this instance foresaw the unworthy aim of the Petitioners, and acted with sound judgment, in addressing Circular Letters to all the Benches of Magistrates in the Colony, calling upon them to report specifically on the degree of corporal suffering endured by prisoners in those cases, which the Petitioners impugned as lenient. The result, as anticipated, was such as to convince the Executive and the Country that the *Petition* was wholly groundless.

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(“ CIRCULAR. )

“ No. 33-48.

“ *Colonial Secretary's Office, Sydney,*  
 “ 16th October, 1833.

“ SIR,

“ In consequence of two petitions presented to the Governor and Legislative Council a few days before the Council terminated its last Session, in which petitions, it was amongst other things stated, that the amount of punishment to which Justices of the Peace are empowered by the Colonial Act, 3rd Gul. IV. No. 3, to sentence convicts in a summary way was too small, and that the instrument directed to be used in inflicting corporal punishments was so inefficacious as to cause the power of the Magistrates to be derided, the Governor was pleased to command me, on the 21st August last, to address a Circular letter to the several Police Magistrates in the Colony (a Copy of which is annexed), directing them to superintend personally, all corporal punishments inflicted in their districts, during the ensuing month of September, and to report the amount of bodily suffering which the infliction appeared to produce, when properly administered with the standard instrument issued by the Principal Superintendent of Convicts, in accordance with the intimation given to the Magistrates of the Colony in my Circular letter of the 18th May last, and further to report their opinion, whether such infliction appeared to them a sufficient punishment for the offences which, by the afore-recited Act, are directed to be punished with fifty lashes.

“ His Excellency now deeming it important, that all the Justices of the Peace in the Colony should be informed of the result of this enquiry, I am

" commanded to transmit to you Copies of the letters and Reports of the  
 " Police Magistrates which have just been received. The conclusion to be  
 " drawn from a consideration of these documents, is necessarily this:—that  
 " both the measure of punishment authorised by the law, and the instrument  
 " for inflicting it, are sufficient for the purposes intended. These facts are  
 " established by the quantum of suffering endured by the criminal when the  
 " punishment is *duly administered*, and by the gratifying assurance of the  
 " peaceable conduct of those persons for whose coercion the law has been  
 " passed. At Hyde Park Barrack, where punishments have been inflicted  
 " strictly according to regulation, the Superintendent reports, that in many  
 " cases where fifty lashes were ordered by the Court, twenty-five would, in his  
 " opinion, have been a sufficient punishment; and it is suggested by this active  
 " and intelligent Officer, that the sentence should be reduced. In several  
 " other Districts the punishments are represented to be fully sufficient. In  
 " those where it appears to have been less effective, the cause is to be found in  
 " the disrepair of the instrument; or, in the negligence, or possibly the cor-  
 " ruption of the executioner. Against accidents or abuses of this sort, the  
 " vigilance and superintending control of the Magistrates should have pro-  
 " vided a prompt remedy; and it is not too much to say, that it is within the  
 " power, not only of every Police Magistrate, but of every Gentleman holding  
 " a Commission of the Peace in the Colony, to render the corporal punish-  
 " ments which he commands in due course of law, to be as efficiently admi-  
 " nistered in the place for which he acts, as similar punishments are at Hyde  
 " Park.

" The sufficiency of the law, and of the instrument of corporal punishment  
 " in all cases where proper superintendence is exercised, being thus estab-  
 " lished on unexceptionable evidence, His Excellency need hardly point out  
 " to you how inexpedient, how dangerous it would be, by any new legislative  
 " enactment, to add to the severity of either; merely because, in some in-  
 " stances, the wholesome rigor of the existing law has been impeded by a  
 " negligent or corrupt execution. In reading the Reports which have been  
 " presented, the Governor could not fail to observe, that where punishments  
 " have been duly inflicted, the power of the Magistrates has been any thing  
 " but derided. Whilst perusing those painful details, His Excellency has,  
 " indeed, had abundant reason to lament that the use of the whip should, of  
 " necessity, form so prominent a part of convict discipline in New South  
 " South Wales; but believing it to be unavoidable, the Governor must rely on  
 " the activity and discretion of the Magistracy for ensuring its wholesome and  
 " sufficient application.

" I have the honor to be,

" Sir,

" Your most obedient Servant,

(signed)

" ALEXANDER M'LEAY."

Added to the foregoing, we have the united testimony of  
 every other district, that the prison population was under

proper control, and perfectly obedient. The *Sydney Herald* it is true, published an account of a contemplated rising at Goulburn, with threats of attempted firing of property, doubtless in order to aid the "hue and cry" of the faction with whom they had evidently coalesced; and circulated from time to time dreadful *alarms* of general disaffection of the convicts, which, on enquiry, were either discovered to be totally *false*, or of so trumpety a nature as to merit the contempt both of the Government, and the public at large.

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" Goulburn, 8th October, 1833.

" SIR,

" I have the honor to acknowledge the receipt of your letter of the 26th ultimo, with reference to an article in the *Sydney Herald* newspaper, of the 23d ultimo, which states that a Rockite or incendiary notice had been affixed upon some estate in Argyle by the convict servants, and requesting me to take measures, by enquiring amongst the Magistrates and others of the District, whether the statement alluded to has any foundation in truth.

" In answer, I beg to inform you, that, after every enquiry, I find the said statement has no foundation in truth, as I cannot suppose it can bear any allusion to a placard that had been affixed on Dr. Gibson's farm five months since, and which was viewed as solely pointing at that gentleman and myself, but of so contemptible a nature as never to have given me a second thought.

" No disposition to acts of violence or incendiarism, on the part of the convicts, has been manifested in the Southern Districts; nothing of the sort could take place without my knowledge.

" Indeed, upon all well-regulated estates, the convicts have given as little trouble during the present, as in former years: so far as my own establishments are concerned, I can say only one of my assigned servants underwent punishment for the last nine months, and that case was for making away with his bed and bedding.

" I have the honor to be,

" Sir,

" Your most obedient Servant,

(signed)

" L. MACALISTER,

" Lieutenant Mounted Police."

" *The Honorable the Colonial Secretary.*"

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Discomfiture has rendered the faction morose and vindictive in their temper, and conceiving that an honourable submission to affronted authority, is less dignified than an

unjust resistance against it, they have again taken the field, and consigned their second foster-child, in the shape of a Petition, to the Home Authorities, praying the Governor's removal, with every circumstance of petty pomp and noise, to the navigation of Sir William Edward Parry, who cannot but smile in derision at their cupidity, knowing as he does, how unpopular and unjust their complaints really are, and that the Magistrates hold an antidote in their own hands to every one of the evils complained of, namely—the efficient exercise of the law as it now stands.

You, Sir, will naturally ask, in which way is it possible to remedy those dangerous and accumulating grievances; to relieve the Government from abject submission to the presumptuous dictation of honorary Magistrates; and yet preserve the public tranquility from any of those convulsions incidental upon sudden changes, on the other. I admit the value in the aggregate, of magisterial services, particularly many years ago, when the country possessed but few enlightened Colonists to administer justice. From obedient ministerial officers, they are now however, become more or less disposed to blend party politics with the discharge of duty; and to withhold a vigorous administration of their functions, in order to attain the abolition of laws and orders which they consider as clashing with their private interests, and political feelings. To keep such a body in humour, the dignity of the Crown must be compromised, or it's authority vindicated by the adoption of a severe and necessary course, which this Government is censurable for not having pursued the moment it perceived the growth of partizanship, opposed to it's prerogative. Had Governor Bourke issued a new Commission of the Peace, and manifested his just displeasure by excluding the names of the factious, and disobedient persons who still hold office, the hydra would have been strangled in it's birth. Toleration is construed into impunity, and waxing strong by means of this inaction—disrespect towards the local Authorities is openly manifested—their opinions treated with contempt—and reference about to be made to you, in England, for

redress of grievances, the existence of which, *a deliberate enquiry upon the spot, has failed to discover.* I recommend, Sir, strongly for your consideration, in the present position of affairs in the Colony, the propriety of nominating stipendiary Magistrates to preside over the interior Courts of Petty Session. To insure confidence in their integrity, and to preclude the possibility of interested motives being assumed as possessing a control over their decisions, I respectfully urge the expediency of administering an oath of office, binding these Magistrates to hold neither land nor stock; nor engage, either directly or indirectly, in any agricultural or other occupation, while holding their public situations. This would correct the evil. It would eradicate the cancer which now gnaws the root of public tranquility, embarrassing the Executive Authority, and splitting the Colonists into parties, who buzz about in all directions, exciting fears in order to obtain the *good* old days, when despotism prevailed, without one man being bold enough to charge the foul monsters with startling inhumanity. From the anxiety evinced by the Hunter's River petitioners to increase the summary jurisdiction of the Magistrates, and to lend the decision of a single Justice, all the respect and authority of a full and constituted Bench, a cursory observer could see little to be dreaded, but would at once accede to a request so moderately, and ingeniously urged. Convicts, Englishmen would reason, have been driven beyond the pale of the law for their crimes, and it behoves the Authorities, for the sake of example, to hold them up in all the horrors of degraded servitude—but, Sir, English convicts carry along with them a recollection of what they have been, and will not crouch under the sullen brow, and upreared arm, raised to brutalise their natures. Experience, in this Colony, has proved, that rather than continue subject to degradation in it's harshest form, the prisoner will either seek the life of his oppressor, or fly to the woods, and perish on the scaffold, for enormities committed there; and he courts this fate, as kindly relieving him from afflictions beyond human endurance. What additional severity do the

settlers require? If a convict neglect, or even rest from his labour, he is flogged—if he speak disrespectfully to a master, or an overseer, he is flogged—if he quit without permission his master's farm, he is flogged—if he do any thing which in *free* men would not be noticed, twenty-five or fifty lashes are dealt out to him with all imaginable indifference,—and yet, as if the cup of human misery were not sufficiently full, the *merciful and benignant rabble* of settlers on the Hunter, desire power to administer for any of those petty offences, two hundred or five hundred lashes, as it may suit the caprice of their *High Mightinesses* to order.

There is, Sir, another object which has created much chagrin among the Magistrates—namely, the withdrawal of that protection or indemnity which the Government used formerly to extend on all occasions for acts, even of the most flagitious kind, professed to have been performed in the execution of their office. The disgrace which this entailed upon the administration of General Darling, will be borne in remembrance by the Colonists, when the other gross acts of his misgovernment will be forgotten. It was the fertile source of disturbance and oppression, because the responsibility of the Magistrate was merely nominal. The public purse was at his service. This of itself ought to convince the Government that the present Magistracy is most injudiciously upheld; and that holding mere honorary appointments—anticipating embarrassment from their whims or dictation—and assuming an authority which neither their services nor their weight justify—these circumstances conjoined, point out the absolute inexpediency of relying for co-operation in the enforcement of local laws from men, who have so many seeming grievances to goad them on to obstinate resistance, or crafty evasion of their prescribed duties. But the evil does not even terminate here. Neither the convict nor his master has faith in the Magistracy as a body; and why should they, when such disgraceful acts as have hitherto been exposed, are either justified or palliated by them? They desire it to be pronounced lawful for one Magistrate to invite another to dine, and while carousing,

like fiddling Neroes, order a few convicts to be scourged in the yard, as a sort of accompaniment to their banquet: in the house “the feast of *reason!* and the flow of *soul!*”—in the yard, the feast of *flogging*, and the flow of *blood!*

You, Sir, will say that this severity cannot be just: but I have seen men for mere venial offences scourged till the blood has dripped into their shoes; and I have seen the flesh tainted and smelling on a living human body, from the effects of severe flagellation; the very maggots writhing about in a wretch’s flesh—and for what? Not for robbery, nor violence—not for a crime that threatened dangerous consequences to any one—but upon the charge of an Overseer that the prisoner neglected his allotted task. In this miserable condition is a convict obliged to labor. The Colonist considers that he is made of sterner stuff than other mortals—and sterner he must be to labor in the fields, exposed to a burning sun, with his back literally raw. After being flogged, he must instantly again to the field—for him there is no compassion. This is but a feeble picture of the terrific system which Governor Bourke has partially corrected. He has attempted to apportion punishment to crime; “but no,” say the Gentlemen of the Hunter, “you must leave a discretion in us to do as we like.” If the Governor were to abide by their decision in such matters—if he shewed any disposition to parley with persons in whom ambition and misrule have taken deep root, his administration would be pointed at as one of imbecility, and the respect due to his station become a bye word and a mockery.

You may suppose, Sir, that the great body of the Colonists who subsist by agricultural occupations are decidedly inimical to the measures of the Government, and acquiesce in those violent Petitions to which I have already alluded. The writer must have become dead to all sense of truth who would advance such a declaration. Discontent is limited to the Petitioners alone; aided they undoubtedly are in all their movements by two or three Members of the Legislative Council, whose wrath has been kindled against the

Governor for the liberal view entertained by him on the great point of Trial by Jury—a point which some few of the principal leaders of the cabal or faction contended ought never to be yielded to the Emancipists. They preach a total and irrecoverable proscription of civil immunities to this body: and were it not that the laws interposed protection, the Emigrant, in some cases, would strip the freed Colonists of their possessions, and doom them to perpetual persecution or servitude. Those men, nurtured in ideas of exclusion, the moment they found His Majesty's Ministers disposed to equalize the rights of both parties, denounced the measure as hazardous; and a man, named "Campbell," indulged his *gentlemanly* spleen upon one of the wealthiest Emancipists in the Colony, by a public and insulting appeal to our Supreme Court, from the Jury Box; an act of unparalleled impudence and ignorance, which called forth the indignant rebuke of the presiding Judge, as well as the condemnation of every liberal mind. This party it is, who rankling after defeat, and anxious to decry the salutary operation of the Jury Act, at this time head the malecontents, actuated by various motives spring out of all, or either of the causes I have pointed out.

The next observations I proceed to address to you are, respecting the

#### EMANCIPISTS AND EXPIREES.

On reference to the report of Mr. Commissioner Bigge, it will be observed that this body has, almost from the establishment of the Colony, had to contend with the prejudices of a portion of the Free Emigrants, who resisted, and still continue to resist by every means in their power, the advancement of this people to the enjoyment of the natural rights of British subjects. But these occasional collisions of sentiment and feeling reached to no alarming height until the arrival of Mr. J. H. Bent, and the subsequent enquiry of Mr. Bigge, when men of strict integrity, enjoying the unlimited confidence of the Government, were ousted from their employment in order to gratify the passions—I cannot say judgment—of a potent party, who were adverse to their prosperity, solely because they *had* been prisoners. But the wealth and standing a equired after years of

painful exertion, and a rigid adherence to fidelity in their engagements, was a resource to this persecuted body in their hour of trouble, and placed them upon a level with their bitterest foes, who vainly attempted to deprive them of every hope, and to cast them as diseased limbs from the body of the state. This branch of the subject is very strikingly illustrated by Mr. Bigge, who published, with much illiberality of feeling, the parentage, previous life, habits, and condition in society, of many of the Expirees, who had distinguished themselves in the Colony both by their many private virtues and extensive benevolence; for it formed no part of his duty, nor did it become the high public station he held, to wound the domestic feelings of families, and to tarnish the reputations acquired by many in this Colony, by an unjustifiable and aggravated display of circumstances which had taken place in another Country, and which they had expiated under the severity of the law. I trust, however, I shall be enabled to prove, that this class of His Majesty's subjects are entitled to the fullest confidence of the Country they dwell in, in all the relations of social life. Their silence, indeed, at a time when the most pernicious impressions were created by their implacable enemies against their character and interest, renders them justly chargeable with criminal negligence of one of the first duties men of all gradations in society owe to themselves.

A Conditional Pardon, Sir, confers upon the person receiving it all the rights of a free subject, within the limits of the Colony only. A Free Pardon restores the holder to every right he could have enjoyed previous to the commission of the act which deprived him of liberty. A Certificate of Freedom is granted to all persons who have duly worked out the periods of their sentenced exile, and it expresses that the individual in whose favor it is given is restored to all the rights of a free British subject. Yet in the very teeth of this declaration, a handful of men, the self-constituted guardians of public morality, attempt to arrogate to themselves the power of creating disqualifications of citizenship against this portion of their fellow Colonists, which were never contemplated by the law, much less sanctioned by it. It appears that during the adminis-

tration of Governor Macquarie—or from the commencement of 1810, to the close of 1821, he granted 366 Free, and 1,365 Conditional Pardons, besides 2,319 Tickets of Leave. It has been contended on various occasions, that this extensive exercise of the prerogative of mercy was improper, by throwing upon the Country a numerous body of tainted men, who, by virtue of this boon, were enabled to acquire property and consequence, to compete with those who claim an eternal superiority or precedence over them in every station of life. It was not on account of the imputations cast on the moral conduct of these persons that their emancipation was deemed to be destructive to the public, or reprehensible in the Government; but the opposition arose from an insidious and censurable aversion from the man and measure that thus laboured so largely to increase the competition in trade, which, though they condemned, were nevertheless promoting the truest interests of the Colony. I am not perhaps justified in asserting that *all* the men thus indulged deported themselves in such a manner as to realize the hopes of their amended morals formed by General Macquarie; but this is certain, that they were, and still continue to be the right hand of the Colony in every commercial enterprise; and making all reasonable allowance for individual cases of dereliction, to which the purest societies are perhaps as much exposed, I will be bold to affirm, that the general result has proved the mercy thus exercised to have been a most judicious act;—moreover it was recommended for adoption by an intelligent and liberal-minded Committee of the Commons House of Parliament in the year 1812.

If, fourteen years ago, both Governor Macquarie and Mr. Bigge jointly considered “that the wealth of the Country was chiefly in the hands of the Emancipists;” and the former “was firmly persuaded that the Bank of New South Wales could not be established without their co-operation;”—in what condition, Sir, would this community be placed at the present moment, if a body of men so affluent and influential, commanding the good will of thousands around them, were separated by interest and affection from the Emigrants? The public and benevolent

Institutions of the Country would vanish into air; for what charitable society does not number among it's ardent supporters a majority I may almost add, of Emancipist Colonists?—Yet Sectarians tell the world that men thus benevolent are alone ruled by the most vicious of the passions! But, thank God! such imputations are seldom avowed; and when adopted, proceed only from such men as consider selfishness a proof of charity, and benevolence the miserable opposite.

It is very true, Sir, that the Emancipists possess a stake in the Country infinitely superior to the Emigrants, although acquired under very discouraging circumstances: but such a fact affords no fair proof of the inefficacy of penal restraint either now or formerly. I consider it as a decided confirmation of a very just and liberal axiom, that instances of moral turpitude may arise, and yet leave the perpetrator, after vindicating the authority of the law, a good and valuable member of society at a future period. If it had been the wish of the Legislature to superadd to the penalties of the law, and to prevent *for ever* the improvement and return to society of offenders, this result might have been efficiently attained, by calling into existence some of those horrid measures that have so greatly tarnished the age of feudal government.—If, again, the law contemplated that a person who once invaded it was henceforward *civiliter mortuum*, does it not occur to you, Sir, and to the world, as singular, that a temporary imprisonment, or a limited exile, should have been created, when they are expressly calculated to defeat such a purpose? But it is, I should hope, almost superfluous to assume positions, or to adduce principles of law or reason, to prove that such an object could never have been contemplated, since it's inexpediency is unquestionable, and moreover at direct variance with the rules and customs in operation here since the Colony was formed. The great constitutional authorities of the nation are indeed divided in opinion upon this important subject; one party contending that a Pardon *cannot* restore, while the other maintains, that a Pardon under the Great Seal “*makes a man a new creature, and removes his incapacity for all purposes whatever.*”

In a population like that of the United Kingdom, where

the tainted character bears no reasonable proportion to the pure, policy might perhaps, render it advisable to distinguish, after the expiration of punishment, persons convicted of heinous offences, and to exclude them from many civil privileges, in order to preserve a moral ascendancy in the majority of the people. This however, is rendered unnecessary by our peculiar national policy. England throws off her tainted subjects, and secures for them an asylum where they may reform, and prosper; while France, confining her criminals in her own natural limits, familiarizes her people to scenes of suffering iniquity, and by keeping up the continued public exposure of her delinquents, renders their feelings callous, and their reformation impracticable. This system also tends to demoralize the national character, and hence crime in France, according to Dupin, taken in the aggregate, is greater in its enormity than in England. From the British superior policy, we may attribute the wealth and respectability of the major part of the population here, who with new scenes of life, have cherished new desires; and whose reformation has not been retarded by the chilling blast of scorn in the land of their crime. The wisdom of our ancestors, Sir, having thus provided for the moral reformation of their erring brethren, there can, I think, be no question, that they are fully entitled, upon the broadest principle of justice, and expediency, to a participation in every law that has been established for the welfare of the people. This was the benevolent opinion of Governor Macquarie, who always maintained, "that no retrospect should, in any case, be had to a man's *having been a convict*"—and however loudly the remission of sentences may be condemned, it can be shewn that the wealth and intelligence of the Colony, principally centre in the remnant of the men, or their descendants, who were liberated by that humane, and excellent Governor.

It has been stated in evidence before a Committee of the House of Commons, that the "lower order of Emancipists" are the most troublesome part of the population," and by a convenient mode of inuendo, an impression is involuntarily created, that they are moreover grossly wicked, and immoral. I have no hesitation in very unequivocally repre-

senting to you, that this opinion is erroneous. This traduced class, from the moment they become masters of their own exertions, are emulous of acquiring a respectability of character; and although it is stated, that "none of them" had become wealthy during the Government of General "Darling," I am prepared to prove, and I fearlessly assert, that this is another example of the deficient knowledge of the Colony, possessed by the person who spoke so roundly on the occasion; since, by the support and encouragement which can always be commanded by industry and perseverance, many Expirees have, in the course of the last few years, accumulated considerable property, and are now in the enjoyment of that comfort which well-earned wealth, and the cordial approval of their liberal-minded countrymen, are so eminently calculated to bestow. If, taken on the whole, the standard of morals in Sydney is loose, and below that of any market town in England (which I am induced in a relative point of view to dispute), it cannot be justly ascribed to the prison population alone, and certainly not to the Emancipists, since the fearful influx of desperate adventurers, decayed and drunken soldiers, female unfortunates, chiefly common street-walkers from the most populous towns of the Mother Country, and other characters of a like questionable utility, which the British Government has conceived it necessary and politic to let loose upon our society (a much greater evil than the worst of our bad harvests), has added grievously to the catalogue of human frailty, with which the Colony sufficiently abounded. His Majesty's advisers, no doubt, intended by this measure to improve the *moral* condition of the people, but the event has, I think, already disappointed such a hope, and sadly perplexed the local Government; since the inhabitants of Sydney can distinguish more unbridled dissipation among the lower order of free Emigrants, than is apparent in any of the prison population; — the instances among those who have become *free* after penal servitude, will be found, on enquiry, to be comparatively rare.

It is true that most of the higher order of Emigrants maintain their respectability, although they form but a unit

in the grand mass. It is also true that the Emancipists hold an equally exalted station in moral life ; and balancing a given number of each body promiscuously selected—or viewing generally the state of public morality in the Colony—it will be satisfactorily ascertained that experience and suffering have corrected or modified vices and propensities in the Expirees and Emancipists, which the Emigrants freely indulge in. It has been charged against the former, that they are dissolute in their domestic circles—that they look upon marriage more as a convenience than an important and indissoluble bond in the social compact, reverting to concubinage and other immoral courses of life, that either afford evidence of vicious levity or depraved principle, with a proportionate indifference for public opinion. Such charges, in a general sense, as applied to the Emancipist body, are most extravagant and unjust. There are certainly instances (comparatively few, however,) where these observations might apply ; but, Sir, they are not confined to this class alone, but extend to the highest of the Emigrants, by whom they are far more prevalent,—conducted more openly—and with greater indecency. Well may it be said, “ *that prostitution is very general,*” since the lower orders find apt and privileged professors in those to whom they are desired to look up for example, and who dwell, with extraordinary pathos, upon their own immaculate morality !

“ The Emancipists have never been appointed, of late, to situations under the Government, nor to the Commission of the Peace, neither are they allowed to receive Grants of Land !” Notwithstanding this entire exclusion from all share in the favours of the Crown, which constitute the chief wealth of the Emigrants, who enjoy an extent of landed estate altogether inadequate to the capital at their command ; once separate them from the Emancipists, and I dare predict, that they must become, in a majority of cases, actually dependant upon the bounty of the Government ; for of what avail would uncultivated forests prove to men who are not possessed of the means to fall a gum-tree, or grow an acre of potatoes ? On the other hand, it is a well authenticated fact, that the lives of the Emancipists have been

devoted to the improvement of the lands they possess; that they are either appropriated to pasturage, or in the occupation of reclaimed husbandmen, with a progeny of fearless spirits around them ready to repel aggression, and to preserve inviolate for their own children, the free institutions inherited from their fathers.

Shifting ground from the father, his family becomes mixed in the next observation of Mr. De la Condamine, (who was examined as a witness before a Committee of the House of Commons, in 1832),—"there are in the Colony Emancipists of very considerable property, and considerable commercial influence, but they *are not associated with, or received into society by the respectable inhabitants:*" and, moreover, that "*the children of Emancipists would not be received into the first society.*"—In so far, Sir, as this remark applies to the fathers, it may be briefly and justly answered, that years of unsullied integrity have produced from the reflecting and liberal Colonists, a total oblivion of the past; and although the Civil and Military Authorities were, from the example and principle of the Governor, constrained to an irksome reserve, such a feeling had no existence in the minds of the free and independent Emigrants. If it were thus limited to the fathers, no degree of odium was ever considered as extending to their children. Indeed it was a fact perfectly notorious in the Colony, that during the contentions which so strongly distinguished the late Government, many of the most exalted members of it would fain have courted the support of the children of some Emancipists, and would have considered themselves honored by their friendship. If, however, Mr. De la Condamine thus far derogate from the hereditary character and respectability of the young Australians, he nevertheless does full justice to their independent feelings; and when contrasted with the less manly sentiments of his brother evidences, he carries the palm for candour.

The Colonists are well aware, Sir, that the Government of General Darling appeared desirous of impressing it upon the minds of His Majesty's Ministers, that the manifestation of a spirit of opposition to the then existing state

of things, and a wish for a different, more mixed; and independent administration of public affairs, was not extensive, nor participated in by the more opulent and influential of the Colonists; but the consequence of a determined hostility by a few disaffected and factious agitators. This was not by any means unnatural, because an extension of civil privileges, and of privileges, Sir, in which the Emancipists would have unquestionably participated, must have disarmed the Government of much of its overwhelming authority—equalized the influence of the Colonists—and left the decision of all points [of public or private controversy, with the enactment of laws, to the sense of men whose nomination would not emanate from the Crown;—a result which men, accustomed to the exclusive direction of the policy of the country, could not contemplate without alarm.— But I will assure you, Sir, and my assurance is fully corroborated by a Petition now, I believe, in progress of presentation to the Imperial Parliament, bearing the signatures of upwards of 6,000 individuals, that the sentiment is universal, and every order in the Colony appears to feel that security and sound legislation, with an implicit confidence in the Government, must follow that measure which gives to the people a voice in the formation of those laws they are called upon to obey.

I am, Sir, induced to believe that an alarm prevails, lest the Emancipists should, upon some occasion of imminent danger, turn their influence into the scale against the country, and acquire under another dynasty, that importance, which the British Government deems it expedient to deny them. A person named Busby, once a linen-draper in Edinburgh, to some points in whose evidence before the Parliament I shall take the freedom of soliciting your attention, explicitly states, “that they” (the Emancipists), “*have placed themselves at the head of a party opposed to the Government, and regard with hatred every person who has avoided association with them.*” I believe I may safely say, that the Man who could make such a statement, is not entitled to *hatred*, but a very different regard!!! This singular assertion is clearly levelled at the loyalty of the

Emancipist; but you may rely, Sir, that the Crown possesses no class of subjects more loyal—none more attached to the common interests of the community with whom they are associated, than this body. When a powerful portion of the Emigrants, found it convenient for their peculiar purposes to insult the representative of Royalty in the person of Governor Bligh, the Crown found a devotion and attachment to it's service, from the former body, which was vainly demanded from the free Colonists. Had the Emancipists been supported in their resistance against open rebellion, the leaders of that commotion would have met the fate of felons, and expiated their traitorous designs on a public scaffold. Success however, made their treason lawful, and men, who in England would have been consigned to exemplary punishment, were here rewarded with lands, and taken into the especial favor of a Government, which they had violently and disloyally assaulted.

In addition to the above evidence of the loyalty of the Emancipists, I request your perusal of the following extract from the *Official Gazette* of the 19th September, 1829.

“ We have resided in this Colony nine years, and have seen much both of “ the free and of the freed ; and, since at this critical juncture” (the passing of the Jury Act), “ we feel ourselves called upon to give a solemn, and conscientious opinion, we do most unequivocally declare our belief, that the “ infirmity of prepossession clings *more to the class to which we ourselves belong,* “ *than to that of the Emancipists.*”

Can the most fastidious Emigrant point out a single instance where an Emancipist or freed prisoner sought to defraud the public by flying clandestinely from the Colony? and if, Sir, the relative state of morals depended upon this view of the subject, or upon an honest attention to their engagements in ordinary business, the calumniated Emancipist would stand eminently superior. Fraudulent bankruptcies, alas! have in this Country been frequent, and that too among the higher Official Members of the Government, who nevertheless still retained employment under the *moral* administration of General Darling. In fact, it might in a manner be assumed, that a previous determination to obtain money by every means, good, bad, or indifferent, has predominated in the minds of several

dashing "Levanters"—who, in the hey-day of their prosperity, hardly descended to exchange common civilities with their more scrupulous neighbours. The possession of liberty, and a brisk, impudent address, are excellent acquirements in this heterogenous Colony, particularly when backed by a few pounds, which rumour, with her many tongues, and a little *gentlemanly* necromancy, can soon magnify into thousands: and hence the "honest reputation" for a brief season enjoyed by many a daring swindler, who, bankrupt at home, flies to the unsuspecting people of the Antipodes, among whom, by reason of his official name, or recommendation by official characters, he finds an extensive field for his speculative fraud. We thank God, Sir, such men have had their day with us; and while the proud and sensitive sprout, "growing in his strength, sneeringly tells the Emancipist, "You, Sir, have *been* a convict!" well may he reply, "many there are who ought to be so—but "none among us have been found so heartless—none so "base—as to leave the orphan to perish, or a parent to curse "the credulity that dazzled him to ruin!"

It is, Sir, a very singular fact, that in this, as in many other societies, the greatest revilers of other men's frailties are the least immaculate themselves. When Mr. John Dickson, formerly of the west of Scotland, who had amassed great wealth in the Colony, and in whom and his friends the Emancipists ever found a bitter and relentless antagonist, was lately compelled to seek his personal safety by flight from a charge of forgery, the Emigrants uttered a piercing yell, and attempted to argue that *this* "faux faux" in *him* was not a *crime*, but a *misfortune*. To any Emancipist guilty of such a moral lapse, the terms ruffian and villain would have been considered epithets of far too mild a nature; and the whole body would have been insulted and stigmatised on account of the delinquency of one of its members. This Dickson is now resident in the Isle of France—an outlaw from one British Colony to another—and yet the Government suffers him to conduct mercantile speculations there with the most censurable impunity. Here, Sir, is an instance of criminality originating in the grossest spirit of

avarice. Dickson was immensely rich; yet it is said he vitiated a receipt for the payment of £300, to acquire more wealth. A judgment was recovered against him in our Supreme Civil Court for this sum with interest, on a receipt, the date of which was proved to have been fraudulently altered. The instrument was impounded in the hands of the Sheriff, to be produced at the trial of Dickson for the criminal offence of which he was then under commitment. In the mean time, however, he absconded from his bail, and from some cause, to the public unknown, his recognizances have never been estreated! This was a paltry sum to a man in his affluent condition: none of his warmest friends can urge in his behalf that he stood in need of it. Instead of General Nicolay affording him an asylum at the Mauritius, he ought to return him to this Colony, in order that he might be held up as an example to those committing deliberate crime, without the ordinary palliative plea of poverty; and as a useful lesson of humility to the pharisaical Emigrant. This individual was wont to say, among the circle of his acquaintance, that “once convicted of a criminal act, a person could never again become an honorable member of society—and, that his return to an association with unimpeached men ought never to be tolerated.”—I recollect, Sir, some years since, when a friend of his, who is now connected with the public press of Van Diemen’s Land, pressed this bitter exclusionist to yield his opinion in favour of a Gentleman who was alike eminent for years of consistent honorable conduct, and a natural urbanity of disposition; and who, it was pressed upon him, had been expatriated for an offence not marked with any degree of moral turpitude; he replied, with his accustomed inveteracy, “*that the body once tainted, could never become sweet.*” I would now ask this *worthy* champion of public morality, and his friends of the same kidney, whether they still adhere to these sentiments?

The Emancipist, Sir, regards this Colony as his home. The Emigrant merely views it as his speculative field, and when independent of commercial or agricultural pursuits, contemplates his retirement to another land. To whom

should then be given the greater encouragement? To him who has the interest of the Colony, with the prosperity of his descendants, at heart; or him who, merely preying upon it's vitals, heeds not, when he has accomplished his aim, whether it exist merely as a desert, or reign the Queen of the Southern World? The answer is obvious.

I am now about to draw your particular attention to the circumstances attending the open turbulence and desperate demeanour of certain assigned convict servants in the employ of James Mudie, Esq., J. P., and his son-in-law, Mr. John Larnack, settlers on the River Hunter. With the view of bringing the case fully under your notice, I shall beg leave to quote for your information a copy of the trials of these men before the Supreme Criminal Court, as they appeared in the *Sydney Gazette*—a journal which is admitted to take the lead of all others here in copiousness and accuracy of reporting.

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**SUPREME COURT.**

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“ MONDAY, DECEMBER 9.

(“ *Before the Chief Justice, and the usual Military Jury.*)

“ *Anthony Hitchcock, alias Hath, John Poole, James Riley, John Perry, David Jones, and James Ryan, were indicted for stealing on the 5th November, 1833, in the dwelling-house of Mr. James Mudie, at Castle Forbes, in the District of Patrick's Plains, sundry articles, his property; one John Hart, an inmate therein, being put in bodily fear.*

“ The Solicitor General stated the case, and observed, that the aggravated circumstances attending it, were such, that the Crown Officers had been induced to bring the prisoners thus early to trial, which would not otherwise have been done until February next. He invited the particular attention of the Jury to the case, as a conviction upon the present information, would subject the prisoners at the bar, to the extreme rigor of the law authorised by the Act of Council, 11th Geo. IV. No. 10, which was re-enacted by the Local Ordinance, 2d William IV. No. 10. After the learned gentleman had detailed the circumstances, he proceeded to call witnesses in support of the information.

“ John Hart being sworn, deposed, that he is an assigned servant to Mr. John Larnack, at Major Mudie's at Castle Forbes, Patrick's Plains, Hunter's River; knows the prisoners at the bar, they were all fellow-servants of mine; Poole, Ryan, and Reilly, took the bush on the night of the 4th November last; they were absent on the morning of the 5th; Perry absconded

" some time before the others ; Hitchcock and Jones were sent to the lock-up  
 " some time previous, and sentenced 12 months to an Iron Gang ; they were  
 " sentenced on the 4th, and on the 5th they were taken away by Samuel  
 " Cook, constable ; knows a man named Parrott, he was also going to the  
 " Iron Gang, and was in charge with them ; I saw them again about 12  
 " o'clock the same day ; I was in the kitchen, and saw some men running at  
 " the back part of the house ; I ran out and one of the men presented a gun  
 " at me, and desired me to go in again ; one of them snapped a piece at me :  
 " I can't say who it was ; Poole, Jones, Riley, and Ryan were there ; the other  
 " was a stranger ; they ran into the house ; I afterwards saw them come out  
 " with a double-barrelled gun, a fowling-piece, and a musket, which I am sure  
 " they did not take in with them ; previous to this, I had seen a fowling-piece  
 " and a musket in Mr. Mudie's room ; I know a double-barrelled piece had  
 " been kept in Mr. Larnack's room ; I afterwards saw Mrs. Larnack and one  
 " of the female servants jumping out of the dressing-room window ; I saw  
 " Poole, Jones, and the stranger rush up to them from the house, and order  
 " Mrs. L. to stand, telling her that if she did not, they would blow out her brains ;  
 " they were armed with guns ; they compelled her to go into the kitchen, and  
 " stationed Riley at the door with Mr. L.'s double-barrelled piece ; I after-  
 " wards saw Hitchcock bring the shearers from the barn towards the provision  
 " store ; he marched them down presenting a gun at them ; I did not see any  
 " one else ; I saw them put forcibly into the store, and Perry was placed  
 " over them ; I was in the kitchen which was opposite, and I could plainly  
 " see, as there were no windows, and the cases and doors were open ; Poole  
 " afterwards came out of the house to the kitchen, which is about 10 or 12  
 " yards from the former, and ordered me to deliver up the two pistols ; I told  
 " him I had not got them ; he said if I did not deliver them up he would blow  
 " out my brains ; he searched the kitchen, and returned to the house ; I saw  
 " Poole bring a chest of tea out, and pour it's contents into a bag, which was  
 " held open by Ryan ; Hitchcock said there was not enough ; Jones carried  
 " the bag in again, and more tea was put in it ; Poole took me into the house,  
 " and told me if I did not deliver up the ammunition he would blow out my  
 " brains ; he had a pistol ; I was taken into the parlour, and saw Jones and  
 " the stranger ; Jones was taking away some plate out of a drawer ; he had  
 " an egg-stand ; I told him it was of no use for him to take it ; Poole asked  
 " for the ammunition ; I told him that they had got it ; the stranger said if I  
 " did not hold my noise, he would blow out my brains ; he was armed with a  
 " fowling-piece, the plate was taken away, but I did not see by whom ; I  
 " returned to the kitchen, being ordered there by Poole ; Hitchcock was  
 " parading about the premises armed with a musket ; I saw some flour brought  
 " out of the store and placed in the yard, also some pork ; Jones took some  
 " pork out of the kitchen ; Poole went into the dairy window, and Jones  
 " brought out a bucket of milk ; when the tea was being brought out, Ryan  
 " was standing outside by the door ; Poole was inside ; Mrs. Larnack was in  
 " the kitchen ; the flour and pork came out of the provision store ; the other

" articles from the private store in the dwelling-house ; it has but one door ;  
 " it opens into the passage, which is a part of the house ; they are both  
 " covered over ; the plate was put into a bag ; at first I was alarmed,  
 " but when I was taken into the parlour by Poole I was not ; I could not  
 " prevent armed men from taking the plate ; they took the tea and sugar, and  
 " put it on a black mare which was ordered out of the stable by Hitchcock ;  
 " the two horses were brought out by Ryan and Perry ; Ryan got on the top  
 " of the black mare, and took the reins of the other in his hand ; they were  
 " there three-quarters of an hour ; they took the men out of the provision, and  
 " put them in the wool stores ; a bucket of milk and box of sugar they locked  
 " up ; Mrs. L. and the rest were also locked up there ; they afterwards  
 " brought up the night watchman and postboy, and locked us all up together ;  
 " they said they should leave a sentry, and the first one that stirred for two  
 " hours, they would blow out their brains ; Riley told Mrs. Larnack, that  
 " they wished her father (Major Mudie), was at home, and they would settle  
 " him ; they went away, and Perry staid about five minutes after the rest ; in  
 " about a quarter of an hour, I got out at the top of the store, and knocked  
 " the lock off the door, but hearing a gun fired, we all went in again ; six of  
 " them were armed ; Ryan had a tomahawk, which contained a knife and a  
 " saw ; I heard one of the men say he would bring in Mr. Larnack's head,  
 " and stick it on a chimney ; I have no doubt of the identity of the prisoners  
 " at the bar.

" Cross-examined by Mr. Therry—I have been three years an assigned ser-  
 " vant to Major Mudie ; I am not yet entitled to my ticket of leave, but  
 " expect to get it when due ; I know that there are six or seven on the farm  
 " due for their tickets, who have not yet received them ; I was not sent out to  
 " this Colony for perjury ; I decline telling for what ; I owe the prisoners no  
 " grudge ; we were good friends ; the kitchen and wool stores are not a part of  
 " the dwelling-house ; Castle Forbes is on the Hunter ; when I first saw Ryan  
 " he had the tomahawk in his hand ; I saw the tea and sugar brought out of  
 " the passage door ; I expect no reward for what I am saying to-day ; I have  
 " had no conversation about a reward ; I see the rations served out sometimes ;  
 " they are sometimes pretty fair, and sometimes very bad ; there was a great  
 " deal of punishment about six weeks ago.

" The Solicitor-General rose to object to this mode of cross-examination ; it  
 " was altogether irrelevant to the case before the Court, and he trusted that  
 " His Honor would restrain the learned Counsel for the defence from making  
 " such remarks.

" Mr. Therry persisted in his right to elicit evidence on this head, which  
 " would be of material benefit to his clients.

" The Chief Justice was loath to cramp the prisoners in their means of  
 " defence, but trusted that the learned Counsel would use discretion in pro-  
 " posing questions of a similar nature to the last. He thought there was no-  
 " thing yet asked which could be termed improper, but it was impossible for  
 " him to foresee to what the present questions could lead.

“ Mr. Rowe, who with Mr. Keith sat at the table with the Solicitor-General, now rose to support the arguments of that Officer, and was about to cite some of the learned authorities in behalf of the objection, when

“ The Chief Justice enquired in what capacity the learned Gentleman was about to address the Court.

“ Mr. Rowe said that he attended to assist the prosecution, at the instance of the prosecutor.

“ The Chief Justice doubted whether he could hear Mr. Rowe in that capacity.

“ The Solicitor-General disclaimed, on the part of his learned Colleague and himself, any intention to avail themselves of the professional assistance of either of his learned friends. The Crown Officers had a duty to perform to the Country; they had resolved on performing it, unaided, and the case now before the Court was in their entire management.

“ Mr. Rowe again rose, but

“ The Chief Justice was decidedly of opinion that he could not permit him to address the Court. He was enabled to state, from his own experience, that the Solicitor-General was perfectly competent for conducting the present prosecution, which he observed was instituted by the Crown, and not by a private individual.

“ Mr. Rowe begged to be allowed to state, that he appeared there on the authority of the Attorney-General, by whom he was appointed as junior Counsel for the prosecution, and again requested to be heard.

“ The Solicitor-General did not intend any personal disrespect towards his learned friends, whose valuable assistance he should feel happy on any other occasion to receive, but must again disclaim any professional assistance on the part of the Crown, as the case was in his entire management. At the same time he would be happy to attend to any suggestion they might feel disposed to make.

“ The Chief Justice regretted exceedingly that his attention had been arrested from the solemn enquiry now pending—an enquiry in which the fate of no less than six human lives was interested, merely for the sake of determining professional right. He must, once for all, rule that Mr. Rowe's addressing the Court was irregular. The information was *ex officio* presented by the Attorney-General, on whose behalf the Solicitor-General appeared in Court to conduct the case. That Crown Officer had already stated the case, and he could not allow any other person to appear for the prosecution.

“ Mr. Therry hoped that he might be permitted to conduct the prisoners' defence in the manner he had already commenced in his cross-examination of the witness. He contended it was necessary for the benefit of his clients, for whom, as their advocate, he had a twofold duty to perform—first, to establish their innocence, if practicable; and if not, to bring circumstances under the consideration of the Court, which would tend to extenuate the alleged guilt of the prisoners, and move the clemency of the Judge in their behalf. He thought this line of defence the more necessary, in consequence of the sanguinary local Act, with which they had been threatened—an Act which

“ went to deprive them of their existence in forty-eight hours after conviction, assuming that conviction would follow the present investigation.

“ The Chief Justice decided that evidence to move the clemency of the Court, in the manner alluded to by the learned Counsel, was quite inadmissible.

“ Cross-examined—I did not hear any of the men complain of illness then; it was Tuesday the 5th November; I have seen the men working on the farm on a Sunday; I did not know the stranger, and I was always on good terms with the prisoners; I was not in fear from the prisoners when in the parlour; the stranger threatened me in the parlour.

“ Re-examined—I did not like to attack the three armed men, and rescue the plate.

“ George Frost was called for, but it appeared that he had not been subpoenaed, and was not in attendance.

“ Samuel Cooke being sworn, said, I am a constable at Patrick’s Plains; I recollect, on the 5th of November, I had three prisoners in charge; two are here—the prisoners Hitchcock and Jones; the other was Samuel Powell; I was to take them to the Maitland Police, under a sentence of 12 months to an iron gang; about a mile and a half from Castle Forbes five men attacked me, two with firelocks, telling me to stand or they would shoot me; Poole, Perry, Ryan, and Riley were there; the other I did not know; it was he who spoke; he snapped his piece, but it did not go off; I had a pistol, but did not think it prudent to resist; they disarmed me, and took the key from my pocket, and loosed the prisoners’ chains; they took me into the bush and fastened me to a tree; they sat down about ten yards from me, and I heard them say they would make a grand push; Parrott refused to accompany them, and they went away, leaving him secured with me; they had two guns and the pistol they took from me; when they left me they went in a direction towards Maitland; it was between ten and eleven o’clock in the forenoon of the 5th of November.

“ Cross-examined by Mr. Nichols—Parrott refused to go with the prisoners, and attempted to persuade Ryan to stay with the constable and him, but he said he was afraid to go back; the other prisoners did not threaten him, to my knowledge; Castle Forbes is in the district of Patrick’s Plains, at least I have always heard it so called; I have only been there since February; Maitland Town is about twenty-five miles distant from Major Mudie’s; I have read in the papers that it is in the district of Patrick’s Plains.

“ Daniel Craddidge being sworn, deposed, that he belongs to the mounted police; that he accompanied Mr. Robert Scott in search of an armed party in November last; about five of our party came up with the prisoners near Lamb’s Valley, Mr. Reid’s cattle station in the mountains; I saw three of them, and ordered them to stand; two of them grounded their arms, but one stood as if making ready to fire at me; I fired at him; Mr. Scott passed over at the time; I turned my head, and seeing the men running in another direction up the gully, I pursued them, and when I came up with them, I ordered them to stand, and they immediately grounded their arms; Jones and Perry were in the gully; the other, Hitchcock, was a little on the range; I

“ only saw six men; the boy Ryan was afterwards found concealed in a scrub; the other three were in charge of Mr. Scott and his party; I cannot identify them; I found a frying-pan on the fire melting lead, a glue pot, some tea and sugar, four bags, and six coats; we also found the arms now present when we took them; they were among the party; also, four waistcoats, some flour and beef in a bag, and one pair of stockings; we marched the prisoners to Maitland, which is about eleven miles off; it was about sixteen or seventeen miles from Castle Forbes; it was on the 13th November, about eleven o'clock.

“ By Mr. Therry—The prisoners gave themselves up without resistance; I have been four years in that district; Castle Forbes is Mr. Larnack's residence, and is generally called in the district of Patrick's Plains, but I have also heard it called in the district of Maitland; I had but little conversation with the prisoners.

“ By the Solicitor-General—Lamb's Valley is in the district of Maitland.

“ Alexander Flood, overseer to Messrs. Robert and Helenus Scott, being sworn, deposed, that he went with the last witness in pursuit of the prisoners; their party on horseback captured them, and the whole of the prisoners with the wounded man were given in my charge; two policemen and five of our party conducted them to Maitland, and gave them up to the Police Magistrate there; the wounded man was taken to an adjoining farm; the prisoners went quietly; on the ground there was some melted lead in a frying-pan, some lead made into slugs, tea, sugar, a cask containing a small quantity of rum, and several other articles; the arms produced were taken from the prisoners, and were charged; I marked the arms, but not the other property.

“ By Mr. Therry—They marched to Maitland very quietly, and behaved very well; I know but little of the district, having been there but four months; I did not hear them praise or dispraise the place they had left.

“ Robert Cushion, being sworn, stated that he is a constable at Maitland, that he brought the property produced, from Maitland with the prisoners, and that it was given him by Riley, the chief constable there.

“ By Mr. Therry—Did not know Hitchcock before.

“ Robert Scott, being sworn, deposed, that he is a Magistrate of the Territory, and went in pursuit of an armed party of prisoners on the 13th November last, assisted by some black natives; we traced them to Mr. Dutton's, where we heard that seven men had robbed the place the evening before; we traced some footsteps, and about twelve o'clock we saw some smoke arising from a brush; we saw a man running down from an eminence, and we supposed him to be the sentinel; we charged immediately, and I saw the mounted policeman (Craddige) fire at some person on the rocks; I saw three men running away; I dismounted and followed; the three were in front of me, the centre man having a musket in his hand; I covered him, and commanded him again and again to lay down his arms; two did so; he would not, and I shot him; I then sprung towards the other two, and bade them hold up their hands, which they did; just then another policeman came up and my second overseer, and one or two of my servants immediately afterwards; I then dismounted; I believe them to have been Riley,

" Perry, and the other man who was shot ; he told me his name was James Hen-  
 " derson ; neither Riley nor Perry had guns ; all the party called out to the  
 " prisoners to ground their arms ; Hitchcock, and, I believe, Poole, were in  
 " custody of Craddige ; afterwards, in galloping round the ravine, I disco-  
 " vered Ryan ; there were six apprehended on that occasion, but I cannot say  
 " whether Perry was one of them ; the others I can identify ; after the men  
 " were in custody I collected the arms, and marked them ; they are those pro-  
 " duced ; Castle Forbes is Major Mudie's residence ; it is part of the estate of  
 " Patrick's Plains.

" John Larnack, being duly sworn, deposed, that he lives at Castle Forbes,  
 " which is in the district of Patrick's Plains, Hunter's River ; he left his resi-  
 " dence about ten o'clock on the morning of the 5th of November last ; and,  
 " at his return, on the following day, he learnt that the house had been plun-  
 " dered of one double-barrelled fowling-piece, two single ditto, one musket,  
 " several silver table and tea spoons and forks, and other articles ; he iden-  
 " tified the fowling-piece produced as his property, which he missed from his  
 " room on that occasion ; the other articles produced belonged to Mr. Mudie,  
 " whose Christian name is James.

" Cross-examined by Mr. Nichols—He always considered Castle Forbes to  
 " be in in the district of Paterson's Plains ; knows so though only from com-  
 " mon report ; some of the prisoners were at work on the farm the day previous  
 " to the outrage ; he received a notice on Friday evening to produce a letter  
 " in his possession addressed to the Principal Superintendent of Convicts by  
 " one of the prisoners ; that letter he believes is now at Castle Forbes ; thinks  
 " there was not sufficient time since the serving of the notice to obtain the  
 " letter.

" The Solicitor-General objected to the witness being examined as to the  
 " purport of the letter, it being but secondary evidence ; he should also have  
 " felt it his duty to oppose the production of the letter itself, had it been forth-  
 " coming, on the ground of it's being irrelevant to the question before the  
 " Court.

" The Chief Justice held the objection to be good.

" Cross-examination continued—The sideboard in which the plate was  
 " contained was in the parlour of the dwelling-house ; the private store is  
 " entered from a covered passage, under the same roof as the dwelling-house  
 " [a plan of the house was handed up to the Bench by the witness, who ex-  
 " plained to His Honor, and afterwards to the Jury, the situation of the passage  
 " and store room] ; it was from this private store that the tea and sugar had  
 " been taken ; he missed a considerable quantity of it on his return home ;  
 " was present when the prisoners were apprehended, and saw the fowling-  
 " piece produced taken from them ; cannot swear to the tea and sugar.

" Cross-examined by Mr. Therry—There is no communication with any  
 " other part of the dwelling-house from the passage in which the private store  
 " is situated.

" John Hart re-called by the Solicitor-General—Knows the guns produced  
 " to be Mr. Mudie's property, with the exception of one, which is Mr.  
 " Larnack's ; they are the same as were taken by the prisoners at the bar,  
 " from Castle Forbes, on the 5th November last ; he also identified part of  
 " the wearing apparel before the Court as belonging to Mr. Mudie.

“ This was the case for the prosecution.

“ Mr. Therry, for the prisoners, submitted that there was no case to go to the Jury, on the following grounds:—First, that there was no evidence to prove that Castle Forbes was the dwelling-house of James Mudie; secondly, that the *locus in quo* was wrongly laid in the information, there being in the Colony of New South Wales, no such *district* as Patrick’s Plains; thirdly, that it appeared by the evidence of the witness, John Hart, he was not put in fear in the dwelling-house, but in a detached kitchen at Castle Forbes; and, fourthly, that the passage in which the private store-room was situated, was covered, and not enclosed, so as to constitute it a part of the dwelling-house according to the meaning of the statute.

“ The Court over-ruled the objections.

“ The prisoners being called on for their defence, severally urged in their behalf, the bad treatment they had experienced at Castle Forbes, both from Mr. Mudie, and the witness Larnack.

“ Poole stated that he had written a complaint to the Principal Superintendent of Convicts, of the bad treatment he had received, which had been intercepted by Mr. Larnack, and kept back. The provisions they received were of very bad and unwholesome quality, and deficient in weight. The punishment on the farm was frequent and severe, and both Major Mudie and Mr. Larnack frequently beat the assigned servants.

“ In support of the second objection, Mr. Therry called Samuel Augustus Perry, Esq., who being sworn, deposed, that he is Deputy Surveyor General of New South Wales, and that it is the duty of the Surveyor General to apportion the several districts of the Colony. The chart now produced is the Government Official Map.

“ The Solicitor-General objected to the chart being received in evidence, on the ground that it was a compilation from the field charts of the Surveyors, and therefore, but secondary testimony.

“ The Court held the chart, as the Official Map, to be good evidence.

“ Examination continued—I should say, from perusing the chart, that Castle Forbes is situated in the parish of Whittington, county of Northumberland, and district of Hunter’s River.

“ By the Court—If it were called, however the district of Patrick’s Plains, I should know it.

“ The prisoners being asked if they had any other witnesses to examine,

“ Mr. Therry observed, that he had witnesses in attendance, but their evidence being wholly upon the point which had been over-ruled by the Court, he should refrain from calling them. He hoped, however, that the sanguinary local law threatened by the Solicitor-General, would not be enforced in the event of the conviction of the prisoners, as the system of defence he had offered, although over-ruled by the Court, might be made the subject of representation in another quarter, and the prisoners ultimately reap the benefit of it. He was sorry to see that there was a determination on the part of the opposite side to check this enquiry; they ought to have been anxious to meet it.

“ The Chief Justice proceeded to sum up the evidence, and remarked that the line of defence adopted by the prisoners was altogether inadmissible. Our limits will not allow us to follow His Honor through his luminous

“ charge to the Jury, who, after a short deliberation, pronounced a verdict of  
 “ *Guilty* against all the prisoners.  
 “ The prisoners were remanded, and were directed to be brought to trial  
 “ to-morrow on a second indictment.

“ TUESDAY, DECEMBER 10.

“ (*Before the Chief Justice and a Military Jury.*)

“ *Anthony Hitchcock*, alias *Hath*, and *John Poole*, were indicted for maliciously shooting at Mr. John Larnack, at Castle Forbes, in the district of Patrick's Plains, on the 5th November last, with intent to kill and murder him; and *James Riley*, *John Perry*, *David Jones*, and *James Ryan* for counselling, aiding, and abetting the said two first-named prisoners in the commission of the said felony. A second count charged the offence with having been committed with intent to do the said John Larnack some grievous bodily harm.

“ The Solicitor-General stated the case, and called John Larnack, who being duly sworn, said, I reside at Castle Forbes, in the district of Patrick's Plains, Hunter's River; it is the residence of Major Mudie; on the morning of the 5th November last, I went to the river to superintend sheep-washing; between 12 and 1 o'clock I heard a voice exclaiming—‘*come out of the water every b——y one of you, or we'll blow your b——y brains out;*’ on looking behind, I saw three men advancing towards me with guns presented; some others were at a short distance, apparently with the intention of intercepting me, should I escape from the other three; Hitchcock and Poole were two of the former number, and Hitchcock called out, ‘*that it was no use of thinking to make my escape, he would take good care I should never take another man to Court;*’ they were about 10 or 12 yards off when this took place; there was a general call from the prisoners (Hitchcock and Poole) to the washers, to get out of the way, as I stood between them and the prisoners, fearing I suppose, that the shot from the latter would be likely to take effect upon the former; I jumped into the river among the washers, and told them to stand by me, as I was certain the prisoners would not fire for fear of hurting them; finding the prisoners still pursuing, I made the best of my way to the opposite side of the river; on turning my head round, I saw Hitchcock levelling his piece at me, and soon after I heard a shot fired, and on again looking round, I perceived Hitchcock to be enveloped in smoke; I have not the least doubt that it was the prisoner Hitchcock who fired at me; he called out to the washers, saying—‘*why did you not get out of my way, I would have shot him.*’ There was a general cry among the party coming down to me, of ‘*shoot the b——r;*’ Poole called out, ‘*fire again, I'll take care you shall never get another man flogged;*’ and immediately a second shot was fired; I was just then getting out of the water, on the opposite side of the river; I could not perceive who fired the second time; Hitchcock and Poole, now cried out, ‘*fire again, let's settle him, he's almost finished;*’ a third shot was fired, as I was getting up the bank on the opposite side; a voice now called out, ‘*fire again, let's follow him;*’ an answer was made, ‘*no, take care of your ammunition, he's almost finished;*’ I heard the voices of Riley, Perry, and Ryan, and saw the last named prisoner, who called out ‘*settle him.*’

" By the Court—He was dressed in a white shirt and trowsers ; I had not  
 " seen him before ; on that morning he had been reported to me as having  
 " absconded on the night before ; I do not recollect hearing the voice of  
 " Jones, or seeing him on that occasion ; they were all assigned servants at  
 " Castle Forbes ; Ryan, Riley, and Poole had absconded the night previous  
 " to this—Perry about ten days before ; I had seen Hitchcock and Poole pass  
 " on that morning on the road to an iron-gang, in charge of a constable ; I  
 " had twelve or fourteen men with me washing sheep ; there are three of them  
 " in attendance here to-day ; I made the best of my way to Mr. Dangar's  
 " farm, and returned to Castle Forbes on the following day ; on my return  
 " there I found that three guns had been taken away from the house since I  
 " had left it ; when I left them, they were loaded with powder and buck-shot ; had  
 " such shot have hit me at the distance I stood from the prisoners when they  
 " fired, it would have been likely to have killed me ; I could kill a kangaroo  
 " with it at that distance ; the shot is about the size of a field pea ; Hitch-  
 " cock was about ten yards from me when he fired ; none of the shot hit me ;  
 " I saw the shot from the second fire fall about eighteen inches or two feet from  
 " me in the sand ; the first shot seemed to fall just by my side in the water ;  
 " they scattered ; when the second shot was fired, I should think the prisoners  
 " were about twenty yards from me ; I am quite satisfied that, at that distance,  
 " the guns which I had seen charged would kill a kangaroo ; I think that they  
 " might also have killed a human being.

" Cross-examined by Mr. Therry—This was on a Tuesday ; it is not cus-  
 " tomary to read prayers to the assigned servants at Castle Forbes on a Sunday ;  
 " it was done about a twelvemonth ago, but the parties seeming careless about  
 " it, the practice has been discontinued ; either Hitchcock was a very bad  
 " shot, or he must not have intended to hit me, as he could not well have  
 " missed me at ten yards distance ; I cannot say what might have been his  
 " intention ; I was certainly very much frightened ; I think I spoke about the  
 " shot when before the Bench of Magistrates.

" Mr. Therry called for the deposition of this witness, taken at the Police  
 " Office on commitment of the prisoners.

" The Chief Justice was of opinion that the learned Gentleman could not  
 " demand that document as a right ; it was optional with the Crown Officer  
 " to grant it. If, however, there was any apparent contradiction in the depo-  
 " sition, it could be handed up to the Bench, and the Court would take notice  
 " of it in its charge to the Jury.

" The Solicitor-General declined furnishing Mr. Therry with the depo-  
 " sition.

" Cross-examination continued—My back was towards the prisoners when  
 " the second shot was fired ; I supposed from what the prisoners both said and  
 " did, they intended to kill me ; I think the prisoners have all been flogged at  
 " Castle Forbes.

" The Solicitor-General rose to object to this mode of cross-examination ;  
 " he thought this point had been decided by the Court on the trial which took  
 " place yesterday ; he felt convinced that the learned Counsel for the defence  
 " acted at the suggestion and under the advice of some person not before the  
 " Court, but he resisted such a line of defence as irregular.

" Mr. Therry denied the imputation of the Solicitor-General with great

“ warmth ; he called upon that Officer for an explanation ; he appeared there  
 “ as advocate for the prisoners at the bar, by whom alone he was instructed as  
 “ to the particulars of defence. In his professional capacity he would listen to  
 “ the suggestion of no person whatever ; and he indignantly repelled the insi-  
 “ nation thrown out of acting for political purposes at the instance of some  
 “ one behind the curtain.

“ The Court was of opinion it could not call upon the Solicitor-General to  
 “ enter into the explanation sought for ; the learned Judge had heard and  
 “ lamented the expression alluded to ; he considered it an unguarded one, but  
 “ hoped it would rest there.

“ Cross-examination continued—I did not affix any particular meaning to  
 “ the words made use of by the prisoners respecting their preventing my ever  
 “ getting another man flogged, except what I have before stated ; I did not  
 “ charge the fowling-piece with duck, but buck shot ; I am not aware of  
 “ having before stated the transaction differently ; I heard Riley’s voice ; I  
 “ should not be apt to miss a man at the distance of ten yards ; what I have  
 “ stated as having dropt in the water, and sand, might have been either  
 “ peas, or pebbles.

“ John Sawyer, being sworn, deposed—I am a Crown prisoner ; I was  
 “ assigned to Dr. Rutherford ; he is gone to Europe ; I do not know whether  
 “ I am lent or transferred to Major Mudie ; I was sheep-washing at Castle  
 “ Forbes on the 5th November ; I was in the water ; I saw five men coming  
 “ towards our party ; there might have been more ; the prisoners Hitchcock,  
 “ Poole, Riley, and Perry were there ; the other man I did not know ; the  
 “ first I saw was Hitchcock, getting over the fence, on the top of the bank ; he  
 “ had a gun in his hand ; he said to Mr. Larnack, “ Come out of that, you  
 “ villain, and stand back, you men ;” Mr. L. jumped into the river, among the  
 “ washers ; Hitchcock levelled his gun at Mr. L. and fired ; he then swung his  
 “ hand in a great passion, and said to the washers, ‘ Why did you not get out of  
 “ the way ?’ Poole next presented his piece at Mr. L. and fired from the fence,  
 “ saying, ‘ You villain, I’ll make you remember your flogging—I will, you  
 “ tyrant ;’ Riley said to one of the washers, nicknamed Darby, ‘ I’ve a good  
 “ mind to come down and blow out your brains—I have, you villain ;’ Mr. L.  
 “ was moving on towards the other side of the river ; I did not see the third shot  
 “ fired, but it took place immediately after the second ; I did not know whe-  
 “ ther there was any shot in the guns ; when going away, Riley said that any  
 “ person who should move up the bank for the space of two hours, would  
 “ have his brains blown out ; I neither saw Jones nor Ryan ; it was a high  
 “ bank on which the prisoners were ; I could see them plainly from where I  
 “ stood, which was close to the water’s edge ; there was a fence on the top of  
 “ the bank.

“ Cross-examined by Mr. Therry—Hitchcock was fifty yards from Mr. Lar-  
 “ nack when he fired ; it might be a little more ; I would not believe a man  
 “ saying it was only ten yards ; I cannot say whether there was any shot in  
 “ the gun ; I did not understand what the prisoners meant by flogging ; there  
 “ was nothing to hinder them if they had liked to follow Mr. Larnack over the  
 “ river ; I have not a ticket of leave ; I am a ploughman.

“ Re-examined by the Solicitor-General—There are three feet in a yard ;

“ Hitchcock was not near the water’s edge when he fired ; I could not observe  
 “ whether there was any shot in the guns ; Poole must have been nearly  
 “ seventy yards off when he fired at Mr. Larnack.

“ By the Court—Hitchcock must have been full fifty yards distant from Mr.  
 “ Larnack when he fired.

“ Mr. Therry rose to request, that Mr. Larnack, who, after having given his  
 “ evidence, had taken his seat next to the Solicitor-General, be directed to  
 “ leave the Court. He made this request at the suggestion of one of the  
 “ prisoners at the bar, who had a motive for doing so.

“ The Solicitor-General thought that the application just made could not be  
 “ granted, unless it were the intention of the opposite side to put Mr. Larnack  
 “ into the witness box.

“ The Chief Justice said, it was perhaps carrying the rule farther than was  
 “ usual, yet he would direct the application to be complied with. In that  
 “ Court there was no respect of persons. [Mr. Larnack accordingly retired.]  
 “ Samuel Marsden, being sworn, said—I am an assigned servant to Mr.  
 “ Larnack, at Castle Forbes ; on the 5th November last I was sheep-washing  
 “ there ; I suddenly heard a voice say, ‘ Stand every man of you in the  
 “ water ; it said to Mr. Larnack, ‘ Come up here, you villain—you tyrant ;’  
 “ Mr. Larnack jumped into the river behind some of the washers ; Mr. Lar-  
 “ nack was now crossing the river, and Hitchcock fired at him ; he was about  
 “ twenty or thirty yards from him ; after he had fired, he appeared very angry,  
 “ and turning round to his own party, said, ‘ Fire away, you b——rs ;’ I saw  
 “ a strange man fire, who is not here ; I heard the third shot, but did not see  
 “ who fired it ; I did not see any one fire from the fence ; I heard Hitchcock  
 “ say, as Mr. Larnack was crossing the river, ‘ Let’s follow the b——r  
 “ and finish him—it will be no worse ;’ I saw Riley with a pistol ; he  
 “ called out to Darby, ‘ I’ve a good mind to blow your b——y old head off ;’  
 “ the other replied, ‘ What for ?’ to which Riley answered, ‘ Because you  
 “ are a b——y old rogue ;’ I saw there, Hitchcock, Riley, Perry, and Ryan ;  
 “ Poole must have been there ; I heard him say, ‘ You’ll flog me, you b——r,  
 “ Ill learn you to flog.’

“ Cross-examined by Mr. Therry—Hitchcock might be about twenty or  
 “ thirty yards off when he fired at Mr. Larnack ; there had been a great deal  
 “ of flogging at Castle Forbes ; I have been flogged there myself ; I heard  
 “ three shots ; I do not know whether the guns were shotted or not ; if the  
 “ prisoners had liked, I think they might have followed Mr. Larnack across  
 “ the water and caught him ; Hitchcock said let’s follow, but did not do so.

“ William Wilson, being sworn, deposed as follows :—I am an assigned  
 “ servant to Major Mudie, at Castle Forbes ; I was sheep-washing there in  
 “ November last ; I heard a voice say, ‘ Come up here, you scoundrel ;’  
 “ turning my head, I saw Hitchcock on the other side of the fence ; he had a  
 “ gun in his hand ; he presented it at Mr. Larnack, who was in the river, and  
 “ fired ; I did not see any shot ; I afterwards saw Poole fire a shot from the  
 “ fence ; he seemed to fire at Mr. Larnack, who had then nearly arrived  
 “ at the opposite side of the river ; Poole said before he fired, ‘ I’ll learn  
 “ you to flog ;’ Hitchcock was twenty-five yards from the river when he  
 “ fired ; I saw Hitchcock, Poole, Perry, and Riley there ; there was

“ another man at some distance, whom I took to be Jones ; but as I could not  
 “ see him distinctly, I will not swear it was him ; I said before the Magistrates  
 “ the same as I say now.

“ Cross-examined by Mr. Therry—I saw Hitchcock fire towards the river ;  
 “ I heard the expression made use of by the prisoners respecting flogging ;  
 “ there had been a great deal of it at Castle Forbes ; I thought it alluded to  
 “ that ; the prisoners did not follow Mr. Larnack across the river, which they  
 “ might have done if they had liked.

“ Re-examined by the Solicitor-General—By not following Mr. Larnack,  
 “ I suppose the prisoners had no intention of doing any harm to him.

“ John Hart, being sworn, said—I am an assigned servant to Mr. Larnack,  
 “ at Castle Forbes ; I saw all the prisoners at the bar at Castle Forbes on the  
 “ 5th November last ; they rushed into the house, and took three guns out of  
 “ it ; I did not see them charged the last time, but I have on former occa-  
 “ sions seen them loaded with small bird shot ; I never saw them charged  
 “ with buck shot ; I heard Riley say to Mrs. Larnack, they were going down  
 “ the river to settle her husband ; neither of the other prisoners were present at  
 “ the time ; I heard one of the party say they would bring in Larnack’s head,  
 “ and stick it on a chimney ; they were three quarters of an hour on the pre-  
 “ mises, and when they went away they locked up every one in a store ; in  
 “ about twenty minutes after they had gone, I heard the report of a gun ; it  
 “ appeared to be at some distance.

“ Cross-examined by Mr. Nichols—I heard only one gun ; does not know  
 “ in what direction ; does not know whether the guns were loaded when  
 “ taken by the prisoners.

“ Alexander Flood being sworn, said—I am overseer to Robert Scott, Esq.,  
 “ and went in pursuit of some armed bushrangers in November last ; was  
 “ present when the prisoners were apprehended ; they were given in charge to  
 “ me, with the arms found on them ; the arms now produced are the same ; they  
 “ are two double-barrelled guns, four single ditto, one musket, and two pistols.

“ Cross-examined by Mr. Therry—The prisoners behaved well after being  
 “ taken.

“ Mr. George Spark being sworn, said—I live at Rusham, Patrick’s Plains ;  
 “ was present when the prisoners were apprehended in Lamb’s Valley on the  
 “ 13th November last ; I heard Hitchcock say, in presence of the rest of the  
 “ prisoners, that he had taken a good aim at Larnack’s head, but missed the  
 “ b——.

“ Cross-examined by Mr. Therry—Mr. Flood and several others were  
 “ present, when Hitchcock said this ; they might also have heard it ; I have  
 “ no friendly feeling towards the prisoners.

“ Mr. Larnack recalled by the Solicitor-General—The three guns produced  
 “ were loaded with buck-shot, a few days previous to their being taken away  
 “ from Castle Forbes ; I can swear they were charged on the evening of the  
 “ 4th November last.

“ Cross-examined by Mr. Therry—I have heard what was stated by another

“ witness, and I still persist in my former statement as to the shot falling near me, and the distance from which I was fired at.

“ John Hart recalled by the Solicitor-General—The three guns produced were taken by the prisoners, from Castle Forbes, on the 5th November last ; I don't know whether Jones was present when the threat was made respecting Mr. Larnack's head.

“ This was the case for the prosecution.

“ Mr. Therry begged to submit for the consideration of the Court, that there was no evidence affecting the prisoner Jones on which it would be necessary to place him on his defence.

“ The Chief Justice observed, that although the degree of proof against the prisoner Jones was very slight, yet the Court would exercise it's discretion in discharging him in this stage of the proceedings, as it might enable the other prisoners to examine him in their behalf. He would therefore put the case to the Jury on it's merits, remarking, however, on the deficiency of evidence as affecting the prisoner Jones.

“ On being called on for their defence,

“ The prisoner Hitchcock first addressed the Court ; he said, the evidence of the witness Spark was utterly false ; the treatment he had received at Castle Forbes was harsh in the extreme ; he had been several years in the Colony, and while in the employment of the Crown, had been so fortunate as to gain the esteem of his superiors, by whom he was placed in a situation of trust and responsibility ; he had been employed in, and had charge of the Post-Office in Newcastle ; for a knowledge of his general character there, he would call upon a gentleman in Court, whose testimony he was sure was proudly above comparison with any of the witnesses who had sworn against him.

“ The gentleman alluded to, Ensign Zouch, one of the Jury, was here sworn, and stated, that he had known Hitchcock for about six months, when at Newcastle Post-Office ; from the situation of his quarters there, which were immediately over the prisoner's, he was enabled to state of him, that he was a quiet, and well-behaved, trustworthy man, and one not likely to be guilty of such an outrage, as that for which he was now on his trial.

“ Hitchcock went on to state, that it was to the unfortunate circumstance of his being assigned to the service of Major Mudie, he attributed all his subsequent misfortune, and present unhappiness ; he had been in the possession of an exemplary character before he went to Major Mudie ; he had since been repeatedly flogged, by which, and by the unwholesome food he had subsisted on, his health had been ruined, and life itself rendered burdensome ; he had been sentenced to an iron gang for an offence of which he knew nothing. The witnesses who swore against him made their depositions before the Magistrates in private. No confronting with the accused was permitted, nor was any defence called for. Whatever punishment was threatened by the master to his servant, was always sure to be inflicted by the Bench, and this was the way in which justice was administered on the Hunter. If they refused to labour on a Sunday, flogging was threatened,

“ and as surely given. Servants who had for months been due for tickets of  
 “ leave, had been refused their indulgence, and, if at all importunate, a flog-  
 “ ging bestowed rendered future application unnecessary. If the Court would  
 “ but look at their bare backs, it would see that their statement was not exag-  
 “ gerated.

“ The prisoner Poole had only to re-echo what the last prisoner had stated.  
 “ Bad treatment by Messrs. Mudie and Larnack had brought them to the  
 “ ignominious fate to which they were about to be consigned. While at  
 “ Castle Forbes, he had addressed a letter to the Principal Superintendent of  
 “ Convicts, as well as to the Director of Public Works, complaining of this  
 “ bad treatment. If it had been found, on enquiry, that his statement was  
 “ false or unfounded, he could have been summarily punished, but his repre-  
 “ sentations had been intercepted by Mr. L. and kept back. He was aware  
 “ that any thing they could urge in their behalf, would be of but little avail—  
 “ their doom was fixed; but he solemnly implored the Judge to cause an  
 “ enquiry to be set on foot respecting the treatment of assigned servants at  
 “ Major Mudie’s, in order to prevent others from being forced into the  
 “ unhappy situation in which they were then placed.

“ The other prisoners severally concurred in the sentiments expressed by the  
 “ two first named prisoners.

“ Mr. Therry only rose to say that he had witnesses in attendance on behalf  
 “ of the prisoners; but the evidence he should offer through them having  
 “ been held untenable, he must bow to the decision of the Court, in whose  
 “ hands he must now leave the case of his clients.

“ The Chief Justice commenced his charge by directing the Jury entirely  
 “ to dismiss from their minds the line of defence adopted by the prisoners at the  
 “ bar. His Honor observed, that resistance by violence, such as was imputed  
 “ to the prisoners, of any grievance, whether real or imaginary, was not tole-  
 “ rated by the law. The learned Judge then summed up the evidence, com-  
 “ mentering upon it, as he proceeded, with his usual perspicuity.

“ The evidence against Jones, His Honor remarked, was of a very trifling  
 “ nature, but it was for the Jury to decide whether all, or any of the  
 “ prisoners were guilty or not guilty upon the information before the Court.

“ The Jury, after a short deliberation, returned a verdict of *Guilty* against  
 “ all the prisoners, except Jones, whom they acquitted.

“ The prisoners were again arraigned on a capital charge, to which they  
 “ severally pleaded *guilty*.

“ Hitchcock observed, as it had been intimated to them that the time  
 “ allotted for their existence would be very short, and two capital convictions  
 “ being already recorded against them, they thought it unavailing to protract  
 “ the present investigation; they were now only anxious to seek religious con-  
 “ solation, and prepare themselves for that great change which so shortly  
 “ awaited them, but for which, he prayed, that a longer day, than as inti-  
 “ mated, would be granted.

“ The Solicitor-General, commiserating the situation of the unhappy pri-  
 “ soners at the bar, would not present against them the other informations on  
 “ the files of the Court; neither would he pray judgment against them under  
 “ the provisions of the local Act for the suppression of bushranging and  
 “ robbery.

“ Mr. Therry hoped, that as there was another tribunal before which the  
 “ plea of mercy might be raised, and the extenuating circumstances of the  
 “ prisoners’ case meet with due attention, that the Court would be pleased to  
 “ direct the stay in town for two or three days of the witnesses whom he had  
 “ unsuccessfully endeavoured to produce in Court; otherwise they would be  
 “ returned to the interior of the country immediately, by which he would be  
 “ entirely deprived of the benefit of their testimony, even where it could only  
 “ be available.

“ The Chief Justice said undoubtedly there was another tribunal where the  
 “ plea of mercy might be raised, and it was also competent for that tribunal  
 “ to grant the remedy for which the learned Counsel applied. It was not in  
 “ the province of the Court to interfere, and he could make no order with  
 “ respect to the application just made.

“ The Solicitor-General would now perform the painful part of his duty, in  
 “ praying the judgment of the Court upon the prisoners at the bar.

“ Proclamation having been made,

“ The Chief Justice addressed the prisoners. They had all, with the  
 “ exception of one, been convicted of two capital felonies, and they had just  
 “ pleaded guilty to a third capital indictment. Independent of this, their  
 “ crime involved that of open rebellion against their master. His Honor, after  
 “ a very pathetic address, passed on the prisoners the awful sentence of  
 “ the law, directing them to be executed at such time and place as His Excel-  
 “ lency the Governor should be pleased to appoint.”

The determination of the Executive Council respecting the fate of these men, will be seen by the following Extract from the *Sydney Gazette* of the 21st December, 1833.

“ The two principals in the late outrages at Hunter’s River, Hitchcock and  
 “ Poole, were forwarded to Maitland, by the steamer *Sophia Jane*, on Thurs-  
 “ day evening (December 19), to suffer the extreme penalty of the law this  
 “ morning, at the scene of their depredations. The same awful result awaits  
 “ three of the other prisoners, at the usual place of execution, in Sydney, this  
 “ morning, viz. Riley, Perry, and Ryan. With respect to the last named  
 “ prisoner, we think that the Executive Government would do well to interpose  
 “ the Royal clemency in his behalf, and spare a human life, which we think  
 “ is not imperatively called on to be offered up at the shrine of justice. Let  
 “ it be remembered that this prisoner is a mere boy, some sixteen or seventeen  
 “ years of age; and, although we would not place implicit credence on the state-  
 “ ments made by some of the other prisoners when receiving sentence, yet we  
 “ would urge the extreme probability that the lad was in a great degree incited  
 “ to join his associates by the inducements their greater experience in crime  
 “ enabled them to lay before him. We hope, therefore, that his case may be  
 “ considered a fit one for the exercise of mercy.”

The whole of these five prisoners were executed.—The other (Jones), was transported to Norfolk Island for life.

I will make no further comment upon these extraordinary

trials, than to express my cordial approval of the proceedings of the Commission of Enquiry which succeeded them; and my sense of it's indispensable necessity. If the whole of the allegations of these unfortunate men were not substantiated, enough was unquestionably proved, to exhibit a deliberate system of maltreatment, inconsistent with that ordinary benevolence of disposition enjoined by the Government, and which the most degraded of the human species, would not calmly have endured, if the means of redress, by any alternative, however desperate, were within their reach. The Governor, in communicating his opinion upon the result of this impartial investigation, speaks with a degree of evasion, to which there was no occasion to resort. His Excellency's palliation of some features in the case, amounts at best to a negative sort of approval, which sensible men consider, as breathing the most ironical spirit of condemnation. The Governor censures the inattention of Messrs. Mudie and Larnack, to the quantity and quality of provisions furnished their assigned servants; and the Colonial Secretary, by direction of His Excellency, pointedly alludes to the misconduct of the latter in the following terms; —

“ I am directed to observe, that His Excellency cannot but consider the conduct of Mr. Larnack as imprudent in striking assigned servants, for the punishment of whose misconduct the law has sufficiently provided: and in bringing David Jones before the Bench at Patrick's Plains, upon the 21st October last, upon a charge of neglect which he established by his own evidence; and bringing afterwards the same person forward a second time, on the same day, for the same offence, which was established by a man named Brampton, so as to obtain TWO sentences of fifty lashes each, Mr. Larnack adopted an unwarrantable and unjustifiable proceeding.”

This speaks volumes of the opinion the Government has formed of the *merits* of Mr. Larnack upon the occasion; but where is *Major Mudie, as he is called!* We shall see that he is not forgotten in the sequel:—

“ The Governor is also called upon” (says the same letter) “ to notice the conduct of Mr. Mudie, in requiring Nagle to go on Sunday for a winnowing machine, and subsequently bringing him to the Bench, to be punished for refusal; in doing which, he acted in a manner wholly unjustifiable !!!”

Why the Governor should have confined his just censure to these acts alone, I am at a loss to conceive; when there are so many others of ten times greater enormity which I shall submit to your consideration. Was His Excellency deterred

by any fear of the *cabal*!—Or was he anxious to conciliate them?—Or had the game been sufficiently run by him, to be hunted down by public opinion, aided by the bloodhounds of the Press? Mudie and Larnack attempt to justify, but to their mystification of logic, and jargon of sophistry, I do not propose to refer, until I first extract copiously from the published evidence taken before the Commission of Enquiry.

It has been contended by Mr. Mudie, that the rupture to which I have already alluded, corroborated the assertions of his friends, the Petitioners, that insubordination did actually exist; and that, therefore, the Governor was highly culpable in his allegation that public tranquillity was *not* in the least danger. I will deal fairly with the Major. I will give him all the advantage of that self-adulation *in* the Colony with which he has plentifully bedaubed himself: and I will suffer the encomiums of his *Colonial* emissaries, and cat's-paws to regale the ears of "kindred spirits" *here*; but it would be worse than cowardice, or treachery to society, to allow the *British* public to be misguided by the false representations to which the discontented and disappointed factious few will probably resort. General Bourke has, as the Major states, *acquitted him of the charges of tyranny and oppression*, which the men who were executed made against him: but the Governor censures (and properly so) both his conduct and that of his son-in-law, in issuing bad and insufficient provisions at different times to their men, and particularly for having procured the punishment of a prisoner, named Nagle, for refusing to labour on the Sabbath. This, Sir, is a specimen of Botany Bay morality, and will enable you to form a proper estimate both of the Christian sentiments of the master, and the elements which compose the Courts of Summary Jurisdiction who would dare to mete out corporal punishment upon such an occasion. With regard to the servants who proved the charges, in part, against the Major, he complains bitterly that their evidence should have been received at all—and points triumphantly to some others, his servants, who, he says, are good men, because they speak rather partially of his equivocal treatment. The reason which induces them, however, to sound

his praise, is obvious: they are destined to remain in his service; and it is no difficult matter to discover their motive in glossing over his unwarrantable behaviour. It is not likely they would seek to aggravate their cruel treatment by exposing the author of it, but rather endeavour to soften his obdurate feelings by that false praise, to which the most ignorant men know that weak and cruel minds are susceptible. The Major in political life is a tactician of no mean pretensions, since he boasts of his intention and power to change the whole penal discipline of the Colony—an *Ægæon* task, easy enough however of accomplishment by a *Hercules*, who “can send a man to Norfolk Island for “life”—or “get another a pardon,” as the witnesses informed the Commissioners their master had frequently boasted he had the power to effect. I have no doubt, Sir, that in any interview with which you may be pleased to honor him, he will deliver himself with a *polish* superior to that of the community of which I form a member; and I certainly long for a supply of that *Downing Street intention* with which the Major will, in his accustomed gasconade, unquestionably supply us. When it became apparent that the Governor would direct an inquisitorial proceeding respecting the *causes* that produced so serious a *convulsion* on his particular farm, Mr. Mudie wrote to the Colonial Secretary, desiring that particular men should be removed from his employment as insubordinate, and their places supplied by others of more accommodating and docile habits. This, at first sight, appeared a reasonable desire, and on any other occasion would have been probably sanctioned without much deliberation; but the Governor wisely paused. He could perceive a covert purpose, and what was it? That the writer might, in the anticipated enquiry, throw doubt upon the testimony of men whom no stratagem could debar from speaking the truth; and the Major has naturally enough availed himself of this protection in the vindication, or rather *recrimination* which he has very injudiciously offered to the Government.

When I invoke, Sir, shame and obloquy to become the portion of every master who starves his servants in a Country like this, where provisions are proverbially plentiful and good, I only echo the prevailing public sentiment

elicited by this enquiry.—Submission from convict servants is not only expected but enforced; and yet the treatment they generally receive nourishes all the elements of disobedience and rebellion. Reformation is forgotten: and in the adoption of blind and cruel measures to repress liberty of complaint, and to brutalise the passions, masters forget (willingly in many instances) that human beings are the lamentable victims of their wrath. Men speak, Sir, in England, of the happiness and comfort of a convict: alas! do but look on the picture—the plain and faithful portrait exhibited by the following extracts from the published evidence taken by unbiassed Commissioners, on a loudly-eulogised, and complete agricultural establishment. The meat is proved to be nauseous and unpalatable. Brown says,—

“ It was black when issued, and appeared to be in a state of mortification: it could not be eaten.”

Nagle “ was obliged to throw it to the dogs; for two years good meat had not been issued to the men above *eight times*.”

Ponsonby, another witness, adds, “ that the meat was bad always, and that the weekly ration of four pounds of pork (given in harvest time by way of indulgence) it was morally impossible to eat!”

Cook says, “ I recollect a bullock breaking his leg, and the meat was served out to the men: the meat was very bad—it was not fit for use the day after we got it.”

Those who know the condition of *working* bullocks, will readily appreciate the sorry banquet which a number of hard-working hungry men, must have enjoyed over the tough and tainted sinewy flesh of an animal of this description. Alas! human misery, where is thy parallel? Nagle, in his evidence, speaking of the meat alluded to by Brown, adds,

“ What was served out was not good: the flesh was bruised in patches, and would not take the salt—the animal was very poor.”

True; but it was fit, it seems, for the *poor* servants of Messrs. Mudie and Larnack to eat.—This witness, in answer to questions put by Mudie, says,

“ I never said I was starved; but I said the rations were bad.—I used to eat cabbage I had at the back of my hut with salt (strong symptoms of starvation) when the meat would become short: I used to throw the meat away because it was maggoty, and it used to stink that it might be smelt a quarter of a mile off—I mean by this that it had a very strong smell.”

“ The above, Sir, might be considered as conclusive

evidence of a system of mismanagement, calculated to goad men to acts of insubordination and violence: but I will produce still more damning proofs. Henry Brown says,

“ The bullock, *Punch* (whose flesh was given as ration to the men) lay in a hole a day and a half, and he was served out—he had his leg broke.”

One would believe this was a solitary instance; but no—the same witness adds,

“ A short time after, there was an old cow lay alongside a creek, and George Frost, one of the men on the farm, reported it on a Sunday: she lay there, and the butcher stuck the beast on Monday, and it was served out: it was old and thin, and the flesh would not take salt.”—He adds, “ This meat of the cow was served out, but the greater part was given to the dogs. I have seen the Overseer take out this meat full of maggots, and wash the meat, and throw salt on it for the men’s use.”

If a settler expect labor, he should at least supply his laborers with sufficient and wholesome sustenance. It will now be my duty, Sir, to point out to you that Mr. Larnack has not only been guilty of barbarity in striking and ill-using prisoners, who were prevented by their relative condition from retaliating; but has added to the miseries of their slavery, the horrors of starvation. And now with respect to the *flour* issued by Messrs. Mudie and Larnack to their servants:—

James Brown—“ We generally get tailings: what was served out about four months ago was the blackest, but not the worst.”

James Harvey—“ The flour that has been issued within the last three months was very bad: it is hardly fit to be called flour—it is mixed with grass seed and smut—the best was sent to Sydney, and the worst kept for the men.”

Richard Nagle—“ The flour that I complain of being very bad had smut-balls in it—rye grass seeds and garlic was in it; the best of the wheat was sent to Sydney, and the tailings were left for the use of the men.”

“ Henry Brown—“ I have taken some good wheat (to the mill), but the greater part was the sweepings and tailings of it. I took up 36 bushels to be ground for Mr. Scott, but the miller complained of the flour being so bad, and it was then served out as a ration; we got ten pounds a week of it.”

[This wheat Mr. Larnack was ashamed to send for the servants of a neighbour, but he was not ashamed to give it to his own.]

The above, I submit, affords ample proof, that if such treatment prevails on large and well-regulated estates here, the ill-managed and small farms are proportionately worse. But oppression, Sir, is not confined to bad food.

It displays itself in the violent behaviour of the master, who, in fits of intoxication or anger, wreaks vengeance upon the unhappy mortals, whom the British Government commit to his paternal, or at least humane custody.

Henry Brown—" I saw Mr. Larnack in June last beat a boy of the name of Duffy, who was in my hut, and is still ; he beat him cruelly with a stick for thatching wheat stacks, as thick as one of my fingers ; he gave him several blows, four or five ; the boy is sixteen, or seventeen years old ; on the following Monday Mr. Mudie brought him to Court, and he got fifty lashes ; Big Brown was present when Duffy was beaten ; I don't recollect who else was present ; Mr. Larnack beat Duffy lately when he had a sore back ; I have seen Mr. Larnack also strike Maurice Stack, one of the men, before he beat Duffy ; he beat him on different days with a stick, and with a cutting whip, and with his fists ; he also beat Dempsey ; I saw him beat all these persons ; Dempsey went from his own business to fetch water for a man of the name of Cushin, a constable, and for this it was he was kicked by Mr. Larnack."

This witness further adds—" I saw Duffy beaten by Mr. Larnack ; it was not with a strap of leather ; it was an oak stick he was beaten with."—Mr. Larnack also beat Stack for neglecting his pigs ; he kicked him up, and knocked him down, and kicked him when down."

Unmanly and censurable as this behaviour is, as applied to individuals, what opinion, Sir, are we to form of the morality of the man who considers the holy Sabbath as unworthy of regard ; and who, rather than enforce by his precept and example, Christian piety in those whose lives have been too often passed in the worst of profligacy, perpetuates immorality by direct command, and contributes to it's further growth.

James Brown—" I have known wheat to be cleaned and bagged on Sunday."

James Harvey—" I have worked on Sunday loading a team. I knew William Crisp to be punished (flogged) for refusing to work on a Sunday ; it was three years ago. Nagle told me that he (himself) got twenty-five lashes for refusing to go to Mr. Campbell's for a winnowing machine on a Sunday."

This witness (who had been five years with Mr. Mudie) also says,

" I have received notice that Divine Service was to be performed in the School-house at Patrick's Plains *once* or *twice* during all the time I was at Castle Forbes ; *twice* or *three times* I attended prayers in the barn ; the men used to spend their Sundays in washing their shirts, and fetching wood for their own use."

Peter Ponsonby—" I have worked on Sunday at the request of my master ; I did not like to refuse him."

Richard Nagle—I was only once punished since I came to the Colony—

“ then I got 25 lashes ; the Overseer of Mr. Mudie reported to him that I refused to go for a winnowing machine to Mr. Campbell’s on Sunday, and the same day that I refused to drive bullocks, and I was flogged.”

Is it, Sir, surprising, that crime prevails here, when such abandoned acts are sanctioned—when a man is actually punished by a Bench of Magistrates for refusing to profane the Sabbath? We want stipendiary Magistrates. This is direct proof of the injustice of the Benches we now possess.

You will doubtless enquire, Sir, in perusing the preceding disgusting details, why did not these men, when they found themselves so grievously oppressed, apply for the interposition of the Government, or the Bench of Magistrates? With regard to the first method of redress, it appears in evidence, that Mr. Larnack intercepted and detained written complaints of Poole (one of the prisoners executed), addressed to the Principal Superintendent of Convicts, and the Director of Public Works; and with respect to the second, it may be remarked, that Justices who would flog a man for not labouring on the Sabbath day (without any cause of urgent necessity having called for so great a deviation from propriety), would not feel much interested in entertaining complaints from the assigned servants of a Brother Magistrate, who might have, at that moment, ample occasion to shake hands with each other upon a similarity of treatment. You, Sir, may possibly applaud the generalship displayed, although you will certainly condemn the system pursued, in subduing appeals for redress in the manner exhibited in the following :—

James Brown—“ I never complained to the Magistrates ; he, Mr. Mudie, always told me I’d get punished if I did ; I have complained to Mr. Mudie and Mr. Larnack (of the bad provisions) ; none of the other men complained to the Magistrates ; when any man was about to complain, he was brought up on another charge.”

James Harvey—“ I never made any complaint to the Magistrates ; it was dangerous to do so ; any one that found fault was considered an insubordinate character ; if any man spoke of it, Mr. Mudie would call him an insubordinate character, and hunt him down.”

Mr. Larnack was examined as a witness in his own behalf, and a more injudicious and unprecedented measure, could not, in my opinion, have been adopted. To allow a man to give evidence where his conduct was the subject of enquiry,

was not more novel than futile. As a piece of cautious sophistry, and meagre exculpation, it is worthy only of contempt; but as tending either to shake the stability of the great body of evidence; or as negating even the testimony given upon any particular incident, this illegal mode of proof entirely fails. The Commissioners certainly shewed an unnecessary courtesy to Mr. Larnack in receiving his statement; but it however affords a proof of the strict impartiality with which they acted; and I will even go farther, and state, that no two gentlemen in the Colony, could have been selected of greater intelligence and more honourable independence, than those composing the Members of this necessary Court of Enquiry. I will here ask, did Mr. Larnack disprove any of the charges respecting the badness of the provisions? Did he shew that good meat was given in lieu of the bad?—Did his equivocal explanation of stopping the letters of complaint, look like the conduct of a man conscious of his own innocence?—Why did he not have the author of them arraigned at the bar of justice for false and malicious accusation? has he, or Mr. Mudie proved their conduct towards the unfortunates in their power, to have been humane?—Or did they wipe off the stigma attached to the contrary disposition, by the following extraordinary conduct?

James Brown—"I was brought up two years ago by Mr. Mudie to Court for *feigning* I was sick; a Dr. Sloane, I believe, certified that I was able to work, and I was flogged; I got fifty lashes, and I was able to go to work on the following day—I was obliged to go."

Peter Ponsonby says—"I know that the men who were tried were severely flogged; Perry was flogged very often; I saw his back, and he had a horrid back; he often complained that he had not enough to eat; he used to call at my hut for a bit of bread, and I used to give it to him; the flour was very bad; the men all went up to complain of it; after that the flour became a little better; I think Reilly had reason to complain; he had a horrid back, and Mr. Larnack wanted him to go to work, and for refusing to work he was brought to Court again and flogged; I heard Reilly and Poole say that they would not get justice at the Bench at Patrick's Plains; I heard the men in conversation amongst each other say that the Magistrates were so friendly to each other, no justice would be done them."

Good heavens! Is it in the power of pen to express the horror with which every man, not lost to the common feelings

of humanity, must view this revolting picture. Nature shudders at the recital of these human woes; and justice in vain seeks for mercy, her sister in the judgment-seat. Who attempts to deny these hideous facts, among the supporters or palliators of the "Mudie cause?" None, for they are undeniable—refinements of barbarity, cruelty, and torture. If, Sir, there be either justice or humanity remaining in the human breast, I would invoke it to my aid, while I arouse your just indignation in the perusal of these disgusting, these heart-rending details. Perry and his comrades fled to the bush; they attempted the life of the author of their torments; and they perished on the scaffold. Was not death preferable to a life of such protracted agony—of such frequent and relentless scourging and starvation?

William Cook—"Reilly (who was also hanged) had got a deal of flogging, and I used to hear it said he could not stand it."

Peter Ponsonby—"I often heard Poole (who was executed) say, that he wished Mr. Mudie (who indulged him occasionally) was at home; that he was afraid he would be hanged before he came: he told me it was Mr. Larnack tyrannizing over him he was afraid of; I have heard Mr. Larnack blow him up, and call him a damned scoundrel."

In fact, Sir, the whole tenor of the evidence seems to imply that these unhappy men, who were executed, sought an ignominious death, rather than submit to evils arising from persecution which they were unable to endure. Is not transportation under these circumstances "WORSE THAN DEATH?"!!!

Mr. Mudie was more cautious than his countryman and relative, Larnack. He contented himself with merely making a protest against his worst and most insubordinate servants being examined, and what followed? His best were heard, and particularly his merciful and intelligent maggot-picking Overseer, Crinane, and of what utility were they? With regard to Mr. Mudie, he seems, in all the transactions of his farm, to have confided the management to Mr. Larnack, and kept up the semblance of humanity by giving his servants, now and then, cabbages and potatoes (which, by the bye, the floods had spoiled), and a portion of fair words and unmeaning counsel, as a sort of palliative for the entire

want of feeling displayed by Mr. Larnack. Nabob-like, too, he gave a *true* (heaven save the mark!) picture of his importance as a Magistrate and ‘*great mon*,’ in the following graphic sketch, which I submit as illustrative of the superior manners, and undoubted veracity of Major Mudie, J. P.!

James Brown says—“ Mr. Mudie said he expected a *free pardon* for me and Mr. Bill, and we could not *then* expect a suit of clothing (coaxing, eh!); on Wednesday, a month or three weeks from yesterday, Mr. Mudie told me that he had the power to keep any man on the farm during his life, or to send him to Norfolk Island, and that he had received a letter from the Governor to that effect, and to draw the best mechanics.”

Surely, Sir, the Major was jocular, but we shall see :—

James Harvey says—Mr. Mudie said he had sufficient interest with the Governor to send any man to Norfolk Island for his natural life, and could pick the best tradesmen in Sydney for himself.”

The shifts to which the Major has been reduced for evidence to palliate some of the strange charges embodied in the examinations, are as ridiculous as his assumed importance is contemptible. He brings forward Crinane, who being an insignificant mortal, was not probably included in the merited censure of the Government; but certainly the link of his barbarity was so connected with the chain of facts of general misconduct at the establishment of Castle Forbes, that the Commissioners should have hesitated before receiving him as a witness. They however did do so with some caution, but his testimony amounts to no more than that he did not *hear* this, nor *see* that. He does not negative a single assertion of any moment; and even if he were to contradict, it could not avail against such a host of strong corroborative proof.

Hugh Thomson, a Scotch Emigrant mechanic, deposed, that the conduct of Messrs. Mudie and Larnack towards their servants, was marked by HUMANITY! GOOD FEEDING!! and BENEVOLENCE!!! Among other instances of unblushing effrontery in this person, we have the following :—

“ I think the feeding of the prisoners on the farms generally in this Country, that I have seen, much SUPERIOR to that of laborers in Scotland. I consider Mr. Mudie’s farm, during the time I was on it, as well provided as any farm I have seen here, and, from the quantity and quality of the provisions, equal to the farming establishments in Scotland.”

This person, moreover says, with the view, no doubt, of giving weight to his *highly important* testimony,—

“ I am brother to Mr. Thomson, the Scotch Clergyman of Bathurst.”

Mr. Thomson was on Mr. Mudie's farm for eighteen months; he had not seen it since July last, which was some time before Poole and his companions absconded: he was therefore *not* present at Castle Forbes during the *absence* of Major Mudie, the identical time when the cry of *insubordination* resounded; and when the faction were excelling each other in attempts to raise a rebellion, and, of consequence, an universal slaughter. I consider this testimony as only remarkable for the gross ignorance of the witness, expressed in his libellous attack upon the Scottish nation, which virtually amounts to this—that the hardy sons of Caledonia's soil, have acquired their characteristic robustness of constitution, by having been fed on a composition of rye grass, smut balls, and the coarsest of pollard; with animal food bordering on a state of putrefaction, in which maggots have been engendered, and banquetted gloriously. With these remarks, I shall beg leave, Sir, to dismiss Mr. Thomson from your further notice, at the same time wishing his friends all the *advantage* they can derive, from his compound of bombast and absurdity.

Mr. Robert Rodd and Mr. Baldwin, both settlers, and the only ones summoned, proved that they treated their own servants *well*, and gave them a good ration.

The other men belonging to Messrs. Mudie and Larnack were called in, but made no complaint; and, as I have before stated to you, the cause is obvious—they were to be retained upon the estate, and policy naturally suggested the expediency of silence, as the means of saving themselves from after consequences.

Reviewing generally the evidence published by Mr. Mudie, it will readily occur to you that the manifestation of a spirit of discontent, and the subsequent rising and execution of certain prisoners in the employment of Messrs. Mudie and Larnack, though it cannot be palliated by the *fact*, evidently originated in the *treatment* they experienced.

If even the men had risen in a body, where the general treatment was such as the evidence has disclosed, who would venture, in a moral point of view, to blame them? Is the negro in a state of slavery like this? But what was the result of the commotion it produced at Castle Forbes? The prisoners on the adjoining farms, who were unjustly stigmatised as *insubordinate*, volunteered to go in pursuit of the desperate runaways. They flew with alacrity to the bush, and assisted in capturing them. The leader of the party, Mr. Robert Scott, one of the Justices of the District, was rewarded for his exertions by a piece of plate; but no one ever heard of what became of the money which a generous and sympathising public subscribed for the prisoners who accompanied him. They, *insubordinate* characters, although lending their aid to suppress *insubordination*, must be forgotten, in order to assist the hue and cry of the faction; but the public bears *their* behaviour in remembrance. Money was subscribed for their reward, surely it cannot have merged into the Scott Plate Fund. If it have not, at least, let the subscribers be made acquainted with the manner in which it has been applied.

I have already furnished you, Sir, with the Governor's opinion upon the evidence from which the foregoing are extracts; and as it will be but fair to allow Messrs. Mudie and Larnack to be heard in explanation, I will now do myself the pleasure of analyzing their lucubrations. I must here observe, with regard to His Excellency's letter, that opinions conveyed by his authority with such singular leniency, ought to have produced submission and gratitude in both the breasts of Messrs. Mudie and Larnack; for the General, in the zenith of his popularity and victory over a virulent and factious party, might have assumed an imperious and commanding tone—but no—his desire to act with courtesy and dignity of feeling ruled supreme; yet this indulgent disposition produced a remarkable degree of audacity in those to whom it was applied, and a letter from each of these persons, censuring the leniency of the Governor in no measured terms, and asserting their rights to a *triumph*,

almost immediately followed. Possessing, Sir, an undoubted right to comment upon documents, which the hardihood, or misplaced judgment of these worthies has furnished in publishing, I shall exert the privilege of discussing the merits of certain passages therefrom, without anticipating any blame for that warmth of feeling, which the subject may probably induce. These letters it will be remembered, are replies to the Governor's communication of the 13th February, conveying His Excellency's opinion, and censure of the acts disclosed before the Commission of Enquiry.

First, as to Major Mudie. His letter is only singular for it's vague and impudent allusions. It's deductions exhibit a barrenness of candor, and a plenitude of bombast. He assumes a right of censure, and points out the turpitude of others, without recollecting that cruelty is a crime ten times more inexcusable than the burglar's violence, or the highwayman's fury, who in putting a pistol to your ear demands your purse or life, and *politely* expresses his regret that *necessity* obliges him either to rob or murder you. There is no *necessity*, however, that can excuse cruelty. The Major complains that the men examined were allowed "not to give evidence of their own misconduct, but to criminate their master," What was the object of the enquiry? Was it not to ascertain to what extent the assertions of the unfortunate men were founded in fact? The result is any thing but complimentary to the humanity of the Major. If I, Sir, were proved guilty of similar inhumanity, I would hurl myself from some "Tarpeian" steep, or bury my remorse and shame in some gloomy recess, far from the condemning gaze of civilized society. The allegation that the provisions issued to his servants, were equal, if not superior to that given to prisoners under the sanction of the Commissariat, is decidedly untrue: and I look upon this allusion as conveying a direct insult to the respectable Officers of that Department; since it amounts to a charge that they disgrace their stations by allowing unwholesome and filthy food to be served out under their authority. To justify his conduct by adducing the unsatisfactory testimony

of an impudent Scotch mechanic, and a tyrannizing Overseer, who coolly picks maggots from stinking meat, for the *benefit* of his master, and the *punishment* of his servants' bellies, is not one of the least excusable acts of the Major : but to preach a regard for the Sabbath, and then to assume a position of justification for having procured Nagle to be flogged for not working on that day, is something worse. Yet this is not all : Mr. Mudie's temerity keeps pace with his letter, for he vindicates the Patrick's Plains Bench for their double punishment of Jones, by *two* scourgings of fifty lashes each on *one* day for neglect. If this be a sample of the sentiments entertained by the Justices of that District, the sooner their names are erased from the Commission of the Peace, the better it will be for the cause of suffering humanity. The persecuting and vindictive feeling of the Major towards his servants does not terminate with their withdrawal from his employ [they are obnoxious in his eye because they speak the truth], but he desires the Governor to hunt them to *desperation* ; for such is the conclusion his words are capable of bearing : and his modesty displays itself in the following egotistical episode upon his own *generous* and *manly* behaviour, during these horrifying disclosures and discussions :—

“ I had expected of His Excellency, instead of a rebuke on the different points above replied to, that His Excellency would have made it a matter of public congratulation to the Colony, that the foul charges made against me by the prisoners (since executed) were not only substantively and in their spirit *totally false*, but that the criminals who made them at the Bar of the Supreme Court had received *better treatment than they were entitled to*, either by the practice of the local Government, or by the regulations prescribed by the last Governor, in June 1831 ; and consequently that to their other offences, they had added *falsehood, malice, and ingratitude.*”

The Major talks a vast deal about his character as a Magistrate, to give weight, I presume, to his opinions—I leave the world to judge how far the respect due to his magisterial and ordinary rank in society, is benefitted by the luminous evidence taken before the Commissioners. Though the Public of this Colony can account for the station he holds in society as a Justice of the Peace, yet his claim to the military rank he assumes is not so easily established. Ru-

mour attributes to him so many titles, from that of Corporal to Major, and has ascribed to him such varied employments during the last twenty years, that to trace his peregrinations and posts, (no doubt always of an honorable and exalted character) would puzzle any connoisseur in historical research, even VIDOCQ himself.

Following in the wake of his patron and relative, Mr. Mudie, comes the person named Larnack, of whom so much has already been said and proved. I believe this individual is less disposed to appear in borrowed plumes, and armed with a multitude of warlike names, than his *Munchausen-like* predecessor. He is, Sir, a man taken from the more humble walks of life, with still more humble capabilities, except as to his bruising qualifications, in which he has given so decided a proof of his superiority. His name might have descended with him to the silent tomb unnoticed, but for the conspicuous share he has taken in these proceedings. This will give him a *lustre* and a *notoriety* of which I envy him not the possession. The chivalrous vindication of this Gentleman "against all opponents" is dated Patrick's Plains, 6th February, 1834, and is recognised to be the production (for his greatest enemy will not accuse Mr. Larnack as the author) of a person who wishes to DO-GOOD for his *shining* friends, and to cleanse them from the filth with which this ungracious encounter has bemired them. Mr. Larnack is more *ingenious* than his superior. He *denies striking* the servants, but *admits chastising* them. If this be not a distinction without a difference—a sort of paradoxical gender, which says a mare is a horse, but a horse is not a mare;—if, I say, this be not something of that unintelligible trash, and Mr. Larnack be not either obstinately pertinacious, or grossly ignorant, I know not what it can be. The equivocation, however, is only worthy the person who resorts to it in his defence, and it merely leaves where it found him. He foolishly alludes to his oath before the Commissioners, as confirmatory of his statement. His admission as an evidence, as I have before said, was in the highest degree improper; and his *sapient* remark, that he ought to be believed (although accused of *rank* offences against humanity) in preference to his accusers, can only

acquit him of unpardonable presumption, at the expense of his intellect. He asserts that his was *parental* correction, and justifiable. I am disposed to pity Mr. Larnack; for in addition to his highly censurable conduct, he has been made to appear ridiculous in the eye of society, by the silly scribbling propensities of his ambitious plebeian comrade.

The remaining part of this ludicrous communication alludes to the *double* punishment of Jones on one day for the same offence, which the Governor severely censures. The sentiments there delivered are destitute even of the quality of *contrivance*, to redeem them from the smile of derision which must necessarily await them: and the idle prate about the importance of "our flocks and herds," as explanatory of the grossness of an act of overstrained severity, is too quixotic to claim even common attention. Mr. Larnack's conduct is as highly reprehensible, as his defence of it is contemptible: and it is by such men as him, his relative Mr. Mudie, and the factious Magistracy of the Hunter, with their few partizans in the Council Chamber and elsewhere, that the indecent attempt has been made to procure the removal of the Governor and Chief Justice—men of sound discrimination and exalted character, who, as eagles in their eyrie, are unassailable by the grovelling sportsmen who fire paper pellets at them from below.

It may be laid down as an established axiom, that the convicts have never evinced any spirit of insubordination, even in a trifling degree, without the ascertained existence of cogent reasons on their part, such as—

1st.—The want of sufficient wholesome food, or

2nd.—Unjust, or cruel treatment.

In evidence of this statement, I desire leave to look at those periods, when bushranging predominated. It will be found that marauding, and excesses prevailed most during times of scarcity, when the Colonists were obliged to import grain even from India; or when the prisoners were under the dominion of tyrants. This deficiency of the principal article of human food, consequently abridged the ration given to prisoners; but the same quantity of labor, and the same unyielding rigor was enforced, without the least allowance being made for deficient sustenance. Again, the most

daring instances of insubordination, or revolt, displayed themselves during despotic management;—for example, the dangerous risings at Castle Hill, and Toongabbee were produced by the cruel and unrestrained brutality of the overseers of the public gangs in those districts. Was not the serious revolt at Norfolk Island, while under the command of Colonel Foveaux, the consequence of horrible oppression, where, during his government, prisoners were actually hanged, without any kind of examination whatever, and floggings administered with a barbarity unrivalled in any country recorded in the annals of history? In the time of General Darling, what caused the murders of Donohoe—the plunderings of Walmesley and Webber—and the Bathurst rising, but an overweening severity of discipline, and an inadequate sufficiency of food. Norfolk Island has, within the last few weeks, been the scene of new butcheries. The system of treatment pursued towards the prisoners there, by Colonel Morisset, engenders all those combustibles which must ignite whenever opportunities offer, and human life cannot fail of becoming the sacrifice to an injudicious mode of coercion, bordering on absolute ferocity. It is proper here to remark, that the middle class of settlers, principally, nay in some cases exclusively composed of Expirees and Emancipists, were actually on these occasions, and particularly at Castle Hill, the Colonial Militia who armed themselves in defence of the Government, and subdued with a vigor and energy seldom equalled, one of the most remarkable risings, which has yet distinguished the Colony. These, Sir, are however but partial instances of insubordination, when compared with the daring and rebellious purposes of those, who, as I will shew you, were engaged in the deposition of Governor Bligh. Those men boast, Sir, of an invisible influence in controlling His Majesty's Ministers, and as giving a direction to their designs, only to an extent that will tally with their prejudices and interests. All free institutions carry, in their opinion, dangerous contagion—Reformation in the prison population, is never viewed with the least concern; and I assert, Sir, that it is from those who have been actually engaged in open rebellion, and their relations and partizans, that the

ery of insubordination has been accelerated, and His Majesty's Ministers appealed to by those *loyal* and *honourable* subjects of Our Sovereign, as the *ne plus ultra* of morality in this Colony; they were rebels during the unlawful imprisonment of Governor Bligh—enemies to the generous Macquarie—cyphers in the Government of the gallant Brisbane—gods in the eyes of the corrupt, and land-bribing Darling—and cyphers again during the present administration of the veteran Bourke. Major M'Arthur of London, is their deputed oracle, from whom, Sir, you will doubtless learn much; but it will be dangerous to attend to his suggestions. If the Government be rotten, a *public* meeting will soon develope corruption or injustice,—but *private* cabals, and *secret* whisperings are always the artifices of cowards, who have *private revenge* to consummate, and *public happiness* to murder.

I shall now, Sir, consign the “Mudie cause” to it's fate, with all it's incongruities on it's head; and in conclusion of my lengthened address, attempt to give you a faint outline of the discordant materials of which our infant State is composed, and by which our distant community has been so long distracted.

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### THE CABAL.

I feel it necessary to restrict my exposure, in consequence of the space I have already occupied, to the principles which give life and vigor to that faction that has so long divided the best interests of the Colony. This has been evinced either in open array against the acts of the Governor, or in attempts to destroy confidence in his Government by the application of secret incendiary acts. The opposition of the members of this faction is grounded—first, upon the denial of indemnification for corrupt acts, or gross errors in the exercise of the magisterial functions: secondly, from the refusal of the Government to sanction packed Juries, in which that faction shall hold the power of nomination among themselves; and thirdly, by the substitution of fifty lashes, in lieu of an almost unlimited discretion of punishment for offences of a trifling nature, among the prison population, which the Justices at one time held;

joined with the condemnation of the abominable practice which some few years since prevailed, of allowing one Magistrate to invite his neighbour to dine, and while participating in his good cheer, sit also in judgment upon his servants, and flog them from friendship to their master.

It will not, Sir, I feel confident, be contended, that these general regulations of Police are arbitrary or injudicious on the part of our excellent, and highly esteemed Ruler. They are, however, the germ from which has sprung that rancorous hatred to His Excellency and his confidential advisers, which the *few* wish to communicate to the *many*. Even the Council which passed the *law* is divided, and the Members are supposed to stand as follows :—

#### FOR THE GOVERNOR.

Francis Forbes, Esq., Chief Justice.  
 Colonel Snodgrass, C. B.  
 John Kinchella, Esq., Attorney General.  
 William Lithgow, Esq., Auditor General.  
 John Blaxland, Esq.  
 Archibald Bell, Esq.

#### OPPOSITIONISTS.

Reverend W. G. Broughton, Archdeacon.  
 Robert Campbell, Esq.  
 Alexander Berry, Esq.  
 Richard Jones, Esq.  
 Hannibal Hawkins M'Arthur, Esq.

#### DOUBTFUL.

Burman Lauga, Esq., Acting Collector of Customs.  
 Edward Charles Close, Esq.

#### NEUTRAL FROM NECESSITY.

Alexander M'Leay, Esq., Colonial Secretary.

The Archdeacon, as the head of the Church Establishment, is entitled to a seat in the Council. His salary of £2000 a year is a grievous burthen upon the Colony, and so are his pastoral services. He is a mere cypher in the State

machinery, and I look forward, with all good men, in fond anticipation to the speedy arrival of a time when such persons shall be compelled to bestow their undivided attention upon the moral and religious guardianship of their flocks, without being permitted to dabble in political or temporal concerns. When this great end shall be attained, we may look to the priesthood for an abatement of their present insolent austerity, and a return to the primitive simplicity of their order. The Archdeacon, it is said, stands up in the ranks against the *leniency* of the Governor, but surely his opposition cannot be on this account: it appears rather to be in consequence of the desire which His Excellency has shown to cut down some of the fat salaries and allowances which the Clerical body had long gorged upon under the profligate administration of General Darling. The Church Corporation, which this venerable head of it had long nursed with more than pastoral care, has been dissolved, and the secular control heretofore possessed by the Clergy has changed hands—a circumstance which an ambitious and grasping Churchman will never cease to avenge by adopting a crooked line of politics, and by throwing his weight (trifling to be sure) into the balance against the measures of that Government which has accomplished the abolition. Yet in private society the Archdeacon is a pious and virtuous man. The virtual head of the faction in Council, as well as in the Colony generally, is the M'Arthur family, and their immediate friends and dependants. Mr. H. H. M'Arthur is the nephew of John M'Arthur, Esq., whose name is associated with the illegal deposition of Governor Bligh. The old man was originally one of the Council, but becoming *imbecile*, he ceased to be a Member. The whole of this family are determined foes to every measure that has even the show of liberality. They have acquired so much property and influence under a close and despotic form of Government, that they wish it's dynasty to be immortal. James, the son of the old set-on-one-side Member, is the only one of the name who possesses reasonable or consistent politics. The political support of such a man as Hannibal can never be safe. Assistance given to perpetuate undue severity, and misgovernment, is alike dangerous to the ruler

and to the ruled. The Governor should rejoice in such a foe—it is the very best proof of his integrity. Mr. Campbell is a M<sup>c</sup>Arthurite, in the strictest sense of the word. It would be difficult to pronounce upon what principle Mr. Berry's opposition to the present administration proceeds, except that, having been during the reign of misrule an obsequious Darlingist, he stands opposed to the liberal form of Government pursued by General Bourke. His support, however, would bring no weight beyond his single vote, as he is a mere *old woman* in affairs of the State. Mr. Richard Jones is a fiery Darlingist. He is said to be a moral man—one who treats his servants with leniency, and they acknowledge his tenderness with a corresponding anxiety to promote his interests. This ought, at least, to convince him that *insubordination*, so loudly proclaimed to exist, must proceed in a great measure from ill-treatment. He is known to have been formerly a “high Tory,” and to be now a “Radical,” and one of the Governor's sturdiest opponents: nevertheless I do not think he could assign a reasonable motive for his conduct. He is supposed to be the tool of others. These paltry few it is, who have gathered around them a host of hornets, to buzz about and annoy the Government. Governor Darling, by the potent aid of corruption, in giving among them two hundred and fifty thousand acres of land, and convict mechanics of every description, silenced every grumbling, and made them ever obedient to his command. General Bourke has no such gifts at his disposal, and if he had, I do not think he would be anxious to employ this species of influence to stop the mouths of the *fry* who now agitate the Colony. You, Sir, may depend upon this fact—that the Guerilla warfare kept up is the effect of bribery; and I need no other proof of the motives which actuate some of the Members of the Council, than the notorious demand to push in the Reverend Ralph Mansfield as Editor of the *Sydney Gazette*, in the room of Mr. E. W. O'Shaughnessy, the present Editor, who *scorned* to yield to the dictation of a base faction, and write right and left against the Governor and Chief Justice without any just occasion. The attempt, however, proved abortive! A woman's hand arrested the blow!!! And yet, Sir, how will you be surprised, when I

inform you that on the trial of an action for libel in the Supreme Court, about four years ago, this same Mr. Richard Jones, having been examined as a witness for the defendant (Mr. Mansfield, then Editor of the *Sydney Gazette*), distinctly and positively *swore* that he never had, and never would have any thing to do with the management of the *Gazette* newspaper. The question which elicited this answer was put by the Plaintiff's (Mr. Wentworth's) Counsel, in order to ascertain whether Mr. Jones, as an executor to the estate of the late Mr. Howe, had not an interest in the result of the cause.—After this, what will the public think of Mr. Jones's notorious attempt not only to influence the line of politics at present advocated by the *Sydney Gazette*, but when he could not succeed in that, to endeavour to thrust in a creature of his own party?

If we look to the Press, we shall see that the preponderance of it's organs, inclines to the system of policy pursued by the present Government.—

1st. *GAZETTE*.—Decidedly favorable to General Bourke's measures.

2nd. *AUSTRALIAN*.—The same.

3rd. *MONITOR*.—A mere political weathercock, that has abandoned it's former creed, to bolster up the "Mudie cause," from kindred feeling; the Major being (as he asserts), a sharer in the copyright. Under many circumstances however, it contributes a sort of negative support to the Governor.

4th. *HERALD*.—Tory,—Whig,—Radical,—or devoted to the faction, under any, or "No Sect."

Here, Sir, is a preponderance of public opinion, sufficiently powerful to silence all further question as to the solidity of the measures pursued by His Majesty's Representative in this Colony.

During the intermediate period between the announcement, and publication of this letter, the Editor of one of these Journals (the *Monitor*), has thought fit publicly to address himself to you through the medium of his columns, with the view of prejudicing the subject which my communication

embraces ; and he has followed up this unusual course by a series of other similar cowardly attacks on me, which have issued from time to time in the shape of paragraphs in the same paper. I have therefore deemed it necessary to offer in this place, a brief statement of the *motives* by which I have been induced to write to you on this subject ; and I will also point out, at the same time, the *reasons* which have weighed with Mr. Hall, to enlist himself on the opposite side of the question.

With regard to my own motives, they may be explained in a few words. Viewing, in common with every other inhabitant of the Colony, the political question now at issue between the contending parties of our rising state, as one of no common interest ; both as regards it's consequences on the present order of public affairs, as well as it's probable effect in determining the destinies of thousands of the next generation ; I have made use of the common privilege of a citizen, exercised in all parts of the civilized world, to make known those impressions which have struck me as being likely to prove beneficial to the common interests of the people among whom I dwell. If those impressions be erroneous, they are open to refutation by the same means. I can foresee no evil consequences likely to result from publishing my sentiments, without appending to them my legitimate signature. The stamp of conviction, or weight, is not affixed to public writings by the *name*, but by the *arguments* of an author. I am not ambitious enough to seek to become the acknowledged Correspondent of a Crowned Head, or a Minister of State, in my own proper person ; but will content myself with obscurity--committing my opinions and sentiments to the impartial consideration, and candid criticism of my countrymen, as one of their number, actuated solely in doing so, by the motive of conducing to our common benefit. I will leave the contrary mode of communication to my precocious antagonist, the frequent and presumptuous intrusions of whose name into the Cabinet, the Parliament, and the various departments of the State are so notorious, that it is probably, Sir, not unknown to you. I will treat

his insulting predictions as to my being considered “*an Emancipist, or some clever fellow in an Ironed Gang,*” in the only manner they merit. They are beneath my contempt, and do not influence me in the slightest degree. Such charges however, from such a source, come with a very ill grace; but the *motives*, and the *motives alone* which I have explained, are the only ones actuating me to address myself to you, and to remain “*sub umbrá.*”

And now, Sir, I will proceed to develop the reasons by which the Editor of the *Monitor* is propelled in his anticipating hostility towards this “forthcoming pamphlet.” While General Darling controlled the affairs of the Colony, the *Monitor* was the grand nucleus, around which all the aggrieved (real or imaginary), of the day, concentrated. The continued out-pourings of its denunciations against the Government, though undistinguished by any share of literary merit, were hailed by the phrenzied democrats who rallied around the Editor, as the honest effusions of pure and disinterested patriotism. The deadly shafts of his envenomed attacks, were then levelled without distinction, against *all* the Members of the Government—he proclaimed himself the voluntary champion of the People’s rights, as well as the gratuitous redresser of the wronged. Hurried on by all the unnatural warmth of an overheated imagination, its concomitant, obstinacy—and an inherent volubility of narration, in which inconsistency, and misrepresentation formed the most prominent features; the *Monitor* then became the object of criminal prosecution by several influential individuals connected with the Government, on whom its wholesale vituperation had been unsparingly dealt; and the result terminating in the incarceration of the Editor, he was immediately canonized as a Saint of Political Martyrdom. Why this journalist should condemn in General Bourke, the judicious abridgement of those undue severities, the existence of which he denounced in Governor Darling, I shall leave to the sophistical Editor to explain; but at the same time, I must take the freedom of acquainting you with the prevailing opinion of the great body of the Colonists on

this head ; which is, that the *Monitor*, not having been raised on an independent structure, the Editor has always been compelled to become the mouth-piece of each succeeding party in whom the *real* interest of his journal lay. To this cause may be assigned his sweeping condemnation of *all* the former Governor's measures, aided by that angry feeling which the prosecutions he experienced in consequence of it, excited within his breast; and from a similar source, likewise springs the singular fact of his censure of our present Ruler, for the observance of that leniency to the prison population, which he himself, before advocated. Added to this, we have his still more singular defence of the "Mudie cause," by which he abandons his former romantic professions of support to the weaker party, and lends all his strength to uphold the oppressor in his oppression. I repeat, that I will leave it to his editorial ingenuity to explain away this political apostacy, confining myself to the mere dry facts upon which his advocacy of this rotten cause is evidently founded.

Some months since, according to Mr. Hall's account, his interest in the *Monitor* was disposed of by public sale, and Mr. Mudie was commissioned, in the name of a few of Mr. Hall's private friends, to re-purchase it for him, securing it against further molestation, by vesting it in their joint names. It will not, therefore, be difficult to perceive the reason of Mr. Mudie's easy access to the columns of the *Monitor*, in which he has cut so conspicuous a figure of late, by vindicating his conduct from the grave charges of inhumanity cast upon it by the joint declarations of certain unhappy dying men, and authenticated by the censure of the Governor, founded on the impartial investigation of two independent Commissioners of Enquiry—one of them the prosecuting officer of those men. But the Editor did not rest here. He thought his duty, or friendship, or party feeling (let him call it by which name he pleases), was not sufficiently displayed, until he had published in several succeeding supplements to his journal, the whole detailed evidence taken by those Commissioners at Castle Forbes ;

a hasty and injudicious step, which, but for the known rashness and obstinacy of the adviser, might have rendered him liable to a suspicion of adopting this imprudent course from some sinister motive; as the intrinsic value of these documents, has a clear tendency to establish that, which the publication of them was intended to rebut; namely—the propriety of the Governor's censure of the conduct pursued by Messrs. Mudie and Larnack, in the treatment of their assigned convict servants. Hence arose Mr. Hall's violent predisposition to attack my letter before he was acquainted with it's contents. But, Sir, I have already engrossed too much of your valuable time on this unimportant subject, and shall therefore return to the more ostensible objects I have in view.

If we turn our attention to the populous districts of the Colony, we shall find at least 10,000 men who subsist by agricultural occupations, perfectly satisfied with the present order of things; and some thirty or forty Settlers and Magistrates on the *Hunter*, affecting with impudent gravity, to represent the wishes of the Colony, and "*ohé jam satis!*" compel the Government at home to change the Governor here. Insolent political braves!—You, Sir, know how to deal with factions. The man who, in Ireland, was a terror to united and conspiring thousands, will smile at the contemptible impotency and malice of a scourge-adoring crew of vulgar aspirants. If we observe the number of Magistrates in the Commission, we shall find 136 on the list, and of these only about ten signed the Petition for extending their summary powers.

In the face of this demonstrative proof of confidence in the Governor, it were unwise in me to extend the range of enquiry further than I have already done, because I am satisfied that the end in view has been fully attained.

You now see, Sir, from the statement of facts I have respectfully submitted for your consideration, that the most direct oppression and bitter slavery will inevitably result from the slightest concession made to the demands of the Petitioners of Hunter's River, who require more *power*, and less *responsibility* in the punishment of their assigned convict servants. You are here afforded correct and com-

plete data for forming a deliberate opinion whether or not General Bourke acted with proper vigor and judgment in his indignant rejection of a demand for the modification of a Colonial law, which, while it mitigated many terrific features in the abominable penal discipline of the Colony, was still insufficient to bridle the dispositions of *all*, and to prevent the dignity of justice and humane feeling from degenerating into the extremest point of savage brutality. The audacity of these men—their want of shame and ordinary circumspection—has no parallel, I am certain, either in this (fertile as it has been in incidents of gross enormity) or any other Colony. They—a mere handful—speak as if their sentiments were to bind the community at large; they see dangers peculiar to themselves; and an ill-judged and impotent feeling of hatred to the Government which denied credence to the airy phantoms of their heated imaginations, has led them to the impudent alternative of petitioning through their partizan, Sir William Edward Parry (for a knowledge of whose humanity I refer you to the disclosures made in the cases between the Polar Navigator and Mr. Barton), for the actual removal of General Bourke, the Governor, and Francis Forbes, Esquire, the Chief Justice of the Colony. I know not, Sir, whether this outrageous request is a greater insult to His Majesty's Ministers, or to those distinguished Public Officers, whose names and excellent qualities I publish for the information of the British Nation, with feelings of the most unmingled gratification.

Charges proceeding from sources such as I have described—charges bearing the names of men who have themselves been guilty of cruel excesses and acts of oppression and tyranny—charges against our highest authorities for endeavouring to abate the rigor of laws that would have tarnished the darkest era of feudal times, will rather advance the characters of the Governor and Chief Justice, than give them cause for regret:—the more particularly when *such* charges emanate from *such* men, and at *such* a time. A few months ago, and the Governor was greeted with an Address lauding his Government—professing profound respect for his person;—in fact, Sir, an Address couched in terms

of the meanest spirit of adulation, and betraying manifest insincerity, as it's principal ingredient;—there was an evident rankling in the heart against that exalted personage whose praise they so lavishly sounded: but now the veil of hypocrisy is withdrawn; and the wrathful but futile denunciations of a recreant faction, are exposed to public view, and public indignation—striking at their late idol, who is invulnerable, however, to their feeble darts. Mr. James Mudie proceeds to England instanter to give the first sturdy blow.—The Venerable Archdeacon Broughton, Chaplain of the Tower, it is said, seconds the attack with his Clerical auxiliaries; and the Hero of the Pole, Sir William Edward Parry, directs the naval armament, with all the influence he can command. Will not the British Government exert it's strong arm to avert the insidious designs of a body of men who are arrayed with hostile front against the future destiny of thousands of their unhappy fellow-subjects. On you, Sir, will devolve the sacred duty of confounding the representations of a few discontented and daring calumniators. The People of Australia look up to you as the successful arbiter of their fate in the impending contest; and I but reiterate the sentiments of the great body of my fellow Colonists, when I pray that a successful result may crown your anticipated vindication of our rights, and our most sanguine expectations.



I have honor to be,

SIR,

Your most obedient Servant,

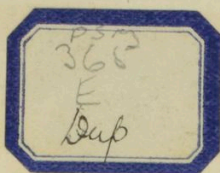
**HUMANITAS,**

AN EMIGRANT OF 1821.

SYDNEY, NEW SOUTH WALES, }  
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