Governor Rennie's Letter of 16th. April 1849.

Deed of 16th. March 1846.

Deed of extension of same of 27th September 1847.

Governor Rennie's letter of 1st January 1849. to Mr. Lafone.

Governor Rennie's notice of 2nd January 1849 to Mr. Lafone.

Governor Rennie's despatch to Lord Grey of 27th January 1849.

Letter from Mr. Williams to Lafone's Agent of 14th April 1849. to Gov. Rennie.

Extract of Capt'n Sullivan's letter to Land and Emigration Commissioners of 15th Dec. 1848.

Extract of Land and Emigration Commissioners letter of 14th March to Under Secretary Merivale of 22nd Dec. 1848.

Extract from Lord Grey's despatch to Governor Rennie No. 28 of 1 January 1849.

Stanley
18th. April 1849

Sir

In reply to your Excellency's letter of the 16th Instant, and enclosing the documents enumerated in the margin hereof, I have the honor to request your Excellency, my opinion on the letter of 1st January same for your Excellency's consideration.—

I have &c.

(Signed)

Wm Henry Moore

To His Excellency

Governor Rennie

Her Majesty The Queen
with
S. F. Lafone

The Second Covenant in the Deed of the 16th of March 1846.
Notes as follows-

From 16th of Sept. 1846 to 16th Sept 1852.

Secondly- That for the space of six years to commence and be computed from the expiration of Six Calendar Months from the date of this agreement, (under the several instalments of money which shall be payable during that period, as hereinafter provided shall be duly paid but not otherwise.) The said Samuel Fisher Lafone, his Executors, administrators and assigns, shall have the absolute possession of, and dominion over, all wild Cattle and Wild Stock, (whatsoever, (that is to say) All wild horses, Horned Cattle, Sheep, Goats, and Swine, which shall be upon the Falkland Islands or any of them, with full power to kill, sell, or otherwise dispose of the same- subject to the several provisos and restrictions hereinafter contained- Provided that during the said period of six years, it shall not be lawful for the said Samuel Fisher Lafone, his Heirs Executors, Administrators or assigns, either within the several distaments hereunto for agreed to be sold or elsewhere in the Falkland Islands, without the permission in writing of the

the Governor, or other Officer for the time being, administering the Government of the Falkland Islands to kill any Cows, other than and except such as may from age or otherwise, be unfit for breeding, or may be required for consumption in the Colony, nor to reduce the Stock of Bulls, below the number requisite, for preserving the largest possible increase from the Stock of Breeding Cows for the time being.

West, 16th Sept. 1852 And at the expiration of the said period such possession and dominion shall cease and determine except, as to such Cattle or Stock as shall then be upon the lands so agreed to be sold to the said Samuel Fisher Lafone as aforesaid – or upon any other lands, which may then be in the possession of the said Samuel Fisher Lafone his Heirs or assigns. And as to such last mentioned Cattle or Stock the same shall be the absolute property of the said Samuel Fisher Lafone, his Representatives and assigns forever.

I conceive that under this second clause of the Deed of the 16th of March 1846. Mr Lafone has vested rights in the Wild Cattle of these Islands from the Queen for the years from the 16th of Sept. 1846 to the 16th Sept. 1852. with full power to kill sell or otherwise dispose of the same, as he pleases. Subject to the several

provisions

provisions and restrictions thereby therein contained for which right he has paid one money Instalment of £10,000 down, and that said Cattle are his private property for that period. Provided that during said Term he kills no Cows, except those unfit for breeding — or such as may be required for consumption in the Colony and does not reduce the Stock of Cattle below the number requisite for ensuring the largest possible annual increase from the Stock of Breeding Cows, for the time being, without the Governor's permission in writing.

And also the 16th Sept. 1852 such vested right shall cease & be as to such Cattle or Stock as shall then be upon the large Peninsula South of the boundary line drawn from Taupo in Hawkes Bay to Benton Loch or Sound, on the other or West side of the Island, and also on the Islands in Cloudy Sound and all other Islands adjacent to the coast bounding the said Harbour described and also Beauchene Island.

And also save and except such Cattle or Stock as may then be upon any other lands which may then be in the possession of the said Samuel Tosher Lafone. Provided pursuant to the fifth clause of said Deed of the 16th of March 1846. That the said Samuel T. Lafone should pay and deliver to the Governor for the time being, free of all charges all the Cattle and Stock specified in the schedule

to

to said Deed annexed at the respective periods therein mentioned that is to say, to be delivered in the course of the year ending 31st. Dec. 1847. (But subsequently by Deed of Extension of 27th. September 1847, the time was enlarged to the 31st. of December 1848.) 500 Cows, 5 Bulls, 4,000 Sheep, 40 Rams, and 20 Horses. The Sheep, Cows, Bulls, Mares, Rams and Stallions to be of the age and description in said Schedule mentioned and to be delivered at such places as the Govr. may appoint. - Upon opinion that Mr. Lafone was bound, pursuant to the Second and Fifth Clauses of the Deed of the 10th. of March 1846, and the Schedule thereto annexed to deliver to the Governor for the time being the 500 Cows, 5 Bulls 4,000 Sheep, 40 Rams, and 20 Horses required to be in the said Schedule within the time limited by the Deed of Extension of the 27th. of September 1847. -

It may be argued for the Crown in pursuance of the 10th. Clause of the Deed of the 10th. of March 1846, that although as yet no default has been made by Mr. Lafone in the part payment of the purchase money, as stipulated in said Deed, yet that default has been made by the said S. F. Lafone, in consequence

"consequence of the non-delivery of the Cattle
"on the 31st of December 1845, and that
"therefore default has been made in the
"due and faithful performance of the
"several conditions and agreements
"thereinbefore contained on the part of
"the said F. T. Lapene. and consequent
"by that reason and in any such case
"said Agreement should be voidable
"at the option of Her said Majesty
"Queen Victoria testified on Tohi under
"the Sign Manual, or by Notice in writ-
"ing signed by one of Her Majesty's Prin-
"cipal Secretaries of State, and in
"such case all moneys which shall
"have been paid, and all Cattle which
"shall have been delivered by the said
"F. T. Lapene in part performance of
"the Agreement thereinbefore contained
"should be absolutely forfeited to Her said
"Majesty Her Heirs & Successors to
"be as they should see direct."

And this is the view taken of the question of the Deeds, of the 10th of March 1846, and the Extension thereof of 29th September 1847 - at Common Law, by the Governor and Council, by the Notice issued on the Queens Behalf, on which Her Majesty's pleasure should be known in my opinion tho' the secretary of State before the present vested rights in the property lapse to the Crown.

H

It may further be contended for on the part of the Crown, That an ~~ex~~ constant right of resumption accrued to Her Majesty on the default of Mr Lafone in paying to deliver the instalment of Cattle and Sheep, under the Deed of Extension of 27th September 1847 - on the last day of the year 1848. And that the Crown might have resumed possession on the 1st of January 1849 - and thus as the very the Governor and I have taken of the Crown rights. Had this resumption been taken place by the Colonial Government then at that period it would have been as regards Mr Lafone, without prejudice, by the Instrument, being recalled at Her Majesty's option. - Should Her Majesty thereby not so direct - Mr Lafone would be deprived by the Colonial Government of his property in the meantime. -

Should the Crown however confirm the resumption by the Colonial Government. Mr Lafone could complain of no injury. -

Supposing it was the Queen's pleasure to enforce a total forfeiture - question would arise as to when, that forfeiture would accrue, It might be argued for the Crown that it accrued

due

due on the 1st of January 1849. and it is open to be urged on Mr. Lapone that it did not accrue due until the receipt of the despatch of the Secretary of State in the Colony, announcing Her Majesty's option in the event of the intending total forfeiture of the Contract pursuant to the tenth clause of said Deed of 16th of March 1846. And assuming that Her Majesty at her pleasure does so, and duly asserts such option - it occurs to me, that such assumption would not take effect, until such decision arrived in the Colony -

It may be contended for on the part of Mr. Lapone as an inducement to Her Majesty, not to void the Deed of 1846. such Agreement by a modification - That Mr. Lapone did not receive the quantity of land he agreed for, and that he did not discover this fact, until some months after the execution of the Deed of 16th March 1846. and it appears a negociation is at present in progress in the Colonial Office for a modification of the Deed of 1846, in consequence of this circumstance, and by the last Despatch received in the Colony from Lord Grey dated 1st January 1849. the Lord Ship appears to recognize Mr. Lapone's Rights as therein stated, while informed that it was not Mr. Lapone's intention

to

to complete his contract, on which
point Lord Grey directs as follows
"In treating however with Captain
Sylvan it will be necessary distinct-
ly to appraize him that all the ancil-
lary rights and privileges possessed by
Mr Lafone will be duly regarded, in
any Agreement or Contract which may
be entered into by Her Majesty's Gov-

And it may be considered a
handsome acquittance on the part of the
Colonial Govt now to extinguish, at
Mr Lafone, after the last two years
labour and the expenditure of the
£10,000. and subsequent expenses of
£200 a month in the Colony for said
two years, catching and taming
a herd of Two thousand Wild Cattle,
and hitherto having received no re-
turn for this outlay, on Captain Sy-
lvan recently requesting Mr Lafone's
Agent to sell him 500 head, part of
this property, that the directions
of Lord Grey the Queens Secretary
of State - That the Colonial Govt
should stop in exactly at this juncture,
and stop Mr Lafone from
realizing a few hundred pounds at
the end of his exertions in spend-
ing special thousands for the benefit
of the Colony, but of course he will
be regulated by the Queen's pleasure

being

having known of the receipt of Governor Lemmi's despatch of the 29th of January 1819 finally enjoining Lord Bathurst the then Secretary of State the Cattle of M. Lafone on the 31st of December 1818

And even supposing Her Majesty exercised her discretion in reading M. Lafone's Contract of 1816, I think it may be taken for granted that the question of non intervention on the part of the Colonial Government with M. Lafone's present operations in capturing and taming the Wild Cattle, on that Island could be kept up to the moment of such Measure being announced in the Colony by the Despatch of the Secretary of State. Besides M. Lafone's Agents agreement with the Governor, that any Cattle caught since 1st January 1819. shall be subject to reconveyance to the Crown should the Queen think a forfeiture of the Land, Money and Wild Animals under the Deed of 1816.

And I rather incline to consider that any Litigation Lawyer reading the Deed of the 16th of March 1816 would do it in a like legal manner, and be inclined to hold that the Question of non intervention under the proviso aforesaid did exist until the Colonial Govt received directions to the contrary — besides the desire of the Crown Lawyers, not to place

the

the Crown in such a position as to make it appear to take harsh or undue advantage of the subject.

It also may be suggested on the part of the Crown that in the interim Mr Lafone may take advantage of his position and slaughter Cattle to a great extent, But I apprehend that the interests of Her Majesty may be defended in the event of such application to the Court to stay waste. Grounded on an affidavit of the fact, and that thereupon an injunction would issue to the Sheriff to prevent it.

It may be contended against the Crown, that in the event of a resumption by the Colonial Govt without awaiting for the Queen's pleasure. That the Land agreed to be sold - the money which shall have been paid - and all Cattle which shall have been delivered by Mr Lafone in part performance of the Agreement and those Cattle only shall be absolutely forfeited to her said Majesty if she shall so direct. and that the same Cattle not delivered to the Colonial Government in part performance of the agreement viz. Mr Lafone's private property purchased by him from the Crown in consideration of £60,000.

But

But on the other hand it may be argued for the Crown that the Agreement stipulates that all money which shall have been paid, shall be absolutely forfeited, and that therefore if the money be forfeited also, tho' I doubt whether the Crown would go so far as to put this construction on it-as it is evident that the Two thousand lame Cattle now in Mr Lafone's possession are not an equivalent for the £1000. money paid.

Upon the whole of the foregoing case therefore, and after reading the several documents enumerated in the margin of the letter herewith sent I am of opinion that even should Her Majesty exercise her prerogative and direct a forfeiture of the Agreement of March 1846. under her sign manual or that one of Her Principal Secretaries of State, that the Crown cannot resume the possession of, or interfere with the Herd of two thousand lame Cattle now in the possession of Mr Lafone, not delivered to the Government in part performance of his contract as I consider them his private property and not affected in any way as I conceive by the wording of the Deed of the 16th of March 1846.

I am also of opinion, that Mr Lafone

on

or his Agents, shall have no right to catch Wild Cattle, until the Queen's pleasure is signified to the Governor, either under Her Majesty's Sign Manual, or through one of Her Principal Secretaries of State, as to her option of regarding the Deed of 1846 without the permission of the Governor on receiving such application for that purpose - limiting the number to be caught - and defending Her Majesty's interests by stipulating that the right of property in said Cattle when caught, should vest in Her Majesty on payment of the expense of catching them, and so soon as the Governor receives from the Secretary of State an intimation that it is Her Majesty's pleasure to void the contract of the 11th of March 1846.-

With respect to what steps should be taken to enforce without loss of time the payment of the sum of £360 awarded to Her Majesty on the 2nd September 1848 for breach of contract by non-delivery of Horses due to the Colonial Govt - Judgment was obtained in the Supreme Court as of Trinity Term 1848 on foot of a plea of Confession signed for the sum of £360. But by the recent ordinance of the Legislative Council the Supreme Court out of which the

turn

writ of Execution on said Judgment issued that has been suspended for three months or until a sufficient number of Emigrants arrive in the Colony to form an Eligible Jury – The return in the writ has expired – and the suspension of the Ordinance – also suspends the Office of Sheriff created under it – It will therefore be necessary to pass an Ordinance in the Legislative Colonial re-instating the Supreme Court – and the writ must be renewed in the present Easter Term, and a new Writ and Return issued previous to its being delivered to the Sheriff for carrying it into execution –

Signed Wm Kenyon Mure

Stipendiary Magistrate

18th April 1849 –

Stanley
23rd. April 1849

Sir

Herewith I have the honor to enclose my answers and opinion, to the Queries, your Excellency was pleased to send me for my consideration, on the evening of the 20th. Inst.—

I have &c.

(Signed) Wm. Henry Moore

To His Excellency
Governor Kennie

In reply to the seven foregoing Queries I have the honor to state that the reason given to me by your Excellency for so extraordinary a measure as the Suspension of the Supreme Court Ordinance of 10th Victoria 20th Oct. 1846 - and Supreme Court Ordinance continuation Ordinance 12th Victoria 22nd Sept. 1848 was, the probability of a case of Bushing and another case (arising out of the investigation then pending in the Bankruptcy of Messrs. Melville & Scully) which it was intended to be sent to a Jury on a Criminal prosecution - and the difficulty your Excellency felt in forming an Effective Jury in consequence of the community being so reduced in number by the Settlers who had left the Colony, and the implication of some of the remaining Colonists, as Creditors in Cases, in which would disqualify them from acting as Jurors in the event of an Issue being and that exclusive of these, except by calling in persons from a remote distance only about 24 Jurors could be placed on the Panel two of whom could not read or write and for these reasons I consented as a Member of the Legislative Council that trial by Jury should be suspended but not abolished, until the arrival of the expected Immigrants should enable an Effective Jury to assume their functions - Only

now

now learn, for the first time, that it was contemplated by your Excellency to give the Judicial Committee of the Executive Council any jurisdiction other, than that of taking a precognition of circumstances, mentioned in the information of Richard Hall, made before me, relative to the property he and a man named Bush had helped to carry away from the house of Mr. Dudley of the Town of Mobile and Dudley Bankrupts for the purpose of defrauding the creditors, and also a similar precognition, of a complaint of James Hobbs against said Bush for stealing his Pig in order to ascertain (should the Evidence warrant it.) whether they should be committed for trial in the Supreme Court when an arrival of Immigrants shortly expected in the Colony would aid in forming an Eligible Jury in lieu of those Settlers who had left.

2. I conceive with great deference that to prevent future mistakes, This is the proper time to inform the Executive Council that in the case of the Queen versus Lafon on the Question of the Jurisdiction of the Executive Council in hearing an Execution against a Judgment obtained on a Writ of Confession in the Supreme Court that it did not within their

Jurisdiction

Jurisdiction as process does not issue out of a Court of Appeal but from the Court below – and I respectfully beg leave to record this my opinion on the Minutes – together with those I gave on the 18th and 20th Instants pelative hereto. In pursuance of Her Majesty's pleasure is pressed in Her Instructions as follows "Nevertheless our pleasure that in every case it shall be competent to any Member of Our said Council to require at length on the Minutes of said Council the grounds and reasons of any advice or opinion he may give upon any question brought under the Consideration of such Council". And as I am informed by Mr. Solicitor Agent that he intends to apply to the Court below – to set aside the judgment obtained there – grounded upon an Affidavit of his having signed same, while in drink and upon his threat of immediate imprisonment, if he refused, I respectfully submit that I cannot legally give my sanction to the judicial Committee of the Executive Council disposing of a case, which may be the subject of an issue in the Supreme Court. Because it is my duty to defend the Queen's rights, and if the fine be legally due, to see that measures are taken to enforce it, in a lawful manner

ner, and not permit the Crown to be defeated by a proceeding so warranted from the Act of 6th Victoria Cap 13. Her Majesty Charter and Instructions thereunder, - and one so repugnant thereto, and the Laws of the Land, the rights of the Kingdom, the liberty of the subject, Your Excellency's powers and authority, and Her Majesty's prerogative.

3. - I did not gather from your Excellency's remarks, that the functions of the Ad interim Court, were to be more than those of an investigatory character, for the purpose of ascertaining whether the disposition of some property of the Bankrupts Mobile and Scally and the appropriation of other property for a debt of 30£ - due the man Bushe for which he took property of Bankrupts which subsequently sold for one hundred pounds for the benefit of the Creditors of the Firm. - were; acts in themselves for which a criminal prosecution might have to be instituted.

4. I consider the proceedings of the Council analogous to a Preliminary investigation before a Justice of the Peace to ascertain whether the accused should be committed for trial,

and

and so far I consider such proceedings legal.

5. On the result of the Evidence however, had a Committal taken place - I should have felt it my duty, respectfully call the attention of the Council to the situation, and Jurisdiction, under such circumstances, and brought forward the necessity of suspending the proceedings till the establishment of the Supreme Court. not for a moment supposing that your Excellency and Sir Hamilton would form yourselves into a Court of Summary Instance (I as Judge in the Court having no vote) to carry out such an unusual ordinary encroachment of the great principles of the British Constitution, on a Settlement of British subjects, under the English Flag. as to form yourselves (which such a proceeding would do in effect as I respectfully submit) and leave upon you the consequences did I not know guard you therefrom) into a Jury to try a Man - instead of his being tried by a Jury of twelve of his fellow Subjects - I therefore stop and carry out the proceedings to Execution - not considering such a proceeding legal for the following reasons, which I trust on perusal Your Excellency will find satisfactory -

6.

6. As the Executive Co. is composed only three Members Your Excellency - myself - and Doctor Hamilton, in the event of a difference of opinion occurring on any point with the other two Members of the Court I would have no vote, and consequently the Crown would have to be Judge and party in its own case, a situation I submit with great deference, I could not consent to the Crown being placed in, such being as I humbly conceive, in opposition to the Act of the 6th Victoria Cap. 13 - and Her Majesty's Instructions thereunder, which distinctly state that there shall at least be three persons acting.

7. By the said Act, intituled "An Act to enable Her Majesty to provide for the Government of Her Settlements on the coast of Africa, and in the Islands" (11th April 1843).

Her Majesty was enabled to make further and better provision for the Civil Government of said Settlements, and that it should be lawful for Her Majesty by any order or orders to be by Her to make with the advice of Her Privy Council to establish all such Laws Institutions and Ordinances

and

and to constitute such Courts and Offices, and to make such provisions and regulations, for the proceedings in such Courts and for the administration of Justice as shall be necessary for the peace order and good Government of Her Majesty's subjects and others within the said or any future Settlements respectively, or any of them, and Law, Statute, Usage to the contrary in any wise notwithstanding.

And that it shall be lawful for Her Majesty by any Commission or Commissions under the great Seal of the United Kingdom or by any Instrument under Her Majesty's Signet and Sign Manual, accompanying and signified to be in aid of any such Commission to delegate to any Person or more persons (whether of the Settlements aforesaid respectively or elsewhere) and Authority to exercise in Her Majesty in Council as aforesaid, either the whole or in part, and upon such Conditions, Terms and subject to all such Conditions, Provisions and Limitations, as by any such Commission or Commissions or Instructions as aforesaid, Her Majesty should see fit to Reserve.

Provided that notwithstanding any such delegation of Authority as aforesaid, it shall still be competent to Her Majes-

ty

by in Council in manner aforesaid Whereas all the powers and authorities vested as aforesaid in Her Majesty in Council.—

Provided also that all such orders in Council, Commissions and Instructions as aforesaid and all Laws and Ordinances to be made as aforesaid should be laid before both houses of Parliament as soon as conveniently might be after the making and enactment thereof respectively.—

8. And Whereas in the Execution of the powers so vested in the Queen by the said recited Act of Parliament Her Majesty was pleased by Her Charter under the Great Seal of the United Kingdom Dated at Westminster the 23rd. of June 1843, to direct that the persons therein specified, should form the Legislative Council of the Falkland Islands, & Dependencies thereto, to make and establish all such Laws Institutions and Ordinances as should from time to time be necessary for the peace order and good Government of Her Majesty's subjects and others within the Falkland Islands & Dependencies, conformably with all such rules and regulations as should be made and prescribed in and by such Instructions as She with the advice of Her Privy Council should from time to time make for their

guidance

guidance resulting to Her Majesty as right to disallow or confirm same and to make and establish from time to time with the advice and consent of Parliament or Her Privy Council all such Laws as may to Her Majesty or them appear necessary for the order peace and good government of Her Majesty's said Settlements as fully as by the said recited Royal Charter had not been made.

9.— And Her Majesty by said Charter further directed that a President, that an Executive Council should be appointed, to advise and assist the Governor of Her said Settlements in the Falkland Islands for the time being in the Administration of the Government thereof, and did thereby authorize the Governor for the time being to summon to an Executive Council such persons as Her Majesty designated in Her Instructions under Her Signet and Sign Manual addressed to him in the behalf for said purpose

10.— And Whereas Her said Majesty by Her Instructions under Her Signet and Sign Manual dated at Buckingham Palace the 23rd June 1843 in the seventh Year of Her Reign accompanying and referred to in said recited Charter Commission and Letters Patent did direct that Her Legislative Council of the Falkland Islands should consist of the two Justices of the Peace whose names should

should be first Standing in order in any General Commission of the Peace together with Her Excellency the Governor subject to the directions therein mentioned. And that such Legislative Council should make and Establish all such Laws and Ordinances as might from time to time be necessary for the peace order and good Gov.t of Her Majesty's subjects in the Falkland Islands, in accordance with, and subject to, the directions therein mentioned.

And Whereas Her said Majesty did by said recited Instructions Empower the Governor until further and other provision should be made by Her Majesty on that behalf, to Constitute Three Persons being within the same for the time Members of the Executive Council subject to the directions and Instructions therein mentioned such Council to Advise and assist the Governor of Our said Settlements in the Falkland Islands for the same being in the Administration of the Government thereof - subject to the Orders and conditions therein contained.

11. You Excellency will please to perceive by the above recited Documents that Her Majesty pursuant to the Powers vested in Her in Her Privy Council by the

said

Act provided. Act of 6th Victoria Cap 13.
Her Majesty provided The Council to assist you
Excellency in the Administration of
the Government of the Falkland Is-
lands, with Legislative and Executive
functions. The first, the Legislative Council, to
make the Laws, Institutions, and Ordin-
ances, that may be necessary for the Peace
Order and good Government of Her
Majesty's Subjects in the Falkland Islands.

The second the Executive Council to ad-
vise, and assist the Governor of the Falk-
land Islands for the time being in the
Administration of the Government thereof.

12. The First, or Legislative Council, be-
ing in my humble opinion, analogous
to the Imperial Parliament of England
And the second, or Executive, Council
to the Privy Council of England.

13. For these reasons I am humbly of
opinion, That the Executive Council of the
Falkland Islands, cannot exercise a
more extended Jurisdiction than the Privy
Council in England, as particularly
specified in my Minute of the 20th Inst.
April instant. And I regret your Ex-
cellency should have fallen into the
mistake of imagining, that I could re-
gularly sit in the Executive Council legally

doing

doing more than aiding me as a Magistrate in taking a Recognizance, as upon Excellency was pleased to term it, of the Two Millers then pending — as otherwise in the event of any differing in opinion, it would have the effect of pleading the Lives, Properties and Characters of Her Majesty's Subjects residing in the Colony, at the disposal of Your Excellency and Doctor Hamblin alone.—

11.— From the recent arrival of Captains Sullivan and Hammond, with their Establishments, I am humbly of opinion that in conjunction with Her M. Majesty's Subjects in the Colony, an Eligible and Intelligent Jury can be constituted sufficient & competent to try any case that may arise here, and would therefore respectfully suggest the re-installment of the Supreme Court.—

12. For the foregoing reasons I am humbly of opinion that the Executive Council cannot legally perform the functions of a Court of Domiciliary Instance, such as a Court of Record or of Oyer and Terminer these proceedings being contrary to the 4th of Victoria, Cap. 13. the Queen's Charter and Instructions thereunder of the 23rd June 1843.— and repugnant to the Constitution

Institution and Laws of the Realm.

16. And in this opinion I am happy to find I am supported by that of H. M. Attorney General Rawlins in a similar case the proceedings under which the Crown was pleased to repeal a Copy of which I have herewith the honor to forward to your Excellency.

17. If the foregoing may be in any way satisfactory to your Excellency, and serviceable to the Public and Her Majesty's interests; I shall think myself happy to have acquitted myself of the duty incumbent upon me, and pray Your Excellency would be pleased to accept this, as any occasion offers, according to the best of my judgment.

(Signed) Wm Henry Moore
Stipendiary Magistrate

23rd April 1849.

Stanley 27th. April 1849

Sir

In reply to your Excellency's Letter of the 25th Inst. I beg leave respectfully to decline sending you any Memorandum or Paper connected with my private affairs.—

I have &c.

(Signed) Wm Henry Mowle

To His Excellency
Governor Fennie

Stanley
28th April 1849

Sir

I have the honour to inform your Excellency that yesterday afternoon Mr Moore applied to me for a search in the Land Register Books. On which I informed him that having received instructions from your Excellency not to allow searches to be made I should be unable to comply with his request until I received further instructions from your Excellency.-

2. Mr Moore expressed his intention of writing officially on the subject. I gave him leave to enclose a letter which I received from him this morning, and I beg to request that I may receive instructions as to whether I am to permit Mr Moore to make the search he requires.-

I have &c
signed
Arthur Bailey
Surveyor General

To His Excellency
The Governor

Stanley
27th April 1849

Sir

Having occasion to make a search in the Public Registry Office of the Falkland's, under, and by virtue of the 11th Victoria Intituled "The Land Registration Ordinance" and expressing my desire to pay you your fee of 2/6 as Registrar for said Search, I am informed by you that His Excellency Governor Moore has desired you to shut the Registry Books to the Public and to permit no Search to be made therein - I wish to have your answer hereto - for order that I may apply to His Excellency on the subject. -

I remain Sir &c.

Signed

Wm Henry Moore

Arthur Bailey Esqr.

Registrar.

Malvina Cottage
1st. May 1849

Sir

I shall feel obliged by your Excellency letting me have a Copy of the Minutes of the Executive Council of the 28th Ult., and this day, for the purpose of taking same to England with me.

I have &c.
(signed) Wm Henry Moore

To His Excellency
Governor Denman

Stanley
27th April 1849

Sir

I have to acknowledge the receipt of your Excellency's Circular of the 25th Instant.

I have &c.
(Signed) Wm Henry. Moore

To His Excellency
Governor Fennie

Malina Cottage
Yanchep
30th April 1849

Sir

On my return to my house late this evening from the Camp, I found your Excellency's letter of this day, the contents of which astonished me very much – as it is so late this evening I have not an opportunity of replying at length – I therefore briefly acknowledge its receipt, and beg to state my surprize that your Excellency should have suspended me from my seat in the Executive Council and Office of Stipendiary Magistrate without a hearing – or in other words condemn me without a trial, as witnesses were examined in my absence. I have therefore to request your Excellency – will summon the Executive Council, for the earliest possible day previous to the departure of the Ship "Australia" in order to afford me an opportunity of answering the charges your Excellency has thought fit to bring against me – which I am confident I shall be able fully to refute. –

I have &c
(Signed) Wm Henry Moore

To His Excellency
Governor Clennie

May 2nd 1849

Stanley

Sir

I have the honor to recommend for your excellency's approval that William Wellaka Fanning steward to Captain Sullivan R.N. be appointed to act as Clerk and Sexton for Christ Church

For his character and conduct previous to his arrival I beg to refer you to Captain Sullivan.

I have &c.

signed James Leith Moody

Coll. Chaplain

H.E.

The Governor

Victoria College
Stanley
1st May 1849

Sir

I shall esteem it as a favour if your Excellency will let me have the earliest possible information on your part of the result of your Excellency's and the Executive Council's final decision as to my suspension, as I wish without delay to make my arrangements accordingly.

I have &c.
(Signed) Wm Henry Moore

To His Excellency
Governor Fenwick.

Malpas Cottage
2nd. May 1844.

Dear Sir

I enclose my receipt for last month's salary and will thank you to give it to Bearer after deducting the 5p.c Income tax - specie will suit me.

Yours &c.
signed Wm. Henry Moore

J. K. Longden Esqre

Stanley
27th April 1849

Sir

1. In reply to your Excellency's letter of the 21st Instant, I apprehend you will find that I have answered the first paragraph thereof, in my reply to the first paragraph of my answer to your Excellency's Despatch stating that your Excellency had taken an extensive range of my impressions of those proceedings for the reasons stated therein.—

2. I have carefully compared your Excellency's Despatch and the notes made on the paragraphs in my explanation, and have endeavoured myself in answering as much as possible to the actual facts and dates— And first my answer to paragraphs 1 and 2 may explain to your Excellency what appears to be to account for—

3. The appearance of the investigation as first before the examination of Witnesses terminated had led to the supposition that a Criminal prosecution might have to be instituted, but the result proved otherwise, had such been the case, it would have been the province

per time, for me to call the attention of the Executive Council to the necessity of re-instating the Supreme Court.

I made no objection to your Excellency and Board's Resolution of sitting one or two Magistrate in the investigation alluded to, and am not aware of putting any particular case, of what would or would not be done had circumstances been different more than to shew, that from the minutes of the Executive Council of the 23rd of April came to be considered, that I endeavoured to demonstrate according to Law that a British subject should be tried by his Peers, and that any Law made in the Colony to the contrary would be repugnant to the Laws of England and consequently void.

I have &c.

(Signed) Wm Henry Moore

To His Excellency
Governor Ramme

Number of Paragraph	Extract from Mr Moore's opinion of the 25th April 1839	Remarks of His Excellency the Governor on Mr Moore's opinion	Mr Moore's Answer, if any, to the foregoing
1.	"† † † the Probability of a case of Burglary and another case arising out of the Investigation then pending in the Supreme Court of New South Wales and Sydney which might require to be sent to a Jury on a Criminal prosecution.	Query. When and where to be found? did you not by Bail take and Regent him.	Your Excellency mistakes the import of this observation which was simply a Magisterial one to be exercised on the Information, and examination of witnesses in support of it which would warrant the Magistrate to commit the accused to stand his trial in the Supreme Court for a misdemeanor a crime of which your Excellency was of opinion it did not and therefore the man Bail he was discharged. Your Excellency seems to have fallen into a great error in supposing

supposing that
that at any time
consistent the
Calculations of
the Executive Coun-
cil as a final
Court. I shall
now consider it
simply as a Ma-
gisterial investi-
gation and in-
deed on those
grounds only
could I account
for your Excellency
ordering Mr Oliver and
other Creditors du-
ring part of the
Inquiry.

1. For these reasons I considered as a Member of the Legislative Council that Trial by Jury should be suspended not abolished.

The Question of Slavery was never mooted except by yourself

In no other way but in requesting your Excellency to pause and consider before you proposed the Repeal of the Ordinance to the Legislative Council which your Excellency stated was made by your own Instruction that more Evils to [illegible] Jurors [illegible] Jurors for 3 months

1. In order to ascertain if should the Evidence warrant it, whether they should be committed for Trial in the Supreme Court &c

Query- can you refer to any thing that took place at the meetings either of the Executive & Legislative Councils to shew that this was ever intended.

As there were no grounds appearing on the Evidence to warrant a Magistrate in committing the accused for Trial, the question did not arise.

2- This is the proper time to inform the Executive Council that in the case of the Queen v Lafone on the Question of the Jurisdiction of the Executive Council in reversing an execution & setting a judgment obtained on a plea of confession in the Supreme Court, they are not within their jurisdiction as no Case does not issue out of a Court of Appeal but from the Court below.

you advised me to appoint a Special Commission of Oyer and Terminer as it was vacation time and the Supreme Court was not then sitting before a Court was even nominated, you in your own discretion left it to the Court or Jury to try the Plea of confession and if found void to issue Execution.

The Deeds relative to the Plea of Confession given your Excellency by Mr Williams on 26th August 1818. seem to have escaped your Excellency's memory they are specified below-

15th July 1818- on this day Gov. Farquhar wrote a Conditional Letter of demand for the Houses &c Mr Williams and sent same by H. Mitchell Esq. on the Contract dated 4th August 1817. entered into between the late Governor Captain Mosby and Mr Williams agent for Mr Lafone, stating that in consequence of Governor Mosby's having suppressed Mr Williams debts &c he was learned

for

for the Lapse 1 Stallion
30. Mares & 9 Fillies
or Colts more or less-
Mr Williams thereby
undertook to supply
to the Governor 20 found
young Horses termed
for the Lapse 1 Stallion
and 10 Young Island
Bred Mares - on re-
ceiving one months
previous notice in
writing of the Governor
requiring them be-
tween the 1st September
1847 and 1st Sep-
tember 1849. or in
default thereof pay to
the Govt £15. a head
for every horse not de-
livered within said
Month £12 a head
for every Mare not
delivered &c - and £25
for the Stallion the
agreement to be null
and void after 2nd
September 1849 which
letter and H Westhead
served on Mr Williams
on or before the 21st
July 1848 -

19th August 1848.

Letter from
Governor Bonnick
to
Mr

Mr Moss of this date to call on Mr Stone who had received Mr Cox's instructions on the subject.

21st August 1848.

This day the month mentioned in the notice having expired and Mr Moss not having sent the Horses for sale upon mentioned in his letter to your Excellency of 11th August 1848.

21st August 1848.

Mr Moss went to your Excellency stating that he had an interview with me, and had undertaken to sign a plea of confession for amount of penalties mentioned in Contract of 4th August 1847. relating to the Horses with stay of Execution to 1st September next, and likely to your Excellency 48 hours after to effect execution at any time thereafter till 1st Sept 1849.

21st

21st. August 1848.

Mr Wms had an interview at 2 o'C with your Excellency at Govt House and distinctly refused to sign the Letter of Confession, as he could not get the money, if he should be obliged so to sign a note that authorised your Excellency to receive the Horses and not demand the money, whereupon your Excellency directed him to settle it with you.—

22nd. August 1848.

Your Excellency sent for me and asked me what legal proceedings could be instituted to enforce payment of the forfeiture incurred by the non-fulfilment of the conditions of the above recited contract, whereupon I told your Excellency that in the case of November then

next

meal being Michael-
mas Term an Summo-
ns should be filed at
suit of Attorney General
suggesting Breaches on
the Contract for the Su-
preme Court, and
that after the expira-
tion of the days to plead,
if defended a trial by
Jury would be held and
the Question decided by
a verdict, if for the Crown
an Execution would issue
in 6 days after. Your
Excellency then said
you would not wait
for that delay, and asked
me if you could not
issue a special com-
mission for over and ter-
miner. I replied that you
could but did not see
that such a proceed-
ing would expedite
you much - you then
asked me was there
no other way to obtain
immediate execution.
I then told your Excellen-
cy that if you obtained
a consent for Judgment
by a plea of confession
that you could have
execution after the
stay in the plea had
expired.

Your

your Excellency then directed me to demand a Plea of Confession from Mr Wms with stay of execution till 1st Oct. 1848 for £360.

21st. August 1848 on this day I called to Mr Williams to give this Plea of Confession which he stated he would by his letter of same date but afterwards declined on the grounds that he complied he had complied with your Excellency's notice by sending in Cattle to Mr Phillips and Mr Sandbey as mentioned in his letter of 11th. August, he stated however to avoid litigation that he would give a plea of confession for £360 with a stipulation that if he got a stay of Execution till 1st Oct. 1848 he would then deliver the 20 Horses within

that

that time a pay the £360- and thereupon I prepared such a plea which he signed on the same day— I then immediately brought this plea to your Excellency which you declined to receive, and directed me to serve him with a writ claiming on behalf of the Crown the forfeiture of £360.

24th. August 1848.

This day your Excellency sent to me to require me forthwith to institute a special action of Debt and Information and Court of Record to proceed against Mr Williams for the recovery and summary execution necessary to levy the above penalties with all diligence and dispatch" On the same day I issued a writ of Capias ad respondendum for £360. which was promptly served by the Head Constable same day.—

24th

24th August 1848.

On same day Your Excellency directed me to write to Mr Williams that you would be under the disagreeable necessity of depriving him of his seat in the Legislative Council by superseding his Commission of the Peace and Quorum. Mr Whitingham in the Commission in his stead – in the event of his deliberately persisting to acknowledge his liability to pay the penalty of £30 incurred by his non delivery of the Horses on the 21st Inst. under Contract of 4th August 1847 which letter I accordingly sent.

24th August 1848.

Same day I prepared a Commission to hold a Court of Oyer and Terminer by your Excellency's directions

directions but which was never signed or acted on.

26th August 1848

On this day your Excellency sent for me and informed me that you were going to arrest J. Mc. Williams if he did not sign immediately a Bill of Confession for £360 with Costs of Execution till 1st September 1848. I then told your Excellency that you could not legally do so, unless you made an affidavit grounded on probable Cause; that he was about to fly the Kingdom to defraud the payment of his just debts, your Excellency replied that you would make it if necessary and desired me to tell Mr Williams that such was your intention, and to caution him that it would be best for him to sign it quietly - whereupon your Excellency sent Mr Longden

for

for Mr Williams
and they shortly
adjourned together,
when Mr Williams
came into your Ex-
cellency's Library
you said, Mr
Williams, I under-
stand from Mr Moore,
that you will not sign
the Bill of Confession
which Mr Williams
replied, and there-
upon your Excel-
lency directed Mr Williams
to go into the
other room (the
Surgeons Office)
and hold a Conversa-
tion with Mr Moore
about it, I and
Mr Moore thereupon
retired and I gave
Mr Williams your
Excellency's Message that
if he did not sign
an unconditional
Bill of Confession
for £360 within Sixty
days of Execution to Wit
Sept 1815 your Ex-
cellency would immedi-
ately arrest him
upon it. Mr Wil-
liams then signed
the

the plea in Mr Long-
don's presence. After
he had done so, we
three returned into
your Excellency's Cham-
ber when you stated to
Mr Williams, that you
were glad he had signed
the plea and that
likely Mr Wms would
not hear more of it
as your Excellency
would lock it up in
your chest, and that
you then withdrew
the demand for the
Arrears from that mo-
ment.

26th August 1848.

On Tuesday your
Excellency stated to
me that in conse-
quence of Mr Wms
having signed the
plea of Confession
relating to the Penalty
he had incurred to Her
Majesty for breach of
Contract you informed
me that it would
not be necessary to
hold a special Com-
mission which your
Excellency required me

to

to substitute by your
Letter of 21st. August
1848.

Same day

Your Exy. handed me the said Plea of
Confession and directed me to file same
and enter Judgt thereon
in Supreme Court.
Accordingly -
21st. August 1848

Filed Plea in Office
of Supreme Court.

1st. Sept. 1848.

Stay of Execution
Expired.

2nd. Sept. 1848.

Judgt marked.

20th. October 1848.

On this day Yr.
Exy directed me to
issue execution on
said Plea for £360.
and the writ was
handed to the Sheriff

Constable

Constable with directions to seize Cattle and drive them into the Settlement to be sold but in the event of 20 head of Cattle being delivered to him not to execute the writ.

29th October 1848.

Execution returned and filed by the Sheriff stating that the 20 head of Cattle being delivered to the Defendant he did not execute the authority to answers J. H. Terry the Sheriff. Matter discontinued Issues entered

14th April 1849

This day your Excellency writes me a letter requesting me to give immediate effect to the writ of Execution issued out of the Supreme Court for £360. and that no delay should take place &c.

21st. April 1849.

Mr. Williamson an Applicant before me this day that he protested against said plea of Confession having been obtained from him by threats &c.

On the 18th. 20th. and 23rd. April 1849.

The above subject gave rise to Minutes of the Executive Council of these dates on which I have given my opinion, as well as a copy thereof to Lieut. Rawlins - co-incurring with my view of the case, a Copy of which I have requested your Excellency to insert on the Minutes as they are very important.

Penyah.

2. I respectfully submit that I cannot legally give my sanction to the Judicial Committee of the Executive.

Not a Judicial Committee of the Executive Council, but under special circumstances acting as a Court of Justice

I respectfully submit that during the suspension of the Supreme Court and Jury Ordinances of Nov.

Nov. 1846 which are modifications of the English law, and not repugnant thereto, we hold to be original Statutes, before their enactment by

That this being a free Colony & the British Crown by right of discovery & the Colonists bringing their Laws with them when settling on the Island, that the right of Trial by Jury exists now, under the English Laws, in as valid a manner as in England. - That would not be repugnant to the Statute of Magna Charta, and several other English Statutes, to deprive English subjects of this right. And any Ordinance passed in the Colony for such purpose would be void. - If I take it, your Majesty's Commission, could not empower the passing any such Act for that the words

of said Commission
are that no Laws
shall be passed, that
are repugnant to the
Laws of England,
but all such Laws,
as shall be passed
here, shall be as near
as may be agreeable
to them, and any Act
being repugnant
thereto, or taking
away all the Power
and Use of Magna
Charta is contrary
to the said Commission
as well as Law and
therefore void, for
it is a maxim, that
an Act of Parliament
that is against common
right, or reason,
or is repugnant, or
impossible to be
performed is void — wherefore
I humbly conceive
that this Assembly
have no Power
by the Supreme Laws and
Jury Ordinances
to have Jurisdiction
in the Legal matters
under His Majesty's
Warrant directed to
me according to the
Instructions I re-
ceived

received from the Secretary of State, previous to my leaving England for this Colony.

Paragraph 3. I did not gather from your Excellency's Remarks that the functions of the Assistant Court were more than those of an inquisitorial character for the purpose of ascertaining whether the secretion of some property of the Bankrupt's Will and Testy, and the appropriation of the property for a debt of £30 due the Man Bushe, for which he took the property of the Bankrupt, which subsequently sold for £1100 - for the benefit of the Creditors of the Firm, were acts, in themselves, for which a Criminal prosecution might have to be instituted.

Query - If in that case why did you come to try Bushe on a charge of Felony and acquit him?

If your adjudication on a case of Bankruptcy and settled Money Questions in the Executive Council acting as a general Court of Justice why not in the case of the Queen v Lyons.

The Queries to this Paragraph are already answered in Paragraphs two

Paragraph 4

Paragraph 4.

I considered the proceedings of the Council analagous to a Preliminary investigation before a Justice of the Peace to ascertain whether the accused, should be committed for trial and so far I consider the proceedings legal.

I am not aware that a Justice of the Peace can try a man for felony or constitute himself a Court of Bankruptcy nor can any Man Offender for Trial in a Court not then in exis-ence.

Not a trial, but a preliminary examination to ascertain if the evidence would warrant the Magistrate in committing the accused for trial, as already answered in Paragraphs 1 & 2.

Paragraph 5 as the result of the evidence had a committal taken place

If these observations apply to the case of Bushe it was a Trial not a precognition as the Sentence shows

Already answered in paragraph 1.

Paragraph 6.

I as Judge in the Court having no vote to carry out &c.

Query

What Court, and what constitutes a Court when you alone obtained the plea of confession from Mr Williams and fined him £5 thereupon.

I obtained the plea of confession by the directions of your Excy as shewn in Paragraph 2 - and the Supreme Court was not then suspended.

Paragraph 7.

To delegate to any three or more persons within any of the Settlements aforesaid respectively, the Powers and Authorities to be vested in Her Majesty in Council as aforesaid either in whole or in part and upon under and subject to, all such conditions, provisoes and limitations as by any such ordinance or Commissions or Instructions as aforesaid Her Majesty should see fit to prescribe.

I have referred to the Statute Book and as far as I can understand at the Time of the Act to give the Council all the very powers which you yet enjoy.

Your Excellency is mistaken as to my conveyance before Him, as an investigation before a Magistrate, and the Recognizance delegated, to the petitioner your Excellency enquires for, would be foreign to the Laws of England this query is hope fully answered in Paragraphs 1 & 2.

Paragraph 8.

To make and establish all such Laws Institutions and Ordinances as should from time to time be necessary for

Under the circumstances I maintain that this has been complied with

Whatever is contrary or repugnant to the English Law, is void, my Paragraph 2. where this is clearly explained I can scarcely [illegible]

for the peace order and good gov.t of Her Majesty's subjects. I

Paragraph 9.

From the recent arrival of Captains Aubigne and Hayton with their establishments I am unwilling to question that in the Colony an eligible and suitable class may can be constituted, sufficiently competent, to try any case that may arise, and would therefore respectfully suggest the re-establishment of the Supreme Court.

I watch and carefully note the opinions and departures from grants and will not fail to prepare an Ordinance for the Administration of Justice, so soon as there is a probability of carrying it into more detail to Our Circumstances than the Ordinance suspended and which Lord Grey has twice disapproved his opinion, that he says entirely difficulties would cease in working.

Her Lordship in his despatch 3rd April 1845. acknowledges long acquainted with Judicial Ordinances admits the anticipated difficulties but says "on the other hand the existence of any community without such laws appears impracticable."

And I must say that in my experience of the working for the last two years I have encountered no difficulty.

The

The supposition
one of not being
able to form an
eligible Jury from
the application of
some of them, to
say a hypothetical
case which did
not arise, being
now done away with
in consequence
of the arrival of
Captains Sullivan
and Hammond
H.M. Valentant
then established,
which as I have
stated with those
already in the Colony
could in my humble
opinion form an
eligible Jury.

Wabana Gaol
Hong Kong
2nd May 1849

Sir

I reply to your letter of this day's date I find your Excellency has fallen into an error in supposing that I merely requested the Minutes of the Executive Council of the 25th of April, my request was, to have the minutes of the Councils of the 25th of April and 1st of May - for I consider the minutes of the Council of the 1st of May the most important of the two. as your Excellency declines supplying me with the copy of the Minutes of those two days Council I must you will have no objection to forwarding to Earl Grey per "Australia" which I will sail on Sunday next for the Cape of Good Hope a Copies of the minutes the first of May certified in the handwriting of the Members of the Executive Council - as I have reason your Excellency for more reasons than one desired the Clerk of the Councils not to enter on the Minutes circumstances which have occurred while I was acting as a member of the Council.

I have &c.

(signed) Wm Henry Moore

To His Excellency
Governor Bonnie.

Stanley 5th May 1849

Sir

In reference to your Excellency's letter of 23rd ult respecting the delivery of Stock, I have the honor to inform your Excellency, that I have ordered the forty mares and one stallion to be brought to Stanley, and delivered to your Excellency on Saturday the 12th of this month.

On Monday next I start for Hope Place please God.

I have &c

Signed R Williams

His Excellency
Governor Fennie
Stanley

Stanley 11th May 1849

Sir

I have the honor to inform your Excellency that the Brig Agnes arrived at Hope Place on Sunday last, all well and now is on her way to Stanley.

I have &c

(Signed) R A Williams

His Excy
Governor Rennie

Montreal Government House
Friday morning 11 o'clock
1st May 1849

Sir

I have just been desired by Mr Longden to take notes at the Police Office to-day by direction of your Excellency and I beg to inform your Excellency that as I have never acted in that capacity upon consideration I think it right not to take notes at the Office and I respectfully decline it on the present occasion.

I have &c
(Signed) James Edmonds
Second Clerk

His Excellency
Governor Lemoine

No. 5 Campion Row
Westminster 11th Oct. 1848

Sir

I have the honor to enclose, for the information of His Excellency the Governor, a Copy of my Letter with the Government of the Falkland Islands for the Quarter ended the 30th ult.mo.

I have &c.
(Signed) J Baillie

The Colonial Secretary
&c &c &c
Falkland Islands

Ent.

The Government of the Falkland I. Agent General for Crown Colo.

1848	Receipts	£	s	d
"	Balance in hand 30th June	105	2	1
Sept. 11th	Received proceeds of 4 Exchequer Bills of £1000 – 1 do. £500 and 2 Do. of £200 = £1900 –			
	Interest 88 days at 2	35.18.8		
	Premium 2 3/4	56.7.0		
		4092.5.8		
	Commission 2 1/2 =	2.9.0	4089	16.8
		£	5,394	18 9

Islands in Account with George Baillie, Esquire for the Quarter ending the 30th Sept. 1848.

1848	Payments	Income Tax	£	s	d
Sept 18th	Paid Colonial Land and Emigration Commissioners		4980	16	8
	Balance in hand 30th Sept.		413	2	1
			£ 5394	18	9

(Signed) G. F. Baillie

11th October 1848.

Duplicate

No 5 Cannon Row
Westminster 4th Jany 1849

Sir

I have the honor to enclose for the information of His Excellency the Governor, a Copy of my Correspondence with the Government of the Falkland Islands, for the Quarter ended the 31st Ultimo.

I have &c
(Signed) J. Barlee

The Colonial Secretary,
&c &c &c
Falkland Islands.

Encl.

The Government of Falkland Islands in Account Current with the Agent General for

	Receipts	£	s	d
1848				
Oct.r 1st	Balance in hand 30th Sept.r	405	2	1
" 30th	Transferred from the Mauritius Account being 366 days interest @ 5 p.r on £4000 Exchequer Bills less Income Tax credited by Mauritius on the 12th June in error.	217	12	9
		£ 622	14	10

Islands in Account with the George Baillie Eugenie,
Crown Colonies for the Quarter ending the 31st Dec. 1848.

		Income Tax	
	Payments		
1848			
Dec. 31st	Paid Postage of letters &c. for 1st mo. to 31st Dec		7 3
	Balance in hand 31st Dec. 1848	622	5 7
		£ 622. 14. 10	

(Signed) G. Baillie
14th Jany 1849.

War Office
13th May 1848.

Sir

In pursuance of the provisions contained in the 11th Clause of the Act of the 11th Victoria, the 4th Chap: 10, commonly called the Mutiny Act, I have the honor to transmit herewith, for your Information and Guidance, a Copy (printed by the Queen's Printer, and signed by myself) of the Articles of War, which have been made and established by Her Majesty, under the Authority of the said Act.

I have &c
(signed)
F. Maule

The Governor
or Lieutenant Governor of
the Falkland Islands.

№ 2282

Circular

Audit Office
Somerset Place London,
3rd August 1848.

Sir

I am directed by the Commissioners for Auditing the Public Accounts to acquaint you that they have had under their consideration the delay which occurs in bringing to Audit Accounts on which Queries have arisen in consequence of replies to such queries not having been received. They have, therefore, come to the determination to surcharge Accountants with the amount of Items upon which queries have been put, having reference to unauthorized and unvouched sums.

The Balance upon the Account will thus be increased by the amount of the Items so disallowed, which will, however, be subject to discharge in a subsequent Account, upon satisfactory evidence being brought forward by the Accountant.

The Commissioners of Audit desire me to apprize you that it is their intention to adopt this course without delay.

I am Sir
(Signed) M. Bramley
Secretary.

To Capt R.C. Moody
or Actg Lieut Gosse

290

Audit Office, Somerset House,
20th February 1849.

Sir,

I am directed by the Commissioners for Auditing the Public Accounts, to transmit to you the enclosed Queries that have arisen on your Account, as Governor of the Falkland Islands for the Quarter ending 30th September 1848. - and to call your early attention thereto.

No 1 to 3.

I am &c.
(Signed)
W. Bromley
Secretary

George Rennie Esqr.
&c — &c — &c

24180 11/11

Treasury Chambers
23rd. November 1848.

Sir

I am commanded by the Lords Commissioners of Her Majesty's Treasury to enclose to you herewith an Invoice and Bill of Lading of One package, containing the sum of One thousand Pounds, Ten Dutch Coin shipped on Board Her Majesty's Ship "Dolphin" and consigned thereby on for the Public Service at the Falkland Islands.

£1,000

I am &c.
(Signed) (E. Hamilton

The Governor
&c &c &c
Falkland Islands

Bill of Lading.

V & R

Shipped in good order and well conditioned (all the packages being entire and unbroken) by Sir Charles J. Trevelyan K.C.B. on account of Her Majesty, in and upon Her Majesty's Ship Daphne commanded by Captain C. Grenfell now riding at Anchor in Plymouth Sound and bound for the Falkland Islands. To Wit One Package of Treasure, marked and numbered as per Margin, and containing in all as per Invoice One thousand Pounds in British Coin. The same to be delivered in the like good order and condition at the Falkland Islands unto the Governor there or at such further destination as the Public Service may require, and as shall be accordingly assigned by the said Consignee, acting under the authority of the whole or any part thereof, the Act of God, the Queen's Enemies, Fire, and all and every the dangers and accidents of the Seas, Rivers, and Navigation of what nature and kind soever excepted. — Freight as for one voyage only, for the conveyance of the said Treasure, from the Port of original shipment to the Port of ultimate delivery, to be paid by the Right Honorable the Lords Commissioners of Her Majesty's Treasury, in London.

One Package, No. 281 inclosure, containing £1,000

In

In Witness whereof, the Commander of Her Majesty's said Ship hath affirmed to four Bills of Lading, of this tenor and date, one of which, being accomplished, the other three to stand void.

Plymouth
this 30th day of November 1818

(Signature of the Commander)

Sgnd E. J. Tanshave

No 29

And it is hereby further stipulated and agreed between the said Captain E. J. Tanshave Commanding Her Majesty's Ship aforesaid, and the Shipper and Consignee of the said Treasure, conformably to the Regulations promulgated in the Royal Proclamation dated 12th July 1810, that in case of loss of any Part thereof, save and except as before excepted, the said Captain E. J. Tanshave or Officer commanding Her Majesty's Ship as aforesaid, shall not be holden liable or responsible for more than three fourths of the amount of such loss as may be found to have occurred during the time the Treasure was in his custody.

(Signature of the Commander) E. J. Tanshave
(Signature of the Consignee) [illegible] Trevelyan

294

Invoice of One Package of Public Treasure, containing One thousand Pounds in British Coin, shipped by Sir Chas. E. Trevelyan on board Her Majesty's Steamer "Saphire," and consigned to the Governor of the Falkland Islands.

Mark & No.	Contents	Gross Weight
V. R. C 281	£ 300 Sovereigns 75 Half Sovereigns 300 Half Crowns 200 Shillings 100 Sixpences 25 Threepences £1000	Cwt. qrs. lb. oz. 1. 1. 12. 3

Treasury Chambers (signed)
23rd. November 1848. C. E. Trevelyan

Stanley May 30th 1849

Your Excellency

Sir

I most humbly solicit the favour of your kindness to record the Order that has been given for Francis Brechen late Cook and Steward on board the Brig Swift of Liverpool to found on his arrival here whether he came on board or not and your an order for him to come on board the Vessel took place yesterday and the fine awarded against me was one Shilling which I will pay to your Excellency that I was not wholly culpable his services I am greatly require as I have one man on board that is injured & he have taken to Doctor Hamblin and he has prescribed for him of the first sometimes one and sometimes another as laid up for a day or two the consequence of which is I am short handed and cannot carry on my work as it should be done your Compliance with my humble request that the aforesaid Francis Brechen should come on board and return to his duty agreeable to the Articles signed by him will greatly

oblige

Sir

(signed) J. W. Williams

Master of the Brig Swift

To His Excellency
Governor Rennie
of the Falklands

Stanley June 2nd 1849

Sir

We have at present a number of men employed at Port Harriet who will shortly be obliged to leave off work unless we can supply them with spirits, which cannot be procured in the Colony.

Understanding that there are some in the Government Store. I should feel much obliged if your Excellency would allow us to be supplied with 20 Gallons for the use of our work people.

I have &c.

signed

R. J. Sullivan

His Excellency

Governor Fennie

Stanley June 2nd 1849

To His Excellency the Governor

Sir

I most respectfully submit myself to your Excellency's notice, thateing a short time since that my Leg which I am apprehensive will not be well for some time and if I were to go to work out Doors it might cause me to lay up for a long period.—

I therefore solicit your Excellency for the situation of Schoolmaster as I have filled the situation before and gave every satisfaction to the Children's Parents, I left it with a good character which I have no doubt can be verified by all the Gentlemen of the Colony, hoping your Excellency will look upon my situation under the circumstances in a favourable light

I have &.

Signed William Williams

To his Excellency

Governor Rennie

Stanley June 2nd 1849

Sir

I have the honor to acknowledge the receipt of your Excellency's Circular dated June 1st enclosing a statement of my account with H. M. Government for arrears of Income Tax.

I have &c.

(Signed)

James Leith Moody

Act. Chaplain

His E. The Governor.

Stanley June 5th 1849

Sir

In reply to your letter of the 4th Inst. I beg to inform you that the exact number of Slates required to complete my House, is twelve Hundred; which number does not include the probable loss by accident in putting on. I should therefore feel much obliged if His Excellency would allow me to be supplied with fifteen hundred; together with the proportion of nails for putting them on.

Should it be more convenient to supply me with a sufficient number of Shingles to cover one side of the House, about four thousand five hundred, the Slates I have left (about four hundred) I would return on part payment for them, or I would replace the Shingles on the arrival of the Vigilant which Vessel I understand will bring a supply of them.

I have &c.

Signed R. I. Sullivan

J. R. Longden Esqre.

June 5th. 1849
Stanley

Sir

I have the honor to acknowledge the receipt of your Excellency's letter of this day's date requesting me to inform you whether I see any objection to the room used as the Church being for the present made use of as a School room.

I certainly should wish that the room used as the Church could be kept exclusively for that purpose but as this seems inconvenient in the present state of the Colony I can only state that I shall truly happy if I can render your Excellency any assistance in re-establishing the School or in any other manner for the general welfare of the Colony.

I have the honor to state that I have already mentioned to Mr. Williams that I am perfectly willing to co-operate with him by lending books &c.

Trusting this will meet your Excellency's views

I have &c.

Signed.

James Leith. Moody
Col. Chaplain

H. E.
The Governor

To his Excellency Governor Rennie

Sir

I humbly request your permission to allow me the use of the government pontoon or barge for the purpose of heaving the British Brig Swift down to sea, and find it will be absolutely necessary to do so for the satisfaction of all parties the Ship shall continuing to make part of your compliance with my humble request will great oblige

Your &c.

Signed W. Williams

Port Stanley
June 19th 1849.

Ship Charles Brownell
Port William 19th June 1849

Received from H. E. the Governor of the Falkland Islands the Sum of One pound £1. being a return of a charge made of Harbour dues by Mr. Jas. Phillips.

Signed H. T. Sydall

No 6

My Chief Mate and myself being in attendance we went before the Court yesterday when he was admitted to come on board and return to his duty he still refused on which case Capt Sullivan informed me the only course I had to pursue was to make application to your Excellency to grant him permission to leave the Ship as I am quite willing to part with him

I remain &c

(Signed) W. Williams
Master

To His Excellency
Governor Rennie
Stanley Falkland Islands

No 3187

Audit Office London,
23rd October 1848.

Sir,

I am directed by the Commissioners for Auditing the Public Accounts to acquaint you that your Account as Governor of the Falkland Islands for the year ended 31st March 1845 has been audited with a Balance indebted of £28 1.10 being £14 2.1 more than the Balance shewn by you. Copies of the particulars of which are herewith enclosed.

As regards the sum of £10.12 part of the sum of £59.18.1, surcharged on your pending Account for the year 1842/3, the same will be allowed on the Audit of your Account for the year 1845/6 in which the over payments constituting the amount of such charge are found sufficient to credit.

As regards the sum of £3.6.1 for which credit is claimed in your account 1842/3 for loss of wages to and Indian Guachu (Calfskin) deceased, your explanation upon which is claimed, that the Guachu's wages at the time of his decease did not amount to a sum sufficient to cover the advance which had been made

to

Captain Moody R.E.

to him, I am directed to observe to you that, as the full advance of wages to which your explanation refers was taken credit for in your Account for the month of May 1843, you do not appear entitled to a further Cash credit in September 1843 for the loss which occasioned in consequence of the dismissal of the Guard before he had worked out his advanced wages I am however to observe that if it can be shown that the claim for disallowed is correct, the Surcharge will be removed and allowed in a future Account

I am &c.

(Signed) Buckley Sindy

Pro. Secy

Statement of the Balance of the Account of Captain Richard Clement Moody R.E. as Governor of the Falkland Islands for the year 1843/44

	£	s.	d.
Auditors Balance debited	28	1.	10½
Accountants Balance debited	242	19.	8¾
Difference £	14	2.	1¾

Arising as follows

	£	s.	d.
Surcharges on account 1842/3	50	11.	1
Which passed and allowed in present Account 1843/4	49	1.	6
Leaving the Difference surcharged	1	9.	7
Surcharged on this Acct 1843/4	3	9.	11
	14	2.	6

Sept

Difference between Accountants Balance £272.19.8¾ as stated by him and £272.19.4½ the actual Balance on the Account after making a clerical error of £ — . — . 4½

* 14. 2. 1¾

Most Debited on Balance sheet June 1843 £ . . 8

Most Debited on Balance sheet 31st March 1844 . . 3¾

£ . . 11¾

306

No 3188

Audit Office, London,
1st. December 1848.

Sir

I am directed by the Commissioners for Auditing the Public Accounts, to acquaint you, that your Account as Governor of the Falkland Islands for the year to 31st. March 1845, has been audited with a Balance indebted of £5415.19.3, being £4143.5.2. more than shown by your Account, the particulars of the difference are annexed.

In regard to the sums amounting to £4288.7.3, taken credit for in your Accounts as paid into distinct Funds, but with which you remain charged, as forming part of the general Balance for which you were accountable on the 31st. March 1845, you will be allowed credit for whatever portions of the same were afterwards disbursed or remitted from the Colonial Chest, but I am to remark upon the sum of £19.13.9 for Income Tax included in the above Amount of £4288.7.3, that the actual Cash received by you in respect of the payments for Income Tax is £9.13.10½, which will be the sum to be remitted by you to the Commissioners of Taxes, and to be allowed when so remitted to your credit.

Capt. Moody R.E.

The

The difference between this sum and £29.10.7½ the amount of the various sums drawn by, which you have charged yourself, as receipts on account of Property Tax, namely £19.13.9 is already adjusted by allowing the gross amount of Salaries for which you have claimed credit, and charging you only with the net amount for which the Bills were drawn in payment of those salaries.

I am &c.

(Signed) M. Bromby

Secy

State of the Balance of the Account of Captain R. C. Moody, R. E. Governor of Falkland Islands, from 1st April 1844 to 31st March 1845.—

	£.	s.	d.
Auditors. Balance Indebted	445	19.	3½
Accountants' Balance Indebted	2.	14.	1½
Difference	£443.	5.	2

arising as follows

Difference between Auditors and Accountants Balance Indebted, brought forward from preceding Account	£.	s.	d.
	442	2.	1½
Surcharged in present Account	1	0.	1½

Amount of sums for which credit is claimed as having been paid into different funds, but not allowed, the same forming part of the Balance for which ~~Auditors have~~ charge has been made to the Accountant was responsible at the termination of the present Account, viz.

	£.	s.	d.
Crown Land Revenues	408.	13.	6
Income Tax Receipt	19.	13.	9
	428.	7.	3
	443.	9.	6¼

Less sums with which the Accountt has erroneously charged himself viz.

	£.	s.	d.
On profit & Loss Balance	4.	4.	4
Do. cast on the charge side of the Account			¼
			4. 4. 4¼
	£443.	5.	2

Brig Lively
Port Stanley

Your Excellency
Sir

We the crew would be much obliged if you would grant us an audience that we might fully explain to our grievances, Captain Williams tells us that you will not allow him, to discharge us, we think that if you was fully to look into our case that you would find that we are not altogether in the wrong 3/4lb of Bread is all that is allowed us for the day

Remain &c
(Signed) Henry Cameron

(his)

Excellency the Governor
Stanley

Stanley July 7th 1849

Sir

I have the honour to request Your Excellency to allow me the use of one of the Government Horses to enable me to proceed to Anson on the discharge of my duty as Colonial Chaplain.

If your Excellency sees no impediment I wish to start immediately after the morning Service on Sunday the 8th Inst. for Mr Whittington's Child on Sunday evening or early on Monday morning returning to Stanley if the weather permits on Monday.

I have &c.

(Signed)

James Leith Moody
Colo. Chaplain

H. E.
The Governor

July 9th 1849
Stanley

Sir

I have to acknowledge the receipt of your letter of the July 4th communicating instructions from the Governor respecting my pay lists and asking for information respecting Mr Westlakes qualifications as Clerk.

1.– With respect to my pay lists I believe those sent on the 28th June were drawn in the same form and with same class of ink and paper that I have always used since I received my first instructions on this subject from Governm Moody. I perceive an alteration in the instructions which I have now to acknowledge my-in the form of the receipt being from Governm Kennedy instead of C. Rennie Governor or as I have been in the habit of writing J. R. C. Moody Governor and C. Rennie Governor which for the future shall be attended to.–

2.– Touching Mr Westlakes qualifications – I recommended Mr Westlake to His Excellency because previous to his being appointed Clerk he always read the Proceedings in a distinct and audible voice and on making enquiries I found

J. Langdon Esqre

found he was in the habit of reading
aloud in the Evenings to Capt Jarrett
Sr. and Servants &c. I do not think he
was doing so after his appointment
to Newbury.

With respect to Swanbrig I was
aware that he did not write a good
hand but as the Clerk is not required
to copy or execute beyond signing
his Name to the Copy list I did not
consider it of much consequence.

3rd I have forwarded to Mr Westlake
an extract from your letter of the
4th Inst. and have to request you
will communicate to His Excellency
July 9th that Mr Westlake has this day assigned
the situations of Clerk Thumb Cleaner
and Bellringer.

I am &c.

(Signed)

James Leith Moody

Asst Chaplain

Stanley July 13th 1849.

Sir

I have the honor to acknowledge the receipt of your Excellency's letter of the 11th received by me on the 12th Inst. at ½ past 4 P.M.

2. I beg to assure you that the following circumstances with which I had no control prevented my replying earlier to the questions contained in Mr Longden. Immediately after receiving Mr Longden's letter I wrote to Mr Wallace requesting an answer until after I had retired to bed on Saturday the 7th Inst. On Sunday the 8th immediately after Morning Service I started for Port Louis on a broken winded horse to perform the last duties to Mr Whitingtons child. The showers of the days, the bad state of the roads & Camp combined with the horse provided by Government being unsound rendered it necessary that I should lose no time if I hoped to cross the mountains by day light. I returned on Monday about 5 o'clock P.M. and then lost no time in answering Mr Longden's letter. This explanation will I trust convince you that there was no neglegence on my part.

3.

H.E.

The Governor

3. With respect to Mr Westlake's qualifications I find on referring to the 2nd Paragraph of my letter to Mr Longden the following words "I recommended him to Mrs Eby because previous to his being appointed Clerk he always read the Responses in a clear and audible voice and I attribute his not doing so now in a great measure to nervousness." But I respectfully consider tantamount to saying that he could read otherwise he could not have read the responses previous to his appointment as Clerk. With respect to his being able to write fluently I said not "that he could not write" but I believe the words were "that he was aware he did not write a good hand" for his signing the pay list is a proof that he can write. I added that "I did not consider this of much consequence" and I respectfully suggest for your Excellency's consideration whether it is not of more importance in a small Colony with a population not exceeding one thousand of a liberal English Parish to select the Clerk for his respectability rather than for the literary qualifications in case that he is able to read and sign his name. Perhaps it would be as well for me to state that when Mr Westlake signed in the presence of Captain Edmond he stated he did so as he did not intend to remain

on

in the Colony.

4th. I have the honor to thank your Excellency for the kind expressions contained in the 2nd Paragraph of your letter and beg to say that your account of the book plates & the Services that the honor to have rendered you & the Church is strictly if not verbally correct.

5. With reference to communicating with His Grace the Archbishop of Canterbury (the Bishop of London having informed me in a letter I had the honour to receive from his Lordship that he had no jurisdiction over these Islands.

I would most respectfully state that the usual course is, when a Chaplain in Holy Orders shall introduce any innovation contrary to the Rubric or Canons with a disregard of Gods honor the Ordinary shall call the attention of the Archbishop or Bishop as the case may be to the same in order that he may be properly censured for the same by suspension deprivation or in such other manner as the nature and degree of the offence may demand. I hold on the other hand as a member of a Sister of the Church of England I have a right to claim the protection, counsel or assistance of any Diocesan direct and without the intervention of any layman.

6. With respect to the resignation of J. W. Brown I beg respectfully to inform your Excellency that he discharged the duties of Clerk to my office and Secretary in a manner far more than eighteen months in fact until the arrival of your Excellency when from some cause to me unknown he adopted quite a different course so that I was obliged to reprimand him for insolence about a few days received his resignation upon perusal of which by your Excellency's advice I took no notice. I am ignorant of the cause which led to J. W. Brown's resignation but I was given to understand that he was made a tool of by others and I believe my deputy to retain him as my private Secretary had some theory to the contrary.

Of Mr Westbrook's resignation I believe it is unnecessary for me to say anything further.

Watson resigned as Collector on being appointed Government Gardener and having referred to your Excellency's Confidential occupied the Spare Time. Maybee my servant was appointed till I could get some body else as I entertain a strong opinion respecting paying Servants wages from the public Money entrusted to me. I am not aware that

this

these changes have acted prejudicially as my congregations have been diminished by seceding Jews. I have been informed that Mr Keene's resignation gave universal satisfaction. —

7. With respect to Mr Wallace's service with your Excellency's permission I will make a proper arrangement for cleaning the Church and ringing the bell. I am &c a few more Colonists have arrived during the month. I have satisfactorily answered your Excellency's questions.

I have &c

(Signed)

James Leith Moody
Colonial Chaplain

Survey Office 16th July 1849

Sir

I have the honour to inform your Excellency that upon going over my quarterly packages of Stores, I found a pair of Boots had been taken from time to time by Captain Sylvan's house without my consent or knowledge, such a proceeding tends greatly to inconvenience the public Service, as well as neglecting both the Journey of Carpenter and Labourer to the Locality of making good all deficiencies.

I hope your Excellency will do me the honour to inform me whether you have given Captain Sylvan an Unlimited order to use Government property or not.-

I have &c

(Signed) Arthur Bailey

Surveyor General

To His Excellency
The Governor

Stanley 16th July 1849

Sir

I have the honour to acknowledge receipt of your Excellency's communication of 15th June last, and to assure the circumstances to which you are apprehended will fully account for my not answering earlier.

I am beg to inform your Excellency that I have made an arrangement with Mr Whittington, as proposed by your Excellency, by selling him the whole of the stock on the Sarmento Farm, but as this arrangement is not the one I should prefer, I concluded it, in order not to create any further disagreeable with your Excellency; although I had previously refused Captain Fulwood's offer on the same terms; and I hope that the results may be as satisfactory to your Excellency as the management and supply of beef has hitherto been. At the same time I consider it my duty to inform your Excellency in writing, that I much regret that your Excellency should have raised objections to the proposed arrangement I had made with Mr Vallentin to supply Mr Phillips place as my Agent &c as such would have enabled me to continue in the same satisfactory manner as hitherto.

I have &c

His Excellency
Governor Rennie
&c &c &c

(Signed) R. A. Williams

Monday 18th July 1842

Sir

I have the honour to propose the purchase of a Naval Station on the Peninsula of Land known as Navy Point, as marked out by me for your Excellency on the Chart, which will include Penrose Point; my object in applying this application is to establish a Steam Vessel I am prepared to invest a sum of 4 to 500 pounds [illegible] on out buildings fences &c. such Farm once established and battle properly domesticated on it. I may offer for sale to some of those that may arrive and thus facilitate the progress of the Colony as well as promote my interests.—

I have &c.

(Signed) R. A. Williams

His Excellency

Lieut. Governor

&c. &c. &c.

Standby
19th July 1849.

Sir

I have the honour to acknowledge the receipt of a note dated the 17th Instant written by your Excellency's desire —

I am &c
(Signed) Charles Oliver

His Excellency
Governor Fennie